

Opinion No. 46.

**Public Welfare—Welfare Department
Old Age Recipient—Residence,
Welfare**

Held: By departing from Ravalli
County for Camas Hot Springs
in Sanders County for the pur-
pose of taking baths and mas-
sages the recipient of old age

assistance did not operate to change his residence and therefore did not move within the meaning of the applicable statute.

June 13, 1945.

Mr. William F. Shallenberger
County Attorney
Sanders County
Thompson Falls, Montana

Dear Mr. Shallenberger:

I have your inquiry asking if under the facts presented the case of an old age assistance recipient is properly transferable from Ravalli County to Sanders County. The facts as set forth in your letter may be stated as follows:

The recipient has resided in Ravalli County since 1888. On August 10, 1944, he expressed his intention of visiting Camas Hot Springs in Sanders County to take baths, being a sufferer from rheumatism or related ailment. He theretofore had received old age assistance as a resident of Ravalli County. He has not as yet returned to Ravalli County. He arrived at the springs on October 7, 1944, and expressed his intention to remain there until March, 1945. However, he stated he did not desire to lose his residence in Ravalli County and he would return home there. He stated in March 1945 his only reason for remaining at the springs was to take baths and massages, which he found to be beneficial to his health. He has expressed a desire to return to Ravalli County early this month upon the receipt of his check for old age assistance.

The applicable statute with reference to transfer of cases is found in Section 12, Part III, Chapter 82, Laws of 1937, reading as follows:

"Change of residence of person receiving old age assistance. A recipient who moves to another county in this state shall continue to receive assistance, with the approval of the state department, and the county from which he has moved shall be charged by the state department for such county share of his assistance for a period of six months after which time the county to which he has moved shall be charged therefor; the

county from which he has moved shall transfer the records of the case of such recipient to the county department of the county to which he has moved on notification so to do by the state department." (Emphasis mine.)

Under the above statement of facts the recipient in question has been at least sojourning in Sanders County for more than six months. The question arises whether he has moved to Sanders County. If the recipient has moved to Sanders County, having sojourned there for more than six months, the transfer is proper. The solution of this question involves the determination of the meaning of the word "moved" as used in the statutes.

Words used in a statute must be given their plain and ordinary meaning (State v. Bowker, 63 Mont. 1, 205 Pac. 961; McNair v. School District No. 1, 87 Mont. 423, 288 Pac. 188) unless they have a peculiar meaning in law, or it is apparent from the statute that a different meaning is intended (Lewis v. Petroleum County, 92 Mont. 563, 17 Pac. (2d) 60; Montana Beer Retailers Protective Association v. State Board of Equalization, 95 Mont. 30, 25 Pac. (2d) 128.)

The word "move" as defined in Webster's International Dictionary, Second Edition, is given the following definition among others:

"to change residence; to move, as from one house, town or state to another."

The question then arises whether the recipient in question has changed his residence.

The rules for determining residence are provided by Section 33, Revised Codes of Montana, 1935. This section declares that every person has a residence and defines it as the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which he returns in seasons of repose. The section further provides that a residence may be changed only by the union of act and intent.

Under the facts and circumstances in this case the expressed intention of the recipient was not to change his residence and he has expressed his intention at all times to return. His sojourn in Sanders County was for a

special purpose. An illustration of change of actual residence which did not result in a change of legal residence is found in the case of Wilson v. Hoisington, 110 Mont. 20, 98 Pac. 369.

Under the facts and the circumstances of the case it is my opinion the recipient, by departing from Ravalli County for Camas Hot Springs in Sanders County for the special purpose of taking baths and massages, although he remained there for more than six months but with the expressed intention at all times to return to Ravalli County, did not operate to change his residence, and therefore he did not move within the meaning of the applicable statute, from Ravalli to Sanders County, and therefore the transfer of his case from Ravalli County to Sanders County may not be justified or warranted.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General