

Opinion No. 89-35

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OPINION OF: HAL STRATTON, Attorney General

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TO: Thomas Rutledge, District Attorney, Fifth Judicial District, Chaves, Eddy & Lea Counties, 101 West Mermod, P.O. Box 1448, Carlsbad, New Mexico 88220

QUESTIONS

Who is responsible for paying the hospitalization expenses of individuals committed to private or county-operated facilities under the involuntary commitment procedures provided for in NMSA 1978, § 43-1-1 et seq. and related provisions?

CONCLUSIONS

Persons committed under the statutory involuntary commitment procedures are responsible for paying the costs of their hospitalization.

ANALYSIS

New Mexico statutes governing involuntary commitments do not directly address how the costs of treating adult clients at nonstate facilities should be allocated. In our opinion, however, those provisions indicate that the legislature intended that nonstate facilities would look to their involuntarily committed clients for payment. Accordingly, as discussed below, individuals committed under statutory involuntary commitment procedures are responsible for their hospital expenses, and eligible hospitals treating indigent patients may look to the applicable county for reimbursement under the Indigent Hospital Claims Act.

The Mental Health & Developmental Disabilities Code, NMSA 1978, ch. 43, art. 1 (Repl. Pamp. 1989) ("Mental Health Code"), governs voluntary and involuntary commitments to hospitals and other facilities in the state providing mental health treatment. Procedures similar to those set forth in the Mental Health Code apply to commitments to facilities for treatment of alcoholics or drug-impaired persons. See NMSA 1978, §§ 43-2-8, 43-2-9 (Repl. Pamp. 1989) (governing emergency commitments upon application of physician, spouse, guardian or relative directed to administrator of approved public treatment facility or district attorney and commitments by a district court upon petition of district attorney on behalf of spouse, guardian or relative, physician or administrator of approved facility).

The Mental Health Act and the provisions governing alcoholics and drug-impaired persons provide for commitment to both private and public facilities. The statutes

address allocation of costs of care only for state-run facilities. Section 43-1-25 of the Mental Health Act provides:

Clients who are indigent may receive care and treatment at state-operated facilities without charge. The governing authorities of such facilities may require payment for the cost of care and treatment for all others pursuant to established fee schedules based on ability to pay.

Costs of commitment and support for intoxicated persons in state institutions are addressed as follows:

The provisions of law with respect to the costs of commitment and the costs of support, including methods of determination of the persons liable for the costs, 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 substance abuse bureau of the division or to any institution maintained by the state. Voluntary patients may be required to pay the cost of their subsistence, care and treatment.

NMSA 1978, § 43-2-14 (Repl. Pamp. 1989). The statutes do not authorize the state to pay the treatment costs of indigent clients at facilities other than those operated by the state.

We can ascertain the legislature's intent regarding the source of payment for treatment by analyzing the statutory provisions governing involuntary commitments as a whole. See *Allen v. McClellan*, 75 N.M. 400, 402, 405 P.2d 405, 406-07 (1965) (all of the provisions of a statute, together with other statutes in pari materia, must be read together to ascertain the legislative intent). Those provisions indicate that involuntary clients, or those persons legally responsible for them, are liable for their own treatment. For example, as stated in the provisions quoted above, unless they are indigent, clients at state hospitals may be required to pay for their treatment and care. NMSA 1978, § 43-1-25 (authorizing reimbursement from all nonindigent clients for mental health treatment), § 43-2-14 (authorizing same procedures applicable to mental health clients at state hospitals for repayment of costs of treating intoxicated persons). Parents of involuntarily committed minors are responsible for the costs of mental health services under the Mental Health Act, NMSA 1978, § 43-1-17(F). Further evidence that the legislature contemplated that clients generally would pay for their treatment is found in Section 43-1-19(B)(5) of the Mental Health Act which excepts from the requirement of prior client authorization for disclosing confidential information "disclosure... to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the client at the residential facility." Finally, persons who are treated for intoxication are made liable to the furnishing facility for its reasonable costs. NMSA 1978, § 43-2-21. See also NMSA 1978, § 43-1-4(B) (nonindigent clients liable for costs of counsel required for Mental Health Act proceeding); § 43-1-6(B) (resident clients who are indigent shall be furnished with writing, postage and telephone facilities without charge).

Cf. NMSA 1978, § 23-7-12(D) (Repl. Pamp. 1987) (community mental health program authorized to levy charges for its services based on ability of involuntary or voluntary clients to pay).

Based on the language of the statutes governing commitment proceedings, and in the absence of any indication of contrary legislative intent, we conclude that facilities treating involuntarily committed clients must look to those clients for payment. If, pursuant to the involuntary commitment provisions, a facility admits a client who is unable to pay, the facility should seek payment in the same manner it would any other client. For example, the facility, if eligible, may seek reimbursement under the Indigent Hospital Claims Act, NMSA 1978, §§ 27-5-1 to -- 18 (Repl. Pamp. 1989), for indigent clients who are not otherwise able to pay.¹ That statute makes the county the responsible agency for hospital care of its indigent residents. NMSA 1978, § 27-5-2. Cf. AG Op. No. 85-03 (1985) (ambulance and hospital expenses of indigents resident in a county are exception to general rule that expenses of indigent persons arrested by a municipality are paid by the municipality; such expenses are exclusively a county responsibility). A hospital eligible to make claims under the Indigent Hospital Claims Act includes "any general or limited hospital licensed by the health and environment department, whether nonprofit or owned by a political subdivision" and other specified health care facilities included by resolution of the applicable county indigent hospital claims board. Id. § 27-5-4(D). This office recently concluded that the Indigent Hospital Claims Act covered claims for the reimbursement of mental health treatment costs. AG Op. No. 88-64 (1988).

ATTORNEY GENERAL

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GENERAL FOOTNOTES

[n1](#) Indigent patients may be able to pay medical costs if they are receiving medical assistance or other public assistance from the New Mexico Human Services Department. See NMSA 1978, §§ 27-2-7, 27-2-9 (Repl. Pamp. 1989) (sections of Public Assistance Act providing for general public assistance and hospital care). A hospital may not claim reimbursement from these patients under the Indigent Hospital Claims Act, NMSA 1978, § 27-5-3.