

Coal Miners, Accident Insurance. Insurance, Coal Miners, Accident.

The act creating accident insurance for coal miners makes no provision for the payment of the service of the county physician. He should therefore make a reasonable charge for such examinations as are provided for by the act, which charge should be paid by the individual.

February 3, 1911.

Mr. P. E. Allen,
County Attorney,
Red Lodge, Montana.

Dear Sir:

Your letter of January 23d, has been received requesting my opinion as to the following proposition:

"The county physician of this county has requested me to advise him, as to where he is to receive his fees, for the ex-

amination of coal miners and others who are injured and are subject to the provisions of the act of March 4, 1909, entitled, 'An Act to create an Accident Insurance and permanent fund for coal miners and others injured in mines etc.' Should the county physician receive his fees for such examination from the county, or, should the same be taken out of the state fund, which is provided for in the said Act?"

In reply, I will say, that Section 6, Chapter 67 of the Laws of 1909 provides that where the workman is entitled to monthly payments under the act, he shall file with the auditor of state his application for such, together with a certificate from the county physician of the county wherein he resides attested before a notary public.

No provision is made in the act for the payment of the services of the county physician nor of the notary public, and of course, we have no right to read into the act any such provision.

There being no provision in the act for the payment of the fees of the county physician for such examinations made by him the county physician would necessarily be entitled to charge a reasonable fee to be paid by the individual obtaining the examination, unless such individual comes within the provisions of Chapter 14, Title VII, Part III, of the Revised Codes of 1907 relating to the care of the county poor and under such circumstances the county physician would be required to furnish him his certificate free of charge.

The constitutionality of Chapter 67, Laws of 1909, being the act under consideration, is now before the district court of this county for determination and will be appealed to the supreme court of the state as soon as the district court renders its opinion thereon, and it may be that the act will be declared unconstitutional, in which event it will possibly be amended by the present legislative assembly, but as the act reads at present, I am of the opinion that the county physician would have to look to the individual obtaining the certificate for his compensation for services rendered in that respect, unless the individual denominated is a poor person within the provisions of the code above cited.

Yours very truly,

ALBERT J. GALEN,

Attorney General.