

Opinion No. 60-127

June 27, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Earl M. Coffee Administrator Miners' Hospital of New Mexico Raton, New Mexico

QUESTION

QUESTION

How long must a miner work as a miner and how long must he live in the State before he is entitled to admittance to the Miners' Hospital?

CONCLUSION

See analysis.

OPINION

{*503} ANALYSIS

As to the first portion of your question, we are of the opinion that if a person is a miner at the time he seeks admission to the hospital, he meets the requirement of Sec. 13-6-1, N.M.S.A., 1953 Comp.

The second portion of your question is somewhat more difficult and does not lend itself to definitive answer. Sec. 13-6-1, supra, established the Miners' Hospital for the care of the sick and injured **resident** miners of this State. The answer to your question turns upon the definition of "resident." Attempting to define concisely this work is a task which has plagued the courts during the more than 400 years of Anglo-American jurisprudence. A reading of the opinions on this subject by the many courts leaves one only deeper in confusion than before he began. I will not, therefore, attempt to do what the greatest jurists of our time have done in vain. I will merely attempt to set forth some guide posts which are generally {*504} used in determining whether a person is a resident of a certain state. The application of these elements to particular situations must be left until those situations arise.

In its ordinary acceptance, the word "resident" is normally understood as referring to a person's place of abode rather than his place of work. If a person lives in one state and works in another the place of his abode is normally considered his residence. For a person to be a resident of a state, he must intend and actually make that state his home. It is not necessary, however, that he intend to make that state his home always. So it might be said that a person is a resident when he has a place of abode

somewhere within the state with no present or early intention of leaving the State and with an intention of remaining for an undetermined period. The reason for which the person intends to remain within the State has no value in determining whether he is a resident. Therefore, the elements normally thought to be required for a person to be a resident would be at least physical presence coupled with a manifestation of intention to remain within a state or at least an intention not to leave the State within the early future.

Little more can be said in defining the word "resident." Each determination of a person as a resident must be made upon the specific facts of each situation taking into consideration all things which would indicate a person's desire to remain within the State or his desire to be only a temporary worker or transient.

By: Boston E. Witt

Assistant Attorney General