

RO-685



Office of the District Attorney  
349th Judicial District of Texas

P.O. Box 1076  
Crockett, Texas 75835

MAR 21 94

CINDY MARIA GARNER  
District Attorney

March 16, 1994

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Dan Morales  
Attorney General of the State of Texas  
P. O. Box 12548  
Austin, Texas 78711-2548

SJS KKO  
FIVE #ML-25327-9  
I.D.# 25327

ATTN: Sarah Shirley, Opinions Division I.D.#

Dear Ms. Shirley:

Presently Houston County is having an ongoing quarrel with the Houston County Hospital regarding payment for certain medical services.

I have presented your opinion nos. DM-225 and 93-100 to the Hospital and they understand the present state of the law regarding indigent inmates, but our continuing problem is over non-indigent inmates.

The hospital takes the position that an inmate who is unable to prove his indigency is the responsibility of the county while he/she is incarcerated and all charges should be paid by the county. The county takes the position that, if an inmate is (not) indigent, then the statement for any necessary medical services should be sent to that inmate individually.

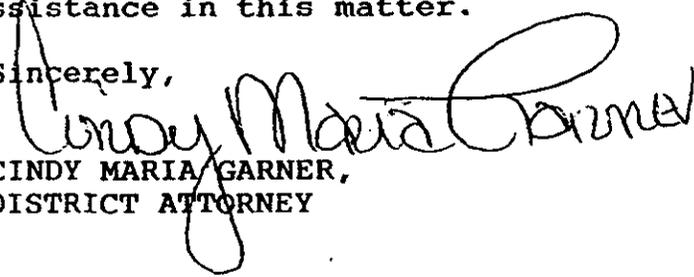
Take the example of a person who, after a hard week at work, is arrested for Driving While Intoxicated on a Friday night. Saturday morning, before the judge arrives to set bond, that inmate starts vomiting blood. If we agree with the hospital's argument, then the charges for that inmate's medical services would be the responsibility of the county eventhough that inmate had a job.

I would sincerely appreciate you reviewing your opinions to ascertain if this issue has been addressed in the past. In the event it has, please provide me with a copy of that opinion. If this issue has not been addressed, please provide me with some wisdom on how to resolve this issue before war is declared!!!

Ms. Sarah Shirley  
March 16, 1994  
page 2, cont'd

Thank you for your kind assistance in this matter.

Sincerely,



CINDY MARIA GARNER,  
DISTRICT ATTORNEY

CMG/tjm

cc: Mr. Louis Cook, Auditor  
Houston County Courthouse  
Crockett, Texas 75835

Sheriff Jimbo Rains  
Houston County Sheriff's Department  
112 East Houston Ave.  
Crockett, Texas 75835

COUNTY OF COMANCHE  
JOEY L. BOSWELL, C.P.A.  
COUNTY AUDITOR  
COURTHOUSE, COMANCHE, TEXAS 76442  
Phone 915-356-3834

June 22, 1994

Mr. Dan Morales  
Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

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Opinion Committee

SJS  
FILE # MC-27238-94  
I.D.# 27238

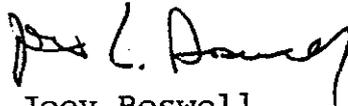
Dear Sir:

This letter is to request your opinion on who is responsible for the medical expenses incurred on behalf of a Comanche County Jail Inmate. The facts were as follows:

X, a resident of the Comanche County Hospital District, was incarcerated in the Comanche County Jail. Upon being incarcerated, X was taken by a Comanche County Deputy Sheriff to the Brownwood Regional Medical Center in Brown County, Texas, for emergency treatment. Thus medical expenses were incurred in Brown County for treating X. The Comanche County Sheriff's Department assumed that X was indigent, but there was no determination made as to the indigency of X. The Comanche County Hospital District was not notified since it does not have a detoxification facility for treating ethanol alcohol addiction whereas Brown County facility does have such a facility.

Enclosed is the opinion of the Comanche County Attorney. His opinion letter includes a Brief of Authorities. In view of the ambiguity in this area, I would appreciate an opinion from your office. Thank you.

Very truly yours,



Joey Boswell  
Comanche County Auditor

JB/bv

Office of the  
COMANCHE COUNTY ATTORNEY  
C.H. McCall



COURTHOUSE

P.O. Box 147  
COMANCHE, TEXAS 76442  
Phone (915) 356-2313

June 21, 1994

Mr. Joey Boswell  
County Auditor  
Comanche County  
Comanche, Texas 76442

Dear Mr. Boswell:

Recently Brownwood Regional Medical Center submitted a bill for medical expenses incurred on behalf of an inmate of the Comanche County Jail. The question you have presented is whether the Comanche County Jail or the Comanche County Hospital District is responsible for payment of these expenses under the following fact situation:

X, a resident of the Comanche County Hospital District, was incarcerated in the Comanche County Jail. Upon being incarcerated, X was taken by a Comanche County Deputy Sheriff to the Brownwood Regional Medical Center in Brown County, Texas, for emergency treatment. Thus medical expenses were incurred in Brown County for treating X. The Comanche County Sheriff's Department assumed that X was indigent, but there was no determination made as to the indigency of X. The Comanche County Hospital District was not notified since it does not have a detoxification facility for treating ethanol alcohol addiction whereas the Brown County facility does have such a facility.

The Comanche County Hospital District has taken the position that it is not responsible for the medical expenses because the patient did not submit an application for indigent health care status.

It is my opinion that the Comanche County Hospital District is responsible for the Brownwood Regional Medical Center charges, and the Hospital District may seek reimbursement for those expenses from the person who received the treatment.

#### BRIEF OF AUTHORITIES

If a resident of a hospital district is indigent, section 61.055 of the Indigent Health Care and Treatment Act provides that the hospital district must provide the health care services and treatment required by the Texas Constitution and the statute creating the district. Prior opinions of the Texas Attorney General's Office have consistently opined that a hospital district's duty to provide medical care for their indigent residents extends to such residents when they are held in county jails. Attorney General Opinions DM-225 (1993); JM-643 (1987); JM-487 (1986); H-703

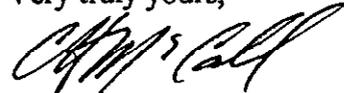
(1975). Thus the Comanche County Hospital District is responsible for the medical costs of an indigent jail inmate who is a resident of that district.

There is, however, an additional question here since the inmate did not file an application for indigent health care status. "Emergency medical services" means services used to respond to an individual's perceived need for immediate medical care and to prevent death or aggravation of physiological or psychological illness or injury. §773.003, Emergency Medical Services, Texas Health & Safety Code. The medical services provided X were "emergency medical services" according to Comanche County Sheriff personnel. Chapter 773, however, does not address the issue of payment for the emergency medical services. Thus it appears that costs for "emergency medical services" should be treated as other medical costs are when they are incurred on behalf of an indigent who is a resident of a hospital district.

Sections 61.006 through 61.008 of the Indigent Health Care & Treatment Act, Texas Health and Safety Code, establish the standards and procedures for determining the eligibility of an applicant for indigent health care. Comanche County Hospital District has adopted an Indigent Health Care Program Policy and Procedure. (See Exhibit A). These procedures were not followed in the instant case because of the emergency nature of the medical treatment, nor was an application filed by the inmate patient after he had been stabilized.

Notwithstanding the failure of X to file an application for indigent health care, it is my opinion that the Comanche County Hospital District has the primary obligation to pay for X's medical services that were provided to X by the Brownwood Regional Medical Center in Brown County. As stated in the Summary in Attorney General Opinion JM-643 (1987), "Medical care and treatment for a nonresident indigent prisoner in a county jail who is a resident of an area within a hospital district is the responsibility of the hospital district, as provided by Article IX, section 9, of the Texas Constitution." X's residence is located within the Comanche County Hospital District. Although X was incarcerated in the Comanche County Jail and not the Brown County Jail, it still appears that the legislative intent is for a hospital district to bear the primary responsibility for the health care of its indigent residents. If the Comanche County Hospital District subsequently determines that X was not "eligible" under Chapter 61 of the Indigent Health Care & Treatment Act, the Hospital District may seek reimbursement from X. Article 104.002 (d) of the Texas Code of Criminal Procedure.

Very truly yours,



C. H. McCall

Comanche County Attorney

cc: County Judge John Weaver

Mr. Donald B. Hopkins  
Administrator  
Comanche Community Hospital  
211 South Austin, Comanche, Texas 76442

## EXHIBIT A

### COMANCHE COUNTY HOSPITAL DISTRICT INDIGENT HEALTH CARE PROGRAM POLICY AND PROCEDURE

**POLICY:** The Board of Directors of the Comanche County Hospital District will establish and administer a program for indigents within the district. Such duties as may be necessary to administer the program will be delegated to the Comanche Community Hospital Administrator or his designee. A notice will be published at the beginning of each operating year to inform district residents of the Indigent Care Program.

**PROCEDURE:** The administrator will designate an employee as Indigent Health Care Coordinator. The coordinator will be responsible for the overall operation of the program. She will accept applications, evaluate, keep records on and correspond with applicants.

The application, documentation and verification procedures established by the Texas Department of Human Services under Sec.61.006 through Sec. 61.008 of the Indigent Health Care and Treatment Act shall be followed.

The forms used for the Comanche County Hospital District Indigent Health Care Program shall be the same as those established for the County Indigent Health Care Program by the Texas Department of Human Services. Since the application form will be accepted by TDHS and the Social Security Administration when applying for assistance, a copy of this completed application may be sent with the resident if it is determined he/she may be eligible for assistance from either department.

The County Indigent Health Care Program Handbook from TDHS shall be used as a resource and guide for administering the program.

The Indigent Health Care Coordinator will be responsible for publishing or seeing that the required notice is published as required.

If the administrator or manager finds that a patient or his relatives are unable to pay in whole or in part for his care and treatment in the hospital, the Indigent Care Coordinator will be asked to review the case. If the patient is a resident of another district, county, etc., and is a potential candidate for the Indigent Health Care Program, that district/county or appropriate authority will be notified immediately by telephone with appropriate follow through as needed. If the patient is a resident of this district the application process will be started. However, the patient does have the right to refuse this assistance program.

Upon completion of an application the Coordinator will meet with the Administrator or his representative to make a determination on the case. This must be done by the 14th day after the application is complete. Otherwise, the application is automatically approved.

Denied applicants may appeal the decision and/or reapply if circumstances change.

COMANCHE COUNTY HOSPITAL DISTRICT  
INDIGENT HEALTH CARE PROGRAM

Policy and Procedure

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As established in the enabling act of the hospital district, the Board of Directors will hear appeals/disputes relating to indigent health care. They will determine eligibility after calling witnesses and will give written notification of determination to the applicant, the administrator and the coordinator.

Appeals from a final order of the Board shall lie to the District Court. The substantial evidence rule shall apply. Determination shall be recorded in applicants file.

An approved household is entitled to services beginning with the earliest date on which the household meets all eligibility factors and has unpaid medical bills for services rendered at Comanche Community Hospital in the month of application or any of the three months prior to the application month.

Records relating to an Indigent Health Care application will be maintained for at least three years after the date on which the application is submitted.

Statements or copies thereof shall be submitted to the Indigent Health Care Coordinator by the recipient or Comanche Community Hospital. The coordinator shall review statements and submit for payment as appropriate to the Administrator or his designee. Expenditures shall be recorded in each recipient's file.

Inpatient, outpatient and emergency services will be provided for eligible applicants at the Comanche Community Hospital. All provided services must be medically necessary and provided under the direction of a physician. A record of expenses will be kept on each recipient.

Eligibility will be reviewed at least every six (6) months. The billing department of Comanche Community Hospital will be notified of any change in eligibility status.

Submitted: 01/28/93

Approved: 01/28/93