

## Opinion No. 319.

State Department of Public Welfare—  
Counties — General Relief —  
Anticipatory Warrants.

HELD: 1. The State Department has available funds and must make grants to the counties for general relief when the counties' poor funds are exhausted.

2. Unless the counties avail themselves of their rights through appropriate measures, they forfeit the same, and if state funds are not used as required by law, the counties' only alternative is to issue anticipatory warrants pending an adjudication of the matter.

August 9, 1938.

Mr. William R. Taylor  
County Attorney  
Anaconda, Montana

Dear Mr. Taylor:

In my capacity as attorney general and legal adviser to the State Public Welfare Board, Opinions Nos. 304 and 317 were issued. The chairman of the state board, although a layman, has issued contrary statements, attempting himself to adjudicate those opinions by declaring them incorrect. Such statements continue to create confusion and uncertainty in the county departments.

This office has pointed out to the counties that when their cash in general relief is exhausted, they are entitled to receive grants from the state. Opinion No. 317 showed the availability of state funds for these purposes. Notwithstanding the supreme court decision in the case of *Wilson v. Weir et al.*, 106 Mont. 526, the express language of Chapter 82, L. 1937, and my opinion, the State Welfare Board refuses to make such grants. If the county is compelled to register warrants upon the poor fund for general relief, the recipient will not receive the full amount decreed to be his right. The warrants will be subject to discount and will not represent cash on demand. The county will be compelled to budget and expend poor funds

to pay interest which should be used for relief purposes. The county is clearly entitled to these grants from the state, and should not be compelled to become indebted by the issuance of registered warrants and thus place an added burden upon the taxpayers of the county. The county welfare boards have access to the courts to establish their rights. This office has never held anticipatory warrants to be illegal. Under no condition should the county boards stop general relief, and they should continue to issue anticipatory warrants until their rights are determined in the manner provided for by law; humanitarian rights must be the paramount consideration. Although the state department of public welfare has abundant funds, which it refuses to apply as required by law, those in distress and want need not, and shall not, be deprived of the necessities of life pending a solution of the case. The state department having definitely refused assistance to the counties for general relief where the counties' cash is exhausted, whether or not the counties shall receive the same now rests solely with the board of county commissioners. If the counties do not take advantage of their rights under the law and secure the grants from the state through the appropriate legal measure established for that purpose, and if they desire to stand idly by, it follows that their rights, which affect the taxpayers in every county, are forfeited and the county must accept the only alternative and issue anticipatory warrants for general relief upon their depleted poor fund.

Your attention is directed to the fact that institutional care in the counties, such as hospitalization, county physicians' salaries, and similar items, which are the exclusive obligation of the counties, have no relation to general relief as designated herein; that such obligations are upon the counties, and, if necessary where the counties' cash in this item have been exhausted, anticipatory warrants will have to be issued. Such conclusion is in harmony with my former opinions.