

**OPINION  
56-157**

August 28, 1956           (OPINION)

RESIDENCE

RE: Poor Relief - Qualifications

We are in receipt of your letter of August 20, 1956, in which you ask for an opinion concerning the residence of a certain family for poor relief purposes. The facts, as we understand them, are as follows:

The members of the family in question were residents of McIntosh County and were receiving old age assistance from that county when they moved to Burleigh County in 1949. They continued to receive assistance from McIntosh County until the old age assistance grants were cancelled effective September 1, 1954. The family has made its home in Burleigh County since 1949. It appears that from September, 1953 through July 1954, McIntosh County overpaid the family due to the fact that unreported income from another source should have reduced the amount of relief necessary to meet its monthly needs. McIntosh County has granted no assistance from the time of the above-mentioned cancellation and has refused to do so when the family reapplied on the ground that the family no longer had a residence in McIntosh County.

Section 50-0206 of the North Dakota Revised Code of 1943 provides:

Each residence for poor relief purposes, when once legally acquired in any county in this state, shall continue until it is lost or defeated by acquiring a new residence in this state, or by voluntary absence for one year or more from the county in which such residence had been obtained. Upon acquiring a new residence, or upon such voluntary absence all former residence shall be defeated and lost. If within a year of removal, the county of former residence contributes to the poor relief of such person in the county to which he has moved, such absence from the county of former residence shall not be construed to be voluntary as that term is used in this section."

Since the family has not received any aid from McIntosh County for over a year, it is clear that its members have lost their residence in that county for poor relief purposes. Conversely, they have gained a residence in Burleigh County since they have resided continuously in that county for a period of one year during which time they have received no type of public assistance or poor relief, as provided by section 50-0204 of the North Dakota Revised Code of 1943 (1953 Supp.).

The fact that they may have been living on money granted by McIntosh County during the period of cancellation clearly would not serve to extend the running of the one-year period of voluntary absence. As was said in the case of Griggs County v. Cass County, 260 N.W. 417 (N.D. 1935), at page 419, "\* \* \* the point of time at which the computation of time of residence should commence is a month after the

date on which the county from which the person removed furnished relief to the person whose residence is in question.\* \* \*

Our conclusion therefore is that the members of the family in question are residents of Burleigh County.

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