

Opinion No. 129.

Public Welfare—Ward Indians Defined—County Board to Take Applications—State Funds Liable for Assistance Paid to Ward Indians.

HELD: 1. "Ward Indians" as defined by Section 3, Chapter 129, Laws,

1939, are Indians living on an Indian reservation set aside for tribal use, or a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statute.

2. The County Board of Public Welfare must take applications of Ward Indians for assistance, and pass upon the same, certifying their decision to the State Department.

3. The State funds are liable for payment of assistance to Ward Indians.

4. The County is not required to pay general relief to Ward Indians, nor to reimburse the state for old age assistance, aid to dependent children, or aid to blind, but such assistance is paid from State funds.

September 7th, 1939.

Mr. R. H. Wiedman
County Attorney
Polson, Montana

Dear Mr. Wiedman:

You have submitted your opinion rendered the Lake County Welfare Board on the interpretation of Section 3, Chapter 129, Laws 1939. That section reads as follows:

"The counties shall not be required to reimburse the state department any portion of old age assistance, aid to needy dependent children or aid to needy blind paid to ward Indians. A ward Indian is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use, or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the federal social security act is amended to define a 'ward Indian,' such a definition shall supersede the foregoing definition."

This section was added as an amendment by the Twenty-sixth Legislative Assembly. Prior to this amendment there was no definition of "Ward Indian."

In the case of State ex rel. Williams vs. Kamp, 106 Mont. 444, the Court

held that under the provisions of Chapter 82, Laws of 1937, known as the Welfare Act, all Indians are entitled to all forms of assistance under that Chapter, but for assistance rendered to Ward Indians, the County was not liable to reimburse the State. The Court did not define Ward Indians. It did, however, recognize two classes of Indians, viz., Ward Indians and "Emancipated Indians." The Court defines neither term. However, inasmuch as the Legislature has adopted a definition, we are confined to that definition. The Section referred to is clear and unambiguous and requires no interpretation.

The Williams case, supra, does hold that the County Board must take applications of Ward Indians for assistance and pass upon the same, in the same manner as other applications.

It is, therefore, my opinion, (1) That all Indians who are "living on an Indian reservation set aside for tribal use, or who are members of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes," whether adults or minors, and who meet the qualifications of Chapter 82, Laws of 1937, as amended, are entitled to all forms of assistance. (2) That the County Board of Public Welfare must accept applications from Ward Indians, and pass upon them as in other cases, certifying their decision to the State Department of Public Welfare. (3) That the County is not liable for any part of assistance paid to Ward Indians, including general relief, but the same is paid wholly from state funds.