

Opinion No. 42-4112

July 3, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{*214} This is to acknowledge receipt of your letter of June 24, with reference to per diem allowance for the members of the Carrie Tingley Crippled Children's Hospital Board.

Chapter 13, Laws of 1937, created the Carrie Tingley Crippled Children's Hospital. The Hospital is supervised and managed by a Board of Directors who are vested with certain powers and duties, one of which is: "To supervise, direct and control the disbursement and expenditure of all monies appropriated by this act or receive any other monies for use of such Hospital.

Section 1, Chapter 212, Laws of 1941, which provides for appropriations for the Thirtieth and Thirty-first Fiscal Year, provides in part as follows:

"CARRIE TINGLEY HOSPITAL FOR CRIPPLED CHILDREN (Hot Springs)

(1) For salaries, wages, operations maintenance and other necessary expenses

Thirtieth Fiscal

Year \$ 90,000.00

Thirty-first Fiscal

Year 100,000.00"

The rule is that where no salary is provided for by the Legislature in the act which created the office or board, then no salary can be allowed. However, the rule also is, in those cases, that a per diem reimbursement is allowed if there be an appropriation to cover expenses incurred while on official business.

In view of the statutes on this particular matter, I am of the opinion that the Carrie Tingley Crippled Children's Hospital Board may not allow a salary per diem for members attending meetings. The only compensation which the Hospital Board may allow its members is reimbursement per diem not to exceed Four Dollars (\$ 4.00) per day, based upon the rules and regulations of the Comptroller's Office.

By WILLIAM R. FEDERICI,

Asst. Atty. General