

**OPINION
51-207**

October 8, 1951 (OPINION)

WELFARE

RE: County Commissioners to Audit All Accounts Payable

The Public Welfare Board has requested from this office an opinion on the following matters:

In certain counties, the Boards of County Commissioners have not approved the bills incurred and approved by the County Welfare Board and presented to the county auditor for payments. The question is: Is it necessary that the Board of County Commissioners approve those bills incurred and approved by the Welfare Board and presented to the county auditor for payment?

In regard to welfare work in the State of North Dakota there are two funds - the County Poor Relief Fund established by law and the Social Welfare Fund set forth in the state plan and made a part of the agreement between the Board of County Commissioners and the State Public Welfare Board.

The County Poor Relief Fund is made up of tax money raised by the county. Funds granted to the counties by the Public Welfare Board comprise the Social Welfare Fund. That money is state money derived either from the state appropriation or from federal grants.

By statute the county commissioners of each county must appoint a County Welfare Board whose duties are:

- (a) To supervise and direct all relief and welfare activities conducted by the county.
- (b) To supervise and administer, under the direction of the Public Welfare Board of the state, such relief and welfare activities as are financed in whole or in part by state funds.

By 50-0102 N.D.R.C. the Board of County Commissioners of each county is given exclusive jurisdiction and control of the administration of poor relief within the county.

By 50-0303 N.D.R.C. relief expenditures by the county are to be paid from the poor relief fund, of the county.

In the Supreme Court case of Fuller v. Fred Finger, et al, 69 N.D. 646, it was held:

That the county poor relief fund is under the exclusive control and direction of the Board of County Commissioners.

That in the administration of the county poor relief fund, the County Welfare Board has no authority to bind the county on

obligations of its own volition.

In the administration of the county poor relief fund, the County Welfare Board is to supervise and direct relief activities, but subject to the direction and control of the Board of County Commissioners. The county commissioners may forbid payment from the county poor relief fund. Payment cannot be made from this fund without the Board of Commissioner's approval because these funds are county funds.

In the administration of the Social Welfare Fund, the Board of County Commissioners has no control over the administration of relief and welfare activities which are financed by state or federal funds. The power to administer is the power to dispense, to serve out the fund, and to manage and distribute it.

The agreement which the Board of County Commissioners entered into with the Public Welfare Board of North Dakota as regards the Social Welfare Fund provided:

- (6) Disbursement from the social and welfare fund may be made only after authorization by the County Welfare Board. Relief payments shall be made in the form of relief orders issued by duly appointed representatives and employees of the County Welfare Board. Bills covering relief orders, with the relief order properly endorsed, attached thereto, and bills covering the expenditures of the County Welfare Board, which board shall at regular meetings, audit such bills and present them to the county auditor for payment. The county auditor shall present the bills to the county Board of Commissioners for approval as in the case of all other county expenditures, and when approved shall issue warrant against the Social Welfare Fund, or other county funds, in payment of bills."

So long as the County Public Welfare Board is administering the Social Welfare Fund under the direction and supervision of the State Public Welfare Board, the County Commissioners have no power or authority to interfere. They merely see that the bills are properly made, audited and allowed by the proper authorities. Their duties are purely ministerial.

Therefore it is our opinion, based on 69 N.D. 646 that an expenditure of the County Poor Relief Fund and the Social Welfare Fund, the approval of the Board of County Commissioners must appear on all orders presented for payment; that in the administration of the Social Welfare Fund, they may be compelled to approve but that in the administration of the County Poor Relief Fund, approval is at their discretion.

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