

VOLUME NO. 37

OPINION NO. 35

COUNTIES - Obligation to pay public assistance; PUBLIC WELFARE - General relief apportionment among counties; REVISED CODES OF MONTANA, 1947 - Section 71-302.2.

HELD: A person who has moved from one county to another and did not receive public assistance from the original county is not the financial responsibility of the original county pursuant to section 71-302.2, R.C.M. 1947.

15 June 1977

Richard Weber, Esq.
Department of Social and
Rehabilitation Services
111 Sanders
Helena, Montana 59601

Dear Mr. Weber:

The Department of Social and Rehabilitation Services has requested my opinion on the following question:

Is a person who has moved from one county and established residence in another, who did not receive public assistance from the original county, the financial responsibility of the original county for one year from the date of his change of residence pursuant to section 71-302.2, R.C.M. 1947?

Chapter 3, Title 71 of the Revised Codes of Montana contains the provisions regarding general relief, otherwise known as county public assistance. This opinion is not applicable to other public assistance programs, such as aid to dependent children and medicaid, which are codified elsewhere in Title 71. A person is eligible for county aid only after an investigation by the county reveals that the person's income and resources are insufficient to provide the necessities of life and assistance shall be provided to meet a minimum subsistence compatible with decency and health. Section 71-303, R.C.M. 1947. Individuals may be accepted for county assistance under the general relief statutes even though they may not be eligible for other assistance programs.

The crucial statute to the question here is section 71-302.2, R.C.M. 1947:

Residency requirements. Any person otherwise qualified who makes his home in the State of Montana with the intent to become a resident shall be eligible for general relief. Upon the filing of his application in the county of residence, his assistance shall be paid entirely from state funds until he has resided for one continuous year in the State of Montana, at which time he shall become the financial responsibility of the county in which he resides at the expiration of the one year period.

* * *

If the recipient moves from his original county of residence to reside in another county, he shall continue to be a financial responsibility of the original county of residence for one year from the date of his change of residence. If during this one year period, the individual resides in several counties, he shall become a financial responsibility of the county in which he resides at the expiration of the one (1) year period.

A state may not impose a residency requirement as a condition precedent to eligibility for welfare benefits, Pease v. Hanson, 404 U.S. 70 (1971), but the county's obligation to pay general relief may be limited by residency requirements; Pease v. Hanson, 159 Mont. 43, 494 P.2d 952 (1972). In fact, section 71-302.2 would appear to have been enacted in response to the Pease cases.

Your question is whether under this statute the original county of residence bears financial responsibility for the general relief of an individual who has changed his residence to another county and who did not receive general relief directly from the original county. It is my opinion that the original county of residence is not obligated in this instance.

The question is capable of resolution by a careful analysis of the statute. Again, section 71-302.2 says in pertinent part:

If a recipient moves from his original county of residence to reside in another county, he shall continue to be a financial responsibility of the

original county of residence for one year from the date of his change of residence.

The language "he shall continue to be a financial responsibility of the original county" is significant. If an individual recipient is not currently receiving assistance from the county under this chapter then he cannot continue to be a financial responsibility of that county. Consequently, the statute only applies when individuals are receiving assistance from the county at the time of the move. In addition, by using the language "financial responsibility of a county," the Legislature intended that the county would be providing direct aid to the individual.

Where the legislative intent can be determined from the plain meaning of the words used we need not go further to apply other means of interpretation. State ex rel. Huffman v. District Court, 154 Mont. 201, 461 P.2d 847 (1969).

The statute, read as a whole, provides that for the first year of a recipient's residency in the state, the state will pay for the county assistance. After the recipient has been a state resident for one year, the county in which he resides at that time shall assume the assistance obligation. If the individual recipient moves from one county to another, the original county will be financially obligated for one year, only if the original county was providing direct assistance at the time of the move. At the end of that year the county in which the recipient resides shall bear the financial responsibility.

When the statutory language is plain, clear and unambiguous, the statute speaks for itself and there is nothing to construe. Olson v. Manions, Inc., 162 Mont. 197, 510 P.2d 6 (1975). The language of section 71-302.2 is clear and capable of plain interpretation.

THEREFORE, IT IS MY OPINION:

A person who has moved from one county to another and did not receive public assistance from the original county is not the financial responsibility of the original county pursuant to section 71-302.2, R.C.M. 1947.

Very truly yours,

MIKE GREELY
Attorney General