

1968 O. A. G.

OFFICIAL OPINION NO. 47

November 27, 1968

MENTAL HEALTH—Payment for emergency medical services to patient on leave of absence from public institution.

Opinion Requested by Dr. William F. Sheeley, Commissioner of Mental Health.

You have requested an answer to the following question:

“Is the State of Indiana authorized to pay for medical or hospital services provided by an out of state hospital for a patient of a state psychiatric institution who has journeyed to another state as a member of an excursion group sponsored and supervised by state hospital personnel?”

It is my understanding that patients in psychiatric institutions who can benefit therefrom are sometimes taken by state employees for a one day excursion to the nearest large city, which may be in another state, for sporting or cultural events. The excursions constitute a part of their treatment. Since you indicate that the patient would be on such an excursion, I assume that the medical treatment or hospital services required would be the result of an emergency not anticipated at the time the excursion began.

An inmate of an Indiana psychiatric institution who needs medical or hospital care which cannot be provided by the institution itself is placed in a state-owned or operated hospital on written order of the superintendent of the institution, pursuant to Acts 1947, ch. 300, § 4, Burns IND. STAT. ANN. § 52-1134. That 1947 statute also provides that the superintendent may place the patient in a public hospital not owned or operated by the State if the daily charge for hospitalization

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at the public hospital is less than that charged by the state-owned or operated hospital. Costs and expenses incurred are paid by the State pursuant to Section 5(b) of the Act, as last amended by Acts 1957, ch. 262, § 1, Burns § 52-1135(b).

Acts 1955, ch. 338, Burns §§ 22-1306 to 22-1310, a comprehensive act concerning the discharge of patients in psychiatric hospitals of Indiana. Section 2 thereof, Burns § 22-1307, reads as follows:

“Patients in psychiatric hospitals may be granted either a *discharge*, as defined in this act, or a *convalescent leave*. . . .

“The superintendent may discharge a patient from the hospital whenever, in his opinion, the mental and physical condition of such patient justifies, and *he may grant a leave of absence for short periods whenever, in his opinion, the patient may be benefited thereby*, but he shall retain in the hospital such patients as may, in his judgment, be unfit to be at large or may require special medical care. . . .” (Emphasis added.)

Another act specifically relating to admission of mentally ill persons to psychiatric hospitals provides, for those admitted by court order, that unless the order of court granting custody of the person to a superintendent of a psychiatric hospital is revoked or terminated,

“such superintendent . . . shall be entitled to *keep and retain custody* of such person *until and unless such superintendent . . . shall discharge such person*, or until and unless such person is cured of such illness.” (Emphasis added.) Acts 1957, ch. 359, § 704, Burns § 22-1223.

(For an interpretation of the inter-relationship of the 1955 and 1957 statutes, see 1966 O.A.G. p. 359.)

It appears, therefore, that the superintendent retains custody of a patient on convalescent leave, or leave of absence, even though the patient is not physically present in the hospital. The use of the word “inmate” to describe the persons in benevolent institutions entitled to medical care at state ex-

pense under Section 4 of ch. 300 of the 1947 Indiana Acts was interpreted in 1958 O.A.G. p. 76, to exclude patients on convalescent leave who were not physically present in the institution, even though they remained in the custody of the superintendent.

In 1965 the General Assembly specifically provided for the state payment of emergency medical and hospital care of such persons :

“Any person who is a patient of any state-supported psychiatric institution who is on leave of absence, convalescent leave or on leave in the care of a family boarding home, and is found to be in need of emergency medical, surgical or hospital care, shall be provided such emergency care the same as if he were physically present at the psychiatric institution from which he is on leave of absence, convalescent leave or leave in a family boarding home: Provided, That any such patient may, in case of emergency, be placed in a hospital for care and treatment other than a state-owned or operated hospital.” Acts 1947, ch. 300, § 4b, as added by Acts 1965, ch. 185, § 1, Burns § 52-1134b.

Under this section, the medical care and hospitalization for which the State will pay is not restricted to a state-owned or operated hospital, or to a public hospital which has a lower daily charge than a state-owned or operated hospital as it is for “inmates” of the hospital pursuant to § 4 of the 1947 Act. The State will pay for emergency medical or hospital treatment in an out-of-state hospital for a patient on an out-of-state excursion who has been granted a leave of absence, or convalescent leave, for the period of the excursion. Whether the State will pay for such emergency treatment for a patient on an excursion who has not been formally granted such status is not entirely clear.

In my predecessor’s 1958 Opinion, 1958 O.A.G. p. 76, at 77-78, he defined “inmate” variously as an “occupant” of a hospital or “one confined or kept” therein, or one who “lives in the same abode.” Under the definitions of “inmate” which have the connotation of one who “lives” at a particular place,

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a patient on a one day excursion without formal leave would remain an inmate of the institution. However, he would not remain an inmate under the definitions which have the connotation of "confinement." Should such a person be considered an "inmate," the only emergency medical or hospital services for which the State of Indiana would pay an out-of-state hospital would be those furnished by a public hospital with lower daily charges than a state-owned or operated hospital, pursuant to Section 4 of the 1947 Act, Burns § 52-1134.

You have informed me that the need for emergency medical services for patients on an out-of-state excursion has not yet occurred, but that you want to be prepared to handle any such emergency as it may arise. Therefore, it is my opinion that you would be wise to prepare for such possible emergency by giving formal leaves of absence, or convalescent leave, to each patient on such an excursion.

OFFICIAL OPINION NO. 48

November 27, 1968

TAXATION—MUNICIPAL CORPORATIONS—Payments of inheritance taxes—Marion County Treasurer as required to pay amount retained by county to Mass Transportation Authority of Greater Indianapolis.

Opinion Requested by Mr. Richard L. Worley, State Examiner, State Board of Accounts.

This is in reply to your request for an Official Opinion in regard to the following question:

"Is the 8% retained by Marion County on inheritance tax collections and required to be paid to the county