

**Opinion No. 47-5051**

July 11, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Leo P. Schwartz, Director New Mexico State Hospital Survey Hot Springs, New Mexico

{\*68} This will acknowledge receipt of your letter of July 9, 1947, in which you request a ruling by this office on the following:

"Under existing law, the State is authorized to make payment of Federal funds to all types of applicants except the following: (list the types of applicants which the State cannot pay)."

Your request refers to payment of Federal funds to applicants under the Federal Act (Public Law 725) and the State Hospital Survey and Construction Act.

The New Mexico Constitutional provisions relating to this question are Article 4, Section 31 and Article 9, Section 14. Article 4, Section 31 of the New Mexico Constitution prohibits State aid to charities which are not under the absolute control of the state. Article 9, Section 14 of the New Mexico Constitution prohibits the state, counties or other political subdivisions from giving aid or in any manner pledging its credit to private enterprise.

The result is that the State Department of Public Health is not authorized to make payments of Federal funds allotted to the State of New Mexico for hospital purposes to "non-profit hospitals" which are not under the absolute control of the state.

I might call your attention to the fact that applications by "non-profit hospitals," not under the absolute control of the State, are nonetheless processed by the New Mexico Department of Public Health as a part of its hospital construction program. However, payment of Federal funds to these hospitals should be made direct to them by the Secretary of the Treasury of the United States as provided in Section 625(b) of the Federal Act (Public Law 725).

By WILLIAM R. FEDERICI,

Asst. Atty. General