

Opinion No. 55-6318

November 14, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. George M. Brock, Executive Director, Commission on Alcoholism, 116 East DeVargas, Santa Fe, New Mexico

You have asked the opinion of this office as to the legality of your Commission charging patients for transportation in State cars. You inform us that it has been your policy to charge 6 cents per mile when transportation is necessary.

Section 46-12-12 N.M.S.A. 1953, which section relates to your Commission provides:

"Costs of commitment and support. The provisions of law with respect to the costs of commitment and the costs of support, including methods of determination of the persons liable therefor, and all provisions of law enabling the State to secure reimbursement for any such items of cost, applicable to the commitment and support of mentally ill persons in State Hospitals, shall apply with equal force in respect to each item of expense incurred by the State in connection with the commitment, care, custody and treatment of any person committed to the commission or to any institution maintained by the State. Voluntary patients may be required to pay the costs of their subsistence, care and treatment."

Section 34-2-21, relating to institutions of the mentally ill and, by virtue of Section 46-12-12, above, also applicable to your Commission, provides in part:

"Support of mentally ill person. -- The estate and property of a mentally ill person shall be liable to pay for his care and maintenance while confined in the New Mexico Insane Asylum, **and for the costs and charges of his transportation** to the New Mexico Insane Asylum, and it is hereby made the duty of the directors of the New Mexico Insane Asylum to make collection of all said costs and charges from his said estate . . ." (Emphasis Supplied)

The above statutes contemplate payment for transportation and, although, no specific authority is contained in the statutes for charging these costs when transportation is in a State automobile, nevertheless, it is our opinion that the statutes above are broad enough in authority to warrant recouping of transportation costs in the manner in which you have been doing so.

I trust this helps answer your inquiry.

By: Santiago E. Campos

Assistant Attorney General