

MAINE STATE LEGISLATURE

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STATE OF MAINE

INTER-DEPARTMENTAL MEMORANDUM

Date June 9, 1964

To: William Schumacher, M.D. Director

Dept. Bureau of Mental Health

From: Courtland D. Perry, Asst. Att. General

Dept. Attorney General

Subject: Placement of Pineland Patients--Application for Pauper Supplies.

FACTS:

Pineland Hospital and Training Center in order to effect the placement of patients no longer in need of institutional care oftentimes finds it necessary to seek financial assistance for such patients from municipalities.

QUESTION: (1)

May the Pineland hospital make application to a municipality for pauper supplies for Pineland patients placed in the community?

ANSWER: (1)

Problematical

OPINION: (1)

R.S. 1954, c. 94, §2 provides as follows:

"To constitute pauper supplies, they must be applied for in case of adult persons of sound mind by such persons themselves or by some person by them duly authorized; or such supplies must be received by such persons or by some person authorized by them with a full knowledge that they are such supplies; and all care, whether medical or otherwise, furnished to said persons is subject to the same rule." [Emphasis supplied]

The above section by its terms relates only to the application for pauper supplies by, or, on behalf, of adults of sound mind. There is no provision in the Statutes relating to persons mentally incapacitated; there are no Maine cases which can be found which render any assistance in the resolution of this point. It is extremely difficult, therefore, for this office to advise as to who may legally and properly make application for pauper supplies on behalf of a person mentally incapable of making application for himself. We can only point out the obviously sound, however, oftentimes impractical solution, by advising that a legally appointed guardian may make application for such supplies. A statement beyond this would be at best, a calculated guess.

The method by which a patient is admitted or committed to the Pineland Hospital and Training Center would appear to be of little significance or assistance in the resolution of this question; however, the age of the patient is of importance, since an application for pauper supplies on behalf of an unemancipated minor might pauperize the parent. In instances wherein such a situation would exist, the person who should make application for pauper supplies would be the parent.

QUESTION: (2)

Have municipalities under the Statutes of Maine authority to grant application for pauper supplies while a patient remains confined at Pineland Hospital and Training Center?

ANSWER: (2)

No.

OPINION: (2)


R.S. 1954, c. 94, §28 provides in part as follows:

"Overseers shall relieve persons destitute, found in their towns and having no settlement therein, and in case of death, decently bury them or dispose of their bodies according to the provisions of section 12 of chapter 66; the expenses whereof and of their removal, incurred within 3 months before notice given to the town chargeable, may be recovered of the town liable by the town incurring them, in an action commenced within 2 years after the cause of action accrued and not otherwise; and may be recovered of their kindred in the manner provided in this chapter"

R.S. 1954, c. 94, §11, as amended, provides as follows:

"Towns shall relieve persons having a settlement therein when, on account of poverty, they need relief."

Presence in the community, and need, are prerequisites to the furnishing of pauper supplies. Neither fact exists when the patient is confined at Pineland. It is, therefore the opinion of this office that the Overseers of the Poor of a municipality are without authority to grant an application for pauper supplies for a Pineland patient, until such time as the patient is actually in the community and in need of such supplies.


Courtland D. Perry
Assistant Attorney General