

Opinion No. 286.

**Public Welfare—Indorsements—
Mark.**

HELD: 1. There is no provision
in the Montana Codes specifically out-

lining the number of witnesses to an "X" mark, and addresses of witnesses, other than Seciton 10713.

2. The State Department of Public Welfare has authority to regulate the indorsement incident to granting assistance under Chapter 82, and may make such regulations in conformity with those of the Federal Social Security Board.

June 3, 1938.

Dr. Heber Harper
Regional Director
Social Security Board
916 Patterson Building
Denver, Colorado

My dear Sir:

This office has been requested for an opinion on the question of indorsement upon public assistance checks issued to grantees for Old Age Assistance and Aid to Dependent Children. The question involved appears to be as to the legality of signatures by mark, and the authority of the State Department of Public Welfare to accept such form of indorsement.

Please be advised that Section 10713, Revised Codes of Montana, 1935, dealing with definitions in the senses in which they are used in the code, provides, among others:

"* * * Signature or subscription, includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness."

Section 8438, Revised Codes of Montana, 1935, which is part of the Negotiable Instrument Act, provides:

"Indorsement—how made. The indorsement must be written on the instrument, or upon paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement." (Underlining ours.)

Under the provisions of Section 10713, therefore, a mark with one witness, is a signature, and is sufficient to constitute an indorsement.

As to whether or not the State Department has authority under the provision of Chapter 82, Laws of 1937, to regulate the indorsement incident to granting assistance and to make

such regulations in conformity with those of the Social Security Board, I am of the opinion that the department has ample authority under Chapter 82. See Section 3 (c) and (d), Part I; Section 1 (a), Part III; Section 2 (a) and (f), Part IV, Chapter 82, Laws, 1937.

Although Section 10713, supra, requires only one witness, a requirement of two witnesses with addresses, in my opinion, would not vitiate such statutory requirement.

While there is no provision in the Montana Codes specifically outlining the number of witnesses to an "X" mark, and addresses, other than Section 10713, supra, it is my opinion that the State Department of Public Welfare has authority to provide for indorsement by mark witnessed by the signature of two witnesses with full addresses, or to make any other rule or regulation in conformity with those of the Social Security Board, not in conflict with Section 10713, as to lesser requirement, as an incident to grant of old age assistance or aid to dependent children.