

Opinion No. 317.**Public Welfare—Counties—Warrants.**

HELD: The State Department of Public Welfare has available funds to meet the counties' needs for general relief. It is mandatory that the state make grants-in-aid for general relief

to the counties when the counties' cash is exhausted. The counties must not issue registered warrants upon the county poor fund for general relief purposes.

August 5, 1938.

Mr. William R. Taylor
County Attorney
Anaconda, Montana

Dear Mr. Taylor:

Since the rendition of Opinion No. 304 to you, relating to the issuance of anticipatory warrants upon your poor fund for general relief purposes, it has become necessary to supplement the same by reason of the question arising as to the availability of state funds to meet county needs. This question has been raised by reason of a contrary announcement of the Department of Public Welfare.

For the year beginning March 2, 1938, and ending March 1, 1939, there was appropriated under the provisions of Chapter 82, Laws of 1937, \$2,001,000. A similar sum was appropriated for the previous year and a surplus of over \$200,000 remained, which the Welfare Department may use this year. According to figures furnished this office by the State Welfare Department, the state, at this time, has \$1,560,000 of state funds available for public welfare needs, and \$214,000 of federal funds, making a total of \$1,774,000. The legislature allocated \$600,000 of the appropriation for general relief purposes. To date \$263,000 of that fund has been expended, leaving available to the counties for general relief purposes \$337,000. The federal government will supplement state funds, with the exception of general relief, with an approximate equal amount. Federal funds will create a surplus in other funds, thus permitting a transfer to the general relief fund. The total amount from all sources—state, federal and otherwise available for use by the State Department of Public Welfare is now approximately \$2,700,000 (it may be noted herein that 50% of the liquor receipts, as a part of the above funds, was appropriated to the use of the State Welfare Department).

As near as can be ascertained only nine counties are now registering warrants upon the poor fund. All of the counties will have revenue in Novem-

ber from tax collections, abnormally increased by the lifting of the tax moratorium. In any event the State Welfare Department cannot refuse the counties' needs until its funds are exhausted. Federal legislation has made provision for grants to the state for general relief where the states have depleted their funds. The above facts indicate such a contingency highly improbable.

Section 5, Part VIII, Chapter 82, supra, specifically prohibits relief disbursements from being paid in any other manner than by warrant or check representing cash on demand.

Wilson v. Weir et al., 106 Mont. 526.

If the principle of registering warrants upon the poor fund prevails, then it is established that the counties shall, if necessary, issue refunding bonds to redeem said registered warrants. Bonding of the county could continue until its constitutional debt limitation was reached. The legislature has made ample provision obviating the necessity of the county becoming indebted for relief purposes. The public welfare funds were appropriated for the specific purpose of relieving those in distress and guaranteeing them sufficient means to live in decency and health, and were not appropriated as a legacy and savings fund to be used for the purpose of reverting to the state general fund. It was never intended to balance the budget or pay off the state's bonded indebtedness out of the poor funds, and deprive those in need of assistance.

Therefore, it is my opinion that the state has sufficient funds to meet the counties' needs for general relief, and that it is mandatory upon the State Department of Public Welfare to make such grants without compelling the counties to issue anticipatory registered warrants.