

## Opinion No. 37-1778

October 8, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Hon. Clinton P. Anderson, Chairman Unemployment Compensation Commission  
Albuquerque, New Mexico

{\*164} Your letter of October 6 has been referred to me for attention. In your letter you wish a clarification of my opinion of September 8 relating to mileage and per diem allowance for employees in the Unemployment Compensation Commission.

If I understand your letter, you wish to know specifically (1) whether or not the Unemployment Compensation Commission is allowed to pay its employees \$ 4.00 per diem for actual and necessary expenses incurred while travelling, without the necessity of submitting receipts. (2) {\*165} You wish to know if it would be permissible for you to allow commissioners a flat sum of \$ 4.00 per day and six cents per mile under the provisions of Section 10 (b), Ch. 1, Special Session Laws of 1936.

In answer to your first question, you are advised that you are correct in your interpretation of the law. You are permitted to pay employees at the rate of \$ 4.00 per day for actual and necessary expenses, provided lodging expenses have been actually incurred. In that event there is no necessity of submitting receipts. If, on the other hand, the employee has incurred no expenses for lodging or subsistence, receipts must be submitted. This, we think, is plain under the regulation adopted by both the State Board of Finance and the Unemployment Compensation Commission. We do not see where the two regulations are in conflict.

In answer to your second question, you are advised that in our opinion it is permissible for you to allow the commissioners \$ 4.00 per day and six cents per mile without the necessity of submitting receipts. It is not necessary for us to determine whether or not the disbursement of your funds is governed by the first part of Section 9 of the Appropriation Act because Section 112-124, New Mexico Statutes Annotated, 1929, makes substantially the same requirements in different words. It is provided in that section that payment or disbursement of public funds of the State of New Mexico shall be made upon warrants drawn by the State Auditor against the Treasurer of the State of New Mexico based upon itemized vouchers as now provided by law. There is no specific statutory announcement as to just what an itemized voucher is. In our opinion, the voucher would be itemized if the number of miles travelled by the commissioners are set out and the number of days of service are listed.

The third paragraph of Section 9 of the Appropriation Act (Ch. 232, Laws of 1937) is very broad. It might be construed as limiting the total amount of mileage and per diem allowed to any state officer or employee, including persons employed by the

Unemployment Compensation Commission. We would therefore suggest that you limit your maximum per diem to \$ 4.00 per day as suggested in the postscript of your letter.

Trusting that this answers your questions, I am

By: RICHARD E. MANSON,

Asst. Atty. Gen.