

**OPINION  
61-175**

June 26, 1961 (OPINION)

PUBLIC WELFARE

RE: Medical Assistance for Aged - Definition of Home

I have before me your letter of May 23, 1961, in which you ask for my opinion as to the construction of Senate Bill 227 of the Session Laws of 1961 which provided for Medical Assistance for the Aged. As to the "home" of an applicant or recipient of Medical Assistance for the Aged, the act provides as follows:

The limit in net value of personal property shall not include household goods, wearing apparel, or personal effects; nor shall the resources in real property exceed the home for a married or unmarried applicant."

It is apparent that the Legislature did not see fit to define the term "home." Neither can any direct explanation be found in the act as to the meaning of such term. It is, however, observed that the term needed be defined in order to administer the act. The meaning of the term "home" must be related to the subject matter in the manner in which it is used.

Since the term "home" was not defined by the Legislature, and since it is essential to define such term in order to administer the act, it becomes necessary to define such term administratively.

In the absence of any contrary showing and until further clarification by the Legislature, it is my opinion that the Public Welfare Board would be justified in administratively determining that the term "home" as referred to in the act, to be the same as the homestead provided for in section 47-18-01 of the North Dakota Century Code which reads as follows:

'HOMESTEAD' DEFINED - EXEMPTION. The homestead of every head of the family residing in this state shall consist:

1. If within a town plat, of not to exceed two acres of land upon which the claimant resides, and the improvements thereon, and not exceeding in value twenty-five thousand dollars over and above liens or encumbrances or both.
2. If not within a town plat, of not to exceed in the aggregate more than one hundred sixty acres, and the dwelling house situated thereon in which the homestead claimant resides, with all its appurtenances, and all other improvements on said land regardless of the value of the same."

You also ask my opinion as to "whether in determining the value of real or personal property of an applicant or recipient, that if he or she has title to land or personal property which either has not value

over and above its encumbrances by mortgage or lien, that it may be disregarded in determining whether or not it has any value which might compel him to dispose of it in order to become eligible for Medical Assistance for the Aged."

It is my opinion that if the county welfare board finds the applicant or recipient has title to land or personal property which either has no cash value or which is encumbered by mortgage or lien in an amount in excess of its cash sale value, that the county welfare board can legally disregard this property and that it will not be necessary to ask the applicant to dispose of the same in order to make him eligible to receive Medical Assistance for the Aged.

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