

**OPINION
53-127**

May 27, 1953 (OPINION)

WELFARE

RE: Care Transient Workers

This office acknowledges receipt of your request of May 22, 1953, for an opinion relative to five questions dealing with migrant nonresident persons afflicted with tuberculosis. The problem presents itself because of Mexican migrant laborers who come to the state for employment. You state it is difficult, if not impossible, to determine their residence for poor relief because they migrate from one state to another. You further state that many of these people are afflicted and need immediate treatment at a tuberculosis sanatorium and quarantine to prevent the spread of this disease. You list these questions as follows:

1. Is the county welfare board obliged to pay for the care of nonresident persons at the North Dakota State Tuberculosis Sanatorium?
2. Can the county welfare board assume such obligations?
3. Is the county welfare board obliged to provide transportation of a resident or nonresident tubercular person to the North Dakota State Tuberculosis Sanatorium?
4. If your answer to any of the above questions is 'yes', does the reimbursement provision of section 50-0113 NDRC of 1943 (as amended) apply?
5. If the county places a nonresident tubercular person in a quarantine establishment, such as a barracks or hut, where general care is provided under the supervision of a licensed physician, can any part of the expense incurred be reimbursed under provision of Sec. 50-0113 NDRC of 1943 (as amended)."

Answering questions 1, 2, 3 and 4, it is the opinion of this office that the county welfare board is not obligated to pay for the care of nonresident persons at the North Dakota Tuberculosis Sanatorium and the county welfare board may not assume such obligation. See Section 25-0809 of the North Dakota Revised Code of 1943 and Section 25-0510 of the 1949 Supplement to the North Dakota Revised Code of 1943.

To this determination we must add this qualification: Chapter 283 of the 1951 Session Laws specifically provides that in case of necessity where medical attention is needed, the county welfare board shall make provision for same. In this chapter it is noted that in the counties where they have a county physician on an annual salary, such physician shall be called to attend such poor person. For such service, the county welfare board is not obligated but the county welfare board, under the provisions of said chapter, shall make

provisions for all other necessary requirements needed by such patients. Where such patient is a nonresident, the county welfare board shall be reimbursed from the public welfare fund of the state for 80 percent of the expense incurred.

We can find in the law no specific legislation dealing with the question of transportation of persons suffering with tuberculosis assigned to the State Tuberculosis Sanatorium. However, if such patient, because of lack of means, must be transported, such transportation becomes part of the expense of the county welfare board until such patient reaches the State Sanatorium.

It is, therefore, the opinion of this office that where there is an emergency and need of a person suffering from active tuberculosis the county welfare board shall take charge until such time as the patient may be removed to the State Tuberculosis Sanatorium and for such expense and service shall be reimbursed by the public welfare board in accordance with Chapter 283 of the 1951 Session Laws. See also In Re Elizabeth Wilson North Dakota Supreme Court Decision May 5, 1953. We hold therefore, that as part of the expense, transportation may be included.

Answering your question 5, it is the opinion of this office that in counties where they have a county board of health, the county superintendent of health may cause any person who is afflicted or suffering from a communicable disease to be quarantined. Section 23-0308 of the North Dakota Revised Code of 1943 specifically provides that where such quarantine is ordered by the county board of health, that the expense of quarantining is an obligation of the county board of health and shall be paid out of the general fund of the county. In this connection, however, we also find that Chapter 283 of the 1953 Session Laws places the duty upon the welfare board of the county to provide all other necessary items such as medical services to indigent persons who are unable to pay for the same and for this service they shall be entitled to reimbursement from the public welfare fund of the state the amount of 80 percent where such person is a nonresident of the state.

In checking through the legislation, we find that originally the case of the sick and poor was the obligation of the township, city or the county, as the case might be. This law has been amended throughout the years until at the present time we have what we call the public welfare setup, wherein the state and the counties share in the care for the poor and the sick who are unable to provide for their own welfare. It is, therefore, the opinion of this office that where the county places a nonresident tubercular person in an establishment the county will pay for the actual quarantine and the service of the doctor, but the public welfare board, county and state, will provide all other medical necessities for such indigent person and may have reimbursement under the provisions of Chapter 283 of the 1951 Session Laws. The providing of general care such as food and clothing is the obligation of the county welfare board for which no reimbursement may be had.

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