

OPINION
47-63

April 10, 1947 (OPINION)

COUNTIES

RE: Welfare Workers Entitled to Mileage But Not Rental for Use of Car

Your letter of April 8, addressed to the attorney general, has been received and contents noted.

You state that in several county welfare boards within the state they are paying rental as well as five cents per mile, or in lieu of mileage, for the use of personally owned automobiles to county welfare board employees. You state further that in some of the larger cities the county welfare board does pay a monthly rental for the use of personally owned automobiles for city travel, but no mileage is paid in addition to the monthly rental.

You inquire whether such practice is legal.

Section 11-1015, of the North Dakota Revised Code of 1943, fixes the mileage which may be charged under the laws of this state by county officials, whether elective or appointive, and by every deputy of a county official entitled by law to travel or mileage expense. The mileage which may be charged is as follows:

1. Seven cents per mile when such travel is by team;
2. Five cents per mile when such travel is by motor vehicle;
and
3. Three cents per mile, or his actual expense if the fare exceeds three cents per mile, when such travel is by rail or other common carrier.

With reference to welfare workers, they are officers to the extent that they are entitled to mileage when it is necessary to travel in the performance of their duties, but they cannot charge rental for the use of their personal cars. They are entitled only to the mileage fixed by said section 11-1015.

Neither may the counties pay rental for the use of personally owned cars. The statute prescribes the method by which travel expense is paid, and the county commissioners or county welfare boards have no legal authority to establish any other method.

Persistence in such practice by the officers or welfare boards might subject them to liability on their bonds at the suit of an interested taxpayer.

NELS G. JOHNSON

Attorney General