

## No. 106

**PUBLIC WELFARE—GENERAL RELIEF—APPEAL—  
RELIEF PENDING APPEAL**

**Held:** An applicant for general relief assistance is entitled to a relief grant pending an appeal, if it is self-evident from the evidence that he is in need of immediate assistance.

April 30, 1941.

Mr. John D. Stafford  
County Attorney  
Cascade County  
Great Falls, Montana

Dear Mr. Stafford:

You request my opinion as follows:

"An applicant for general relief in Cascade County, after appeal and hearing to the Board of County Commissioners, was denied relief on the grounds of failure to show proper residence here in Cascade County. Said applicant has appealed the decision of the Board to the State Board of Public Welfare. The Commissioners have asked me two questions.

- "1. May an appellant from an adverse decision of the Board obtain general relief pending the appeal?"
- "2. May an applicant for general relief whose need for such relief has been shown on the hearing before the Board and not controverted, but whose application has been denied on some other ground, obtain general relief pending his appeal?"

The right of one to receive public assistance is now governed by the provisions of the Public Welfare Act (Chapter 82, Laws of 1937, as amended). The answer to your questions, therefore, must be determined by the provisions of this act.

Part II, Section II of Chapter 82, Laws of 1937, provides the eligibility requirements for general relief. Sub-sections (a) and (b) provide:

- "(a) An applicant to be eligible for general relief must have resided in the State of Montana for a period of one year, six months of which must be in the county where application is made.
- "(b) The fact of need shall be the determining factor in the right of residents to obtain relief. Any individual or family who is a resident and whose income is insufficient to provide the primary necessities of life, such as food, shelter, and clothing, shall be eligible for relief."

These sections were amended by Chapter 129 in 1939 to read as follows:

- "(a) An applicant to be eligible for general relief, hereafter entering the State, must have resided in the State of Montana for a period of one year, six months or more of which must be in the county where he makes application for relief. When a person has gained residence in a county making him eligible for general relief, he shall retain this residence until residence has been gained in some other county in the State; and such new residence shall only be gained by living continuously in such county for six months or longer. If a person is absent from the State voluntarily and continuously for a period of one year or more, he shall thereby be ineligible for general relief in the State of Montana.
- "(b) An applicant for assistance including medical care and hospitalization shall be eligible to receive assistance only after investigation by the county department reveals that the income and

resources are insufficient to provide the necessities of life, and assistance shall be provided to meet a minimum subsistence compatible with decency and health.”

It is significant to note that the sentence “The fact of need shall be the determining factor in the right of residents to obtain relief”—found in subsection (b), *supra*, of the original act—was eliminated by the amendment of 1939. We must conclude therefrom that it was the intention of the Legislature to change the rule in this respect.

Changes introduced into statute by amendment are not assumed to be without design.

*State v. Hays*, 282 Pac. 32, 86 Mont. 58.

Legislature, in adopting amendment, is presumed to intend some change in existing law, and courts will endeavor to give effect to amendment.

*State v. Hays*, *supra*.

Also *Mitchell v. Banking Corp.*, 24 Pac. (2nd) 124, 95 Mont. 23.

Departure from old law is presumed when phraseology is changed in amendatory statute.

*State v. Brannon*, 283 Pac. 202, 86 Mont. 200.

It is presumed Legislature in adopting amendatory act intended to change existing law.

*Nichols v. School Dist. et al.*, 287 Pac. 624, 87 Mont. 181.

It would therefore appear, as a prerequisite to the right to obtain general relief assistance, one must meet the eligibility requirements as provided by Section II, *supra*. The fact of need, by virtue of the amendment, is no longer “the determining factor.”

However, Section XI of Part II, Chapter 82, Laws of 1937, provides:

“Whenever a county public welfare department receives an application for general relief assistance, an investigation and record shall be promptly made of the circumstances of the applicant. Investigations in respect to applications for general relief assistance shall be made by the staff-worker (or investigator) of the county public welfare department. If there is self-evident evidence that the applicant is in immediate need of assistance, the county department shall issue temporary assistance pending such time as a complete investigation can be made.”

Section IV, Part II, provides:

“All persons seeking public assistance from relief funds are hereby guaranteed the right of appeal to either the County Public Welfare Board or the State Public Welfare Department, or both. Individuals or committees with complaints or grievances shall be given a fair and impartial hearing by either the County Board or the State Department and it shall be required that due consideration shall be given all proven facts presented by such individuals or committees and the County Board or the State Department shall be required to relief such situations, if not otherwise prohibited by law and to the extent of funds available.”

It is a cardinal principle of statutory construction that “all parts of a statute relating to the same subject must be construed together,” (*Hilger v. Moore*, 182 Pac. 477, 56 Mont. 146) and that “every word, phrase and provision of an act must be considered in determining the legislative intent.” (*Stadler v. City of Helena*, 127 Pac. 454, 46 Mont. 128.)

Construing the provisions of Section XI with Section IV of Part II, *supra*, it is apparent the proceedings of appeal were intended as a part of the “complete investigation” referred to in Section XI. Hence, under the provisions of Section XI, if the applicant is in immediate need of assistance, the County Department shall issue temporary assistance, pend-

ing the appeal. By the use of the word "shall" the Legislature intended this provision to be mandatory.

Therefore, it is my opinion that, pending an appeal from a decision of the County Board of Public Welfare denying an application for general relief, if it is self-evident from the evidence that applicant is in immediate need of assistance, it is mandatory upon the County Department to grant temporary assistance.

Sincerely yours,

JOHN W. BONNER  
Attorney General