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DEPARTMENT OF THE ATTORNEY GENERAL

Memo From

WILLIAM J. KELLEHER
ASSISTANT ATTORNEY GENERAL
COUNSEL, MENTAL HEALTH & CORRECTIONS

27 February 1975

To: Philip Walton, Soc. Serv. Discipline Adv. Dept: Bangor Mental Health Institute

Subject: DISBURSEMENT OF FUNDS AS REPRESENTATIVE PAYEE OF SSI BENEFITS

This informal opinion is in response to several questions contained within a memorandum from you to Courtland D. Perry, dated October 2, 1974.

Your questions concern the proper and legal procedures to be followed when the Superintendent is the Representative Payee of Social Security Income benefits in order to compensate a boarding home operator for the room and board of a person in his home who is on convalescent status from the Bangor Mental Health Institute (34 M.R.S.A. §2375). Your initial question is (the remaining three questions being alternatives to the first): "Would the social workers (sic) authorization of such funds (when the Superintendent is payee) be legal in your opinion?"

We must first consider whether any person in the employ of Bangor Mental Health Institute may authorize the disbursement of funds in a patient's account in order to a boarding home operator for the board and room of a patient on convalescent status. It is our opinion that no BMHI employee may make such an authorization. The sole statutory authority for a BMHI employee to act as a payee of social security benefits on behalf of a patient is contained within 34 M.R.S.A. §2513-A. That section authorizes the Superintendent of BMHI to receive such benefits as payee and to "apply such benefits toward the care and treatment of any such patient in accordance with the charges made by the department" (emphasis supplied). It makes no provision for payment of any other charges than those made by the department for care and treatment of the patient at the institute. We, therefore, advise that no BMHI employee, other than the Superintendent, may disburse a patient's funds for any reason and he only for payment of department charges for care and treatment.

In light of the above advice, there is no need to reach the questions posed in your October 2, 1974, memorandum.

William J. Kelleher
Assistant Attorney General

WJK/vv