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VOLUME NO. 45

OPINION NO. 26

COUNTIES - Reimbursement by counties for administrative costs;  
EXPENSES - Computerization of public assistance eligibility determinations, reimbursement for;  
PUBLIC ASSISTANCE - Computerization of eligibility determinations, reimbursement for expenses of;  
SOCIAL AND REHABILITATION SERVICES, DEPARTMENT OF - Reimbursement by counties for administrative costs;  
MONTANA CODE ANNOTATED - Sections 53-2-201(1)(d), 53-2-207(1), 53-2-304(2), 53-2-305, 53-2-306;  
OPINIONS OF THE ATTORNEY GENERAL - 45 Op. Att'y Gen. No. 23 (1994).

HELD: Counties are required by law to reimburse the Department of Social and Rehabilitation Services for the expenses associated with the computerization of public assistance eligibility determinations.

June 22, 1994

Peter S. Blouke, Ph.D.  
Director  
Department of Social and Rehabilitation Services  
P.O. Box 4210  
Helena, MT 59620-4210

Dear Dr. Blouke:

You have requested my opinion on the following question:

Are counties required by law to reimburse the Department of Social and Rehabilitation Services for the expenses associated with the computerization of public assistance eligibility determinations?

As you know, the administration of public assistance is governed generally by Mont. Code Ann. tit. 53, ch. 2. Part 2 of title 53, chapter 2 sets forth the specific powers and duties of the State Department of Social and Rehabilitation Services [SRS], and part 3 of that same title and chapter sets forth the powers and duties of county departments of public welfare. "County departments [of public welfare] are under the supervision of the department of

social and rehabilitation services and subject to audit by the department." Mont. Code Ann. § 53-2-305.

The payment of the costs of the administration of public assistance is governed by specific statutes and has long been a subject of dispute. State v. Potter, 107 Mont. 284, 84 P.2d 796 (1938). In answering your question, I must examine these specific statutes. Mont. Code Ann. § 53-2-207(1) gives SRS the authority to

require the county to bear the proportion of the total of local public assistance as is fixed by law relating to the assistance . . . .

Id. State law further expressly requires that counties bear all the costs associated with the administration of public assistance which are not reimbursed to SRS by the federal government:

[T]he county board of public welfare shall reimburse the department of social and rehabilitation services from county poor funds . . . the full amount of the department's administrative costs which are allocated by the department to the county for the administration of county welfare programs and not reimbursed to the department by the federal government.

Mont. Code Ann. § 53-2-304(2).

The legislature has given SRS powers of administration and supervision of public assistance. Mont. Code Ann. §§ 53-2-201(1)(d), 53-2-306.

The statutes uniformly require that counties reimburse SRS for the legitimate costs of administration of county public assistance functions. That the legislature was informed of and approved these administrative costs is clear. Amendments to the Executive Budget, Jan. 4, 1993, at 18-19; Minutes, House Human Services and Aging Subcommittee, Jan. 28, 1993; Office of the Legislative Fiscal Analyst, Appropriations Report 1995 Biennium, vol. 1, at B-91.

You state that several counties have resisted paying SRS for administrative costs. The resisting counties often claim equitable estoppel, citing a letter of June 2, 1989, from then Governor Stephens indicating that "[f]unding for the development and implementation of the computerization is provided by the state and federal governments." However, the Montana Supreme Court has said that "the application of the doctrine of equitable estoppel to governmental entities will be looked upon with disfavor. The doctrine will only be applied in exceptional circumstances or where there is manifest injustice." Chennault v. Sager, 187 Mont. 455,

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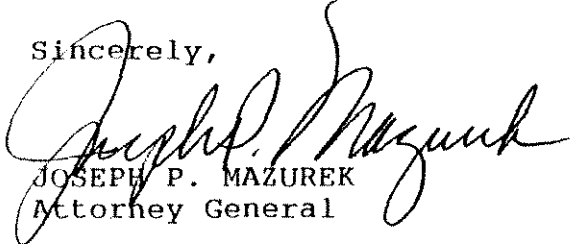
461, 610 P.2d 173, 176 (1980). In this case, Governor Stephens chose his words carefully: The letter does not indicate an obligation on the State's part to finance these costs in perpetuity. County responsibility for a proportionate share of the costs of administration of public assistance has long been the law (Rev. Codes Mont. §§ 71-217 and -222 (1947)). Therefore, I must conclude that neither exceptional circumstances nor manifest injustice exists in this case, and the doctrine of equitable estoppel does not apply.

I find no authority that indicates any other legislative intentions with regard to the administration of public assistance. The term "administrative costs," as used in the statute, clearly encompasses "expenses associated with the computerization of public assistance eligibility determinations" as used in your question. Cf. 45 Op. Att'y Gen. No. 23 (1994) ("administrative costs" for protective services include costs for rent, equipment, and office supplies). Thus, I must conclude that the legislature intended what it clearly stated, and I may not go further in attempting to ascertain legislative intent. Dorn v. Board of Trustees, 203 Mont. 136, 144, 661 P.2d 426, 430 (1983); White v. White, 195 Mont. 470, 473, 636 P.2d 844, 845-46 (1981).

THEREFORE, IT IS MY OPINION:

Counties are required by law to reimburse the Department of Social and Rehabilitation Services for the expenses associated with the computerization of public assistance eligibility determinations.

Sincerely,



JOSEPH P. MAZUREK  
Attorney General

jpm/rfs/mlr