



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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February 12, 1979

ATTORNEY GENERAL OPINION NO. 79- 14

Mr. Melvin M. Gradert
County Counselor
Harvey County
Newton, Kansas 67114

Re: Counties and County Officers -- Jails -- Medical Care
of Prisoners

Synopsis: A County is responsible for the expense of medical care
provided to an indigent prisoner housed in a county jail,
where no other source of funds is available.

* * *

Dear Mr. Gradert:

In your letter, you have requested our opinion concerning the liability
of a county for medical costs incurred in the treatment of a non-indigent
prisoner. Specifically, you requested our office to distinguish between
prior Attorney General Opinions Nos. 78-66 and 74-176.

Attorney General Opinion No. 74-176 concluded that a "county must bear
the expense of necessary medical services provided for a prisoner in
the county jail if the prisoner is indigent." This conclusion was obtained
without benefit of any Kansas statutes or court decisions precisely on
point. However, the conclusion reached in that opinion was substantially
reiterated by the recent case of Mt. Carmel Medical Center v. Board of
County Commissioners, 1 Kan. App.2d 374 (1977), which states at page
378:

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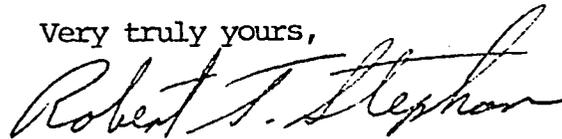
"Both parties agree that in Kansas a sheriff has a duty to furnish medical attention to a prisoner in his custody who is in need thereof, at the county's expense if the prisoner is indigent and no other source of funds is available. This is clearly the law in Kansas. (Pfannenstiel v. Doerfler, 152 Kan. 479, 105 P.2d 886; Levier v. State, 209 Kan. 442, 497 P.2d 265.)"

It is then obvious from this case that a county assumes responsibility for medical expenses only when a prisoner is indigent, or without collateral sources of funds.

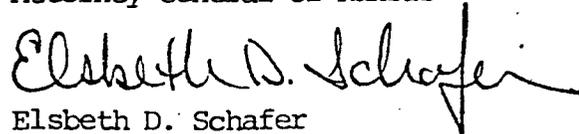
Attorney General Opinion No. 78-66 dealt with the respective responsibilities of cities and counties for prisoner expenses. In light of the Mt. Carmel case, supra, this opinion is overly broad to the extent that it states a county is responsible for all costs of medical care furnished a prisoner. As set out in Mt. Carmel, it is only when a prisoner is indigent or no other source of funds is available that a county is responsible for medical costs incurred on behalf of a prisoner.

In conclusion, it is our opinion that a county is responsible for the cost of medical care provided to an indigent prisoner where no other source of funds is available. We are aware of no intervening case law or statute that would impose a higher burden on a county.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Elsbeth D. Schafer
Assistant Attorney General

RTS:TDS:EDS:may