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HOSPITAL REIMBURSEMENT LAW — WHERE A PATIENT RECEIVED HOSPITALIZATION CARE AND TREATMENT FOR INJURIES SUSTAINED IN A MOTOR VEHICLE ACCIDENT AND THE ACCOUNT WAS UNPAID AFTER NINETY DAYS — FILES WITH REGISTRAR OF MOTOR VEHICLES SHOW PATIENT ADJUDGED BANKRUPT — SUCH PERSON SHALL BE DEEMED UNABLE TO PAY—SECTION 6308-7 G. C.

SYLLABUS:

*Under the provisions of the Hospital Reimbursement Law (Section 6308-7, et seq., General Code), a person received and cared for in a hospital for the treatment of injuries sustained by him by the operation of a motor vehicle and whose account therefor remains unpaid at the expiration of ninety days after the termination of such care, shall be deemed unable to pay within the meaning of Section 6308-7, General Code, if, at the time the hospital files with the Registrar of Motor Vehicles its claim for reimbursement for the cost of such care, it appears that an execution issued on a judgment for the amount thereof, should one be secured against him, would be unavailing by reason of such person having been adjudicated a bankrupt.*

Columbus, Ohio, August 12, 1940.

Hon. Cylon W. Wallace, Registrar, Bureau of Motor Vehicles,  
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your recent request for my opinion on the following:

“Assuming a person, who has suffered a motor vehicle injury and whose financial circumstances are such that his hospital account could be collected in whole or in part during his hospitalization and for a period of time thereafter, subsequently files a petition in bankruptcy, including his hospital account among his liabilities, and the hospital, having failed to attempt collection of its account, or having secured judgment, was estopped from levying execution because of patient’s petition in bankruptcy, would such discharge in bankruptcy qualify the patient as an ‘indigent patient’ as defined by Section 6308-7 of the General Code.”

The Hospital Reimbursement Law, Sections 6308-7 to 6308-15, inclusive, General Code, was originally enacted by the 90th General Assembly, 115 O. L. 482, "to provide reimbursement for hospitals on account of expenses of the care of indigent persons injured in motor vehicle accidents". Section 6308-7, General Code, contains a definition of those persons whom the Legislature considered indigent patients within the meaning of the act.

Said section provides in part as follows:

" 'Indigent patient' means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay for the cost of such care and whose account therefor remains unpaid at the expiration of ninety days after the termination of such care; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state or country. A person injured by the operation of a motor vehicle shall be deemed unable to pay such charges if it shall appear that, should an action be brought and judgment secured for the amount thereof against him or against any other person legally responsible for his care, execution thereon would be unavailing."

It is thus apparent that a hospital can only recover for services rendered to those persons who are unable to pay for the costs of the care afforded and whose account for care remains unpaid for a period of ninety (90) days after the termination of the care. In determining whether or not a patient is unable to pay resort must be made to the last sentence of the statute which provides that such patient shall be deemed unable to pay if it shall appear that should an action be brought and judgment secured execution thereon would be unavailing. In this connection your attention is directed to 1934 Opinions of the Attorney General, page 234, wherein at page 240 the then Attorney General held:

"7. 'Indigent patient' means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay, that is in the sense that if it appears that should an action be brought and judgment secured for the amount of the hospital bill against such alleged indigent or a party legally responsible for his care, execution thereon would be unavailing, and whose account remains unpaid for a period of ninety days after the termination of such care. The definition excludes, however, an employe suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state or country."

It remains to be determined, however, what period of time with re-

spect to hospitalization the Legislature intended when using the terms "is unable to pay" and "should an action be brought" in connection with the above definition. In other words, in order to be declared an "indigent patient" must he be unable to pay during his hospitalization or at some time thereafter when attempt is made either by action or otherwise to collect the account?

It appears to me that the Hospital Reimbursement Law was enacted for the joint benefit of indigent sufferers from motor vehicle accidents and the hospitals which cared for such persons to the end that the injured would be afforded proper treatment and the hospital would be reimbursed therefor. In view of this observation I feel that the act should be construed liberally to bring about the desired results.

From an examination of the act as a whole, it is my opinion that when the Legislature used the expression "is unable to pay" in Section 6308-7, supra, it meant unable to pay when the hospital filed its claim with the Registrar of Motor Vehicles, i. e. at the expiration of ninety days after termination of care in the manner prescribed in the act. In other words, if at the time of presentation of a claim by a hospital it appears that should an action be brought and judgment secured against a person for the amount of the bill due the hospital for care rendered such person who has suffered a motor vehicle injury, execution thereon would be unavailing, he shall be deemed unable to pay for the cost of the care rendered within the meaning of Section 6308-7, supra. To hold otherwise would require a hospital caring for a sufferer from a motor vehicle accident continually to harass such person by legal action or otherwise for payment of its bill during the period of actual care, as well as the period of convalescence immediately following discharge from a hospital.

The cost of the care is not certain until the termination thereof. To say that should a patient be "able to pay" his bill the very day he is dismissed from the hospital and a short time thereafter become "unable to pay" he does not come within the definition of "indigent patient" would defeat the declared purpose of the act. Under that theory the hospital would be penalized for acting in a manner becoming a charitable organization by allowing a patient a reasonable time within which to meet his obligation.

The position which I have taken is, I feel, supported by an examination of Section 6308-11, General Code, which provides as follows:

“The registrar of motor vehicles shall examine and audit each claim presented to him under the provisions of this act. From the facts and information contained in the claim, the monthly reports of the claimant hospital, the supporting certificates and affidavits, and such other evidence as he may require, the registrar of motor vehicles shall ascertain and determine, as to each claim, the following facts:

1. Whether or not the claim is predicated upon care given to a person suffering from a motor vehicle injury as defined in this act.
2. Whether or not such person is able to pay the hospital charges for which the claim is made, within the meaning of this act.”

It will be noted that the Registrar of Motor Vehicles is required to examine and audit each claim to determine inter alia “whether or not such person is able to pay the hospital charges for which the claim is made, within the meaning of this act”. Is able to pay when? A logical construction would be to say at the time the claim is filed by the hospital. It may be urged that the construction which has been placed on the statute in question would permit a hospital to stand by idly for a period of ninety days after termination of care without exerting any effort to collect its account and then make claim for reimbursement from the state. Unquestionably the law does not contemplate any such inaction by a claimant hospital. On the contrary it contemplates that hospitals before filing claims will try diligently to obtain payment of accounts due. It must be borne in mind that we are concerned with charitable organizations established for the care of the sick. Certainly it must be presumed that such organizations will avail themselves of all means to collect accounts before turning to the state for reimbursement. The equities of the case are with the hospitals and it is with this in mind that I have come to the conclusion hereinabove set forth.

Assuming the case of a true “indigent patient”, in order to be eligible for reimbursement each of the qualified hospitals must proceed as outlined in Sections 6308-9 and 6308-10, General Code. Section 6308-9 provides as follows:

“Each hospital, in order to be entitled to the benefit of this act, shall make and file with the registrar of motor vehicles monthly, as of the last business day of each month, a report under oath showing the name of each sufferer from a motor vehicle accident, received into and cared for in such hospital during the month covered by the report, for whom such hospital may desire to make claim under this act; the time and place of the accident or occurrence in which the

injury was incurred; the total number of days' care given to such in the month for which report is made and in any preceding month or months; the date of the receipt and discharge of such sufferer or other termination of such care; and such other facts or information as the registrar of motor vehicles may require in the form of report prescribed by him."

It will be noted that as of the last business day of each month a mandatory duty is placed upon each hospital desiring benefits under the act to file with the Registrar of Motor Vehicles a report containing, among other things, "the name of each sufferer from a motor vehicle accident, received into and cared for in such hospital during the month covered by the report, for whom such hospital *may desire to make claim*" under the Hospital Reimbursement Law. From the language emphasized it would appear when a hospital receives a sufferer it must, not later than the last business day of the month in which said sufferer is received, determine whether or not it may desire, at some future time, to make claim for services rendered. If, after investigation, the hospital feels that the sufferer may be an "indigent patient" it must report the care of such person in the monthly report next due. The inclusion of the name of an "indigent patient" in the first monthly report after admittance thereof is a condition precedent to reimbursement under the act.

The manner of presenting claims is set forth in Section 6308-10, General Code, as follows:

"At the time of making any monthly report each hospital may present a statement of its claim for reimbursement for the cost of the care of each indigent patient, which claim has matured within the month covered by the report then due or within any previous month. Each such claim shall be made in the form prescribed by the registrar of motor vehicles and shall show the following:

1. The name of the person to whom care has been given.
2. The number of days' care, with the dates of reception into the hospital and discharge or other termination of care.
3. The amount of the claim.
4. A statement under oath, showing the effort made by the hospital to collect the amount of the claim from the indigent patient, and the amount, if any, collected from such patients, or any other person on his account.
5. The affidavit of the indigent patient, if living, and the statement of a township trustee, municipal officer or director or like representative of a social agency engaged in the relief of the

poor, having knowledge of the facts, showing that the indigent patient is unable to pay such hospital charges.

6. Such other facts and information as the registrar of motor vehicles may require in the form of claim prescribed by him.

7. For the purpose of the claim provided for in this section an indigent patient who is not otherwise able to pay such hospital charges shall not be deemed to be able to pay the same because a third person might be held liable in an action to recover damages on account of such motor vehicle injury, which has not been filed; but if such an action has been filed, the statement of claim shall show the fact and the registrar of motor vehicles may in such event suspend the determination of such claim until such action shall have terminated and may require such hospital to furnish such further information with respect to such action as he may deem necessary in order to determine the ability of the patient to pay the charges for which claim is made."

Under the terms of this section, a hospital may present, along with its monthly report, a claim for reimbursement which has matured during the month covered by the report or some month prior thereto. In this statement of claim the hospital must inform the Registrar of its efforts to collect the account. It is reasonable to assume, therefore, that the Legislature intended the claimant hospital to use all means available to collect the account before seeking reimbursement from the state.

We come now to your specific questions relative to what effect the filing of a petition in bankruptcy has upon the determination of whether or not a person is an "indigent patient" as that term is defined in the Hospital Reimbursement Law.

An examination of the facts in your request reveals at the time the claimant hospital filed its claim for reimbursement the patient in question had already been adjudicated a bankrupt. Obviously, therefore, had an action been brought at that time against such person and judgment secured for the amount of the hospital bill, execution thereon would have been unavailing.

Applying the principles above set forth, it is my opinion, under the circumstances of the case at hand, that the person in question "is unable to pay" and should the Registrar of Motor Vehicles find in addition thereto that such person has suffered a motor vehicle injury, was received and cared for by the claimant hospital, the account for such care was not paid within ninety days after the termination thereof and that the name of such person was included

in the first monthly report filed by the claimant hospital after admittance to such hospital, the claim should be allowed.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.