

Opinion No. 268.

Public Welfare — Emergency Medical Care and Hospitalization — Responsibility for—Counties.

HELD: 1. Responsibility for emergency medical care and hospitalization for non-residents is on county of residence.

April 13, 1938.

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

Dear Mr. Brandjord:

You have submitted the following facts: It appears that a person, a resident and inhabitant of Silver Bow County, while temporarily in Ravalli County, received emergency medical and hospital services occasioned by extreme illness. The question involved is, which county is obligated to pay for said services?

If the person was physically able to be removed to Silver Bow County prior to the rendition of said services, the county commissioners of Ravalli County would have the authority to provide and pay for the necessary transportation. (4532.) Section 4533 provides:

“Persons who have not been resident of a county one (1) year may be furnished relief by the commissioners in cases of extreme necessity and destitution.”

While Chapter 82 of the 1937 Session Laws is a continuation of the former laws (8774), yet in the event of conflict such former laws are superseded by said chapter. Section VI of Part II of said chapter imposes upon the county commissioners the legal and financial obligation to provide medical aid and services and hospitalization for persons unable to provide such necessities for themselves. Section VII of Part II of said chapter reads as follows:

“It is hereby declared to be the primary legal duty and financial obligation of the board of county commissioners to make such tax levies and to establish such budgets in the county poor fund as provided by law and as are necessary to provide ade-

quate institutional care for all such indigent residents as are in need of institutional care and to make such tax levies and establish such budgets in the county poor fund as are necessary to make provision for medical aid and services and hospitalization for all indigent county residents. All such public assistance and services shall be charges against and payable from the county poor fund."

It should be noted herein that the last quoted statute has application to indigent residents. This section further provides that it is the duty of the commissioners to make such tax levies and to establish such budget in the county poor fund as provided for by law, and Section IX of Part II of said act provides that the taxes levied and collected for the county poor fund shall be expended only for the purposes levied. Other criteria present in Chapter 82 indicative of legislative intent to establish a county resident qualification is found in Parts II, III, IV and V of the act, which relate to general relief, old age assistance, aid to needy dependent children and aid to needy blind. County resident qualifications to inter-county transients and relief for that class of persons herein involved is in conformity and harmony thereto and to the general theory of the act. It may be further noted herein that temporary relief by a county can only be extended to inter-state transients which, of course, has no application to either inter-county transients or to that class of persons considered herein. (Paragraph (d), Section II, Part II of Chapter 82, supra.) Neither can such obligation be assumed by the state. (Paragraphs 2 and 3, Section IX, Part II of said Chapter 82.)

It follows that the Public Welfare Act (Chapter 82, supra) has impliedly repealed Section 4533 and other related statutes; that the obligation to defray emergency medical aid and hospitalization, where the person is unable to pay the same himself, and where his condition is such that he cannot be transported to the county of his residence, and being temporarily within the county, is upon that county wherein he is a resident and inhabitant, which, in this case, is Silver Bow County.