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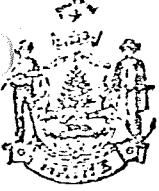


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OK → *Mentally Retarded's State Assumption of Financial Responsibility* ~~DA~~
DEPARTMENT OF THE ATTORNEY GENERAL

Memo From

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


Date: August 17, 1976
To: Harold Siefken, Coordinator Dept: Bureau of Mental Retardation
Community Services
Subject: _____

In a memorandum dated August 5, 1976, you ask: "Can the Bureau of Mental Retardation become the representative payee for (various federal financial benefits) that a mentally retarded individual may receive without being the legally appointed guardian of that individual?" We find no legislative authority for the Bureau assuming the financial responsibilities contemplated by being named representative payee of a mentally retarded citizen's federal benefits, absent the Bureau being appointed guardian of the citizen. See 18 M.R.S.A. Chapter 501. Compare the Legislature's explicit authorization for the superintendents of the Augusta Mental Health Institute, Bangor Mental Health Institute, Pineland Center and the Elizabeth Levinson Center becoming the payee of federal and retirement benefits of patients within their respective institutions. (With respect to these superintendents' duties as payees, see advice of this author to Philip Walton of the Bangor Mental Health Institute dated February 27, 1975.)


William J. Kelleher

WJK/a
attach.

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

STATE OF MAINE

Inter-Departmental Memorandum Date August 5, 1976

To Court Perry, Assistant Attorney General

Dept. Department Mental Health and Corrections

From Harold Siefken, Coordinator
Through Kevin C. Baack, Ph.D. Director

Dept. Community Services
Bureau of Mental Retardation

Subject KCA

Can the Bureau of Mental Retardation become the representative payee for SSI/SSA/VA or other federal benefits that a mentally retarded individual may receive without being the legally appointed guardian of that individual?

HS/b

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