

No. 491

**PUBLIC WELFARE—CREDITOR'S CLAIMS BY STATE
DEPARTMENT—FORM OF CLAIM—OLD AGE ASSIST-
ANCE—COUNTIES**

Held: State Department of Public Welfare alone should present creditor's claim for recovery of Old Age Assistance from estate of deceased recipient. State Department of Public Welfare, upon recovery from estate of Old Age Assistance recipient, shall allocate and disburse proper shares to County and Federal Government. Proposed form of creditor's claim approved.

September 26, 1942.

Mr. J. B. Convery, Administrator
Department of Public Welfare
Helena, Montana
Attention: Mr. I. E. Snyder, Director
Division of Auditing and Finance

Dear Mr. Convery:

You have presented to this office a proposed form of creditor's claim for recovery of amounts paid out as Old Age Assistance from the estates of deceased recipients. This form indicates claims will be made by the State Department of Public Welfare with all payments to be made directly to it for its own recovery and also for funds to be disbursed by it in repayment to the proper county and the federal government. You inquire whether the proposed plan meets all requirements of the Montana statutes and whether the proposed form will be proper.

Section XI of Part III of the Public Welfare Act, Chapter 82 of the Laws of the Twenty-fifth Legislative Assembly, 1937, provides that upon the death of any recipient of Old Age Assistance the total amount of assistance paid under the act shall be allowed as a claim against the estate of such person. Provision is also made for reimbursement to the federal government and to the county for their proportionate shares of the amount paid toward such assistance.

Section V of Part III of the same act provides each county department shall reimburse the state department in the amount of 16-2/3% of the approved Old Age Assistance grants to persons in the county each month.

Section XIX (a) of Part I of the same act provides checks in payment of Public Assistance shall be issued by the state department and such checks shall be issued from the State Public Welfare accounts. Sub-paragraph (b) of the same section likewise provides for reimbursement by the various counties.

From the above provisions it is apparent the State Department of Public Welfare is the only disbursing agency making Old Age Assistance payments. Records of all payments are kept through its accounting system

as well as records of contributions made by the county and the federal government. Although the act does not specifically provide the state department alone shall present the creditor's claim, it would seem the legislature contemplated this should in fact be done so that all monies recovered would be paid from the recipient's estate to the department and by it allocated and disbursed to the various parties in interest.

I have inspected the proposed form of creditor's claim and find that in all respects it meets the requirements of the law. A copy of the claim is annexed to this opinion for your file.

Sincerely yours,

R. V. BOTTOMLY
Attorney General

IN THE DISTRICT COURT OF THE.....JUDICIAL
DISTRICT, IN AND FOR THE COUNTY OF.....,
STATE OF MONTANA
IN THE MATTER OF THE ESTATE OF

.....
Deceased

CREDITOR'S CLAIM

The undersigned creditor of....., Deceased,
presents its claim against the estate of said deceased, with the necessary
vouchers, for approval, as follows, to-wit:

Estate of....., Deceased

The State Department of Public Welfare of the State of Montana,
Claimant:

Section XI of Part III of Chapter 82 of the 1937 Session Laws of the
State of Montana (The Public Welfare Act) reads as follows:

"On the death of any recipient of old age assistance, the total amount of assistance paid under this act shall be allowed as a claim against the estate of such person after funeral expenses not to exceed one hundred (\$100.00) dollars have been paid and after the expense of administering the estate has been paid. No claim shall be enforced against any real estate of a recipient while it is occupied by the surviving spouse, or dependent.

"If the Federal Law shall so require, the Federal Government shall be entitled to a share of any amounts collected from recipients or from their estates equal to not more than one-half of the amount collected and the amount due the United States shall be paid promptly by the state to the United States Government. The remaining one-half of the amount collected shall be distributed to the state and county in proportion to the total amount of such assistance paid by each."

Sub-section 2 of Section 3 Title I (Payment to States) of the Social Security Act reads in part as follows:

". . . Provided, that any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the state or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (8) of this paragraph."

UNDER THE FOREGOING STATUTES, CLAIM IS HEREBY PRESENTED AGAINST THE ESTATE OF

....., DECEASED,

FOR THE REPAYMENT OF OLD AGE ASSISTANCE PAYMENTS MADE IN THE TOTAL AMOUNT OF \$..... THE SAID CLAIM IS MADE UP AS FOLLOWS:

Payments Made for Months of	Monthly Amount of Payment	PAID FOR			Total Amount of Payments
		County Funds	State Funds	Federal Funds	

Payment to be made only to the State Department of Public Welfare, at Helena, Montana, which Department will thereafter make disbursement to the proper county, and to the United States of America, for their proportionate shares as provided by law.

STATE OF MONTANA
County of Lewis and Clark—ss.

.....Director of Auditing and Finance of the State Department of Public Welfare, the claim of which Department is herewith presented to the.....of the estate of the said deceased being duly sworn, says that the amount thereof, to-wit: The sum of.....Dollars, is justly due to the said claimant in its own right and for the use and benefit of the County of.....and the United States of America; and no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of said.....

.....
Director of Auditing and Finance

Subscribed and sworn to before me this.....day of....., 19.....

Notary Public for State of Montana, Residing at Helena, Montana, My Commission expires.....

(This form appears on back for filing)

No.....

DISTRICT COURT

County of.....
In the Matter of the Estate of.....
Deceased

CLAIM OF
STATE DEPARTMENT OF PUBLIC WELFARE
OF THE STATE OF MONTANA

For \$.....

The Within Claim Presented to
.....
of said Deceased is allowed and approved for \$.....
This.....day of....., 19.....
.....
.....

ALLOWED AND APPROVED FOR
....., 19.....
.....
Judge

THE WITHIN CLAIM REJECTED THIS.....
day of....., 19.....

FILED THIS..... day of.....
....., 19.....

By CLERK
Deputy Clerk