

**OPINION
76-80**

December 7, 1976 (OPINION)

Mr. Donavin L. Grenz
State's Attorney
Emmons County
Linton, North Dakota 58552

Dear Mr. Grenz:

This is in response to your letter of November 24, 1976, regarding the county having responsibility for the provision of welfare aid under the following described circumstances:

"If an individual resides in one county and during that residency does not apply for any type of welfare, assistance or aid and then moves to another county within the State of North Dakota and resides there for less than one year, which county is liable for the welfare, aid or assistance paid to that individual, assuming that said individual is eligible for welfare assistance, the first county within which the individual resided or the second county within which the individual resided and to which the individual applied for aid?"

It is the opinion of this office that subsection 1 of N.D.C.C. section 50-02-04 is controlling. It provides that where no type of public assistance or poor relief has been received, residence in a county for poor relief purposes is gained as follows:

"1. Each male person and each unmarried female over the age of eighteen years, who has resided one year continuously in any county in the state, shall be deemed to have residence in such county;"

In light of the North Dakota Supreme Court decision in Kost v. Sheridan County, 179 N.W. 703, it is apparent that subsection 2 of said section does not apply to a person who has resided continuously in one county for at least a year. In the example you have cited, the individual has resided in a North Dakota county continuously for more than one year. The first county to which you make reference (the county in which the individual resided for one year prior to removing to another North Dakota county for less than one year prior to applying for assistance) is the county having responsibility for the poor relief of the indigent individual. Clearly, had the individual resided in the second county for one full year prior to applying for assistance, the responsibility would be that of the county in which the application for assistance was made.

You ask whether there are any circumstances under which the liability for the payment of welfare aid would be transferred to the second county other than if the individual did not receive any type of welfare aid for over one year.

Under N.D.C.C. section 50-02-06, the only way in which the

individual's residency can be lost or defeated is by acquiring a new residence in the state or by his voluntary absence for one year or more from the county in which such residence had been obtained. You will note in examining section 50-02-06, that the county contributing to the aid of the individual remains responsible for such individual until such time as the individual has not received aid from the county of residence for one full year.

Sincerely,

ALLEN I. OLSON

Attorney General