

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date March 2, 1967

To John C. Johnson, Supervisor

Dept. Bureau of Reimbursement  
Mental Health and Corrections

From Courtland D. Perry, Asst. Attv. Gen'l.

Dept. Mental Health and Corrections

Subject Determination of Ability to Pay for Support at State Institutions

## FACTS:

Recurrently, patients hospitalized at our state institutions become the recipients of benefits from the Veterans Administration, Social Security, Railroad Retirement and other like benefits, and some receive bequests or inheritances by intestacy, which persons may, prior to the receipt of such funds, have had no assets from which reimbursement might be obtained for care and treatment furnished at a state institution.

Oftentimes, the first benefit check received by a person eligible for Veterans Administration, Social Security or other benefits is for an amount representing benefit accruals for several months prior to the actual date of the receipt.

## QUESTION:

For the purpose of determining the ability of a patient to pay for his care and treatment at a state institution does the ability to pay arise only as of the time such patient actually receives, and has in his possession, or someone receives on his behalf, and has in his possession -- funds?

## ANSWER:

Yes.

## OPINION:

It is the opinion of this office that the language of the Court in City of Bangor vs. Inhabitants of Wiscasset 71, Me., 535 at 539 (1880) is controlling and is determinative of the answer to the foregoing question, which pertinent language is as follows:

"The liability of the insane to pay for support in the hospital depends on ability. The statute imposes the obligation to pay, "if able," otherwise there is no liability on the part of the insane..... Her liability did not arise until and upon the appointment of a guardian, the allowance by the judge of probate and its payment. The sum allowed by him, as appears by the probate records, was two hundred and fifty dollars. This allowance and its payment was in 1878. Before this, all was contingent --- whether there would be an allowance, and if so to what amount and whether it would be paid. Until the payment, there could be no existing liability on her part....." [Emphasis supplied]

John C. Johnson, Supervisor

March 2, 1967

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As is seen by the quoted language, actual receipt of payment of funds is necessary to give rise to ability to pay, although the amount is fixed and authorized to be paid in advance of actual payment. It must be said, therefore, that the Department of Mental Health and Corrections is bound by this case to charge for care and treatment furnished, prospectively from the date upon which a patient actually receives, and is in possession of, or someone on his behalf, actually receives, and is in possession of -- funds.

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Courtland D. Perry  
Assistant Attorney General