

Opinion No. 130.

**Public Welfare—Ward Indians—Aid
to Dependent Children.**

HELD: 1. Any Indian child who comes within the definition of Ward Indian contained in Chapter 129, Laws, 1939, and who meets the requirements of Part IV, Chapter 82, Laws, 1937, is entitled to aid to dependent children assistance.

2. Such assistance paid to Ward Indian children must be paid entirely from state funds.

September 7th, 1939.

Mr. Fredric R. Veeder
 Director of Public Assistance
 Department of Public Welfare
 Helena, Montana

Dear Mr. Veeder:

You have requested my opinion as to the liability for aid to dependent children assistance paid to Ward Indians.

Section 3 of Chapter 129, Laws of 1939, defines a Ward Indian 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 statute."

This section also provides that "If and when the federal social security act is amended to define 'a Ward Indian' such definition shall supersede the foregoing definition." There has been no amendment of the federal act defining Ward Indian. Hence, the definition adopted by our Legislature governs.

This definition is clear and unequivocal and requires no interpretation.

Section 1, Part IV, Chapter 82, Laws of 1937, defines the term "dependent child." Section III sets forth the eligibility requirements for this form of assistance, and provides that "Any dependent child meeting the above requirements shall be entitled to the assistance herein provided * * *"

Our Supreme Court in the case of State ex rel. Williams vs. Kamp, 106 Mont. 444, held that all Indians meeting the qualifications provided for under any part of Chapter 82, are entitled to all forms of assistance provided therein, but that the State must pay the full amount of assistance granted Ward Indians.

It may be noted that the eligibility requirements of the statute pertaining to the child rather than to the parent, and sub-section (b) of Section 1 provides that "aid to dependent children" means money payments with respect to a dependent child or dependent children.

Therefore, it is my opinion that an Indian child who comes within the definition of "Ward Indian" as provid-

ed in Section 3 of Chapter 129, Laws of 1939, and of a "dependent child" as defined by Section 1, Part IV, Chapter 82, Laws of 1937, and meets the other requirements of Part IV, is entitled to aid to dependent children to be paid entirely from State funds.