

OPINION
53-62

June 16, 1953 (OPINION)

INSTITUTIONS

RE: Cost for Keep of Patients

You state that the board of administration is negotiating with the Department of the Interior for a contract for the care of Indian patients at the Grafton State School for the fiscal year 1954.

You state that Mr. J.M. Cooper, the area director, has written stating that he interprets an opinion issued from this office on January 27, 1948, to mean that the charge for the care and maintenance of patients is \$20.00 per month and that a rate higher than that would be unfair and, in fact, discrimination against the Indian patients. We do not agree with that interpretation. We notice after reading chapter 25-08 of the 1943 code that the superintendents of the various charitable institutions make a quarterly report to the county auditors or the state auditor, as the case may be, of the cost of maintenance of the patients from that particular county.

Section 25-0409 of the 1949 supplement provides that the expense of the care, board and treatment of each inmate in the state school shall be a charge upon the county from which the inmate is sent; that a county shall pay to the state treasurer the sum of \$20.00 per month for the care and treatment of each inmate sent from the county to the state school.

We notice, further, that a patient whose legal guardian has the means to pay for his care and support at such an institution shall do so on a per capita basis; that is to say, the cost and expense of that patient shall be paid on a basis of the average cost of all the inmates.

It is, therefore, our opinion that the legislature intended when it enacted section 25-0409 that a fair share of the burden of the expenses should be borne by the state at large. We express no opinion upon the right or authority of the Federal Government to enter into a contract with the State to provide for the care and treatment of tribal Indians who are wards of the Federal Government in a state institution, but caution that the basis by which the counties are contributing to the care and treatment of their citizens can be no criterion in arriving at the actual cost involved.

ELMO T. CHRISTIANSON

Attorney General