

Opinion No. 162.

Public Welfare—County Welfare Board—Duty to Reimburse State for Proportionate Share of Assistance to Eligible Indians—Indians.

HELD: 1. Indians are entitled to assistance grants under Chapter 82, Laws, 1937, and the county and state must pay proportionate share of such grants to eligible Indians.

2. A county welfare board may not approve assistance grants to eligible Indians conditionally that the whole amount be paid from state funds.

3. The State Department must pay assistance grants to Indians approved by the county, and present claim to county for reimbursement of its proportionate share.

September 21, 1937.

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

My Dear Mr. Brandjord:

I beg to acknowledge receipt of your request of opinion on the following state of facts.

"The County Board of Public Welfare for Sanders County granted applications of Indians for old age assistance under the Public Welfare Act of the State of Montana but refuses to reimburse the State 16 $\frac{2}{3}$ % of this assistance or any other percentage thereof.

The said Board takes the position that this assistance should be paid solely from Federal and State funds, contrary to the opinion rendered by you under date of June 29, 1937. The said Board takes exactly the same attitude with regard to the payment of aid to dependent Indian children.

Please advise this department how to proceed under these circumstances."

Section V of Part III, Chapter 82, Laws 1937, provides:

"County Share of Participation. Each county shall reimburse the state department in the amount of sixteen and two-thirds (16 $\frac{2}{3}$ %) per centum of

the approved old age assistance grants to persons in the county each month. Such reimbursements shall be credited to the old age assistance account of the state department."

Section VII of Part IV, Chapter 82, provides:

"County Share of Participation. Each county department shall reimburse the state department in the amount of one-half of the approved aid to dependent children grants after the share provided by the federal government is deducted to persons in the county each month. Such reimbursements shall be credited to the aid to dependent children account of the state department."

The Attorney General, in Opinion No. 114 $\frac{1}{2}$, Vol. 17, Opinions of Attorney General, has ruled that Indians are entitled to assistance under the several parts of Chapter 82, and the counties must reimburse the state department for their proportionate share of each grant.

It is therefore my opinion that when the county welfare board approves a grant to Indians, they become obligated to reimburse the state in the proportionate share of such grant as provided in Chapter 82.

I therefore have to advise you that it is your duty to pay each grant approved by the county welfare department and present a claim to the county department for its proportionate share of public assistance granted in the county each month, and it is the duty of the county department to make reimbursement within twenty days after such claim is presented, as provided in Section XIX of Part I, chapter 82. This is mandatory upon the county, and they have no right or authority to refuse to do so on the ground that such assistance should be paid solely from federal and state funds. Should the county department refuse to make reimbursement, as provided by law, it would become the duty of the state department to take the necessary legal steps to compel the county department to do so.