

OFFICIAL OPINION NO. 38

December 31, 1975

Mr. Edison L. Thuma
State Budget Director
212 State House
Indianapolis, Indiana 46204

Dear Mr. Thuma:

This is in response to your request for an official opinion concerning certain provisions in that part of Acts 1975, Public Law 343 (hereinafter, the Appropriation Act) which make appropriations for the operation of state mental health institutions. You ask specifically (1) into what earmarked fund in the state treasury are monies received from insurers as reimbursement for patient care to be deposited, and (2) can and does the Appropriation Act amend substantive portions of the Indiana Code relating to mental health.

ANALYSIS

Acts 1975, Public Law 343 makes appropriations for the operation of state government and its institutions. After designating the amounts each state mental health institution should receive, the Act, at page 1867, contains the following provisions:

“The proceeds of all monies representing reimbursement for patient care by any of the foregoing institutions or Madison State Hospital from third party coverage, including medicaid and medicare payments, shall be deposited in the State Treasury, and 25% of all amounts collected in fiscal year 1974-75 are hereby appropriated to such institutions for operating use, subject to approval of the State Budget Agency and the Governor.

“The proceeds of all monies representing patient maintenance collected by any of the foregoing institutions or Madison State Hospital shall be deposited in the Mental Health Fund pursuant to the provisions of IC 1971, 16-14-18 and 25% of all amounts collected over the amounts collected in fiscal year 1974-75 are

OPINION 38

hereby appropriated to such institutions for operating use, subject to approval of the State Budget Agency and the Governor.”

You ask first where monies representing reimbursement for patient care from third party coverage should be deposited. The first paragraph cited above states only that those monies should be deposited in the “State Treasury.” That term is a general term which includes all state funds, both general and dedicated. By using the term “State Treasury” in the Appropriation Act, the General Assembly did not there specify which particular fund of the state should receive the reimbursement monies. However, the General Assembly, by enacting Code sections 16-14-18-1 *et seq.*, did specify that all monies collected by the Department of Mental Health or its institutions “for the cost of [patient] treatment and maintenance” should be deposited in the Mental Health Fund. Monies representing “reimbursement for patient care . . . from third party coverage,” the language contained in the Appropriation Act, are monies collected for “the cost of treatment and maintenance,” within the meaning of Code section 16-14-18-2(c); are benefits from insurance coverage, within the meaning of Code section 16-14-18-2(d); and thus should be deposited in the Mental Health Fund. Since the Mental Health Fund is a part of the “State Treasury,” deposits in that Fund comply with the provisions of both the Appropriation Act and the Code.

You ask also whether the Appropriation Act conflicts with the substantive Code sections relating to the Mental Health Fund and, if it does, whether it is invalid in that respect. Earlier this year, I issued two Official Opinions, Number 9 and Number 13, in which I discussed the proper function of an appropriation bill. I concluded that appropriation laws are limited by the Indiana Constitution to the subject matter of money and that such laws cannot create, amend, or repeal substantive state statutes.

The provisions of the Appropriation Act you refer to here, however, are limited to money matters and do not violate constitutional guarantees. With respect to depositing monies re-

OPINION 38

ceived in payment for patient care and maintenance, the two paragraphs of the Appropriation Act cited above simply reiterate the Code provisions that such deposits be made in the Mental Health Fund. With respect to the expenditure of monies in the Fund, Code section 16-14-18-4 does two things: it prescribes *how* the money can be spent and it provides *how much* money should be spent for the purposes already established. The Appropriation Act does not intrude into substantive areas by prescribing new uses for Fund monies; it only appropriates a designated amount from the Fund for a purpose already authorized by Code section 16-14-18-4, namely, the operating expenses for the state institutions. To the extent the amount of the appropriation made by the 1975 Appropriation Act differs from the amounts appropriated in the Code, the Act controls since that is the vehicle the General Assembly properly uses to indicate the amount of state monies it wishes to expend.

CONCLUSION

1. It is, therefore, my Official Opinion that monies received from insurers as reimbursement for patient care in state mental institutions, like payments received for maintenance directly from patients or their guardians, must be deposited in the Mental Health Fund of the State Treasury established by Code section 16-14-18-3.

2. It is also my Official Opinion that appropriation laws are confined by the Indiana Constitution to the subject matter of money and that such laws cannot amend substantive provisions of the Indiana Code. However, those portions of the 1975 Appropriation Act questioned here concern only the *amount* of money to be expended from the Mental Health Fund and do not attempt to enlarge upon or narrow the substantive authority provided by Code section 16-14-18-4. Accordingly, those Appropriation Act provisions are valid.