

OFFICIAL OPINION NO. 14

January 31, 1952.

Mr. Arthur G. Loftin,
Administrative Director,
Indiana Council For Mental Health
Indianapolis, Indiana

Dear Sir:

I have your recent request for an Official Opinion which reads as follows:

“The question has arisen many times in regard to the authority of the St. Joseph Probate Court to appropriate money to pay for services rendered by the mental hygiene clinic in their county.

“Also does a judge of the St. Joseph Probate Court have a right to pay claims to the mental hygiene clinic? Such claims being charges made to the court for services rendered in the past year and one half.

“In the present budget of the St. Joseph Probate Court there is no specific appropriation for purposes of this kind. It seems to me the question revolves around whether a judge can legally authorize these claims for payment the same as he would do for a ward of this court who requires a medical examination from a private physician.

“The request for an official opinion on these three questions is of the utmost importance not only to the probate court involved, but to the State Board of Accounts. Therefore, we would appreciate this opinion as soon as possible.”

The Probate Court of St. Joseph's County has exclusive original jurisdiction over all cases concerning delinquent dependent and neglected children. (Burns' 4-3041, same being Section 11 of Chapter 333 of the Acts of 1945.) In the exercise of that jurisdiction, the court has a duty to provide certain medical and psychiatric treatment and examination. See Burns' 9-3220, same being Section 20, Ch. 356 of the Acts of 1945, which reads in part as follows:

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“The court after due notice and hearing may cause any ‘child,’ as defined by this act (§§ 9-3201—9-3224), coming under its jurisdiction to be examined by a physician, psychiatrist or psychologist, appointed by the court.

“Whenever a child concerning whom a petition has been filed appears to be in need of medical, surgical or psychiatric care, the court may order the parent, guardian or custodian to provide treatment for such child in a hospital or otherwise. If such parent, guardian or custodian fails to provide such care the court may, after due notice, enter an order therefor and the expense thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or persons having the duty under the law to support such child any part or all of the expenses of such treatment in the manner provided in Section 19 (§ 9-3218) of this Act.”

In your letter you mentioned that the Probate Court of St. Joseph County has no specific appropriation for the purpose of paying for services from the St. Joseph's County Mental Health Clinic. However, the authority previously cited clearly requires the judge of that court to procure services which could be rendered by the St. Joseph's Mental Health Clinic. The court has authority to authorize reasonable payments for those services, either in the individual case or by contract over a period of time.

As to services rendered in the past, if those services were rendered without expectation of the compensation, any attempt to reimburse for them now would not be payment of a legal claim. However, a specific statutory enactment could allow the payment of such equal or moral obligation. See *State ex rel. Jackson, Attorney General v. Middleton* (1938), 215 Ind. 219, 231, 19 N. E. (2d) 470.

Furthermore, a general appropriation for the expenses of the Probate Court of St. Joseph County would not allow the payment of expenses incurred and payment prior to the beginning of the appropriation period. That is, an appropriation for current expenses may not be used to liquidate past obligations. See *State ex rel. Martin et al. v. Porter, Governor* (1883), 89 Ind. 260.

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Thus, in answer to your questions, it is my opinion that the judge of the St. Joseph Probate Court may pay or provide for the payment of services presently rendered or to be rendered by the St. Joseph Mental Hygiene Clinic, but he has no authority to attempt to make any payments for any services rendered in prior years.

OFFICIAL OPINION NO. 15

February 8, 1952.

Mr. Harold F. Brigham, Director,
Indiana State Library,
140 North Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

“Our Extension Division has an inquiry from a public library concerning contracts between the library and a township to which the library extends service.

“The library is now operating under the Acts of 1901, chapter 55. It gives service to a township under the Acts of 1911, chapter 132, and amendments thereof. (Burns' Annotated Indiana Statutes, 41-301 ff; Burns' 41-310, on township service.)

“The library expects to change its identity and become a Class I library under the Acts of 1947, chapter 321. In so doing, the library board will be newly appointed, according to Section 8 of the Act. (Burns' Annotated Indiana Statutes, Cumulative Pocket Supplement, 1949, 41-908.)

“The library in question asks: If we should enter into a written contract with the township before conversion, will this be binding after conversion to the Law of 1947?