Workman's Compensation Law, Payment Under. Payment, Under Compensation Law. Compensation, Begins When. Hospital and Medical Service, Amount of. Employer, May Come in. School Districts, May Not Contribute.

Under the provisions of the Workman's Compensation Act, payment of compensation to an injured employee begins at the expiration of two weeks from the time the injury occurred, but in the meantime the injured employee is entitled to Hospital and Medical services.

Any Employer of labor engaged in hazardous pursuits may become subject to the Act irrespective of the number of employees.

School Districts are not subject to the provisions of this Act.

May 19, 1915.

Hon. A. E. Spriggs,
Chairman Industrial Accident Board,
Helena, Montana.

Dear Sir:

This office is in receipt of your recent communication respecting certain questions pertaining to the Workman's Compensation Law, upon which you desire an official opinion.

You inquire as to when compensation starts after a workman has been injured? Section 16 (a), (b), and (c) deal generally with compensation, and in each of these subdivisions, there appears the following language:

"such compensation shall be paid during the period of disability."

This general language, however, is qualified by the provisions of Section 16 (g), which provides that no compensation shall be allowed or paid during the first two weeks of any injury except as may be required by the provisions of Section 16 (f), which said section provides that during the first two weeks after the happening of the injury, the employer, or insurer, or the accident fund, as the case may be, shall furnish reasonable medical and hospital services and medicines as, and when needed in amount not to exceed $50 in value, except as otherwise provided, and when the employer is the party to a hospital contract, unless the employee shall refuse to allow them to be furnished. It is, therefore, apparent that the phrase "such compensation shall be paid during the period of disability," must be construed as meaning that the period begins not at the time of the injury, but after the expiration of two weeks from the time the injury occurred. In this connection, you are further advised that by mutual agreement between the employer and the employees, the provisions of Section 16 (f) may be waived, provided the employer and employees enter into an agreement providing for hospital benefits and accommodations to be furnished to the employees, as provided by Section 14 (a), (b), (c), (d), (e), and (f). You inquire further, whether it be necessary for an employer to

have a certain number of employees to entitle him to come under the act. The act itself, is silent upon this subject. Employers who come under its provisions make payment to the Industrial Accident Fund in proportion to the annual pay roll. It is my opinion that where the employment is not such as is designated "casual employment," any employer engaged in the hazardous pursuits specified in Section 4 (b), (c), (d), and (e), may come in under the law irrespective of the number of employees he may have.

Another question which you propound is whether in view of the provisions of the law, it is compulsory on school districts in this state to come within the provisions of plan No. 3? Section 3 (e) provides that where a public corporation is the employer, or any contractor engaged in the performance of contracting work for such public corporation, the terms, conditions and provisions of compensation plan No. 3 shall be exclusive, compulsory and obligatory, both upon employer and employee. Section 6 (gg) defines public corporation to mean the state, or any county, municipal corporation, school district, city, city under commission form of government or special charter, town or village. These sections indicate that school districts are subject to the provisions of plan No. 3, but it will be noted the Workman's Compensation Law is intended to cover inherently hazardous works and occupations, and all such are defined in Sections 4 (b), (c), (d) and (e).. School districts as such are engaged in educational pursuits, and this department has held that when it becomes necessary to construct buildings for school purposes, the school district as such, may not act in the capacity of employer, but must let contracts according to law for the construction of such buildings. The contractor in such cases undoubtedly would be subject to the provisions of plan No. 3 for he is specifically included under the terms of Section 3 (e). As the general law now stands, respecting the construction of public buildings by school districts, I am of the opinion that no school district in this state has any interest whatever in the Workman's Compensation Law, and may not be compelled to come in under the provisions of plan No. 3, in fact may not even volunteer to come in and contribute any portion of school moneys for the support of the Industrial Accident Fund.

Yours very truly,

D. M. KELLY,

Attorney General.