

ELEEMOSYNARY INSTITUTIONS:) Hospital fees arising out of compensation
TUBERCULOSIS HOSPITAL:) litigation should be paid to Commissioners
of the Tuberculosis Hospital, who turn
such fees over to the Treasurer of the
Board.

May 28, 1946



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Honorable W. R. Painter
President, Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Governor Painter:

I hereby acknowledge receipt of your request for
an opinion, which reads as follows:

"We are enclosing copy of a letter re-
ceived from the superintendent of
Jasper County Tuberculosis Hospital.

"We would appreciate an opinion on
this matter at your earliest conven-
ience in order that the proper method
of handling the case can be inaugurated."

The letter referred to in your request is as follows:

"An unusual situation has arisen rela-
tive to a Mr. William Tudor, a patient
in this institution maintained by
Jackson County the greater portion of
the time since April 21, 1943. From
that date to April 1, 1946 I have drawn
upon State Aid funds for his maintenance
in this hospital to the extent of
\$1868.03. He has brought action in
some court, probably the compensation
courts, and has been awarded a weekly
compensation and the payment of his
hospitalization fees.

"The Liberty Mutual Insurance Company
had advised me that they will pay this
amount to us to be credited to the State
Aid accounts if you will authorize them
to do so. As I understand it, they de-
sire a letter of authorization from you

to me directing that this amount be paid to this hospital, which in turn will be credited to State Aid funds which we draw upon each month."

The money concerned in this request is that amount which is designated as hospitalization fees to be paid by the Liberty Mutual Insurance Company. With regard to the payment of these fees, Section 3701, R. S. Mo. 1939, provides:

"In addition to all other compensation, the employee shall receive and the employer shall provide such medical, surgical, and hospital treatment, including nursing, ambulance and medicines, as may reasonably be required for the first ninety days after the injury or disability, to cure and relieve from the effects of the injury, not exceeding in amount of sum of seven hundred and fifty dollars, and thereafter such additional similar treatment as the commission by special order may determine to be necessary. If the employee desires, he shall have the right to select his own physician, surgeon, or other such requirement at his own expense. Where such requirements are furnished by a public hospital or other institution, payment therefor shall be made to the proper authorities."
(Underscoring ours.)

Therefore, we must determine who are the proper authorities to receive such fees in this case. It is provided in Section 15173, R. S. Mo. 1939, in part, that:

"Within sixty days after such election has been held, if two-thirds of the legal voters of the county voting on said proposition, have voted in favor of the proposition to issue bonds for the erection and equipment of a tuberculosis hospital, the county court shall be authorized to issue and sell said bonds to the highest and best bidder, and shall appoint five persons who shall constitute a board to be known as the board of tuberculosis hospital commissioners. A majority of said board

shall constitute a quorum and shall be authorized to transact the business of the board. Said board shall have exclusive control of all moneys collected to the credit of the tuberculosis hospital fund, and of the supervision, care and custody of such hospital, and all moneys received for such hospital purposes, whether by sale of said bonds or by an appropriation from the taxes collected annually in each county for the maintenance and support of said hospital, or from any other source, shall be turned over to the treasurer of said board, and shall be duly accounted for in monthly and annual reports made to said board, a copy of which shall be filed with the clerk of the county court. * * *
(Underscoring ours.)

Reading these two sections together it is apparent that the proper authorities to receive these fees are the members of the Board of the Jasper County Tuberculosis Hospital Commissioners. They in turn should hand the fees over to the Treasurer of the Board to be applied to the expenses of Mr. William Tudor.

We have been advised by telephone that the state aid funds referred to in the letter of Mr. Jesse B. Douglass are the appropriations set aside by the Legislature to the use of the tuberculosis hospitals. There is no statutory provision whereby such fund is authorized to be the recipient of moneys to be paid for the hospitalization of a patient in a tuberculosis hospital, which moneys arise as the result of a workmen's compensation decree. To the contrary, as set out above, the Board of Commissioners is to receive the money involved, and none of the statutes pertaining to the duties of the President of the Board of Managers of the Eleemosynary Institutions gives him authority to direct the disbursement of such funds.

Conclusion

It is, therefore, the opinion of this department that the President of the Board of Managers of the State Eleemosynary Institutions should not authorize the Liberty Mutual Insurance

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Company to credit the hospitalization fees allowed Mr. William Tudor by the compensation commission to the state aid funds. Under Section 15173, R. S. No. 1939, such fees should be paid to the Board of the Jasper County Tuberculosis Hospital Commissioners, who should turn the fees over to the Treasurer of that Board.

Respectfully submitted,

J. MARTIN ANDERSON
Assistant Attorney General

APPROVED:

J. B. TAYLOR
Attorney General

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