

Office of the Attorney General
State of North Dakota

Opinion No. 83-25

Date Issued: July 12, 1983

Requested by: Dennis E. Johnson
McKenzie County State's Attorney

--QUESTIONS PRESENTED--

I.

Whether a patient is responsible for the expenses for his care and treatment incurred at the State Hospital.

II.

Whether a county is responsible for the costs of a court-appointed attorney and a court-ordered medical examination as a result of a petition for involuntary treatment.

III.

Whether a patient is responsible for the expenses of his transportation to a treatment facility.

--ATTORNEY GENERAL'S OPINION--

I.

It is my opinion that a patient is responsible for the expenses for his care and treatment incurred at the State Hospital unless he was transferred to the State Hospital from a jail or regional corrections center.

II.

It is my further opinion that a county is responsible for the costs of a court-appointed attorney and a court-ordered medical examination as a result of a petition for involuntary treatment.

III.

It is my further opinion that a patient is responsible for the expenses of his transportation to a treatment facility except that where the patient is unable to pay for such

expenses, the court may direct that such expenses be paid by the county of the patient's residence.

--ANALYSIS--

I.

A patient of the State Hospital is ordinarily responsible for the costs and expenses of his treatment. No distinction is made between those who are patients voluntarily and those who are patients involuntarily. Section 25-09-02 of the North Dakota Century Code states, in part, as follows:

The supervising department [of the State Hospital] shall recover monthly from the patient, if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. The state hospital shall not recover expenses under this chapter, however, for the care and treatment of a patient transferred to the state hospital from a jail or regional corrections center.

As indicated by the last sentence quoted above, a patient is not responsible for the costs and expenses of his treatment where he is transferred to the State Hospital from a jail or regional corrections center. In such a situation, the expenses for care and treatment are the responsibility of the sheriff in whose custody the patient is lodged. *Hospital Services, Inc. v. Dumas*, 297 N.W.2d 320 (N.D. 1980). However, the county may seek reimbursement for such expenses from the inmate or his family. See Jail Rules, § 10-05-06-02.

II.

Section 25-03.1-09(2), N.D.C.C., states that the respondent who is a subject of a petition for involuntary treatment filed pursuant to Section 25-03.1-08, N.D.C.C., has the right to counsel and to an independent expert examiner 'each at the expense of the county which is the respondent's place of residence.' Section 25-03.1-10, N.D.C.C., states that the 'costs of the court-ordered examination shall be borne by the county which is the respondent's place of residence.'

These statutes clearly place the responsibility upon the county of the respondent's residence as to the costs of a court-appointed attorney and a court-ordered medical examination occurring as a result of a filing of a petition for involuntary treatment. There is no provision in Chapter 25-03.1, N.D.C.C., allowing the county to seek reimbursement for such costs from the petitioner or the respondent.

III.

Section 25-03.1-39, N.D.C.C., states that the patient is responsible to pay his expenses of transportation to the treatment facility. This statute suggests that, whenever practicable, the individual should be accompanied by friends or relatives and should not be

transported by police officers or in police vehicles. However, where the patient and his friends or relatives are unable to pay for such expenses, the court may direct that such expenses be paid by the county of the patient's residence.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the questions presented are decided by the courts.

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