

Opinion No. 62-61

April 18, 1962

BY: OPINION OF EARL E. HARTLEY, Attorney General William E Snead, Assistant Attorney General

TO: Mr. Fred M. Toler, Executive Director, New Mexico Commission on Alcoholism, 116 East DeVargas Street, Santa Fe, New Mexico

QUESTION

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Do unspent balances from money collected from voluntary patients to pay costs of their subsistence, care and treatment pursuant to Sec. 46 - 12 - 12, N.M.S.A., 1953 Comp., revert to the general fund at the end of the year?

CONCLUSION

Yes.

OPINION

ANALYSIS

In your request for an opinion, you stated that you collect money when possible from voluntary patients at your hospitals in Albuquerque and Roswell to pay for their subsistence, care, and treatment. At the end of your fiscal year, there sometimes is a balance remaining from these collections. Your question is whether you may keep this money for use the next year or whether it reverts to the general fund as does money directly appropriated in a stated amount by the Legislature. The resolution of your problem depends upon the wording of the Appropriations Act, Ch. 254, Laws 1961. The first section of this enactment provides:

"Section 1. **LEGISLATURE AND JUDICIARY.** -- For the fiftieth and fifty-first fiscal years, the following appropriations are made from the state general fund for the purposes hereinafter expressed, or so much thereof as may be necessary within the available revenues for each fiscal year, except as otherwise declared: **Balances remaining to the credit of accounts set out in this section shall revert to the general fund at the end of each fiscal year, except as otherwise indicated.**" (Emphasis added).

Thus, it is noted immediately that balances left over from the appropriations to the Commission revert to the general fund unless other provision is made.

The next question is whether the money collected by the hospitals is money appropriated by the Legislature to the Commission. This question is definitely answered on page 815, Laws 1961, where it is stated, in relation to the Commission, that "all charges for service, sale, donations and all other income are also appropriated and shall be expended in accordance with annual budgets submitted for approval of the department of finance and administration."

We have found no law contrary to the reversion provision and are therefore forced to conclude that regardless of the fact that the money involved was collected by you from private individuals, the money is actually money appropriated to you by the Legislature and any balance remaining at the end of each fiscal year reverts to the General Fund. See Opinion No. 58-113 in which this office held that receipts from sales and admission fees deposited with the State Treasurer by the Old Lincoln County Memorial Commission revert to the General Fund at the end of each fiscal year. For a general discussion of this problem and the reasoning of the Courts, see **State v. State Board of Finance**, 59 N.M. 121, 279 P.2d 1042 (1955); **New Mexico State Board of Public Accountancy v. Grant**, 61 N.M. 287, 299 P. 2d 464 (1956).