

OPINION
45-227

October 30, 1945 (OPINION)

POOR PERSONS

RE: Residence for Relief Purposes

Your letter of October 26 addressed to the Attorney General has been received and contents noted.

You state that one Rose Pelarien was recently committed by your county court to the sanitarium at Dunseith. She is an indigent person. The judge of the county court has made an investigation as to the residence of this person, and while he found that she was not a resident of Traill County, he was unable to determine whether she had any residence in the State of North Dakota.

Your county nurse accompanied said Rose Pelarien to the sanitarium at Dunseith; the superintendent at first refused take her for the reason that her residence was not established. However, the superintendent allowed her to remain in the institution until such a time as her place of residence should be determined.

In your letter you further state that the said Rose Pelarien has never made her permanent home in Traill County, but has on numerous occasions come into your county and worked as a domestic. She also spent some time in Grand Forks with her sister, and her father's home is in Pembina County.

Subdivision 2 of section 50-0204 of the North Dakota Revised Code of 1943 provides that, "Each person who has resided one year continuously in the state but not in any one county, shall have a residence in the county in which he or she has longest resided within such year."

Our Supreme Court has passed on this statute in the case of Eddy County v. Wells County, 68 N.D. 394. The substance of the decision in that case, so far as it applies to Rose Pelarien, is stated in paragraph 2 of the syllabus, as follows:

Indigent persons--an applicant for poor relief who has been a resident of this state for more than one year but who has not resided continuously in any one county during the year immediately preceding his application, has his settlement in the county in which he has longest resided during such year."

The first thing to determine in this case is whether or not Rose Pelarien has resided continuously in the state for one year. If it is found that she has resided continuously in any one county during the year immediately preceding his application, has his settlement in the county in which he has longest resided during such year."

The first thing to determine in this case is whether or not Rose Pelarien has resided continuously in the state for one year. If it is found that she has resided continuously in the state for one year,

then the next question is as to which county she has resided the longest within the year immediately preceding her commitment to the sanitarium. If, for instance, she has resided three months in one county, four months in another, and five months in another county within the year immediately preceding her commitment, then the county in which she had resided five months would be her legal residence, and since she is an indigent person the latter county would be liable for her treatment and care at the sanitarium.

You refer to section 25-0510 of the Revised Code of 1943 which fixes the charge for patients at the sanitarium, and provides (subdivision 2) that, "The state at large if it has been determined that a patient does not have a residence in any county in this state."

If it should be found that this person is not a resident of the state under the rules and methods prescribed by the statutes referred to for determining residence for your relief purposes, then and in that event the state would be liable for the expenses of care and treatment at the sanitarium.

No specific appropriation has been made by the Legislature for such purpose, but since the statute quoted provides that the state is liable if it has been determined that a patient does not have a residence in any county in this state, such provision would be considered a standing appropriation, and the charge for care and treatment should be paid out of the general fund of the state. This, of course, would apply only in cases where the patient has not resided continuously for one year within the state.

NELS G. JOHNSON

Attorney General