

No. 191

**COUNTY WELFARE BOARD—MEDICAL SERVICES—
RULES AND REGULATIONS**

Held: The County Welfare Board is responsible for establishing rules and regulations within its sound and reasonable discretion requiring county charges to comply with certain requirements before obligating the county for medical expenses incurred; further, the County Welfare Board cannot delegate to the county physician the authority that should rest with and must be exercised by the Board.

July 31, 1941.

Mr. E. O. Overland
County Attorney
Sweet Grass County
Big Timber, Montana

Dear Mr. Overland:

You have asked if the following resolution constitutes a reasonable exercise of the discretion of the County Commissioners of Sweet Grass County in providing medical aid and care for county charges and those receiving federal aid:

“RESOLVED: That hereafter all county charges requiring medical, osteopathic, chiropractic, or surgical attention shall consult or call in the county physician;

“That hereafter the Board of County Commissioners will disallow any and all claims presented for medical, osteopathic, chiropractic or surgical services rendered to any county charge, unless such charge shall previously have consulted or called in the county physician, and a recommendation made in writing by the county Physician that medical, osteopathic, chiropractic or surgical treatment be administered to such county charge by any Doctor or Surgeon other than the county Physician or by any osteopath or chiropractor .

“This order shall apply to all cases where any claims are to be made against the county, save and except to emergency cases requiring immediate attention before the county Physician can be found or contacted, but all such emergency cases shall be reported to the county Physician immediately by the patient or his physician, osteopath or chiropractor.”

The Public Welfare Act, under Section IX, Part I, Chapter 82, Laws of 1937, establishing in each county a County Department of Public Welfare and placing the responsibility and efficient performance of Public

Welfare activities on the County Welfare Board, and under Section X, Part I, Chapter 82, Laws of 1937, defining the duties and powers of the County Board, definitely and clearly establishes the County Welfare Board has the responsibility of establishing such rules and regulations as are necessary to govern the county department and local administration of Public Welfare activities.

The two sections above referred to, and particularly the latter, in my opinion, place the burden and the responsibility on the County Welfare Department to make such rules and regulations necessary for the carrying out of the provisions of the Public Welfare Act.

The resolution which your county commissioners have passed, as above set forth, particularly paragraph 2 of said resolution, vests in the county physician authority and power which the county commissioners alone must exercise, after having made an investigation of the particular case in question. The county commissioners—acting as the Public Welfare Board—are alone responsible for passing on the need or necessity for medical, osteopathic, chiropractic, or surgical services needed by the county charge. Necessarily they are to be guided by the facts developed in their investigation and recommendations made to them by their employees and case workers. However, they must perform the duty of determining the need for the services requested by the county charge.

Therefore, it is my opinion the County Welfare Board cannot delegate to the county physician the authority which should rest with and must be exercised by the County Welfare Board, as it is responsible for the sound exercise of discretion in carrying out the plain provisions of the law.

Sincerely yours,

JOHN W. BONNER
Attorney General