

Opinion No. 55

Counties, Responsibility For Old Age Assistance in Case of Change of Residence—Public Welfare Act—Old Age Assistance—Residence.

Held: 1. When a recipient of Old Age Assistance moves away from a County with the intention of changing his residence, he shall receive assistance from said County for a period of six months after which the County to which he has moved shall be charged by the State Department of Public Welfare with the County share of such assistance.

2. If the recipient moves to another County intending only to remain there temporarily to take advantage of medical facilities and then to return to his original County, the original County will continue to be responsible for the benefits to be paid to such recipient.

September 14, 1949.

Mr. A. G. McNaught
County Attorney
Musselshell County
Roundup, Montana

Dear Mr. McNaught:

You have requested my opinion as to the responsibility for Old Age Assistance payments under the circumstances you have presented. The facts as you present them are substantially as follows: X received Old Age Assistance benefits from Wheatland County for some time prior to June 1st, 1948. These benefits were discontinued June 1st, 1948, as X had accepted employment in Golden Valley County and had departed from Wheatland County. On October 5th, 1948, X came to Musselshell County to live. Subsequently he became ill and treatment and hospitalization have been necessary ever since. On December 30th, 1948, the Musselshell County Department of Public Welfare notified the Wheatland County Department of Public Welfare of X's illness and it was agreed to have X hospitalized in Roundup inasmuch as Wheatland County did not have adequate facilities to provide for his care. It was further agreed that X would not gain residence in Musselshell County otherwise Musselshell County would have furnished X with transportation back to Wheatland County. Wheatland County reinstated X for Old Age Assistance on January 1st, 1949, and continued to provide benefits through June of 1949 at which time the State Department of Public Welfare informed the Musselshell County Department of Public Welfare that the case had been transferred to Musselshell County for future payment of benefits. Musselshell County contends that it is not responsible for Old Age Assistance benefits to be paid to X in that Wheatland County is still the County of residence by virtue of the agreement between the Wheatland County Department of Public Welfare on the one hand and the Musselshell County Department of Public Welfare on the other hand.

The facts of this case as supplied to me by the Wheatland County Department of Public Welfare differ slightly from the facts you have presented. The conflict involves the terms at the purported agreement said to have been made concerning the residence of X. However, since I deem that this agreement has no bearing upon this opinion, the irreconcilability of the two accounts is immaterial.

The section of the Public Welfare Act which provides the regulations for changes of residence of persons receiving Old Age Assistance is Section XII, Part III, Chapter 82, Laws of 1937. Section XII is as follows:

" A recipient who moves to another County in this State shall continue to receive assistance, with the approval of the State Department, and the County from which he has moved shall be charged by the State Department for such County share of his assistance for a period of six months after which time the County to which he has moved shall be charged therefore; the County from which he has moved shall transfer the records of the case of such recipient to the County Department of the County to which he has moved on notification so to do by the State Department."

The provisions of the above quoted section are unequivocal. They provide that a recipient of Old Age Assistance who moves to another county shall receive assistance from the first County for a period of six months after which the County to which he has moved shall be charged by the State Department with the County share of such assistance. An agreement between the counties cannot render for naught the provisions of the statute. The Wheatland County Department of Public Welfare did not have the authority to contract so as to be responsible for the benefits to be paid to X when his residence had in fact changed. X's residence could not be decided by contract between the two County Departments. Such residence depended entirely upon X, his actions and intentions and the law pertaining thereto.

The instant situation is not to be confused with that contemplated by the State Department of Public Welfare and provided for in Section 4632 of the Staff Manual of the Department of Public Welfare as follows:

"A recipient who receives approval of a County Welfare Board to go to another County for the purpose of medical treatment, hospitalization or nursing home care, which care or service is not available in his own County, will continue to be the responsibility of the original County, until the completion of medical treatment, hospitalization or nursing home care. Ordinarily such recipients will return to the County of original residence, but if they elect to stay in the County to which sent, the establishment of residence will begin only upon completion of the treatment or care. This policy is applicable to all public assistance and general relief cases."

This regulation of the State Department applies only to those cases wherein the recipient does not intend to change residence permanently but is only moving to a County to take advantage of medical facilities. The regulation was set up to prevent hardship to those counties possessing better than average medical facilities. It is merely a system whereby a small County which does not have adequate facilities provides the necessary care for the recipient outside the County without burdening the County where the facilities are available.

The case at hand is distinguishable from that described above in that X did not leave Wheatland County intending to go to Musselshell County for temporary medical treatment and then to return to Wheatland County. The facts appear to be that X left Wheatland County to

accept employment in another County and that he had no thoughts of requiring medical treatment at the time he left. He was changing his residence to conform with the location of opportunity for employment. His residence is established by law based upon his intent and his actions, and it is my opinion that his residence at the time he became ill and required medical attention was in Musselshell County.

It is my conclusion based upon the provisions of Section XII, Part III, Chapter 82, Laws of 1937, that Musselshell County became responsible for the payment of Old Age Assistance benefits to X on July 1st, 1949. At that time Wheatland County had provided assistance for the six months period specified in the statute and the obligation to provide further assistance rested with Musselshell County.

I am therefore, of the opinion that a recipient of Old Age Assistance who moves away from a County with the intention of changing his residence shall receive assistance from the first County for a period of six months after which the County to which he has moved shall be charged by the State Department of Public Welfare with the County share of such assistance.

If the recipient moves to another County and intends only to remain there temporarily to take advantage of medical facilities and then plans to return to the original County, the original County will continue to be responsible for benefits paid to such recipient.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.