

LETTER OPINION
97-L-139

August 20, 1997

Ms. Laurie Loveland
Indigent Civil Legal Services
Fund Advisory Committee
900 East Boulevard Avenue
Bismarck, ND 58505

Dear Ms. Loveland:

Thank you for your letter concerning expenditures of the Indigent Civil Legal Services Fund (Fund). Specifically, you ask whether N.D.C.C. § 54-06-20(3) is illustrative of the types of matters for which the Fund moneys may be used or whether that subsection restricts the types of matters for which Fund moneys may be used.

N.D.C.C. § 54-06-20(3) provides (emphasis added):

Subject to the limitations in this section, funds distributed under subsection 1 may be used to provide legal services to persons unable to afford private counsel in the following types of cases:

- a. Public benefits, including temporary assistance to needy families, unemployment compensation, general assistance, food stamps, supplemental security income, or social security disability income;
- b. Medical assistance;
- c. Family law matters;
- d. Housing;
- e. Consumer issues; and
- f. Elder law.

The primary goal of construing a statute is to ascertain the Legislature's intent. Berg Transport, Inc. v. North Dakota Workers Compensation Bureau, 542 N.W.2d 729, 732 (N.D. 1996). The meaning of a statute must be sought initially from the statutory language. County of Stutsman v. State Historical Soc'y, 371 N.W.2d 321, 325

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(N.D. 1985). Words used in a statute are to be understood in their ordinary sense unless a contrary intention plainly appears. N.D.C.C. § 1-02-02; Kim-Go v. J. P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990). If the language of a statute is ambiguous or of doubtful meaning, extrinsic aids may be used to interpret the statute. Id. See also Rolla Community Hosp. v. Dunseith Community Nursing Home, Inc., 354 N.W.2d 643, 647 (N.D. 1984) ("Although the title of an act does not constitute a part of the act, it may be considered in determining Legislative intent.")

N.D.C.C. § 54-06-20 establishes the Indigent Civil Legal Services Advisory Committee to distribute civil filing fee surcharge moneys. Those surcharge moneys are collected pursuant to N.D.C.C. § 11-17-04(1)(a)(1) and deposited in the Fund. N.D.C.C. § 54-06-20 provides the "moneys in the fund must be distributed to legal service programs operating in the state which provide, with funds appropriated by the federal legal services corporation, legal services to persons unable to afford private counsel" (emphasis added). The statute further appropriates the moneys in the Fund "on a continuing basis for the purpose of implementing and administering a program to provide civil legal assistance to indigent individuals" (emphasis added).

Subsection 3 of N.D.C.C. § 54-06-20, which sets out the permissible uses of the Fund, was enacted in 1997 pursuant to Senate Bill No. 2214. See 1997 N.D. Sess. Laws ch. 439, § 1. The object of SB 2214, after its amendment in the Senate, was to change the "composition of the indigent civil legal services fund advisory committee and the permissible uses and limitations on funds distributed by the committee." Id. (Title to SB 2214).

The operative provisions of the statute (N.D.C.C. § 54-06-20(3)) relating to the types of cases on which Fund moneys may be used are "funds distributed . . . may be used . . . in the following types of cases. . . ." Thereafter, six types of cases are listed. That language does not contain words of expansion indicating the six types of cases are only examples and that others may be added. To the contrary, the terms are limiting and provide the funds are permitted to be used for the types of cases listed. It is my opinion that the six types of cases listed in N.D.C.C. § 54-06-20(3) are the only types of cases on which funds distributed under the section may be used.

Sincerely,

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Heidi Heitkamp
ATTORNEY GENERAL

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