

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-212150

DATE: September 5, 1984

MATTER OF: Panama Canal Commission--Responsibility for
Saint Elizabeths Hospital Services

DIGEST:

The Panama Canal Commission is not financially responsible for the cost of care provided by Saint Elizabeths Hospital to two patients who were adjudged insane and transferred from the Canal Zone to the Hospital many years ago. The two men were transferred to Saint Elizabeths pursuant to 24 U.S.C. § 196, and became the responsibility of the Federal Government because their legal residence in a state, territory, or the District of Columbia could not be ascertained. No subsequent determination of legal residence has ever been made, so they remain the responsibility of the Federal Government.

The Administrator of the Panama Canal Commission has requested our decision on whether the Commission should reimburse Saint Elizabeths Hospital for the cost of care provided to two patients who were adjudged insane and transferred to the Hospital many years ago by the Canal Zone Government or its predecessor. The Superintendent of Saint Elizabeths has provided us with a memorandum prepared by his staff addressing the issue of financial liability for the costs of patients transferred from the Canal Zone. As will be explained more fully below, we do not think that the Panama Canal Commission is financially responsible for the cost of the care provided to the two men.

According to the submission, the two patients, Warren A. Crussey and Lawrence Adams, were adjudged insane in a civil commitment proceeding by the U.S. District Court for the District of the Canal Zone under authority of 4 C.Z.C. § 1755 (1934 ed.). Crussey and Adams were transferred from the Corozal Hospital in the Canal Zone, where they had been committed, to Saint Elizabeths Hospital in 1945 and 1953 respectively, under authority contained in 4 C.Z.C. § 1763 (1934 ed.) This section, now codified at 24 U.S.C. § 196, provides:

"Upon the application of the Governor of the Canal Zone, the Secretary of Health and Human Services may transfer to Saint Elizabeths Hospital, in the District of Columbia, for treatment, any American citizen subject to a

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hospitalization order issued under section 1637 of title 5 of the Canal Zone Code, whose legal residence in one of the States, territories, the Commonwealth of Puerto Rico or the District of Columbia for the purpose of eligibility for public medical care it has been impossible to establish. Upon the ascertainment of the legal residence of persons so transferred to Saint Elizabeths Hospital, the superintendent of that hospital shall thereupon transfer them to their respective places of residence, and the expenses attendant thereon shall be paid from the appropriation for the support of Saint Elizabeths Hospital."

An Act of June 12, 1917, ch. 27, § 1, 40 Stat. 179, as amended.

Both patients were cared for at Saint Elizabeths without charge to the Canal Zone Government or the Panama Canal Commission until October 1982. Saint Elizabeths began billing the Commission at the rate of \$188.51 per day per patient when Federal agencies were instructed by OMB Bulletin No. 82-9 that beginning on October 1, 1982, they would be required to reimburse the Hospital for the cost of care provided to their beneficiaries.

OMB Bulletin No. 82-9 (March 24, 1982) implemented 24 U.S.C. § 168a, a provision originally enacted in 1947. Section 168a provides that:

"Any executive department of the Federal Government * * * requiring Saint Elizabeths Hospital to care for patients for whom such department is responsible, shall, except to the extent that the expense of such care is authorized to be paid from appropriations to the hospital for the care of patients, pay by check to Saint Elizabeths Hospital * * * such amounts as the Superintendent calculates to be due for such care on the basis of a per diem rate approved by the Office of Management and Budget."

Pursuant to 22 U.S.C. § 3611 (1982), the Panama Canal Commission is within the executive branch. Bulletin 82-9 therefore makes the Commission liable for the cost of care for any patient for which it is legally responsible. We must accordingly determine whether the Panama Canal Commission is "responsible" for Messrs. Crussey and Adams.

Subsequent to the effective date of Bulletin 82-9, Congress enacted Pub. L. No. 97-377, 96 Stat. 1887, December 21, 1982, which authorizes the Secretary of Health and Human Services to "bill and collect from (prospectively or otherwise) individuals, the District of Columbia, Executive agencies, and other entities" for services provided by Saint Elizabeths. The question of Commission "responsibility" for Messrs. Crussey and Adams thus also arises in connection with Pub. L. No. 97-377. This provision from the Joint Resolution, Further Continuing Appropriations, 1983, changed the practice of giving Saint Elizabeths an appropriation that would cover the costs of patients for which other agencies are responsible. In 63 Comp. Gen. 44 (1983), we noted that from our review of the legislative history of the provision, there was congressional support for the general concept proposed in the fiscal year 1983 Budget of requiring "full payment from Federal agencies for the cost of care provided at [Saint Elizabeths Hospital] to individuals for whom they are responsible." Major Themes and Additional Budget Details, Fiscal Year 1983, p. 102. See H. Rep. No. 97-894, 97th Cong., 2d Sess. 65 (1982); S. Rep. No. 97-680, 97th Cong., 2d Sess. 69 (1982). We interpreted "responsibility" in this context to mean financial responsibility, and concluded that an agency which has a statutory responsibility to provide financial support to a particular class of individuals, which is relieved of a portion of that financial responsibility due to the commitment of certain members of the class to Saint Elizabeths, must reimburse the Hospital for those costs.

The Canal Commission concedes in its submission that if its predecessor, the Canal Zone Government, would have been responsible for the costs of caring for the two men, its appropriations for fiscal year 1983 permitting payment of liabilities of the Canal Zone Government pending on September 30, 1979 or accruing thereafter, would be available. However, the Commission requested our decision because it is uncertain whether there is a basis for payment of the Saint Elizabeths' bills.

At the time the two men were transferred, 24 U.S.C. § 196 (1940 ed. and 1952 ed.) provided for the transfer to Saint Elizabeths of:

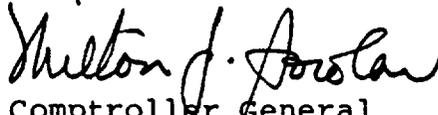
"* * * all American citizens legally adjudged insane in the Canal Zone whose legal residence in one of the States and Territories or the District of Columbia it has been impossible to establish."

The Commission notes that its records reflect that Adams had no legal residence in any state, and that Crussey's residence apparently could not be determined. It is nowhere suggested

that Crusey and Adams had their legal residence in the Canal Zone. When the men were transferred to Saint Elizabeths, they became the responsibility of the Federal Government. Had their legal residence in one of the states, territories, or the District of Columbia later been ascertained, the Federal Government would have ceased to be responsible for them. The Hospital could then transfer the patients "to their respective places of residence," or if medically unwise, continue to care for them but at the expense of the jurisdiction then found to be responsible for them.

There is no evidence in the record that the patients' legal residence in the Canal Zone has ever been established. The fact that Saint Elizabeths began billing for their care after all these years of assuming that they were a Federal responsibility may be attributable to increased financial pressures resulting from the new method of appropriating for the Hospital, beginning with fiscal year 1983. At any rate, in the absence of a definitive determination of their legal residence elsewhere, we think that the Federal Government must remain responsible for the two men.

We accordingly conclude that any financial responsibility on the part of the Canal Zone Government or its successors ceased at the time of the transfers of the two men to Saint Elizabeths. The expenses incurred for the care of Messrs. Crusey and Adams should continue to be paid from the Federal appropriation to Saint Elizabeths Hospital.

for 
Comptroller General
of the United States