



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

May 22, 1973

FILE NO. S-591
PUBLIC ASSISTANCE:
Medical Assistance

Honorable Jack Hoogasian
State's Attorney
Lake County
County Building
Waukegan, Illinois 60085

Dear Mr. Hoogasian:

You have requested my opinion as follows:

"Prior to the election of the present county board members, the old county board adopted a resolution stating that no longer will the County Home operation be subsidized by the County of Lake and that the actual operating cost of the County Home would be paid by the township supervisors, responsible for admitting patients thereto. Please see attached resolution 'A'.

"The County Home is utilized for purpose of caring and maintaining the elderly. Presently, the County charge is \$18.00 daily for the cost of each skilled care patient admitted thereto. The State of Illinois through the Department of Public Aid pays \$14.40

leaving a balance of \$3.60. The elderly are admitted to the County Home jointly through the Department of Public Aid and final permission from the township supervisor of the township where the elderly resides. Please see attached resolution 'B'.

"The argument employed by the County Board is that since the township supervisor is instrumental in placing the elderly into the County Home, he, the township supervisor (sic: the township) is responsible for the additional cost not paid by the Department of Public Aid to the County of Lake. The township supervisors argue that since the Department of Public Aid assumes the responsibility of making the \$14.40 payment, the township is relieved from any financial responsibility.

"The townships, therefore, say they will not pay the difference and that this responsibility is upon the Department of Public Aid. The County Board states that the townships are responsible and should pay the difference.

"It is my understanding that private nursing homes base cost on an individual basis. In the case of a county nursing home, it is my further understanding that the Department of Public Aid takes an average to reach a figure of financial responsibility to be paid the County for the daily need of the elderly housed at the County Home.

"Please advise who has the burden of absorbing the difference: Is it the township, the County, or is the Department of Public Aid responsible for the complete cost."

I first assume that these persons are receiving public aid under Article V of the Public Aid Code, which is medical assistance only, and is furnished by the County Department of Public Aid under the direction of the State Department using state funds (Ill. Rev. Stat. 1971, ch. 23, pars. 5-4, 5-5). Were any of these persons nonresidents of the state, or persons ineligible for aid under Articles III, IV, V, and VI (Ill. Rev. Stat. 1971, art. 23, par. 4-1 et seq.), they would receive aid under Article VII of the Code, which is the full responsibility of the township in a township county, whether or not the township is a participating one in the receipt of state funds. Ill. Rev. Stat. 1971, ch. 23, pars. 7-1.1, 7-2.

Section 5-4 of the Public Aid Code provides:

"The amount and nature of medical assistance shall be determined by the County Departments in accordance with the standards, rules and regulations of the Illinois Department, with due regard to the requirements and conditions in each case, including contributions available from legally responsible relatives." Ill. Rev. Stat. 1971, ch. 23, par. 5-4

Under sec. 5-5 it is stated that:

"The Illinois Department, by rule, shall determine the quantity and quality of the medical assistance for which payment will be authorized, and the medical services to be provided, which

may include all or part of the following: * * * (4) skilled nursing home services * * * Ill. Rev. Stat. 1971, ch. 23, par. 5-5

Rules of the State Department as set forth in the Illinois Department of Public Aid Categorical Assistance Manual, p. 90, provide in part:

"Rule 7.05.1. Care in County Homes for the Infirm and Chronically Ill. For purposes of these Rules, a county home for the infirm and chronically ill is an institution set up and operated in accordance with the provisions of Chapter 23, Section 439-17 to 24 [now Ill. Rev. Stat. 1971, ch. 34, pars. 5361 - 5373] inclusive of the Illinois Revised Statutes.

"Rule 7.05.2. The Department of Public Aid will make direct payment to a designated representative of the County Board for the care and treatment needed and received by recipients of Assistance to the Aged, Blind or Disabled * * * when the following conditions are met; "

* * *

"ARTICLE 7. Nursing Care for Recipients* * *

"d. The County Board establishes a rate for care which conforms to and takes into account the following:

Charges for care are the same for all patients requiring comparable care.

Rates for care are based on per capita costs and are not in excess of community rates

for comparable care as determined by the Commission. The approved rate of payment is recognized as the total amount to be charged for services required and received by the recipient; the Commission will deduct from that rate any income or contributions available to the recipient in determining the amount of the payment to be made by the Commission. The County Home submits a monthly statement to the County Department of Public Aid certifying the number of days' care furnished the recipient during the calendar month, the amount of the recipient's income, and the net charge to the Commission." Emphasis supplied

* * *

"ARTICLE 7. Nursing Care for Recipients* * *

Rates for care may be reviewed at any time and adjustments made to conform to these Rules and Regulations* * * *"

From these rules you will note that the Department of Public Aid may establish a rate for care based on per capita costs, not in excess of community rates for comparable care.

From that approved rate, the Department of Public Aid may "deduct * * * any income or contributions to

the recipient in determining the amount of the payment" to be made by the Department.

As you indicate, the County Home Act (Ill. Rev. Stat. 1971, ch. 34, pars. 5361 - 5373) provides in sec. 9:

"Any infirm or chronically ill resident of the county, or of a participating county in the case of a joint home, who is unable to purchase care and maintenance in the county home shall be admitted upon the order of the Supervisor of General Assistance of the local governmental unit in which he has residence. If a county has not established a home, or the facilities of the county's home are insufficient, the Supervisor of General Assistance may provide for the admission and maintenance of such person in the home of another county. If the governmental unit fails to pay for the person's care and maintenance, the county may recover the amount due for care by appropriate civil action against the governmental unit." Ill. Rev. Stat. 1971, ch. 34, par. 5369

While the supervisor's order may have been intended in part to verify residence eligibility, it also gives rise to a right of suit by the county against the township, if the township does not pay for the person's care.

Without State Department aid under Article V of the Public Aid Code, the township would clearly be liable for the total cost of an indigent patient's care in the County Home.

I find nothing in either the Counties Act or the Public Aid Code which precludes a combined township and Department of Public Aid payment or liability. In fact, in Article VII of the Code, such a situation is contemplated in sec. 7-1.3:

"The person shall not be otherwise eligible for or receiving aid under Articles III, IV, V and VI, except that persons who qualify for medical assistance under Article V may qualify for such supplementary aid under this Article as is not provided under Article V." Emphasis supplied. Ill. Rev. Stat. 1971, ch. 23, par. 7-1.3

Section 7-2 of the Public Aid Code provides in part:

* * *

"The amount and nature of the care provided shall be determined in accordance with a uniform standard of eligibility established by the Illinois Department and its rules and regulations. The standard shall include provision for determining what, if any, portion of the income, property or other resources of an applicant or recipient is available to meet the cost of necessary care. However, a local governmental unit not receiving State funds for purposes of this Article may prescribe a uniform standard of eligibility according to local conditions. Such locally prescribed standards may be less, but not more, restrictive than the uniform standard of eligibility established by the Illinois Department." Emphasis supplied. Ill. Rev. Stat. 1971, ch. 23, par. 7-2

Thus, if the township receives state funds, the amount of aid, including that supplementary aid under sec. 7-1.3, is determined by Department of Public Aid standards. The Department of Public Aid may consider the township's liability as a "resource" to pick up the extra charge.

It would therefore seem that if the Department of Public Aid payment rate for the care of County Home patients is reasonably set within the statute and rule guidelines, the township has a liability for the difference in the Home's set daily charge rate and the set Department of Public Aid rate, under sec. 9 of "AN ACT in relation to county sheltered care homes and county nursing homes for the infirm and chronically ill" and most probably under sec. 7-1.3 of the Public Aid Code. The liability, in my opinion, arises under statute and not through action by the County Board.

Very truly yours,

A T T O R N E Y G E N E R A L