

MAINE STATE LEGISLATURE

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STATE OF MAINE

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Inter-Departmental Memorandum Date October 19, 1966

To K.B. Burns, Director, Business Management Dept. Mental Health and Corrections

From Courtland D. Perry, Assistant Attorney Gen'l. Dept. Same

Subject Refund to Town of Sherman Mills for Overpayment of Support.

FACTS:

In 1940 under the provisions of P.L., 1939, c. 227, the Bangor State Hospital billed the Town of Sherman Mills for the board and care of one, Etta Conroy, said person having a legal settlement in that Town and said Town having failed to remove this patient from the hospital following the hospital's request for such removal.

Sherman Mills paid for the board and care of Etta Conroy under the above cited law and continued to do so under R.S., 1944, c. 23, §141, and under R.S., 1954, c. 27, §140; the latter statute was repealed by P.L., 1961, c. 303, §10, effective September 16, 1961; however, the Bangor State Hospital continued to bill the Town of Sherman Mills for the board and care of this patient until May 31, 1966, when the possible error was discovered and the Division of Reimbursement of the Department of Mental Health and Corrections ordered that charges cease, pending inquiry into the legality of continuing charges.

After consideration of the matter by the Attorney General's Office the Department of Mental Health and Corrections has been advised that the Town of Sherman Mills was not liable for the support of Etta Conroy after September 16, 1961. As indicated above the Bangor State Hospital continued to charge the Town for this patient's support, and payments were continuously made until charges ceased. The sum of \$3,438.00 was received from the Town of Sherman Mills during the period from September 16, 1961 through May 31, 1966.

QUESTION:

May the Department of Mental Health and Corrections repay the sum of \$3,438.00, to the Town of Sherman Mills from current revenue of the Bangor State Hospital.

ANSWER:

No

OPINION:

We are unable to find any legal authority for the refund of payments erroneously received and accepted for the support of persons in the State institutions.

In instances wherein the State, as the collector of taxes, has erroneously assessed

and collected a tax, the Legislature has provided for refunds by a method specifically set forth. The Legislature has not otherwise provided for refunds in instances of overcharge.

We are, therefore, of the opinion that the Town of Sherman Mills, in order to obtain a refund of the \$3,438.00 overpayment must submit a bill to the Legislature, which by Resolve may appropriate funds sufficient to satisfy such claim.

In the alternative, in view of the error committed by the Business Office of the Bangor State Hospital, in continuing billing after the effective date of the repeal of the Statute, under which Sherman Mills was liable for the support of Etta Conroy, the Department of Mental Health and Corrections might appropriately submit the bill to the Legislature on behalf of Sherman Mills.

Courtland D. Perry

Courtland D. Perry
Assistant Attorney General

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