

Counties—County Commissioners — Contributions—Contracts—Poor.

It is the duty of the County Commissioners to let a contract for supplying the needy with groceries, clothing, or medical attention, and they are not authorized to make contributions of money in lieu of supplies and medical treatment furnished under contract.

C. L. Harris, Esq.,
County Attorney,
Hysham, Montana.

My dear Mr. Harris:

You have submitted to this office the question whether the Board of County Commissioners in a county that has no poor farm, nor any contract for the care of the poor, has authority to make a monthly allowance to sick, infirm and poor in any form it may deem for the best interests of the individual. In other words, may the Board make an allowance in groceries and also in money, or partly in groceries and partly in money?

Section 5 of Article X of the Constitution provides as follows:

"The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society."

Section 4521, Revised Codes of 1921, provides that the Board of County Commissioners is vested with entire and exclusive superintendence of the poor.

Section 4524 provides:

"When such person does not have the relatives mentioned in Section 4522 * * * or such relatives are not able, or fail or refuse to maintain such person, then he must receive relief from the county, as hereinafter provided."

The method thereafter provided is set out in Sections 4525, 4526 and 4527, which provide as follows:

"4525. Care of county poor—Letting of contracts by Commissioners. The Board must, at its regular session in September, 1909, and at each regular September session thereafter, immediately preceding the expiration of any contract previously made for the care, support, and maintenance of the county poor, make an order directing the Clerk of the Board to publish a notice in a newspaper inviting sealed proposals for the care, support, and maintenance of the indigent sick, poor, and infirm of the county, per capita, by the week, for a period of not less than one nor more than two years, said proposals to include the entire cost of feeding, clothing, and nursing of the indigent sick, poor, and infirm, and the burial expenses. The notice must be published in a newspaper printed in the county for four successive weeks, at least once a week."

"4526. Contract for care of poor and infirm. The proposal must be addressed to the Clerk of the Board, and the Board must annually, at their September session, award the

contract for the care, support, and maintenance of the sick, poor, and infirm of the county to the lowest responsible bidder for the ensuing year; provided, however, that in a county owning a county poor farm, with suitable buildings of sufficient size to care for the indigent sick, poor, and infirm of such county, the County Commissioners of such county may employ some suitable person as superintendent of such poor farm, and the county may maintain the said indigent sick, poor, and infirm at said farm at the expense of such county. Such superintendent shall at all times be under the control of and subject to the orders of the Board of County Commissioners, and may be removed by them at any time."

"4527. Contract for medicines and medical attendance. The Board must annually, at their December meeting, make a contract with some resident practicing physician to furnish medical attendance to the sick, poor, and infirm of the county, and to inmates of the county jail, and must also make provision for the furnishing of medicine to the same; provided, however, that the Board may let such contract for the furnishing of medical attendance to the physician appointed by such Board as county health officer, and may fix a salary or other rate of compensation to be paid to such county health officer for the furnishing of such medical attendance, which salary or other compensation shall be in addition to the salary of such physician as county health officer."

This being the method prescribed by law, it is, therefore, my opinion that it is the duty of the County Commissioners to let a contract for supplying the needy with groceries, clothing or medical attention, and that they are not authorized to make contributions of money in lieu of supplies and medical treatment furnished under contract.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.