

ELEEMOSYNARY INSTITUTIONS: How patient may be admitted to the school at Marshall--method of determining whether such person shall be sent as a County patient.

February 7, 1944



Honorable J. P. Wall, Jr.
Clerk, Ray County Court
Richmond, Missouri .

Dear Mr. Wall:

We are in receipt of your request for an opinion from this Department, which request reads as follows:

"We have had filed in this court, a written request for the admission of a private patient to the Missouri State School at Marshall and we would appreciate your advising us if the county court follows the same procedure in the case of a private patient as in the case of a State patient.

"Also, please advise us if the county court has jurisdiction to refuse to admit as well as to admit a private patient when written request has been made, also if a hearing or trial is necessary.

"The case we refer to is that of a minor and we are not certain as to the exact jurisdiction or authority of the county court in the case of a parent's intent to place the minor in this institution and make payment for his support himself.

"Thanking you for furnishing us with an opinion in this matter as well as for all past favors, we remain,"

We call attention to Section 9392 R.S. Mo. 1939, which section reads as follows:

"There shall be received and gratuitously supported in the Missouri State schools,

feeble-minded and epileptics residing in the state who, if of age, are unable, or if under age, whose parents or guardians are unable to provide for their support therein, and who shall be designated as state patients. Such additional number of feeble-minded and epileptics, whether of age or under age, as can be conveniently accommodated, shall be received into the school by the managers on such terms as shall be just; and shall be designated as private patients. Feeble-minded and epileptics shall be received into the school only upon the written request of the persons desiring to send them, stating the age, place of nativity, if known, christian and surname, the town, city or county in which such persons respectively reside, and the ability of the respective parents or guardians or others to provide for their support in whole or in part, and if in part only, stating what part; and stating also the degree of relationship or other circumstances of connection between the patients and the persons requesting their admission; which statement, in all cases of state patients, must be verified by the affidavit of the petitioners and of two disinterested persons, and accompanied by the opinion of two qualified physicians, all residents of the same county with the patient, and acquainted with the facts and circumstances stated, and who must be certified to be credible by the county court of that county, or, in the case of the city of St. Louis, by the hospital commissioner or the assistant hospital commissioner of said city; and such county court; or, in the case of the city of St. Louis, the comptroller of said city, must also certify, in each case, that such patient is an eligible and proper candidate for admission to the colony. State patients, whether of age or under age, may also be received into the colony upon the official application of any judge of a court of record: Provided, that the county in which such state patients as are now inmates of said school, resided when they were admitted, and the county wherein such state patients hereinafter admitted may reside at the time of such admission, shall be liable for and shall pay into the treasury of said school the sum of five dollars per month for each of such state patients."

It will be noted from the reading of the section supra, that if a feeble-minded or epileptic person is of age and unable to defray the expense, his support shall be gratuitous, and if under age and his parents or guardian are unable to provide for his support then in that event it shall be gratuitous.

We further call attention to section 9322, R.S. Mo. 1939, which section reads as follows:

"Pay patients, or those not sent to the hospital by order of the court, may be admitted on such terms as shall be by this article and the by-laws of the hospital prescribed and regulated."

The above section is self-explanatory, we shall not dwell further on this section other than to point out and call attention to section 9323, R.S. Mo. 1939, which is a general section and provides that the Superintendent of an institution shall be furnished with a request of the form seen in section 9324, R.S. Mo. 1939. We shall not quote section 9324, feeling that mere reference is sufficient. We do, however, wish to call attention that section 9392 which we have heretofore quoted, sets forth the information that should be contained in the form as is provided in section 9324, where it is sought to place a person, regardless of age, in the school at Marshall, where he has sufficient funds of his own which are being handled by a guardian, or his parents have sufficient funds if he be a minor having or having not property in his own right. And where such a person is endeavoring to be placed in the Marshall school he must comply with Section 9325, which section provides that a certificate of two physicians shall be made and the form is set forth in said section. We shall not copy this section because we feel it is not necessary to encumber this opinion with these forms. Further, we call attention to section 9326, R.S. Mo. 1939, which provides for the form of bond that must be given. For the same reasons we do not quote this section. We further call attention to Section 9327, R.S. Mo., which provides that the patient must have proper clothing before he may be received. Having fully set forth these several sections that in our opinion must be complied with, if the person who it is sought to place in the school at Marshall, assuming that he has sufficient funds to defray his expenses, we next turn to the question of how this shall be determined. It is our view that if a guardian, or a family, or the parents of a feeble-minded person makes application to the County Court to have such person placed in the school at Marshall as a County patient, that the County Court shall proceed as they do in other cases,

to determine whether or not such person is an indigent person if he be over the age of twenty-one years or if he be a minor, then the Court shall determine whether he has property in his own right or in the hands of a guardian, or whether or not his parents have sufficient funds to defray the cost of his keep at the school. In making this determination it of course necessitates a thorough investigation into the financial ability of all parties concerned, and further necessitates a complete investigation in the determination by the Court of whether such person is a person of feeble-mind or an epileptic. After hearing all of the evidence and at the end of a complete investigation, if the Court is of the opinion that such person is not a fit and suitable person to be sent to the school at Marshall as a County charge, then the Court shall so find in their determination, having thus so determined in their order of record. If they found that such person or his parents had sufficient funds to defray his expenses then the person's guardian or parents would be forced to follow the procedure as is contained in sections 9323 - 9327, inclusive. Of course on the other hand if the Court found that he was a suitable person to be sent to the school at Marshall and so stated in the record, then he would be handled as any other County patient.

CONCLUSION.

1) If a person through his guardian or parents makes application to the County Court to be admitted at the school at Marshall as a feeble-minded or epileptic patient at the county's expense, the County Court shall have a complete hearing, and if the Court is of the opinion that such person if he be over the age of twenty-one, is indigent, or under the age of twenty-one, and that he or his parents do not have sufficient funds to defray the expenses, and that such person is feeble-minded or an epileptic, then such person shall be sent to the school at Marshall as a County charge.

2) If the County Court determined that the person whose admittance is sought in the school at Marshall either has sufficient funds in his own right to defray his expenses or that his parents have sufficient funds, then such Court shall refuse to allow the person to be admitted at the school at Marshall as a County patient and in that event if he is afterwards admitted, he must comply with sections, 9392, 9323, 9324, 9325, 9326 and 9327, R. S. Mo. 1939.

3) If a person who is to be placed in the school at Marshall for feeble-minded and epileptic patients, if such

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person has sufficient funds in his own right or if a minor, his parents have sufficient funds to defray the cost of his upkeep at the State School at Marshall for feeble-minded and epileptic persons, and is not to be sent at the expense of the County, then the Board of Managers of the school, as is provided in section 9392, supra, shall have the determination of whether or not such person shall be admitted to the school, and at what time the facilities of the school will permit his admittance, and this is to be determined upon the application of the guardian or parents of the applicant directed to the school at Marshall, and not to the County Court of the county of his residence.

Respectfully submitted,

B. Richards Creech
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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