

Opinion No. 35

PUBLIC WELFARE, Counties; Residence—COUNTIES; Residence; Public Welfare—Sections 71-302 and 71-402, Revised Codes of Montana, 1947, Chapter 99, Laws of 1963.

HELD: Chapter 99, Laws of 1963, amending Section 71-302, Revised Codes of Montana, 1947, to provide that time spent as a patient in a licensed nursing home or hospital, or a

private charitable institution, shall not in any case be counted in determining the matter of county residence, does not apply to section 71-402, Revised Codes of Montana, 1947.

October 21, 1964

Mr. William E. Hunt
Liberty County Attorney
Chester, Montana

Dear Mr. Hunt:

You have asked whether or not the amendment to section 71-302, R.C.M., 1947, applies to the entire Public Welfare Act and especially to section 71-402, R.C.M., 1947.

Section 71-302, R.C.M., 1947, (hereinafter the Revised Codes of Montana will be cited by section number only) which provides eligibility requirements for general relief, is as follows:

“An applicant to be eligible for general relief must have resided in the state of Montana for at least one (1) year immediately prior to the date of receipt of this assistance. Any person otherwise qualified who has resided in a county for one (1) year shall thereby acquire residence in that county, which residence shall be retained until residence is acquired in another county by residing there for one (1) year. If a person has resided in the state for one (1) year but does not have county residence, he shall make application for this assistance in the county in which he is residing, which county shall bear the cost of his assistance until he has acquired a county residence. If a person is absent from the state voluntarily he shall thereby be ineligible for general relief in the state of Montana. Time spent as a patient in a licensed nursing home or hospital, or a private charitable institution, shall not in any case be counted in determining the matter of county residence.”

The 1963 amendment, Chapter 99, Laws of Montana, 1963, added the last sentence.

Section 71-402 sets out eligibility requirements for old age assistance. Other provisions pertaining to eligibility requirements for various other forms of public assistance are sections 71-504, 71-604, 71-1003, 71-1202 and 71-1409.

Section 71-302 also deals with county residence in relation to general relief. The manifest purpose of that section is to fix a county with the burden of general relief for its residents. Other provisions that deal with county residence in relation to various other forms of public assistance are 71-413, 71-510, 71-612 and 71-1210.

The amendment to section 71-302 dealt solely with the matter of determining county residence. It has been stated numerous times that amendment of a statute by implication is not favored. If the legislature, by enacting Chapter 99, intended to amend all of the welfare provisions that concern county residence, including section 71-402, it is reasonable to presume that it would have mentioned them explicitly. See **State v. Joyland Club**, 124 Mont. 122, 220 Pac. 2d 988; **Northern Pac. Ry. Co. v. Dunham**, 108 Mont. 338, 90 Pac. 2d 506.

The title to Chapter 99, relates that it is an act to amend section 71-302 only. There is nothing in the title to indicate that the amendment was intended to apply to the other sections that deal with county residence in relation to the other forms of public assistance, such as, old age assistance, aid to dependent children, aid to needy blind and aid to disabled persons. It is reasonable to conclude, therefore, that, by enacting Chapter 99, the legislature did not intend to amend section 71-402 and other similar sections.

Therefore, it is my opinion that Chapter 99, Laws of Montana, 1963, only applies to section 71-302.

Very truly yours,

FORREST H. ANDERSON
Attorney General