

No. 124

**PUBLIC WELFARE—GRANTS-IN-AID—COUNTIES,  
eligibility requirements for**

**Held: Requirements of Public Welfare Act to be met by County requesting a grant in aid pointed out.**

May 24, 1941.

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

Dear Mr. Brandjord:

I have your request for an opinion as follows:

“At a meeting held on April 25, 1941, the State Board of Public Welfare instructed its secretary, the State Administrator of Public Welfare, to submit to the Attorney General the question of what conditions a county must meet in order to be entitled to receive a general relief grant from the State Department of Public Welfare.”

The provision of the Public Welfare Act dealing with “Grants from State Funds to Counties” is Section IX, Part II of Chapter 82, Laws of 1937, as now amended by Chapter 117, Laws of 1941, and is as follows:

“Section IX. Grants from State Funds to Counties. If the whole of a six (6) mill levy, together with the whole of the per capita tax authorized by said Section 4465.4, Revised Codes of 1935, and the income to the county poor fund from all other sources shall prove inadequate to pay for the general relief in the county actually necessary and to meet the county's proportionate share of old age assistance, aid to needy dependent children, aid to needy blind and its proportionate share of any other welfare activity that may be carried on jointly by the State and the county; and if warrants upon the county poor fund can no longer lawfully be issued to meet these charges; and if the Board of County Commissioners is unable to declare an emergency for the purpose of providing additional funds or to provide additional funds from any other source; and if the county has in all respects expended the county poor fund only for lawful purposes; and if all of these conditions actually exist in any county of the State, then the State Department of Public Welfare shall, insofar as it has funds available, come to the assistance of such county, in the following manner:

“(a) When the county in question has submitted proof to the State Board of Public Welfare through such reports as it may require and through other evidence that may be deemed necessary, that these conditions exist, then the State Board may authorize the State Administrator to issue a check to the County Treasurer of the county for general relief purposes, and the County Department of Public Welfare shall make the disbursements of these state funds

for general relief purposes within the county. These grants-in-aid from the State Department may be used for any relief activity lawfully conducted by the county, including medical aid, hospitalization and institutional care; but no part thereof may be used, directly or indirectly, to pay for the erection or improvement of any county building or for fixtures, furniture, appliances or equipment for any such building.

"Immediately upon receiving notice that such grant-in-aid has been made by the State Department, it shall be the duty of the Board of County Commissioners to adopt an emergency budget in accordance with the provisions of Section 4613.6 but without being required to publish any notice of intention to adopt such emergency budget or to hold a hearing thereon. This emergency budget shall appropriate the whole amount of the general relief grant from the State Department for the various classes of expenditures from the poor fund for which the grant-in-aid was made by the State Department. The money received through such general relief grant from the State Department shall be placed in a special poor fund account kept separate and distinct from the poor fund accounts arising under the original poor fund budget, and all expenditures from this special poor fund account shall be made by a separate series of warrants or checks."

Digesting this section, we find the following requirements which must be met before a county is entitled to a general relief grant, or what is commonly known as a grant-in-aid, from state funds. It must appear:

1. That the whole of the six-mill levy and the entire income from the per capita poor tax authorized by Section 4465.4, Revised Codes Montana, 1935, as amended by Chapter 165, Laws of 1941, and the income to the poor fund from every other source is inadequate to pay the general relief actually necessary, and at the same time to pay the county's share of old age assistance, aid to dependent children, aid to blind, and any other welfare activity carried on jointly by the State and county, such as W. P. A. and Sewing Room Projects, etc.
2. That warrants upon the county poor fund can no longer lawfully be issued.
3. That the Board of County Commissioners cannot legally declare an emergency to provide funds for these purposes.
4. That the Board cannot lawfully provide funds from any other source, and
5. That the county has expended the money in the poor fund for lawful purposes only, that is, for the purposes for which the poor fund is established.

The Act requires the county submit proof to the state board through such reports, and by such evidence as the State Board may deem necessary, showing that these conditions exist.

The Act further provides that, when these facts have been shown, it is mandatory upon the state board to make a grant to the county in such amount as it has funds available for such purpose.

It will be noted the state board is given the authority to require the county requesting a grant to make a report to it, and produce such evidence as the Board may deem necessary, showing all these conditions above outlined actually exist.

In short, it would appear that, when a county has made a reasonable showing, satisfactory to the board, that its poor fund is inadequate to meet all the expenditures required to be met by such fund, and that the county commissioners have exhausted every legal means to provide money for the poor fund, and have not used any of the poor funds for purposes other than expenditures authorized by law, the state board

must, to the extent of funds available in the Public Welfare appropriation, make a grant of state funds to such county.

Many questions have arisen and will arise as to whether, in specific instances, county commissioners have exhausted all legal means within their authority to provide money for the poor fund purposes and in other ways complied with the requirements entitling the county to a grant. Numerous opinions have already been issued relative to these questions. Some of these opinions may not now apply due to amendments of the sections of the Act covered by the specific opinion.

Because of these facts, it is necessary to interpret the provisions of the Act as they now exist, with reference to any specific question arising. Therefore, this opinion may only point out, as I have here done, the requirements of the Act with reference to eligibility of a county for grants-in-aid. As to whether or not a certain county applicant for aid has met the requirements can only be determined from the facts presented by such county at the time of application.

Sincerely yours,

JOHN W. BONNER  
Attorney General