

Opinion No. 62-102

July 25, 1962

BY: OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

TO: Mr. Fred M. Toler, Executive Director, Commission on Alcoholism, Santa Fe, New Mexico

QUESTION

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Is there a procedure whereby persons who are committed to a treatment facility of the Commission on Alcoholism can be charged for the cost of support and treatment?

CONCLUSION

Yes.

OPINION

ANALYSIS

The Commission on Alcoholism is authorized to receive voluntary patients at its treatment facilities. Section 46-12-9, N.M.S.A., 1953 Compilation. In addition, there is also a procedure whereby persons may be committed to such facilities by the District Courts. Section 46-12-7, N.M.S.A., 1953 Compilation.

Your question is whether there is a procedure under which such **committed** persons may be charged for the costs of support and treatment. The answer is yes.

Section 46-12-12, N.M.S.A., 1953 Compilation, provides that:

"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." (Emphasis added)

We must turn then to the statutes relative to the costs of care and maintenance of those who are committed to the State Hospital at Las Vegas since the same provisions are applicable to the Commission on Alcoholism.

Section 34-2-21, N.M.S.A., 1953 Compilation, provides that the estate and property of the committed person are liable to pay for his care and maintenance during the period of confinement. However, if the patient has children or a spouse dependent upon his estate for their support, the estate or property is first applied to their support so that they do not become public charges.

Just as the directors of the State Hospital are authorized to make an investigation to determine what property or estate the patient has, so too is the Commission on Alcoholism. Section 34-2-21, supra; Section 46-12-12, supra.

Upon request of the Commission, the District Attorney is to make a diligent inquiry into the property and estate of the committed person, and his ability to pay, taking into consideration the number of his dependents. A complete report of such investigation is to be furnished the Commission. Section 34-3-22, N.M.S.A., 1953 Compilation.

If the guardian of the estate of a committed person does not pay the costs of maintenance and support even though the estate is sufficient to do this as well as support the dependents, Section 34-3-23, N.M.S.A., 1953 Compilation, sets up a procedure whereby such costs can be recovered in a court action. Further, this Section provides that this method of collection is not exclusive and that payment can be enforced by any other appropriate remedy.