



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GROVER SELLERS

~~**JOHN BEN SHEPPARD**~~
ATTORNEY GENERAL

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Mr. Sheppard:

Opinion No. 0-7031

Re: Can the heads of the eleemosynary institutions be reimbursed for their traveling expenses for amount in excess of \$4.00 per day for meals and lodging?

We have carefully read and looked into the question raised by your letter, which reads as follows:

"Please advise whether or not the Head of the Eleemosynary Institutions may be reimbursed while traveling, for amounts in excess of \$4.00 per day for meals and lodgings.

"This question is being asked for the reason that the last Legislature changed the wording of the provisions passed by the Forty-eighth Legislature which allowed the various Superintendents their actual expenses."

In our Opinion No. 0-5867 approved March 27, 1944, we held that under the appropriation bill, as passed in 1943, the superintendents of the eleemosynary institutions, when traveling on State's business, were not limited to the \$4.00 per day for hotel and lodging. You have a copy of this opinion.

As you state in your letter of inquiry, in 1945 the Legislature changed the appropriation bill, so that it now becomes necessary for us to interpret the 1945 act relative to the question asked.

The 1943 appropriation bill for the eleemosynary institutions, under the heading "general provisions", reads as follows:

"Traveling Expenses. None of these appropriations may be used for traveling outside of the State of Texas without the advanced written consent of the State Board of Control * * *; the State Comptroller shall apply the same rules to the approval and payment

of traveling expenses of all employees except the superintendent of eleemosynary institutions as he applies to the expenses of the State departments. Superintendents' trips shall be as authorized by the Board of Control."

In the General Provisions attached to the eleemosynary appropriation bill in 1945, the above portion thereof was changed to read as follows:

"Traveling Expenses. None of these appropriations may be used for traveling outside of the State of Texas without the advance written consent of the State Board of Control * * *. The State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees as he applies to such expenses of the State departments. Superintendents' trips shall be authorized by the Board of Control."

You will notice that the only change made in the above matter by the Legislature in 1945 from that contained in the 1943 act is in the phrase "The State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees except the superintendents of the eleemosynary institutions, as he applies to such expenses of the State departments."

In the 1945 act the words, "except the superintendents of the eleemosynary institutions" were eliminated. This clearly demonstrates, we think, that the Legislature intended for the State Comptroller to apply as it said the same rules to the approval and payment of traveling expenses to the superintendents of the institutions, who, of course, are employees, as is applied to all other employees working for the various State departments.

The general provisions to the appropriations for the various State departments relative to traveling expenses of State employees is embraced in Section 11, page 943-944 of the Acts of 1945; and subsection (g) thereof provides specifically that all employees traveling at the expense of the State of Texas are limited to \$4.00 per day for meals and lodging.

Since the Legislature has specifically provided that the State Comptroller shall apply the same rules to the approval and payment of traveling expenses of all employees for the eleemosynary institutions as he applies to such expenses of the State departments, it is our opinion that the superintendents of the eleemosynary institutions are limited to the \$4.00 per day for their lodging and meals.

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We therefore answer your question that these superintendents can not be reimbursed for the expense of their lodging and meals in excess of the \$4.00 per day.

Very truly yours

APPROVED JUL 31, 1946

ATTORNEY GENERAL OF TEXAS

/s/ Carlos C. Ashley

FIRST ASSISTANT
ATTORNEY GENERAL

By /s/ Geo. W. Barcus
Geo. W. Barcus
ASSISTANT

GWB-MR-LM

APPROVED
OPINION
COMMITTEE
BY /s/ BWB
CHAIRMAN