

Opinion No. 114½.

Public Welfare—Indians—Citizenship—Participation in Public Assistance.

HELD: 1. Indians, being citizens of the United States, are entitled to participate in assistance under Chapter 82, Laws 1937.

2. Federal Grants, not being contingent upon state grants for provision for assistance to Indians, and there being no specific state grants for this purpose, assistance paid to Indians is apportioned between state and county.

June 29, 1937.

Mr. I. M. Brandjord, Administrator
Department of Public Welfare
Helena, Montana

My dear Mr. Brandjord:

Your department has referred to me communications from several counties bearing on the question as to the eligibility of Indians for assistance under the several categories of the Public Welfare Act. As this question seems to be pertinent in several counties of the state, I deem it advisable to give you this opinion embracing the several questions submitted.

Under the Social Security Act approved August 14, 1935, in order to obtain participation by the Federal Government in the state social welfare program, the state must enact laws which conform to the terms and provisions of the Social Security Act, and must submit plans for each form of welfare which meet the approval of

the Federal Social Security Board. Such plans must be based upon the laws governing welfare services. It is specifically provided in the Federal Act, that no plan will be approved that contains any citizenship requirement which excludes any citizen of the United States. There is no provision of Chapter 82 which excludes from participation in the assistance grants under any part of the act, any citizen of the United States. Chapter 82 has been approved by the Federal Government as meeting all requirements of the Social Security Act, and as containing no provision repugnant to said Act. In other words, any citizen of the United States regardless of color, race or religious affiliation, possessing the other qualifications provided by said Chapter, is eligible for assistance.

By Act of Congress, approved June 2, 1924, it was declared, "that all non-citizens Indians be, and they are hereby declared to be citizens of the United States." And it was said by the Supreme Court in the case of *Keokuk vs. Ulam*, 4 Okl. 5, 38 Pac. 1080, "He no longer depends upon the feeble support of his tribe for the preservation of his rights of person and property, he is now surrounded with the protection of the law and entitled to the benefit of the new order of things." Therefore, regardless of the status of an Indian as to whether an allottee or patented Indian, by this act of Congress he was declared to be a citizen of the United States. As such, insofar as citizenship is concerned, he is thereby eligible for assistance under the several parts of Chapter 82.

In view of the provisions of Section VII of Part I of Chapter 82, Laws of 1937, the question has arisen whether assistance paid to Indians is chargeable to County or State funds, or apportioned as is that to other grantees.

In the first place, grants from the Federal Government, under Chapter 82, are not "contingent upon state funds for the provisions of assistance to Indians." There are no state funds specifically set aside for the purpose of "assistance to Indians." Hence the last clause of paragraph (h) of Section VII, Part I, to-wit, "but for assistance paid to him (Indian) the State fund shall not be reimbursed by the county," has no application to assistance to Indians. Such assistance therefore is on the same basis as assistance to

other than Indians. Both the County and State apportion assistance paid to Indians as is provided under the several parts of Chapter 82.

Therefore it is my opinion that all Indians possessing the qualifications provided in the several parts of Chapter 82, such as residence, age, dependence, etc., are eligible for assistance; that it is mandatory upon the State and County to grant such assistance; and that assistance paid Indians is apportioned between the state and county as is provided under the several parts of Chapter 82.