

Opinion No. 88-64

October 13, 1988

OPINION OF: HAL STRATTON, Attorney General

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QUESTIONS

Is mental health treatment provided by a county hospital to indigent residents of that county included within the type of medical care covered by the New Mexico Indigent Hospital Claims Act ("Act"), Sections 27-5-1 to 27-5-18 NMSA 1978?

CONCLUSIONS

Yes.

ANALYSIS

The Act makes each county of the state responsible for providing "hospital care", for a period up to three months, and ambulance transportation for the county's indigent residents. Section 27-5-2 NMSA 1978. The county discharges this responsibility by reimbursing ambulance providers and hospitals for the actual cost of transportation or care that they provide to indigents. Id. A property tax is the source of reimbursement funds. Sections 27-5-9 and 27-5-7 NMSA 1978.

The Act does not define what treatment falls within the scope of "hospital care." For several reasons, however, we conclude that the term encompasses mental health treatment that county hospital provides. First, Subsection 27-5-4(D) broadly defines "hospital" as:

[A]ny general or limited hospital or nursing home licensed by the health and environment department, whether nonprofit or owned by the state or a political subdivision, and may include, by resolution of the board, licensed out-of-state hospitals where treatment provided is necessary for the proper care of an indigent patient, when such care is not available in an in-state hospital; and includes in-state licensed home health agencies which are either nonprofit or operated by the state or a political subdivision, and which complies [sic] with the provisions of the Indigent Hospital Claims Act.

The Act therefore applies to any general or limited hospital, nursing home or home health agency licensed by the health and environment department (or a licensed out of

state hospital) that complies with the Act. The health and environment department licenses "health facilities," Section 24-1-5 NMSA 1978, which include "special hospital[s], ... [and] asylum[s]." Subsection 24-1-2(D) NMSA 1978. If the Act applies to a licensed, specialized hospital that provides exclusively psychiatric care, we see no reason why it also would not cover mental health treatment that a county hospital provides.

Second, Subsection 27-5-4(C) NMSA 1978 defines "indigent person" as a person who receives "medical care" at a hospital. Subsection 27-5-4(E) NMSA 1978 defines "costs" in terms of able ambulance transportation or "medical costs." Thus, the Act covers the costs "medical" care that a hospital provides.

Courts will assume that words in a statute have their ordinary and usual meaning. *Bettini v. City of Las Cruces*, 82 N.M. 633, 485 P.2d 967, (1971); *Southern Union Gas Co. v. New Mexico Pub. Serv. Comm'n*, 82 N.M. 405, 482 P.2d 913 (1971). Webster's New Universal Unabridged Dictionary at 1117 (2d ed. 1983) broadly defines "medical" as: "Pertaining to or employed in the science, study, or practice of medicine, or the art of healing diseases." It defines "medicine" as "the science and art of diagnosing, treating, curing, and preventing disease, relieving pain, and improving and preserving health," *id.* at 1118, and "disease" as "any departure from health; illness in general." *Id.* at 523. Black's Law Dictionary at 420, 885, 886 (5th ed. 1979) provides similar definitions. These definitions would include the treatment of mental illness.

Third, we note that other jurisdictions mental health treatment within the meaning of "medical care." For example Arizona authorizes individual counties to care for their indigent sick: "The board of supervisors under such limitations and restrictions as are prescribed by law, may: . . . [p]rovide for the care and maintenance of the indigent sick of the county, [and] erect and maintain hospitals therefore." A.R.S. 11-251. The Arizona attorney general has determined that this general authorizing language imposed a duty on a county board of supervisors to provide medical treatment to all indigent patients suffering from physical or mental infirmities who had been conditionally or completely discharged from an Arizona state hospital. *Arizona Op. Atty. Gen. Op. 71-19*. In *Denise R. v. Lavine*, 47 A.D.2d 747, 364 N.Y.S.2d 557, 558 (1975), the court determined that a New York statute that authorized the New York Department of Social Services to grant "medical assistance" to qualifying individuals encompasses mental health treatment. In *Lutheran Hospital v. Department of Public Welfare*, 397 N.E.2d 638, 647 (Ind. App. 1979) the court concluded that the Indiana Hospital Commitment Act, which authorized the Indiana Department of Mental Health to commit to certain hospitals any indigent who appeared to be suffering from a "disease, defect or deformity," applied to indigents suffering from alcoholism, drug addiction and emotional illness.

For these reasons, we conclude that mental health treatment is "medical care" as that term is used in the New Mexico Indigent Hospital Claims Act.

ATTORNEY GENERAL

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