

Opinion No. 36-1264

January 14, 1936

BY: FRANK H. PATTON, Attorney General

TO: New Mexico Relief and Security Authority, Santa Fe, New Mexico. Attention: Fay Guthrie, Director.

{*93} You have requested from this office an opinion upon the following questions:

1. Is it possible for county commissioners to use indigent funds to pay a doctor on contract or salary basis for medical relief?

Chapter 101 of the 1929 Code provides for a levy in each county and municipality of an indigent fund and provides for the disbursement of said funds by the governing authority for the relief of deserving indigent persons who are objects of charity residing within the respective limits of the municipality so making the levy. We assume from your question that the services of a doctor as contemplated would be only for his services in connection with deserving indigent persons as contemplated by the above mentioned law. In this event, we are of the opinion that the Board of County Commissioners of the respective counties might use a portion of the indigent fund of their county to pay a doctor for medical relief to indigent persons within the limits of said county.

2. Under existing relief and security law what responsibility does the Relief and Security Authority have toward spending county indigent funds?

Section 6, Chapter 86 of the Laws of 1935, provides that money levied for indigent or charitable purposes shall be expended by and under the direction of this Authority for the purposes and objects for which said money was levied while a branch of the Authority is maintained in such county. This would seem to give the Authority supervision of such expenditures only when a branch is maintained in the county and not otherwise. When such branch is maintained in the county, we believe that the spending of the county indigent fund is solely under the supervision of this Authority.

3. Are county commissioners authorized to transfer county indigent funds to the New Mexico Relief and Security Authority?

We do not believe that the law contemplates the transfer of this fund to the New Mexico Relief and Security Authority but rather that the Authority should determine the expenditures to be made and request the Board of County Commissioners of the respective counties to draw the proper vouchers upon this fund.

4. Is it mandatory that indigent funds levied in a county be spent in that county or for benefit of residents of that county?

We believe that under the provisions of Section 101-101 and Section 101-102 of the 1929 Code that the law contemplates the indigent fund of a county being spent only within the physical limits of the county and does not contemplate spending of this money on persons who have a legal residence in the county but who are actually residing outside of the limits of the county.

5. Will a resident law established by resolution of county commissioners in each county be legal?

We are of the opinion that the Board of County Commissioners of the respective counties in this state have no power or authority whatever to pass any so-called residence law.

By: J. R. MODRALL,

Asst. Atty. General