

Opinion No. 53-5706

March 19, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Garner D. Rucker Business Manager Miners' Hospital of New Mexico Raton, New Mexico

{*98} Receipt is acknowledged of your letter dated March 17, 1953, in which you request an opinion as to whether or not an employee of the hospital who has completed thirteen years of service at the Miners' Hospital is entitled to a pension from the Miners' Hospital, because, as you say in your letter, she is in poor health and cannot continue working to complete fifteen years. Your specific question is whether or not there is any provision in the law which would allow her to retire before the fifteen years on a pro rata basis, if she should be forced to quit work before the fifteen years.

The pertinent part of Section 5-113, NMSA, 1941 Compilation, provides that any employee of the {*99} Miners' Hospital shall have completed fifteen years of service at said institution and shall have reached the age of sixty years before she would be entitled to a pension. You do not mention whether she is over sixty. However, before she is entitled to benefits from the Miners' Hospital she will have to have fifteen years service at the Miners' Hospital and it does not matter whether such service was continuous or not. As long as it amounts to fifteen years and she is over sixty years old, she would be entitled to the pension but not otherwise. The statute is mandatory.

It is therefore the opinion of this office that the employee that you have in mind has not complied with the provisions of Section 5-113, NMSA, 1941 Compilation, in that she does not have the fifteen years of service with the Miners' Hospital and is therefore not entitled to a pension from the Miners' Hospital.

We trust that this fully answers your inquiry.

By: Hilario Rubio

Assist. Attorney General