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BRUCE E. BABBITT
ATTORNEY GENERAL

June 18, 1975

Suzanne Dandoy, M.C., M.P.H.
Acting Director
Department of Health Services
1740 West Adams
Phoenix, Arizona 85007

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ARIZONA ATTORNEY GENERAL

Dear Doctor Dandoy:

In your letter of February 4 you requested an opinion on the following questions:

1. Where a resident of the Pioneers' Home receives needed health services outside the home, is it the responsibility of the Home to pay the resulting charges?
2. Is the same answer applicable to disabled miners?

A.R.S. § 41-923, Admission to home; qualifications required; neglect or refusal to reimburse, states:

A. A person of good character is entitled to be admitted to the Arizona pioneers' home, at the expense of the state, who:

1. Is, and has been, for a period of five years prior to his application for admission, a citizen of the United States and of the state.
2. Has been a resident of the state for not less than thirty-five years, active in the development of the state.
3. Has reached the age of seventy or more years.
4. Because of adverse circumstances, failing health or other disability, is unable to provide himself with the necessities and ordinary comforts of life.

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B. An applicant for admission to the home shall submit in duplicate with his application, to the superior court of the county in which he resides, a financial statement on a form furnished by the superintendent, signed by such applicant under oath.

C. The director of the department of health services may admit a person to the home when the person presents an order of the superior court of the county in which he resides, together with the duplicate copy of the financial statement submitted by the applicant to the superior court, stating that a full examination and investigation reveals that the person possesses the qualifications prescribed by this section.

D. A person admitted to the Arizona pioneers' home shall pay to the state, to the extent that he is financially able to do so, the cost incurred by the state as a result of such person residing at the home. The cost shall be paid monthly to the superintendent and it shall not be in excess of the average monthly per capita cost of operating the home based on the number of persons then residing at the home. A person who neglects or refuses to reimburse the state as required under the provisions of this subsection shall not be permitted to reside at the home during the continuance of this neglect or refusal to pay. The provisions of this subsection shall be applicable only to those persons who are admitted to the home after the effective date of this section. [Emphasis added]

A.R.S. § 41-924, Duties of superintendent; approval of claims; disposition of monies collected, in pertinent part provides:

B. The superintendent shall admit persons to the home upon the order of the director of the department of health services and shall see that

persons admitted to the home are comfortably cared for, fed, clothed, and furnished with necessary medical treatment. [Emphasis added]

The latter section makes it the responsibility of the superintendent, among other things, to see that persons admitted to the Home are ". . . furnished with necessary medical treatment." There is no distinction made as to where the "treatment" might be provided; as long as the person remains a resident of the Home he is entitled to receive his needed medical treatment at the expense of the State.

Subsections B and D of A.R.S. § 41-923 were added by Laws 1970, Chapter 93. As to those residents admitted since August 11, 1970 (the effective date of this amendment), the provisions of subsection D relating to payment of a per capita share of the cost of operation by financially able residents will require the Home to determine:

1. The actual cost of caring for each resident less third party reimbursements, such as Medicare and private insurance proceeds.
2. The average monthly per capita costs less third party reimbursements, but including costs which are particular to an individual patient, such as outside medical treatment and prescription drugs.

These residents should pay the lower of the amounts resulting from these computations.

All computations of per capita costs should include depreciation of capital acquisitions and expenditures from endowment earnings, as well as appropriated funds. Expenditures from special donation funds should not be included in any of these computations since they do not represent a cost to the state.

The purpose of applying these computations is to determine the proper amount to bill patients admitted on or after August 11, 1970 who are financially able to pay, in order that:

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1. He will pay "the cost incurred by the state as a result of his residing at the Home", and
2. His payment will "not be in excess of the average monthly per capita cost of operating the Home based on the number of persons residing at the Home".

Since the Home will be paying for all medical treatment needed by its residents, the patients should be required to execute subrogation agreements so that the Home can collect for deposit in the State's General Fund all third party obligations to pay for health services rendered to the residents of the Home.

Your second question concerns disabled miners. A.R.S. § 41-941 and § 41-942 pertain to the Hospital for Disabled Miners. There is nothing in either of those sections which indicates an intention of the Legislature as to whether the medical expenses rendered to disabled miners outside the Hospital for Disabled Miners should be charged to the Hospital budget or to the patient.

It is noted, however, that the endowment funds made available by Section 25 of the State's Enabling Act provide support for the "miners' hospitals for disabled miners". It is evident that the legislative intent was to provide for places wherein the medical as well as custodial needs of disabled miners will be met. It follows, therefore, that if these medical needs are not or cannot be supplied in the facility utilized as the Hospital for Disabled Miners, then the Superintendent should arrange and pay for the delivery of such services by a qualified provider.

Sincerely,



BRUCE E. BABBITT
Attorney General

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