

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

With respect to the question whether or not there is any regulation or method by which an employer might comply with the statute and still pay employees on a semi-monthly or bi-weekly payroll basis, you are advised that the statute appears to be clear and unambiguous. Whether or not there is some method by which an employer might legally circumvent the statute is a matter upon which I am not in a position to express an opinion. . .

JOHN S. S. FESSENDEN
Deputy Attorney General

July 7, 1950

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Pott's Disease

I received your memo of June 28, 1950, stating the facts in regard to the admittance to a State Sanatorium of a woman whose application stated that she was afflicted with Pott's Disease. In order to give this patient every consideration you authorized her admittance for observation under the provisions of Sections 166 and 167 of Chapter 23, R. S. 1944.

You further state that you have been advised by the sanatorium officials that this patient does not have tuberculosis, but is in need of hospitalization and her husband is not cooperative about removing her from the sanatorium, although he has on several occasions been requested to remove her. He does not reply to your letters, even when sent by registered mail. This morning you were advised by the Superintendent that he had seen the husband twice since he received your registered letter, but he "has done nothing yet" about moving his wife. You add that you are not equipped to give this case the treatment it requires and that in fairness to others awaiting admission you feel justified in asking that this patient be removed at once, thereby releasing a bed to some other patient. You have been advised that she should be in a general hospital or a convalescent home, and you feel that such an arrangement should be her husband's responsibility. You then request my opinion as to how this matter should be handled and what procedure should be followed in removing this patient from the sanatorium.

I note by Sections 166 and 167, to which you refer, that the sanatoria shall serve the needs of the people for the care and treatment of persons affected with tuberculosis, and I note that these sections nowhere use the word "pulmonary." On referring to the definition of Pott's Disease, I note that it is termed "tuberculosis of the spine." Therefore it appears to me that if you removed this woman from the sanatorium without her husband's permission and he took the matter to court, you would not be on very safe ground, if the court should rule that Pott's Disease is tuberculosis under the provisions of Section 166 which establishes our sanatoria for the treatment of tuberculosis.

Ask your Superintendent if Pott's Disease is not tuberculosis, caries of the vertebrae, often resulting in curvature of the spine and occasionally in paralysis of the lower extremities.

I do not know practice of the Maine tuberculosis sanatoria with regard to the admission of patients affected with any form of tuberculosis such as Pott's Disease; but Section 167, to which you refer, provides:

"Residents of the state may be admitted to these sanatoriums, if found by any regular practicing physician to be suffering from tuberculosis."

As I stated before, this is a matter for administration at the sanatorium, as it depends on what the practicing physician who asked that this patient be admitted stated to the authorities of the sanatorium.

RALPH W. FARRIS
Attorney General

July 12, 1950

To L. C. Fortier, Chairman, M. E. S. C.
From John S. S. Fessenden, Deputy Attorney General
Re: Your memo, July 8, 1950—subject: Appropriation

Your memorandum raises a question as to an appropriation of \$20,000 for the fiscal year 1948-49. According to the State Auditor, the appropriation was "transferred to the 'General Fund Contributions and Transfers' account, and subsequently lapsed to the General Fund Surplus at the close of the year." Comment is made that the transactions were not reflected on the books of the Maine Employment Security Commission. The auditor also cites pertinent sections of the Employment Security Law setting forth the general rule that balances in the unemployment compensation administration fund shall not lapse, but shall be continuously available to the commission for expenditure consistent with the provisions of the Employment Security Law chapter.

The question involved is the propriety of the Employment Security Commission's handling of the item and the lapsing of the item as an apparent conflict with the statute.

When the Unemployment Compensation Law was first enacted in Maine, it was mandatory that the State appropriate a prescribed sum (\$20,000) as its part in the administration of the employment service. This mandate arose from the administration of the U. S. Employment Service pursuant to the Wagner-Peyser Act. It is my understanding that for a number of years the sum so appropriated was used under the authorization of work programs and allotments as required by the respective appropriation bills and Section 14 of Chapter 14, R. S. 1944.

In the exercise of emergency powers during World War II, by presidential order, the employment service was taken over by the Federal Government. No State employment service was left in existence. With no State employment service and no cooperative service, pursuant to the Wagner-Peyser Act, there remained no purpose consistent with the provisions of the Unemployment Compensation Law for which the State-appropriated sum could be expended. The balances necessarily lapsed.