

**Opinion No. 1**

**FIRE DEPARTMENT RELIEF ASSOCIATION; Funeral Benefits; Right of retired member to—Sections 11-1915(5) and 11-1928(5), Revised Codes of Montana, 1947.**

**HELD: Unless otherwise provided in its charter or by-laws, it is discretionary with the fire department relief association as to whether funeral benefits will be paid to either its active or retired members.**

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January 14, 1963

Mr. George J. Martin  
State Fire Marshal  
State Capitol Building  
Helena, Montana

Dear Mr. Martin:

You have requested my opinion concerning the effect of sections 11-1915(5) and 11-1928(5), Revised Codes of Montana, 1947, relating to the payment of funeral expenses for members of fire department relief associations. Specifically, you ask whether a **retired** member of a fire department relief association is entitled to funeral benefits.

Section 11-1915, Revised Codes of Montana, 1947, provides in part as follows:

“Every fire department relief association may allow to its members benefits for the following causes, as provided by law . . . .

(5) Funeral expenses of a member . . . .”

And, section 11-1928, Revised Codes of Montana, 1947, entitled “Use of disability and pension fund of fire department relief association,” provides in part as follows:

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“Said fund shall not be used for any other purpose whatsoever, other than for the payment of the following: . . . .

(5) To defray the funeral expenses of a member, in an amount not to exceed, however, the sum of two hundred fifty dollars (\$250.00) . . . . ”

It is clear from a reading of the statutes above set forth that the allowance of funeral benefits to members of a fire department relief association is discretionary with the association. And, it is clear that such statutes make no distinction between retired and non-retired members. Therefore, unless otherwise provided in its charter or by-laws, it is discretionary with the association whether to allow its members funeral benefits.

It is my opinion, therefore, that it is up to the discretion of the fire department relief association as to whether funeral benefits will be paid to either its active or retired members.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General