

Social Welfare

CHAPTER 256

DIVISION OF SOCIAL WELFARE

256.01 DIRECTOR OF SOCIAL WELFARE; POWERS AND DUTIES.

HISTORY. 1937 c. 438 s. 2; 1939 c. 431 art. 7 s. 2; M. Supp. ss. 3199-102, 8688-4; 1943 c. 7 s. 1; 1943 c. 177 s. 1; 1943 c. 570 s. 1; 1943 c. 612 ss. 1, 2.

A private attorney should be selected to protect the rights of a minor who is in the care of the director of social welfare, and who has received an injury. OAG Jan. 16, 1945 (844g).

256.02 INVESTIGATIONS; EXAMINATIONS; SUPERVISION.

HISTORY. 1883 c. 127 s. 2; 1887 c. 93 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 6 s. 125; 1893 c. 157 ss. 24 to 31; G.S. 1894 ss. 460, 7440 to 7447; R.L. 1905 s. 1899; G.S. 1913 s. 4047; G.S. 1923 s. 4448; M.S. 1927 s. 4448.

256.03 GRANTS FROM UNITED STATES TO BE USED FOR STATED PURPOSES ONLY.

HISTORY. 1937 c. 25 s. 1; M. Supp. s. 53-18a.

256.04 STATE BOARD OF PAROLE CONTINUED; LIMITATIONS.

HISTORY. 1887 c. 208 s. 14; 1893 c. 9 ss. 1, 4; G.S. 1894 ss. 7507, 7510; 1901 c. 232; R.L. 1905 ss. 5451, 5452; 1911 c. 298 ss. 1, 3; 1913 c. 280 s. 1; G.S. 1913 ss. 9267, 9269; 1921 c. 56 s. 1; G.S. 1923 s. 10766; M.S. 1927 s. 10766; 1929 c. 23; 1931 c. 161 s. 1; 1939 c. 431 art. 7 s. 6; M. Supp. ss. 3199-106, 10766; 1945 c. 318 s. 1.

256.05 SUPERVISION OVER PAROLED INMATES; STATE AGENTS APPOINTED; EXCEPTION.

HISTORY. 1887 c. 208 s. 17; 1893 c. 5 s. 44; G.S. 1894 s. 3490; R.L. 1905 s. 1922; 1907 c. 292 ss. 1, 2; G.S. 1913 ss. 4022, 4023, 4097; 1917 c. 208 s. 1; G.S. 1923 ss. 4419, 4420, 4523; M.S. 1927 ss. 4419, 4420, 4523; 1931 c. 73; M. Supp. s. 4523.

256.06 GUARDIANSHIP OF INMATES.

HISTORY. 1907 c. 145 s. 2; G.S. 1913 s. 4025; G.S. 1923 s. 4422; M.S. 1927 s. 4422.

256.07 STERILIZATION OF FEEBLE-MINDED PERSONS; CONSENT TO OPERATION.

HISTORY. 1925 c. 154 s. 1; M.S. 1927 s. 4422-1.

A feeble-minded person may be sterilized in institution or place other than the school for the feeble-minded. OAG Dec. 18, 1936 (679L).

If person committed to board of control (the guardianship of the director of social welfare) as feeble-minded is also under commitment to a correctional institution (director of public institutions), board (director of public institutions) may transfer him to school for feeble-minded for the purpose of sterilization and return him to the correctional institution. The superintendent of school for fee-

MINNESOTA STATUTES 1945 ANNOTATIONS

1469

DIVISION OF SOCIAL WELFARE 256.12

ble-minded need not personally see person but may render his judgment upon facts contained in reports to him. OAG April 7, 1937 (679L).

OAG July 14, 1944 (248b-9).

256.08 INSANE PERSONS IN STATE HOSPITALS; CONSENT TO OPERATION.

HISTORY. 1925 c. 154 s. 2; M.S. 1927 s. 4422-2.

This section is to be strictly construed. An inmate of St. Peter state hospital could not be sterilized, even with consent, where she had not been there for six months but had spent 11 months in the Rochester state hospital. OAG Jan. 3, 1934.

Insane persons may be sterilized while on parole. OAG Dec. 18, 1936 (248b-9).

256.09 NO CIVIL OR CRIMINAL LIABILITY.

HISTORY. 1925 c. 154 s. 3; M.S. 1927 s. 4422-3.

256.10 RECORDS KEPT.

HISTORY. 1925 c. 154 s. 4; M.S. 1927 s. 4422-4.

256.11 STATE OLD AGE ASSISTANCE; POLICY DECLARED.

HISTORY. Ex. 1935 c. 95 s. 1; M. Supp. s. 3199-11.

Decision whether applicants are entitled to old age assistance under the act rests with the county agency administering the act; but where the state agency hears the case de novo upon appeal and reverses, its decision is binding upon the county agency unless the district court upon further appeal finds that decision fraudulent, arbitrary, or unreasonable. State Department v County of Bigstone, 211 M 427, 1 NW(2d) 396.

The fact that recipient of primary social insurance received \$15.00 per month as a director of the Morris Plan bank, permitted deduction of these wages from his benefit allowance. Social Security Board v Warren, 142 F(2d) 974.

256.12 DEFINITIONS.

HISTORY. Ex. 1935 c. 95 s. 2; 1937 c. 324 s. 1; 1937 c. 438 s. 1; 1939 c. 195 s. 1; M. Supp. ss. 3199-12, 3199-63, 8688-3; 1943 c. 6 s. 1.

Subd. 7. In counties not having a board of poor commissioners or board of public welfare, county commissioners are "county agencies" responsible for administration of old age assistance. OAG March 24, 1936 (521b-1).

Subd. 14. Word "aunt" includes the wife of a brother of either parent of the child; "grandmother" does not include a step-grandmother. OAG Dec. 21, 1937 (840a-6).

Word "sister" does not include "sister-in-law." OAG Aug. 16, 1938 (840a-6).

Term "step-mother" does not include a woman taking care of dependent children "in loco parentis" and such children are not entitled to aid under the act. OAG Nov. 14, 1938.

Where there are legally responsible relatives able to provide for child's support but refuse to do so, aid should still be granted and thereafter action brought by the county against such relatives under the poor relief statutes. OAG April 12, 1938 (840a-6).

Mother does not lose right to aid by continuing casual employment and leaving children in care of responsible persons during that time. OAG May 26, 1939 (840a-6).

Where father does not comply with court order to pay alimony for support of children, children are not eligible for aid unless court action is instituted for abandonment and a warrant issued, but where father pays support money in full, and it does not provide adequately for children, they are eligible for aid in amount of deficiency. OAG July 29, 1937 (840a-6).

MINNESOTA STATUTES 1945 ANNOTATIONS

Where mother and children voluntarily move to Minnesota after being deserted in another state, children are not entitled to aid. OAG Oct. 20, 1937 (840a-6).

Where mother residing in another state obtained a divorce there from her husband and later voluntarily came to this state, father remaining in another state, children are not "dependent" so as to be entitled to aid. OAG Dec. 6, 1937 (335b).

Wife is entitled to aid to dependent children, where father has been absent from home for more than three months, though elements of criminal abandonment are not sufficient to sustain a conviction on that charge. OAG May 26, 1939 (840a-6).

Five-year-old outstanding warrant which has not and cannot be served on deserting father satisfies requirements of this section. There is no limit to the life of the warrant. OAG Dec. 10, 1937.

Eligible relative with whom the child will live may apply for aid on behalf of child inmate of a public or private charitable institution, in the county of the child's legal settlement. OAG Dec. 21, 1937.

Child is eligible for aid if step-father refuses to furnish support, unless step-father has voluntarily assumed the relationship of father to the child or made a support agreement. OAG Dec. 15, 1937 (840a-6).

Where father has been convicted of abandonment and served his sentence but upon release still fails to provide support the children are ineligible for ADC until a second abandonment warrant has been issued. OAG April 18, 1938 (840a-6).

Children are entitled to aid where father has been absent and unaccounted for more than seven years because he is presumed to be dead. They would be eligible even though father were not dead, since he has been continuously absent for more than three months; has failed to provide support; and it is impossible to issue a warrant charging him with abandonment, the abandonment having occurred in another state. OAG April 21, 1939 (840a-6).

If a divorced father is paying alimony and support in full as ordered by the court, but this amount does not adequately provide for children in custody of the mother, an ADC grant may be made to cover the deficiency assuming that there has been absence from the home for the required three months' period and reasonable efforts have been made to secure support. Since in determining amount of alimony and support the court takes into consideration the financial ability of the husband, the adjudication is not necessarily a determination of the budgetary needs of the children. What constitutes "reasonable efforts" depends on the facts in the particular case. In some instances it would involve institution of further court action against the father in an endeavor to have the support order amended, but in other cases, where investigation clearly discloses that further court action would be unavailing because of the father's inability to contribute additional support, court action would not be a prerequisite to a reasonable effort to secure support. Same rule applies and grant may be made for an illegitimate child where paternity has been established and father is paying in full the payments ordered by the court but the amount is insufficient to meet the child's budgetary needs. It is conceivable that under certain facts the parent of an illegitimate child may be liable for additional support even though he has made a lump sum settlement. In cases where there is no possibility of securing additional support from parent who has made such a settlement and the funds received from the settlement have been exhausted, aid to dependent children may be granted. OAG Dec. 20, 1939.

Subd. 15. Where father was deported to Canada, child's eligibility could be established either through issuance of a warrant, if there was an abandonment, or if there was no abandonment, then upon a showing that father had been absent from the home for three months continuously, had failed to support the child, and reasonable efforts had been made to secure such support. OAG Aug. 30, 1939 (840a-1).

For pension purposes the life of a warrant of arrest is not limited. OAG Dec. 10, 1937 (494a-1).

Aid may not be granted prior to expiration of three months from the issuance of bench warrant, but county may grant relief in deserving cases under the poor laws. OAG Dec. 30, 1937 (840a-6).

MINNESOTA STATUTES 1945 ANNOTATIONS

1471

DIVISION OF SOCIAL WELFARE 256.15

256.13 STATE AGENCY; DUTIES.

HISTORY. Ex. 1935 c. 95 s. 3; M. Supp. s. 3199-13; 1941 c. 466 s. 1.

Decision whether particular applicants are entitled to old age assistance rests with the county agency charged with responsibility of administering the act; but where the state agency hears the case de novo upon appeal and reverses, its decision is binding upon the county agency unless the district court upon further appeal finds that decision fraudulent, arbitrary, or unreasonable. In re Howe, 211 M 427, 1 NW(2d) 396.

(1) It is within the province of the state agency to set standards governing county agency in payment of funeral expenses. OAG June 7, 1937.

(2) Expense incurred by county agency in obtaining appointment as special administrator to act as guardian for incapacitated recipient is a proper administrative expense. OAG July 22, 1936 (521j-4).

The rule adopted by state agency that payments of OAA may be made on behalf of a recipient to a legal guardian as provided in section 256.28 is a reasonable one. OAG July 22, 1936.

A rule that assistance could only be paid for the month in which granted, but in no case for a period prior to the filing of a formal application, provided, that state agency may upon review or appeal require the payment of assistance to begin from the date of the filing of a preliminary application form, or from date of registration of application for assistance, but in no case prior to March 1, 1936, was valid and approved. OAG Oct. 23, 1936 (521d).

256.14 COUNTY AGENCIES; DUTIES.

HISTORY. Ex. 1935 c. 95 s. 4; M. Supp. s. 3199-14.

Subd. 1. In counties not having a board of poor commissioners or board of public welfare, county commissioners are "county agencies" responsible for the administration of old age assistance. OAG March 24, 1936 (521b-1).

The board of county commissioners proceedings relative to OAA should be recorded in the record of commissioners proceedings and published in the same manner as other business of the board. OAG May 14, 1936.

State agency may require county to determine total amount of payments paid to a recipient under old pension law. OAG June 9, 1936 (521b-1).

Subd. 5. County agency need not employ an investigator. OAG April 8, 1936 (521b-1).

Where the county attorney appears for a person who applies to have a guardian appointed for an old age recipient, he may collect a reasonable fee from the estate. The fact that a member of the county welfare board is the petitioner is immaterial. OAG Dec. 28, 1944 (121b).

256.15 PENSIONERS; PENSION; OTHER ASSISTANCE.

HISTORY. Ex. 1935 c. 95 s. 5; M. Supp. s. 3199-15; 1941 c. 466 s. 2; 1943 c. 456 s. 1; 1945 c. 302 s. 1.

Where it was shown that applicant had made a contract with a private home for the aged whereby he turned his property over to the home, which in consideration thereof agreed to care for him for the remainder of his life; that there had been no attempt on the part of the home to repudiate its agreement; and that applicant had subsistence and service available to him since there was no indication that the home was either unwilling or unable to fulfill the terms of its agreement; held that the action of the state agency in disallowing application for OAA was not arbitrary or unreasonable within the meaning of section 11(b) of this act. Rasmussen v County of Hennepin, 207 M 28, 289 NW 773.

Subd. 1. Indians are included within the provisions of the act. OAG April 17, 1936 (512-a).

Medical and dental care furnished to recipient of OAA is a charge against the poor fund of town or village in county operating under the town system of poor relief and is not a charge against the county OAA funds. OAG June 16, 1936 (521h).

MINNESOTA STATUTES 1945 ANNOTATIONS

Recipient's absence from the state for more than a year, under successive permissions of the county agency, does not in itself terminate his settlement in Minnesota, unless recipient shows an intention to abandon his residence in this state. The fact that he obtains permission from county agency to remain out of the state indicates an intention to retain his residence here. OAG March 13, 1939 (521t-2).

When a person receiving blind pension becomes eligible for OAA and is removed from the blind pension roll, the amount of OAA he is to receive must be determined according to the provisions of the OAA act and without regard to the amount he received as a blind pensioner. OAG April 21, 1936.

Medical and nursing care contributed by children to applicant may be classified as income of the applicant and prevent him from obtaining an OAA grant, if such care is "reasonably available" to him. The county agency must determine, as a question of fact, whether or not such care is "reasonably available". If it is not, the applicant is entitled to old age assistance, as well as medical and nursing care under the poor relief laws. OAG May 16, 1936.

That part of applicant's income which he is required to, and does in fact use for the support of needy dependents should not be considered a part of the net income available to applicant himself. In other words, "net income" means resources available to applicant after he has discharged his legal obligations to his dependents. OAG March 25, 1939.

Residents of a poor farm leased to a private party are eligible for assistance if the county has no control of the farm. OAG May 7, 1937 (521t-4).

Subd. 2. Application for assistance by a person having \$300.00 or more in liquid assets and property not exceeding \$500.00 net value must be determined by the administrative agency in accordance with the facts of each case. OAG July 3, 1936 (521p-1).

An old age assistance grant may properly include items for medical, dental, surgical, or hospital assistance, or nursing care. When recipient is not receiving maximum OAA grant such medical and dental care may be allowed by county relief agency. OAG Aug. 1, 1936 (521v).

One receiving old age assistance may also receive poor relief in the form of medical, dental, surgical, hospital, or nursing care. OAG May 18, 1937 (521v).

It makes no difference that a person after having been granted assistance removes to another county and resides at a home for the aged, provided he pays for the necessities furnished him by the home, assuming that he notifies the county agency of his change of residence. OAG June 4, 1936.

"With due regard to the conditions in each case" allows assistance to a recipient if he does not have sufficient income to take care of both the needs of his legal dependent and his own personal needs. OAG May 5, 1937 (521i-2).

County agency may fix value of subsistence contributed to applicant by child, if it is found that the child is reasonably able to make such contribution, and deduct such amount from OAA grant; but if the support by the child is an undue hardship or if the child refuses further support to applicant, no such deduction for subsistence may be made. OAG April 6, 1936 (521a).

A recipient having benefit of payments of money from children has reasonably available to him services and sustenance to extent of those payments, though made direct to a private institution and not to the recipient; but if such payments are made because of an emergency due to illness, they are not to be considered "reasonably available" if they unnecessarily reduce standard of living of children. OAG Sept. 15, 1939.

It is within the discretion of county agency under supervision of state agency to allow or disallow exclusion of \$100.00 and their judgment will be sustained, except when it is so arbitrary and frivolous as to constitute abuse of discretion. OAG July 13, 1939.

It is duty of state agency to make uniform rules and regulations, which would include a method of determining net income. OAG March 4, 1939 (521a).

Subd. 3. Application for old age assistance is not an application for poor relief within the meaning of section 261.07. OAG March 11, 1936; OAG May 22, 1936.

MINNESOTA STATUTES 1945 ANNOTATIONS

1473

DIVISION OF SOCIAL WELFARE 256.16

A doctor performing an emergency operation has no claim against welfare board and consequently no right of appeal from any action the board may take on his claim. OAG June 15, 1939 (6-p).

Whether OAA recipients are poor persons within the purview of our statutes relating to the poor and as such entitled to the medical and hospital aid provided for poor persons, involves questions of fact that must be determined by the county and state agencies as each case arises. As a general rule, if recipient is receiving less than \$30.00 per month and is in need of medical, dental care, etc., in addition thereto, in an amount which when added to the amount of his OAA grant exceeds the sum of \$30.00 per month, such recipient may be regarded as a "poor person" and medical, dental care, etc., may be furnished him under the poor laws, in addition to the amount of assistance available under this section. OAG June 15, 1937 (521v); OAG Sept. 14, 1937 (521v).

Income which applicant receives from property owned by him cannot be applied and considered as medical care. OAG May 16, 1936.

Where furnishing of surplus commodities is merely incidental to other assistance received, the receipt of such commodities is not receipt of relief within the meaning of this section. OAG July 16, 1937.

Doctor's bills and similar payable for one liable under the statute; and persons not liable who make contributions, do not by those payments or contributions diminish the amount of the old age assistance allowable. OAG Oct. 7, 1944 (521r).

256.16 APPLICANT; AGE; CITIZENSHIP; RESIDENCE; INSTITUTIONAL CARE.

HISTORY. Ex. 1935 c. 95 s. 6; M. Supp. s. 3199-16.

(2) Where applicant is not a citizen but at one time resided continuously in the United States for more than 25 years, the 25-year residence need not have been immediately preceding the filing of his application. OAG April 14, 1936 (521t-2).

Payment of assistance cannot be made to aliens unless they have resided in the United States for more than 25 years and meet the other requirements of the act. OAG Feb. 17, 1938 (3m).

(3) "Residence", as used in section 256.19, subdivision 1, refers only to residence requirements a person must have in any county in order to have a legal settlement therein, and not to the general residence requirements of this section. OAG April 2, 1936 (521t-2).

An inmate of a poor house need not leave the poor house and live outside for one year before he shall be considered to have resided one year continuously in the county of his settlement, provided that he has resided in the state as required by this section, and for one year continuously in the county immediately preceding his being an inmate of the poor house. OAG April 2, 1936 (521t-2).

Person who left the state prior to the passage of this act is not necessarily disqualified for assistance. It is a question of fact in each case for the county agency to determine the applicant's intention and residence. One who left the state temporarily, with no intention of acquiring a residence in another state, has not lost his residence in Minnesota for old age assistance purposes merely because he was absent from the state at the time the act was passed. OAG April 7, 1936.

Where applicant has been out of the state for several months immediately preceding making of application for assistance, county agency must determine, as a question of fact, his intention as to residence. If applicant was absent from the state for temporary purposes only, or left with no intention of acquiring residence in another state, he has not lost his residence in this state for old age assistance purposes. The act does not require that an applicant must be in the state at the time he makes application. OAG April 28, 1936 (521t-2).

County may grant assistance to an applicant even though he resides in another state, if it is determined that applicant did not intend to lose his residence in Minnesota and that he has not acquired residence and legal settlement for OAA purposes in that state, but is there only for the purpose of obtaining nursing care from a relative, provided that the applicant meets the other requirements of the act. OAG Oct. 19, 1936 (521t-5).

MINNESOTA STATUTES 1945 ANNOTATIONS

256.17 DIVISION OF SOCIAL WELFARE

1474

An old person cared for in a mission in another state at the expense of a village in Minnesota is eligible for OAA in this state if he has not acquired residence and legal settlement for OAA purposes in the other state, provided he meets the requirements of our act. OAG Oct. 30, 1936 (521t-4).

An aged person under guardianship who was placed by his guardian with a family in an adjoining state is still eligible for old age assistance in Minnesota. OAG Dec. 2, 1936 (521t-2).

For the purpose of establishing legal settlement, marriage to a qualified old age recipient does not of itself qualify the person married as an old age recipient. OAG March 13, 1939.

A married woman whose husband lives in another state may establish residence entitling her to aid. OAG April 5, 1939 (521t-2).

Residence as used in this section depends solely upon actual residence of the individual applicant and is distinct from the common law concept of domicile; a married woman may acquire residence in Minnesota, within the meaning of this act, even though the domicile of her husband is outside the state. OAG Sept. 20, 1939 (521t-2).

Laws 1939, Chapter 398, defines "settlement" for poor relief purposes only, and imposes no limitations upon an applicant's eligibility for old age assistance. OAG Sept. 20, 1939 (521t-2).

(4) A ward of the state board of control (director of social welfare) out of institution on parole has not legal capacity to make application in his own behalf; application must be made by the legal guardian of his property. OAG Jan. 5, 1937 (521t-4).

256.17 ABSENCE IN STATE OR FEDERAL SERVICE.

HISTORY. Ex. 1935 c. 95 s. 7; M. Supp. s. 3199-17.

256.18 DISQUALIFICATION OF PENSIONERS.

HISTORY. Ex. 1935 c. 95 s. 8; 1939 c. 315 s. 2; M. Supp. s. 3199-18; 1941 c. 466 s. 3.

(1) An inmate of a public charitable institution cannot receive OAA payments, but may apply for assistance while an inmate. OAG April 2, 1936 (521t-2).

Aged persons do not take themselves out of the application of the act by entering into a contract for maintenance with a private home for the aged. OAG (521t-4).

An application for assistance by a person having \$300.00 or more in liquid assets and property not exceeding \$500.00 net value must be determined by the administrative agency in accordance with the facts in each case. OAG July 3, 1936 (521p-1).

A person being cared for in a home for the aged, with all his expenses being paid by a city, is disqualified for assistance. He may qualify himself by leaving the home for that purpose, but assistance will be discontinued if he returns to the home, providing all necessities of life are furnished him gratuitously upon his return. OAG Oct. 20, 1936 (521t-4).

Lease by county of county home to private individual does not prevent recipient as assistance from living in the leased home, if all supervision and control of the home is surrendered by the county, and provided that assistance payments are made direct to recipient, who makes his own arrangements with lessee of the home. Assistance may also be paid old persons living in houses provided by the federal resettlement administration, title to which is expected to be conveyed to the county, if the recipients receive the aid direct and make their own arrangements with respect to food, cook, and caretaker. OAG March 29, 1937 (521t-4).

Residents of poor farm leased to private party are eligible for assistance, if county has no control over the farm. OAG May 7, 1937 (521t-4).

One granted assistance may contract with a public institution and pay for his care and subsistence direct, but a grant to such a recipient is reimbursable to county from state funds only. OAG July 30, 1937 (521t-4)

MINNESOTA STATUTES 1945 ANNOTATIONS

1475

DIVISION OF SOCIAL WELFARE 256.19

Where county leases its poor farm to a private individual, old age assistance recipients may live therein during the term of the lease without violating the federal requirement that they shall not be inmates of a "public institution". OAG Oct. 13, 1937 (521t-4).

Inmates of a county or city poor house may move out and make application for old age assistance, and the matter of permitting them to reenter by paying for their care is a matter within the discretion of the officials. OAG May 28, 1936 (521t-4).

(3) If applicant makes assignment of property within period stated, it becomes question of fact to determine whether or not it was "for the purpose of qualifying for old age assistance". If county agency finds that the assignment was made for that purpose, applicant would be disqualified notwithstanding that fact that the value of all his property was less than the amount fixed by statute. OAG April 21, 1936 (521m).

Assistance should not be denied because applicant, prior to the passage of this act, conveyed his property to a city, village, or town as a condition for the granting of poor relief. OAG June 9, 1937 (521b-1).

Recipient who disposes of real estate situated in the county from which he receives old age assistance and invests the amount received in property in another county in order that he may be near his children, has not disqualified himself for OAA under the provisions of this section. OAG Dec. 10, 1937 (521p-3).

That applicant has a life insurance policy with cash surrender does not bar advantages of old age assistance; nor does the fact that applicant has property of convertible value of \$300.00. OAG Oct. 5, 1944 (521p-1); OAG Nov. 13, 1944 (521p-1).

Even though husband and wife have been separated for 30 years, if the wife has assets in excess of \$5,000, the husband may not receive old age assistance. OAG March 8, 1945 (521p-1).

256.183 DECLARATION OF POLICY.

HISTORY. 1943 c. 481 s. 1.

256.184 OLD AGE RECIPIENTS MAY WORK.

HISTORY. 1943 c. 481 s. 2.

256.185 TIME LIMIT.

HISTORY. 1943 c. 481 s. 3.

256.19 LEGAL SETTLEMENT.

HISTORY. Ex. 1935 c. 95 s. 9; M. Supp. s. 3199-19; 1943 c. 203 s. 1.

The term "resided", as used in the old age assistance act, was intended by the legislature to mean physical presence in a county coupled with an intent to make a home there. It was intended that the relation of applicants to the county be of a more permanent character for eligibility under the OAA law than under the poor relief laws. An out-patient of a hospital living in a rest home is in effect an inmate of a hospital within the meaning of this section, subdivision 1. In instant case the applicant went out of his own county for the purpose of obtaining medical care, during which time he received poor relief from the county from which he came. Under such circumstances he did not acquire a residence in the county in which the hospital was located. *County Welfare Board v State Board of Control*, 204 M 357, 283 NW 742.

To acquire a settlement for old age assistance purposes under section 256.19 there must be both resident and domicile continued for one year. *County Welfare Board v Quale*, 213 M 421, 7 NW(2d) 153.

Time during which person receives poor relief from municipality not to be excluded in determining settlement for OAA purposes. OAG July 17, 1936 (521t-3).

MINNESOTA STATUTES 1945 ANNOTATIONS

Fact that husband received OAA from one county does not prevent him and his family from establishing a legal settlement for poor relief purposes in another county. OAG Aug. 4, 1936 (521t-2).

Where a married woman is living in a county other than that in which her husband has his settlement, it becomes a question of fact to determine in which county she has settlement for the purpose of making application for old age assistance. If she left her husband for good cause she has the right to establish her own settlement in any other county for old age assistance purposes. OAG Jan. 24, 1939.

A person living in a poor house at the time he makes application for OAA need not leave the poor house and live outside a year before he shall be considered to have resided one year continuously in the county, provided that he has resided in the state as required by section 256.16, and for one year continuously in the county immediately preceding his being an inmate of the poor house. OAG April 2, 1936 (521t-2).

Application for OAA should be made in the county where applicant has resided continuously for one year, and it is immaterial whether or not he has acquired settlement there for poor relief purposes. OAG June 17, 1936 (521t-2).

While receiving poor relief from a county or municipality under the poor laws, a person may still acquire a legal residence in another county for OAA purposes. The time during which a person receives poor relief is not to be excluded in determining his residence and legal settlement for the purposes of old age assistance. OAG June 26, 1936 (521a-1); OAG July 17, 1936 (521a-1).

For the purpose of establishing legal settlement, marriage to a qualified old age recipient does not itself qualify the person married as an old age recipient. OAG March 13, 1939.

If applicant satisfies the requirements of sections 256.16 and 256.18 he thereby establishes eligibility in so far as residence is concerned; this section merely provides a formula for determining which county shall be liable for the payment of assistance. Laws 1939, Chapter 398, defines "settlement" for poor relief purposes only, and imposes no limitations upon an applicant's eligibility for old age assistance. OAG Sept. 20, 1939.

Where husband and wife moved from one county (from which husband at the time was receiving old age assistance) to another county in March, 1938, lived there until October, 1939, and then returned to the first county where they have resided continuously to the present time, the wife's settlement for OAA purposes is now in the second county, even though the husband at all times has continued to receive his grant from the first county. In October, 1939, at the time the husband and wife left the second county and returned to the first one, the wife had been a resident of the second county for more than one year (which satisfies the requirements of this section) and since that date she has not acquired a new settlement elsewhere because she has not lived continuously for one year in any other county. OAG Feb. 28, 1940.

Subd. 1. Application for old age assistance is not an application for poor relief within the meaning of section 261.07. OAG May 11, 1936; OAG May 22, 1936 (521t-2).

The county originally granting assistance continues to be liable therefor regardless of any change of residence within the state by recipient. The provisions of this section merely provide method of determining the proper county within which application should be filed, and for the determination of the county properly liable for assistance. OAG May 15, 1936 (521t-1).

County agency (or state agency, upon appeal) must determine, as a question of fact in each case, whether or not an enrollee in a CCC or transient camp has acquired legal settlement in the county where the camp is located, or whether he retains his residence in another county in which he had legal residence prior to his enrollment. OAG Aug. 22, 1936.

County may grant assistance to an applicant even though he resides in another state, if it is determined that applicant did not intend to lose his residence in Minnesota and that he has not acquired residence and legal settlement for OAA purposes in that state, but is there only for the purpose of obtaining nursing care from a

MINNESOTA STATUTES 1945 ANNOTATIONS

1477

DIVISION OF SOCIAL WELFARE 256.21

relative; provided that the applicant meets the other requirements of our old age assistance act. OAG Oct. 19, 1936 (521t-5).

The provisions relating to residence and legal settlement for OAA purposes do not abrogate the common law rule that the settlement of a married woman is where her husband resides. OAG Aug. 14, 1937 (521t-2).

Time for settlement accrues in favor of an applicant for assistance during the time the application is pending and after decision by county agency. OAG Jan. 26, 1937 (521t-2).

The question of legal settlement for assistance purposes is one of fact, to be determined by the county agency in the first instance. OAG June 3, 1937 (521t-2).

The term "residence", as used in this section, refers only to residence requirements a person must have in any county in order to have a legal settlement therein for OAA purposes, and has no reference to the general residence requirements provided for in section 256.16. OAG April 2, 1936 (521t-2).

Legal settlement can be acquired in another county while person is receiving a pension under old pension law in another county. OAG May 23, 1936 (521b-1).

An applicant's residence and legal settlement for OAA purposes is a question to be determined by the county agency with which the application is filed. Where applicant has resided for a year in one county prior to moving to another county, his legal settlement for OAA purposes is in the first county, until he has resided continuously for one year in another county. OAG May 7, 1936 (521t-2); OAG June 10, 1936 (521t-2).

It is not permissible, after an OAA grant has been made and the recipient has been absent and residing in another county for more than a year, for the county agency to discontinue assistance on the ground that the recipient has established a new residence in the other county. OAG April 22, 1937 (521t-5).

Applicant for OAA who has resided continuously in a county for one year prior to the filing of his application in that county has a legal settlement therein, even though at the time of application he is in the process of endeavoring to establish claim to a homestead in another county. The first county is therefore liable for payment of assistance. OAG Nov. 29, 1937 (521t-2).

Subd. 2. Applicant should file his application with the county agency of the county in which he considers that he has a legal settlement. It is the duty of such county agency to determine the matter. If a hearing discloses that settlement is actually in some other county, the county agent may reject the application on the sole ground that it was not filed in the county of the applicant's legal settlement. OAG Feb. 23, 1937.

Receipt of poor relief does not toll the statute. A county may not grant old age assistance to a person not having a settlement therein at the time of application. 1942 OAG 269, Nov. 19, 1941 (521T-2).

256.20 INVESTIGATIONS; DETERMINATION; RENEWAL OF APPLICATION.

HISTORY. Ex. 1935 c. 95 s. 10; M. Supp. s. 3199-20; 1941 c. 466 s. 4.

The residence of an applicant for OAA is a question of fact to be determined by the county agency where the application is pending. OAG April 28, 1936 (521b-1); OAG June 10, 1936 (521b-1).

An application for assistance by a person having \$300.00 or more in liquid assets and property not exceeding \$500.00 net value must be determined by the administrative agency in accordance with the facts of each case. OAG July 3, 1936 (521p-1).

256.21 APPEALS; REVIEWS.

HISTORY. Ex. 1935 c. 95 s. 11; M. Supp. s. 3199-21.

The state agency, on an appeal hearing, is not limited to a consideration of the facts in a particular case as they existed at the time the case was considered by the county agency, but may properly consider subsequent and changed

MINNESOTA STATUTES 1945 ANNOTATIONS

256.22 DIVISION OF SOCIAL WELFARE

1478

circumstances, and all existing pertinent facts which will assist it in arriving at a just decision. The state agency is held responsible by the federal social security board for the efficient and uniform administration of the state plan. It should not, therefore, be made merely a reviewing agency, but must be free to exercise advisory and administrative powers.

The authority of the state agency to "make such additional investigation as it may deem necessary" does not permit such agency, in an appeal case, to make an ex parte investigation subsequent to the hearing, and utilize additional information thus obtained in arriving at a decision. Any information considered in making a decision should be introduced at the hearing. OAG Nov. 4, 1938. (This opinion was based on advice received by the attorney general from the federal social security board.)

Subd. 1. The state agency may, on its own motion, review a decision of the county agency refusing to pay funeral expenses, and order the payment thereof by the county agency in an amount within the limits of section 24. OAG Sept. 25, 1936 (521j-2).

Subd. 2. While the district court, on an appeal from a decision of the state agency, is permitted to hear new or additional evidence if in the opinion of the court this is "necessary to a more equitable disposition of the appeal" its scope of review is limited to a determination of whether or not the decision of the state agency was fraudulent, arbitrary, or unreasonable. *Rasmussen v County of Hennepin*, 207 M 28, 289 NW 773.

Pending an appeal by the county agency to the district court, the amount of assistance to be paid by the county agency is the amount determined by the state agency. OAG July 27, 1937 (521c).

A doctor performing an emergency operation has no claim against welfare board and no right of appeal from any action the board may take on his claim. OAG June 15, 1939 (6-p).

256.22 ATTORNEY GENERAL, COUNTY ATTORNEY; DUTIES.

HISTORY. Ex. 1935 c. 95 s. 12; M. Supp. s. 3199-22.

The county attorney is not entitled to additional compensation or fees for performing the duties imposed upon him by this section. Mileage for the use of his automobile in connection with such work could properly be allowed by the district judge, and paid from the county attorney's contingent fund. OAG March 10, 1939.

It is the duty of the county attorney to institute guardianship proceedings for a recipient of assistance who is incapable of taking care of himself or his money whenever the county agency deems such proceedings necessary. OAG March 2, 1938 (521j-4).

It is not the duty of the county attorney to handle legal proceedings in connection with the appointment of a guardian for an old age assistance recipient, but he may voluntarily assist with such proceedings, provided he makes no charge for his services and does act as attorney for the recipient or guardian in any capacity which would conflict with his duties as attorney for the welfare board. OAG Oct. 20, 1939.

As attorney for the welfare board it is the duty of the county attorney to check the accounts of guardians of old age assistance recipients. OAG Oct. 20, 1939.

256.23 SUBPOENAS.

HISTORY. Ex. 1935 c. 95 s. 13; M. Supp. s. 3199-23.

The legislature did not intend to confer authority on county agency to secure notarial commissions to be paid for as an expense of administration. OAG Nov. 22, 1937 (521j-1).

256.24 DEATH OF RECIPIENT; FUNERAL EXPENSES; CLAIM AGAINST ESTATE.

HISTORY. Ex. 1935 c. 95 s. 14; M. Supp. s. 3199-24; 1941 c. 112; 1945 c. 147 s. 1.

MINNESOTA STATUTES 1945 ANNOTATIONS

1479

DIVISION OF SOCIAL WELFARE 256.25

A county coroner, who is himself an undertaker, cannot contract with the county for pauper burials, under the statute which prohibits public officers from becoming interested, directly or indirectly, in any contract with the county. OAG May 2, 1934.

The payment of funeral expenses is discretionary with the county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with the provisions of the act. OAG July 20, 1936 (521j-2); OAG July 21, 1936 (521j-2).

The state agency may, on its own motion, review a decision of a county agency refusing to pay funeral expenses, and order the payment thereof by the county agency. OAG Sept. 25, 1936 (521j-2).

County is entitled to reimbursement for state's share of the funeral expenses paid in case of a recipient whose certificate of assistance was suspended while she was an inmate of a sanatorium, where she remained until her death. OAG Oct. 5, 1936.

The county may pay \$100.00 toward funeral expenses, the total cost of which exceeds said sum, and where the excess is paid by friends or relatives not liable for such expenses, providing that the total cost has been determined by the county agency to be "reasonable funeral expenses". OAG June 7, 1937 (521j-2).

Whether the fact that an old age assistance recipient dies leaving a homestead as sole property prevents the allowance of funeral expenses is a question of fact in each case. OAG Dec. 14, 1937 (521j-2).

When an OAA certificate is revoked or canceled by the county agency, the recipient is no longer entitled to the payment of funeral expenses upon his death. OAG July 7, 1938 (521j-2).

Where a city has paid funeral expenses as part of poor relief, the county is not compelled to make reimbursement. The language of this section, "The county agency may pay an amount for reasonable funeral expenses, not exceeding \$100.00", does not impose an obligation, but leaves the matter to the discretion of the county agency. OAG Aug. 1, 1938 (521j-2).

Upon death of recipient, who, several years before applying for OAA, had deeded his property to city as consideration for poor relief furnished him, the county may still legally allow funeral expenses, even though the city was the beneficiary of the estate. So far as the county is concerned, the recipient left no estate from which funeral expenses might be paid. OAG Feb. 28, 1939 (521j-2).

Warrants issued and delivered to recipient, but not cashed prior to recipient's death, become a part of the estate of the deceased and pass to his heirs as does other property. OAG March 25, 1937 (521g-3).

It is within the province of the state agency to set standards to govern county agency in the payment of funeral expenses. OAG June 7, 1937 (521j-2).

Relatives of a deceased recipient may select the funeral director, but the price to be paid and the contract with the funeral director is entirely with the county agency. OAG March 28, 1944 (521j-2).

Where claim for old age assistance is filed in probate court, expense of administration, last sickness, and taxes, have priority. This priority vanishes if the old age assistance lien is foreclosed. OAG July 5, 1944 (521g).

256.25 OLD AGE ASSISTANCE TO BE ALLOWED AS CLAIM IN PROBATE COURT.

HISTORY. Ex. 1935 c. 95 s. 15; 1939 c. 242 s. 1; M. Supp. s. 3199-25.

Where homestead is disposed of by will which does not otherwise provide and in all cases where homestead descends to spouse or children or issue of deceased children, homestead of deceased recipient of OAA is not subject to claims of county or state agencies. OAG April 6, 1936 (521p-3).

Homestead of deceased recipient is exempt in the hands of adult children. OAG May 11, 1938 (521p-3); OAG July 28, 1938 (521p-3).

Where there are no children and the nearest heirs at law are cousins, homestead is subject to payment of claim for OAA. OAG March 1, 1939 (521p-3).

MINNESOTA STATUTES 1945 ANNOTATIONS

256.25 DIVISION OF SOCIAL WELFARE

1480

Homestead is subject to payment of claim for OAA furnished to decedent where he left no spouse or children or issue of deceased children. OAG April 5, 1939 (521G).

The claim of county for money paid as assistance against estate of deceased recipient is the same as the claim of a common creditor and is not preferred. OAG April 15, 1936 (521g).

County agency cannot transfer to the state agency any residue remaining in the estate of a deceased recipient who has deeded his property to the county agency prior to the date when new act became effective. An accounting of the amount paid such recipient under the old act should be requested by the state agency in probate court after the death of such recipient, at the time of the hearing of the claim filed there against the estate of the recipient. OAG June 9, 1936 (521b-1).

County has no authority to accept a deed to the property of the recipient as consideration for increasing his OAA grant; nor has the county authority to accept a deed to the property of a recipient with the understanding that after his death the county will sell the property, deduct the amount paid decedent as OAA and give the balance to his children. OAG Aug. 5, 1936 (521p-3).

The county agency is the proper party to file claims in probate court against the estate of deceased recipients for the total amount of old age assistance paid. OAG Jan. 6, 1937 (521g-1).

The estate of a deceased recipient is liable for the total amount paid as OAA under the provisions of both the former old age pension law and the new old age assistance act. The claim against the state should be filed in the name of the county agency and not in the name of the county, for total amount paid as assistance, without itemizing proportionate contributions and sources. OAG March 15, 1937 (521g-1).

Claims filed under this section should be executed by the executive secretary of the county welfare board, or by someone else authorized by the board to act in its behalf. OAG Oct. 11, 1937 (521b-1).

County agency has no authority to accept title to real estate in the name of the county, through probate proceedings, in settlement of old age assistance claims. The probating of an estate may be kept open for the purpose of making a reasonable disposal of the real estate involved, in order to satisfy a claim against the estate for assistance payments. OAG Nov. 15, 1938 (521g-1).

Since the statute of limitations does not apply, county agency should go back to the commencement of OAA payments in determining the amount of the preferred claim to be filed against the estate of deceased recipient in a case where it is found that the value of the estate has been enhanced as a result of the failure of the recipient to make full disclosure. The claim is not enforceable against the homestead if recipient dies leaving a spouse or children. OAG Aug. 25, 1939 (521j-3).

An applicant is eligible for OAA when it is determined that spouse and children are reasonably unable to contribute to necessary care and support without undue hardship, and it is unnecessary to go further and consider brothers, sisters, or grandchildren. OAG May 25, 1939 (521R).

The county attorney is not entitled to compensation for his services. OAG Aug. 31, 1939 (121a).

In an estate in probate, the local agency should file for the full amount of the old age lien, and the full amount should be paid even though the initial outlay was furnished by county, state, and federal government. 1942 OAG 266, April 4, 1941 (521-g).

When there is no lien, and the estate is insolvent, the county is on a par with general creditors and must accept the same pro rata share. OAG July 19, 1944 (521g).

Where a petition for a decree of descent was filed more than six years after the death of the old age recipient, the county claim is barred by the statute of limitations. OAG Oct. 24, 1944 (521g).

While the law authorizes foreclosure of an old age assistance lien in a manner similar to the foreclosure of a mechanic's lien, the one year limitation has no application. OAG March 21, 1945 (521p-4).

256.26 OLD AGE ASSISTANCE; LIENS.

HISTORY. Ex. 1935 c. 95 s. 16; 1939 c. 315 s. 1; M. Supp. s. 3199-26; 1941 c. 453; 1945 c. 460 s. 2.

County agency may fix value on subsistence paid to applicant from child if such payment has not entailed undue hardship on child and deduct such value from allowance, but if support by child is an undue hardship or child refuses to further support applicant, no deduction from assistance may be made. OAG April 6, 1936 (521r).

Medical care consisting of trained nurse necessary at all times and other expenses, furnished by children and relatives, is not necessarily income of the aged person which would prevent granting of OAA together with medical care. OAG May 16, 1936 (521r).

Where a question arises as to the reasonability of contributions by children, the county agency should first grant the assistance and afterwards proceed to determine the liability of each child. OAG May 16, 1936.

The children or the spouse of recipient may make payments to the county agency after notice, before suit is brought. OAG July 11, 1936 (521r).

The right of recovery permitted by this section is only from spouse or children of recipient. No recovery may be had from grandchildren for old age assistance paid to a grandparent. This section applies only to old age assistance and does not supersede section 261.01, which extends the responsibility for care of the poor to grandchildren. OAG May 17, 1939.

County attorney is not entitled to additional compensation or fees for bringing actions in connection with reimbursement for old age assistance payments, other than actual mileage and expenses. OAG Aug. 31, 1939 (121a).

Recipient may give daughter a mortgage at this time for the full amount of money previously furnished by her (and represented by a demand note) for purchase of homestead without disqualifying herself under provisions of subdivision (11) of this section. Since her claim has priority over the state's lien, the mortgage would not be prejudicial to the state's claim. County agency must determine, as a question of fact in each case, whether or not the encumbering or transferring of recipient's property is legitimate, or for the purpose of avoiding application of the lien provision. OAG Nov. 16, 1939.

The priority given claims of children is not limited to claims arising subsequent to January 1, 1940, but applies to all claims which can be substantiated by evidence admissible in a court of law. In the case of tax payments, a receipt from the county treasurer would be adequate proof, although a child might be able to prove his claim even without such a receipt. If a child can prove he actually paid certain taxes, the fact that the recipient of old age assistance has been given money by the county to pay those taxes, but used it for other purposes, does not defeat the priority of the child's claim, unless it can be shown he was in collusion with the recipient in the diversion of the money. OAG Nov. 24, 1939.

Purchasers of registered titles (Torrens) are not bound by record of lien statements filed with the register of deeds. OAG Dec. 11, 1939.

Amount of assistance furnished recipient constitutes a lien against property owned by him but the lien does not attach to property owned by spouse. OAG Dec. 26, 1939.

Since the lien imposed by this section arises by operation of law upon the filing of the lien certificate by the county welfare board, the registrar of titles may memorialize the lien upon the certificate of title in his office without memorializing the same upon the owner's duplicate certificate of title. OAG Jan. 8, 1940.

It is unnecessary to secure a written instrument from the recipient consenting to the lien, since the recipient impliedly gives such consent by accepting old age assistance. OAG Jan. 8, 1940.

Provisions of subdivision (4) (clause 4) of this section apply in the determination of the fee, if any, that may be charged for the filing of the lien certificate

MINNESOTA STATUTES 1945 ANNOTATIONS

provided herein. Any general provisions as to filing fees contained in prior enacted statutes which may be inconsistent herewith must yield to the specific and express provisions of this section. OAG Jan. 29, 1940.

Where a registered title is involved and the filing of the lien certificate necessitates the entry of a memorial on the certificate of title, the fee to be paid the registrar of titles is governed by the provisions of subdivision (6) (clause 6) of this section rather than by the provisions of section 508.82, clause (4). OAG Jan. 31, 1940.

No fees shall be charged for the filing of releases executed pursuant to this section, except in counties where the register of deeds is compensated otherwise than by salary and in such counties a fee of 25 cents shall be allowed. OAG March 20, 1940.

Where recipient, subsequent to the filing of a lien certificate for old age assistance paid him on and after January 1, 1940, mortgages property covered by the state's lien, that mortgage must be held (pending a court determination of the matter) to be subject to the full amount of assistance paid both prior to and subsequent to the date of the mortgage. The language of subdivision (5) clause (5) of this section indicates that the legislature intended that the lien should expand in an amount equal to the sum total of old age assistance payments made after January 1, 1940, and the giving of a mortgage while the recipient is still receiving old age assistance should not operate to defeat that intention. OAG March 30, 1940.

The commodity stamp fund created by Laws 1941, Chapter 98, shall be deposited "in a local bank carrying federal deposit insurance, designated by the county welfare board for this purpose." 1942 OAG 105, Aug. 8, 1941 (140a-7).

Old age assistance lien is enforceable as against an estate in the land for the life of the recipient after the recipient vacates the property, and upon sale by her the interest acquired by the purchaser is subject to the state's lien. 1942 OAG 267, April 18, 1942 (521P-4).

The county board may elect its remedy and in the instant case may release its lien. 1942 OAG 268, Sept. 23, 1941 (521P-4).

The old age assistance lien is inferior to a tax lien and becomes extinguished on tax-forfeiture. 1942 OAG 315, Oct. 7, 1941 (425C-13).

But see in case of repurchase. 1942 OAG 316, Oct. 9, 1941, (425C-13).

If one of two joint tenants receives old age assistance and during the lifetime of both they sell, the old age lien must be paid to clear the title, but if one dies during joint ownership of property the lien does not apply as to the survivor. OAG Jan. 24, 1944 (521p-4).

Homestead of deceased standing on land of another descends as real estate. If old age lien exists it may be foreclosed, if there be no widow or minor child living therein. OAG Jan. 28, 1944 (521p-3).

Old age assistance lien does not attach to Indian heirship lands. OAG Aug. 3, 1944 (521o).

Lien attaches to property of recipient but not against any property of the spouse. OAG May 17, 1944 (521p-4).

County is not precluded from foreclosing a mortgage for a client, even if the property is subject to an old age assistance lien; provided there is no conflicting interest. OAG Jan. 14, 1944 (521p-4).

Where the commissioner of conservation has power of management over land acquired by foreclosure of old age assistance lien, conveyance can be made only when authorized by the legislature. OAG April 13, 1944 (521p-4).

The lien need not be foreclosed if the title holders wish to convey the property to the state without any equity of redemption. OAG Oct. 7, 1944 (521p-4).

If the money is paid and the payor receives a certificate to that effect from the county treasurer and notifies the secretary of the county agency in writing the transaction is complete. OAG Oct. 24, 1944 (521p-4).

Foreclosure of a lien would exhaust it; but when a claim is filed in probate court any part payment to the county agency does not satisfy or exhaust the debt. OAG Oct. 20, 1944 (521g).

MINNESOTA STATUTES 1945 ANNOTATIONS

1483

DIVISION OF SOCIAL WELFARE 256.30

If the abstractor furnishes or continues an abstract it should show old age assistance liens, unless the person ordering the abstract requests otherwise. OAG Dec. 15, 1944 (373b-1).

Old age assistance liens are junior to earlier mortgages, or to any new mortgage to refinance the old. OAG Dec. 28, 1944 (521p-4).

The one year limitation applying to the foreclosure of mechanic's liens has no application, and in no way limits the time within which the old age assistance lien may be foreclosed. OAG March 21, 1945 (521p-4).

256.263 LAND ACQUIRED BY STATE UNDER OLD AGE ASSISTANCE LIENS.

HISTORY. 1945 c. 172 ss. 1, 2.

256.27 REIMBURSEMENT OF UNITED STATES OUT OF AMOUNTS COLLECTED.

HISTORY. Ex. 1935 c. 95 s. 17; M. Supp. s. 3199-27.

The matter of distributing the amount recovered to the county, state, and federal governments is an administrative duty of the county agency and entirely outside the province of the probate court. OAG Jan. 6, 1937 (521g-1).

The claim against estate of deceased recipient should be filed in the name of the county agency and not in the name of the county, for total amount paid as assistance, without itemizing proportionate contributions and sources. OAG March 15, 1937 (521g-1).

256.28 PAYMENT TO TRUSTEE OF RECIPIENT.

HISTORY. Ex. 1935 c. 95 s. 18; M. Supp. s. 3199-28; 1941 c. 466 s. 5.

Expense incurred by county agency in obtaining appointment of a special administrator to act as guardian for incapacitated recipient is proper county administrative expense. OAG July 22, 1936 (521j-4).

Payment by the county of old age assistance in the case of an incapacitated recipient must be made to a legal guardian to entitle the county to reimbursement from federal funds. OAG March 2, 1938.

As attorney for the welfare board, it is the duty of the county attorney to check the accounts of guardians of old age assistance recipients. OAG Oct. 20, 1939.

256.29 ASSIGNABILITY OF PENSION; EXEMPTION.

HISTORY. Ex. 1935 c. 95 s. 19; M. Supp. s. 3199-29.

Old age assistance must be paid directly to the recipient and a county may not lease its county home to a private individual and then pay lessee directly for care of OAA recipients who are inmates of the home. OAG March 29, 1937 (521t-4); OAG April 21, 1937.

256.30 REPORTS BY RECIPIENT.

HISTORY. Ex. 1935 c. 95 s. 20; M. Supp. s. 3199-30; 1941 c. 466 s. 6.

Where old age certificate was issued under a mistaken interpretation of the law it was "improperly obtained" within the meaning of this section and may be canceled by the county agency. *Rasmussen v County of Hennepin*, 207 M 28, 289 NW 773.

It makes no difference that a person after having been granted assistance removes to another county and resides at a home for the aged, provided such person pays for his necessaries furnished by the home. OAG June 4, 1936 (521t-1).

County is entitled to reimbursement for state's share of the funeral expenses paid in case of a recipient whose certificate of assistance was suspended while she was an inmate of a sanatorium, where she remained until her death. OAG Oct. 5, 1936.

MINNESOTA STATUTES 1945 ANNOTATIONS

If assistance is paid for several months and it is then discovered that during a part of that time the recipient was under 65 years of age, he may be required to refund only the amount of assistance he received during the period before he reached 65 years of age. OAG April 19, 1937 (521y).

Where applicant's OAA certificate was suspended because of her employment in another county, she should apply for reinstatement to the county agency which granted such assistance. She did not lose her settlement for old age assistance purposes because of the suspension, nor by reason of her temporary employment in the second county. Her marriage to a recipient of OAA in the second county in no way affected the liability of the first county for payment of assistance. OAG March 8, 1938 (521d).

Where OAA certificate is revoked or canceled by county agency, the recipient is no longer entitled to the payment of funeral expenses upon his death, as provided in section 256.24. OAG July 7, 1938 (521j-2).

256.31 UNLAWFULLY OBTAINING ASSISTANCE; GROSS MISDEMEANOR.

HISTORY. Ex. 1935 c. 95 s. 21; 1937 c. 103 s. 1; M. Supp. s. 3199-31.

This section required purchaser of property from recipient of assistance to obtain consent from the county agency, but the agency could not demand promise from applicant that he would obtain consent before transferring his property as a condition precedent to granting of assistance. OAG April 15, 1936 (521p-2).

256.32 CANCELANATION OF CERTIFICATE.

HISTORY. Ex. 1935 c. 95 s. 22; M. Supp. s. 3199-32.

256.33 PAYMENT BY COUNTY; COST; REIMBURSEMENT; EXPENSES, APPORTIONMENT; INSUFFICIENT FEDERAL FUNDS.

HISTORY. Ex. 1935 c. 95 s. 23; 1937 c. 484 s. 1; M. Supp. s. 3199-33; 1943 c. 302 s. 2.

Additional compensation for board of county commissioners is not included in the term "for actual administrative expenses." OAG March 6, 1936.

The traveling expenses of the county commissioners incurred in administering the OAA act must be paid under the law fixing the compensation of the members of the board. OAG May 4, 1936 (104b-4).

County entitled to reimbursement from state and federal funds for payment of assistance under the new act to persons who have received pension, and who have deeded their property to county, under the old pension law. OAG June 9, 1936 (521b-1).

County is entitled to reimbursement for state's one-half in case of a recipient whose certificate of assistance was suspended while he was an inmate of sanatorium until death. OAG Oct. 5, 1936 (521j-2).

State agency is entitled to refund from county of state and federal funds paid as reimbursement to said county, in cases where the allowance has been subsequently canceled and revoked on ground that the persons were not entitled to assistance in the first instance. OAG Oct. 18, 1936 (521b-2).

Where no federal funds were available as to recipients of assistance who contracted with the county for board at poor house, state funds may be used to reimburse county for payment made, but not to exceed 33½ per cent. OAG Dec. 28, 1936 (521b-1).

State and federal funds as grants in aid for dependent children and old age assistance must be paid by the state board of control (director of social welfare) directly to the county and not to the welfare board. OAG May 20, 1937 (521L-2).

One granted assistance may contract with public institution and pay for his care and subsistence direct, but grant to such recipient is reimbursable to county from state funds only. OAG July 30, 1937 (521t-4).

MINNESOTA STATUTES 1945 ANNOTATIONS

1485

DIVISION OF SOCIAL WELFARE 256.36

Payment by the county of old age assistance in the case of an incapacitated recipient must be made to a legal guardian in order to entitle the county to reimbursement from federal funds. OAG March 2, 1938.

256.34 COUNTY BUDGET; LEVY; TRANSFER OF FUNDS; WARRANTS; OVERDRAFTS; CLAIMS FOR REIMBURSEMENT; PAYMENT.

HISTORY. Ex. 1935 c. 95 s. 24; M. Supp. s. 3199-34.

It is mandatory upon county agency to provide sufficient funds for administrative expenses irrespective of the availability of federal funds. OAG March 9, 1936 (521b-1).

County commissioners may authorize transfer of funds from the poor account to old age assistance account when it appears that the budget for the latter account is inadequate. OAG Oct. 11, 1939.

County board is authorized and required to pay OAA notwithstanding the fact that sufficient taxes may not have been levied to take care of such payments. In that event the payments are carried as an overdraft on the OAA fund of the county until sufficient tax funds are available. County has no authority to issue bonds for OAA purposes without submitting the proposition to a vote of the electors. OAG March 26, 1936 (521L-2).

Application for old age assistance is not an application for poor relief. OAG May 11, 1936 (521t-5).

Where county is without funds with which to administer the OAA act, the county agency has authority to make arrangements with banks in the county whereby the county issues warrants to the recipients of OAA and the banks carry the warrants at three per cent. The warrants should not be registered (i.e., stamped "not paid for want of funds") as difficulty might then be encountered by the county in securing reimbursement from the state and federal governments, since county may not be able to show that the money has actually been paid for OAA. In making arrangements with the banks to carry the amount advanced "as an overdraft of the old age assistance fund" the county may properly follow the procedure outlined in Laws 1935, Chapter 121. OAG April 21, 1936 (521L-2).

Medical and dental care furnished to recipient of OAA is a charge against the poor fund of town or village in county operating under the town system of poor relief and not a charge against county OAA funds. OAG June 16, 1936 (521b).

Matter of county bearing burden of burying persons who have been recipients of OAA is discretionary with county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with the provisions of the act. OAG July 21, 1936 (521j-2).

The expense incurred by county agency in obtaining the appointment of a guardian to act for recipient of assistance is a proper county administrative expense. OAG March 2, 1938 (521j-4).

Warrants for old age assistance must be issued even though the county has no funds available. OAG May 14, 1936 (521L); OAG Dec. 4, 1939 (521L).

The term "administrative expenses" does not include the payment of additional compensation to county commissioners either by way of increased salaries or on a per diem basis. OAG March 6, 1936.

Bonds may be issued under the provisions of Laws 1941, Chapter 403, for the purpose of paying salaries at Ancker Hospital, or Ramsey county home; but bonds may not issue to pay salaries in the division of old age assistance, and department in aid of dependent children. 1942 OAG 126, Sept. 17, 1941 (37-B-6).

Tax provisions of social security act. 22 MLR 299.

256.35 MANDAMUS TO COMPEL COMPLIANCE.

HISTORY. Ex. 1935 c. 95 s. 25; M. Supp. s. 3199-35.

256.36 CHANGE OF RESIDENCE BY RECIPIENT.

HISTORY. Ex. 1935 c. 95 s. 26; M. Supp. s. 3199-36.

MINNESOTA STATUTES 1945 ANNOTATIONS

256.37 DIVISION OF SOCIAL WELFARE

1486

Despite the fact that recipients of old age assistance moved to another county, the responsibility for them remained with the county originally granting assistance. In re Howe, 211 M 427, 1 NW(2d) 396.

The county originally granting assistance continues to be liable therefor regardless of any change of residence within the state by the recipient. OAG May 15, 1936 (521t-1); 1945 c. 476 s. 1.

Where county canceled payment of pension to a recipient under old age pension law prior to effective date of new old age assistance act, it cannot be compelled to continue paying assistance under the new act to an applicant residing in another county. OAG May 23, 1936.

It makes no difference that a person, after having been granted assistance, removes to another county and resides at a home for the aged, provided he pays for the necessities furnished him by the home, assuming that he notifies the county agency of his change of residence. OAG June 4, 1936 (521t-1).

It is not permissible, after an OAA grant has been made and the recipient has been absent and residing in another county for more than a year, for the county agency to discontinue assistance on the ground that recipient had established a new residence in the other county. OAG April 22, 1937 (521t-5).

Where applicant's OAA certificate was suspended because of her employment in another county, she should apply for reinstatement to the county agency which granted such assistance. She did not lose her settlement for OAA purposes because of the suspension, nor by reason of her temporary employment in the second county. Her marriage to a recipient of OAA in the second county in no way affected the liability of the first county for payment of assistance. OAG March 8, 1938 (521d).

256.37 FUNERAL EXPENSES PAID BY COUNTY; REIMBURSEMENT BY STATE.

HISTORY. Ex. 1935 c. 95 s. 27; M. Supp. s. 3199-37.

A county coroner, who is an undertaker, cannot contract with county for pauper burials, under statute which prohibits public officers from becoming interested in any contract with county. OAG May 2, 1934.

Payment of funeral expenses is discretionary with county agency and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with the provisions of this act. OAG July 20, 1936; OAG July 21, 1936.

Matter of county bearing burden of burying persons who have been recipients of OAA is discretionary with county agency, and the state agency is authorized to reimburse the counties that have paid such expenses in accordance with the provisions of the act. OAG Oct. 5, 1936 (521j-2).

County is entitled to reimbursement for state's share of the funeral expenses paid in case of a recipient whose certificate of assistance was suspended while she was an inmate of a sanatorium, where she remained until her death. OAG Oct. 5, 1936 (521j-2).

County may pay \$100.00 toward funeral expenses, total cost of which exceeds this sum, where excess is paid by friends or relatives not liable for such expenses, providing that the total cost has been determined by the county agency to be "reasonable funeral expenses." OAG June 7, 1937 (521j-2).

256.38 ASSISTANCE GRANTED UNDER PRIOR LAW; MODIFICATION OR REVOCATION.

HISTORY. Ex. 1935 c. 95 s. 28; M. Supp. s. 3199-38.

Where county canceled payment of pension to a recipient under old age pension law prior to effective date of new OAA act, it cannot be compelled to continue paying assistance under the new act to an applicant residing in another county. OAG May 23, 1936 (521b-1).

County entitled to reimbursement from state and federal funds for payment of assistance under the new act to persons who have received pension and who

MINNESOTA STATUTES 1945 ANNOTATIONS

1487

DIVISION OF SOCIAL WELFARE 256.45

have deeded their property to county, under the old pension law. OAG June 9, 1936 (521b-1).

256.39 MODIFICATION BY GROUPS.

HISTORY. Ex. 1935 c. 95 s. 29; M. Supp. s. 3199-39.

256.40 SUSPENSION OF PRIOR LAWS; VALIDATION; ACT INOPERATIVE IN EVENT OF REPEAL OR INVALIDITY OF FEDERAL LAW; INSTRUMENTS, HOW SIGNED.

HISTORY. Ex. 1935 c. 95 s. 32; M. Supp. s. 3199-42.

County board should not reconvey property deeded to county by recipient of pension under the old law. Payments of pensions made before effective date of new OAA act should not remain a lien upon the property until redeemed under provisions of new act. Lands acquired by county under the old act are exempt from taxation while title thereto remains in the county. OAG Sept. 14, 1936 (521p-3).

256.41 RESERVATION OF RIGHT TO AMEND, REPEAL, OR SUSPEND LAW.

HISTORY. Ex. 1935 c. 95 s. 33; M. Supp. s. 3199-43.

256.42 ACT DEPENDENT ON FEDERAL AID; REDUCTION OF ASSISTANCE.

HISTORY. Ex. 1935 c. 95 s. 34; 1937 c. 100 s. 1; M. Supp. s. 3199-44.

County agency must administer the act irrespective of the availability of federal funds, except that until federal funds are available, the county agency may reduce the amount of assistance to each recipient. OAG March 9, 1936 (521b-1).

256.43 APPROPRIATION.

HISTORY. Ex. 1935 c. 95 s. 35; M. Supp. s. 3199-45.

256.431 APPROPRIATION FOR OLD AGE ASSISTANCE.

HISTORY. 1941 c. 2 s. 1.

256.432 STATE AUDITOR TO SELL CERTIFICATES.

HISTORY. 1941 c. 2 s. 2.

256.433 TAX LEVY TO RETIRE CERTIFICATES.

HISTORY. 1941 c. 2 s. 3.

256.434 DISPOSITION OF PROCEEDS.

HISTORY. 1941 c. 2 s. 4.

256.44 SUPPLEMENTAL AID TO OLD AGE ASSISTANCE IN DISTRESSED COUNTIES; WHAT CONSTITUTES DISTRESS.

HISTORY. 1937 c. 305 s. 1; Ex. 1937 c. 55 s. 1; M. Supp. s. 3177-2.

256.45 FUND; DISTRIBUTION.

HISTORY. 1937 c. 305 s. 2; Ex. 1937 c. 55 s. 2; M. Supp. s. 3177-3.

Supplemental aid is to be based only on amount of actual assistance payments and cannot include county administrative costs or burial benefits. OAG Sept. 12, 1939 (521w).

MINNESOTA STATUTES 1945 ANNOTATIONS

256.46 DIVISION OF SOCIAL WELFARE

1488

The legislature intended to limit supplemental aid to distressed counties to \$250,000 each year and when such fund was exhausted the supplemental aid terminated. Deficiencies in reimbursements which accrued during previous years should not be made up out of the current appropriation. OAG Nov. 29, 1939.

The fact that supplemental aid cannot include county administrative costs does not prevent the use of federal funds for administrative purposes in the county offices pursuant to the provisions of section 256.33, clause (2). OAG Jan. 12, 1940.

256.46 CERTIFICATION OF DISTRESS; PAYMENT.

HISTORY. 1937 c. 305 s. 3; Ex. 1937 c. 55 s. 3; M. Supp. s. 3177-4.

Where bond issue was sold by county to raise funds for OAA payments, this did not constitute a tax levy and there was not a substantial compliance with this section. OAG Aug. 14, 1937 (521b-1).

Determination of the amount that a distressed county (as defined by section 256.44) shall receive is based on the difference between the actual tax collections and OAA payments made by the county for the particular calendar year. OAG Oct. 25, 1937 (521w).

To be eligible for aid as a distressed county, the county must be able to certify to the state agency that "there was levied an amount of money, which, if collected, would have been sufficient to pay old age assistance therein." A county which levied \$11,000 for old age assistance when \$13,000 was actually required was ineligible for aid, notwithstanding that it acted in good faith and had no knowledge at time of levy as to what its OAA requirements would be. OAG Feb. 7, 1939 (521b-1).

County may not be reimbursed where the \$250,000 set aside for supplemental aid has been exhausted. OAG Nov. 29, 1939.

256.47 CERTIFICATION AS TO LEVY OF TAX EXCUSED IN CERTAIN CASES.

HISTORY. Ex. 1937 c. 55 s. 4; M. Supp. s. 3177-5.

256.48 CERTIFICATION AS TO TAX LEVY UNNECESSARY IN CERTAIN COUNTIES.

HISTORY. Ex. 1937 c. 55 s. 5; M. Supp. s. 3177-6.

256.49 STATE AGENCY; DUTIES AS TO BLIND PERSONS.

HISTORY. 1937 c. 324 s. 2; M. Supp. s. 3199-64.

256.50 COUNTY AGENCY; DUTIES FOR BLIND PERSONS.

HISTORY. 1937 c. 324 s. 3; M. Supp. s. 3199-65.

256.51 PUBLIC ASSISTANCE.

HISTORY. 1937 c. 324 s. 4; M. Supp. s. 3199-66; 1941 c. 352 s. 1.

256.52 WHO MAY RECEIVE ASSISTANCE.

HISTORY. 1937 c. 324 s. 5; M. Supp. s. 3199-67.

256.53 AMOUNT OF ASSISTANCE.

HISTORY. 1937 c. 324 s. 6; M. Supp. s. 3199-68; 1941 c. 486.

256.54 APPLICATIONS.

HISTORY. 1937 c. 324 s. 7; M. Supp. s. 3199-69.

MINNESOTA STATUTES 1945 ANNOTATIONS

1489

DIVISION OF SOCIAL WELFARE 256:70

256.55 INVESTIGATIONS.

HISTORY. 1937 c. 324 s. 8; M. Supp. s. 3199-70.

256.56 EXAMINATION OF APPLICANTS.

HISTORY. 1937 c. 324 s. 9; M. Supp. s. 3199-71.

256.57 STATE AGENCY TO DETERMINE ELIGIBILITY.

HISTORY. 1937 c. 324 s. 10; M. Supp. s. 3199-72.

256.58 GUARDIANS.

HISTORY. 1937 c. 324 s. 11; M. Supp. s. 3199-73.

256.59 ASSISTANCE NOT TRANSFERABLE.

HISTORY. 1937 c. 324 s. 12; M. Supp. s. 3199-74.

256.60 APPEALS.

HISTORY. 1937 c. 324 s. 13; M. Supp. s. 3199-75; 1941 c. 352 s. 2.

256.61 RECONSIDERATION OF ASSISTANCE GRANTS.

HISTORY. 1937 c. 324 s. 14; M. Supp. s. 3199-76; 1941 c. 352 s. 3.

256.62 REEXAMINATIONS.

HISTORY. 1937 c. 324 s. 15; M. Supp. s. 3199-77.

256.63 WHO MAY NOT RECEIVE ASSISTANCE.

HISTORY. 1937 c. 324 s. 16; M. Supp. s. 3199-78.

256.64 SHALL NOTIFY STATE AGENCY OF ACQUISITION OF STATE PROPERTY.

HISTORY. 1937 c. 324 s. 17; M. Supp. s. 3199-79.

256.65 ASSISTANCE TO BE CLAIM AGAINST ESTATE OF DECEDENT.

HISTORY. 1937 c. 324 s. 18; M. Supp. s. 3199-80.

256.66 RECIPIENT WHO MOVES TO NOTIFY STATE AGENCY.

HISTORY. 1937 c. 324 s. 19; M. Supp. s. 3199-81.

256.67 PAYMENTS TO BE MADE MONTHLY.

HISTORY. 1937 c. 324 s. 20; M. Supp. s. 3199-82.

256.68 FRAUDULENT CLAIMS; PENALTY.

HISTORY. 1937 c. 324 s. 21; M. Supp. s. 3199-83.

256.69 NO VESTED RIGHTS IN GRANTS.

HISTORY. 1937 c. 324 s. 22; M. Supp. s. 3199-84.

256.70 HOW CITED.

HISTORY. 1937 c. 324 s. 23; M. Supp. s. 3199-85.

MINNESOTA STATUTES 1945 ANNOTATIONS

256.71 DIVISION OF SOCIAL WELFARE

1490

256.71 APPROPRIATION OF UNITED STATES AID.

HISTORY. 1937 c. 324 s. 24; M. Supp. s. 3199-86.

256.72 DUTIES OF COUNTY AGENCIES.

HISTORY. 1937 c. 438 s. 3; M. Supp. s. 8688-5.

256.73 WHO ENTITLED TO ASSISTANCE.

HISTORY. 1937 c. 438 s. 4; 1939 c. 195 s. 2; M. Supp. s. 8688-6; 1943 c. 7 s. 2.

Where grandmother created a trust fund for grandchildren, payable to them at 21 years, but gave trustee authority, in an emergency, to expend any part of the principal for the benefit of the children, latter are ineligible for ADC, since they have funds available for their use. OAG Feb. 13, 1939 (840a-6).

Payment of a mother's pension is not payment of poor relief. Poor relief differs broadly from the mother's pension, in that the pension benefit is conditioned not so much on the need of the mother as upon that of the children, the latter being the principal beneficiaries. In re Settlement of Skog, 186 M 349, 243 NW 384.

While receiving relief from town in which she had settlement for poor relief purposes, mother moves to another county. Held that after she has lived in second county one year she is eligible for a mother's pension, since mere residence, as distinguished from legal settlement, satisfies the requirements of the mother's pension law. State ex rel v Juvenile Court, 188 M 125, 246 NW 544.

Where child has resided with grandmother in a certain county for two years, while father resides in another county but is a disabled veteran, and mother is in a sanatorium, application for aid should be filed in county where grandmother resides. OAG July 29, 1937 (840a-6).

Removal from one county to another while receiving aid for dependent children from first county disqualified one from acquiring settlement in second county for poor relief purposes, but is not a bar to acquisition of residence in second county for aid for children. OAG July 12, 1939 (840a-6).

Aid to dependent children law prevails over poor laws where same conflict. OAG Sept. 15, 1938.

ADC application should be considered without delay by county in which children have resided one year, even though legal settlement of family for poor relief purposes is in another county. Where parents are removed to place of settlement, the county should request approval of state agency for removal of the children, and state agency should give approval in all such cases, in order to carry out the intent of the act as expressed in section 256.85. OAG Sept. 15, 1938.

Where wife and child have resided in a county more than one year, they are entitled to ADC and direct relief from that county even though husband has been committed to state school for feeble-minded from another county. OAG May 26, 1939 (840a-6).

(1) Where a husband and wife and minor children resided in first county for several years, moved to second county and resided there eight months, then moved to third county and there resided two months and were returned to first county upon applying for relief, and husband died in first county, that county was liable for poor relief, but second county (in which aid to dependent children had been applied for and granted) was liable for payment of that aid for one year following family's return to first county. OAG July 12, 1939 (840a-6).

Child must have resided in state for one year immediately preceding application for aid. OAG Aug. 1, 1939 (840a-10).

(2) Citizenship requirement held unconstitutional and act may be administered as though it were absent. OAG Aug. 5, 1939 (840a-6).

(3) Four hundred dollars left to mother by deceased husband in trust for children does not constitute ownership of property by mother which would bar an allowance. Child may own personal property of \$300.00 or less, and still be eligible for ADC, at discretion of county agency. A child who has been bequeathed

MINNESOTA STATUTES 1945 ANNOTATIONS

1491

DIVISION OF SOCIAL WELFARE 256.77

more than \$300.00 to be held in trust until his majority, is still eligible for ADC, if otherwise dependent. OAG Oct. 25, 1937 (840a-6).

Aid may be given for a child where there is a gross income from the property which is entirely consumed by taxes, upkeep, and necessary payments on encumbrances, provided there is no available market for the sale of the property, or price which may be obtained on the prevailing market is not fair and reasonable, considering the applicant's interest therein and the possibilities of sale within a reasonable time for a greater amount. OAG Oct. 14, 1937 (840a-6).

Child eligible for ADC if resident of county for one year immediately preceding filing of application even though poor relief was furnished prior to date of application or during pendency of same. OAG Dec. 30, 1937 (840a-6).

Where the custody of the children is awarded the mother on a divorce and no order for alimony has been made, and later the father moves from the state and establishes himself elsewhere during which time no demand has been made upon him for support, the child may be eligible for aid though no warrants of abandonment may be issued and the father has offered to care for the child in the foreign state. OAG Jan. 28, 1938 (840a-1).

Where the father pays the full amount of the alimony ordered by the court, which amount does not provide an adequate budget for the support of the children, the children are not eligible for aid in an amount sufficient to cover the deficiency. OAG Feb. 8, 1938 (840a-6).

256.74 ASSISTANCE.

HISTORY. 1937 c. 438 ss. 5, 6; M. Supp. ss. 8688-7, 8688-8; 1943 c. 580 s. 1; 1945 c. 320 s. 1.

Where child has resided with grandmother in a certain county for two years, while father resides in another county but is a disabled veteran, and mother is in a sanatorium, application for aid should be filed in county where grandmother resides. OAG July 29, 1937.

Where father does not comply with court order to pay alimony for support of children, the children are not eligible for aid unless a court action is instituted for abandonment and a warrant issued, but where the father pays the support money in full, and it does not provide adequately for the children, they are eligible for aid in the amount of the deficiency. OAG July 29, 1937 (840a-6).

Eligible relative with whom child will live may apply for aid on behalf of child inmate of a public or private charitable institution, in the county of the child's legal settlement. OAG Dec. 21, 1937 (840a-6).

Where wife and child have resided in a county more than a year, they are entitled to ADC and direct relief from that county even though husband has been committed to the state school for the feeble-minded from another county. OAG May 26, 1939.

256.75 INVESTIGATIONS TO BE MADE BY COUNTY AGENCIES.

HISTORY. 1937 c. 438 s. 7; M. Supp. s. 8688-9.

Arbitrary postponement of action on new applications (for purpose of conserving state funds and keeping within legislative appropriation) is unlawful and a violation of the provision that applications should be acted upon "within a reasonable time." OAG June 28, 1939.

256.76 SHALL DETERMINE THE AMOUNT OF ASSISTANCE.

HISTORY. 1937 c. 438 s. 8; M. Supp. s. 8688-10.

256.77 COUNTY AGENCY TO REPORT TO STATE DEPARTMENT.

HISTORY. 1937 c. 438 s. 9; 1939 c. 195 s. 3; M. Supp. s. 8688-11.

The statute provides no avenue of appeal by county agency from the decisions of the state agency, but possibly certiorari would lie. OAG Feb. 28, 1939 (840a-6).

MINNESOTA STATUTES 1945 ANNOTATIONS

256.78 ASSISTANCE GRANTS RECONSIDERED.

HISTORY. 1937 c. 438 s. 10; M. Supp. s. 8688-12.

256.79 REMOVAL TO ANOTHER COUNTY.

HISTORY. 1937 c. 438 s. 11; M. Supp. s. 8688-13; 1945 c. 83 s. 1.

Aid to dependent children under this act is not poor relief, within the meaning of section 261.07, relating to settlement for poor relief purposes. OAG July 11, 1938 (840a-6).

ADC application should be considered without delay by county in which children have resided one year, even though legal settlement of family for poor relief purposes is in another county. Where parents are removed to place of settlement, the county should request approval of state agency for removal of the children, and state agency should give approval in all cases, in order to carry out the intent of the act as expressed in section 256.85. OAG Sept. 15, 1938 (840a-6).

The legal settlement statute does not modify or affect provisions of this section. Child who continues to receive ADC from one county after moving to another is entitled to aid from second county after one year's residence therein, even though child's family could not acquire legal settlement in second county for poor relief purposes so long as child was receiving ADC. OAG July 13, 1939 (840a-6).

Removal from one county to another while receiving aid for dependent children from first county disqualified one from acquiring settlement in second county for poor relief purposes, but is not a bar to the acquisition of residence in the second county for aid for children. OAG July 12, 1939 (840a-6).

256.80 COUNTY BOARD TO APPROPRIATE MONEY; MANDATORY.

HISTORY. 1937 c. 438 s. 12; M. Supp. s. 8688-14.

It is mandatory upon all counties to provide aid to dependent children. OAG May 21, 1937.

County has a primary duty to provide sufficient funds regardless of amount of reimbursement received from state or federal government. OAG June 28, 1939, 1942 OAG 126, Sept. 17, 1941 (37-B-6).

256.81 COUNTY AGENCY TO PAY TO RECIPIENT; KEEP RECORDS; ACCEPT REPAYMENT IN PART FROM STATE.

HISTORY. 1937 c. 438 s. 13; M. Supp. s. 8688-15; 1943 c. 619 s. 2.

State and federal funds as grants-in-aid for dependent children must be paid by the state agency direct to county (treasurer) and not to county welfare board. OAG May 20, 1937 (521L-2).

County may legally pay ADC irrespective of availability of state and federal funds for reimbursement; state may not limit amount of reimbursement so long as funds are available. The amount certified by state agency for purposes of federal reimbursement should include the total expended by county and state. OAG Nov. 18, 1937 (840a-6).

If it is reasonably anticipated that the state appropriation will be insufficient to pay the state's share in full, the state agency may limit its monthly expenditures to one-twelfth part of the annual appropriation, and thus retain sufficient funds to insure financial participation by the state for the entire year. OAG Dec. 17, 1937 (840a-6).

256.82 PAYMENT BY THE STATE.

HISTORY. 1937 c. 438 s. 14; M. Supp. s. 8688-16; 1943 c. 619 s. 1.

County has a primary duty to provide sufficient funds regardless of amount of reimbursement received from state or federal government. It is not necessary that the state's contribution equal that of the county's. There would be no loss of federal aid merely because state appropriation for reimbursement was less than amount authorized by ADC act; the counties would have to absorb the defi-

MINNESOTA STATUTES 1945 ANNOTATIONS

1493

DIVISION OF SOCIAL WELFARE 256.93

ciency. Monthly allotments by state need not be equal for all months of the year, and appropriation must be spread in such a way as to meet requirements of the entire fiscal year so far as practicable. (The Reorganization Act, Laws 1939, Chapter 431, Article II, Section 16, requires periodical allotment and budgeting of funds so as to prevent a deficit, and provisions of act with reference to expenditures prevail over provisions of ADC act if a conflict develops.) Increase of contribution by federal government would reduce state's share accordingly, but would not reduce share borne by counties, since they may be reimbursed only up to a maximum of two-thirds of the cost. OAG June 28, 1939 (640a).

256.83 VIOLATIONS A MISDEMEANOR.

HISTORY. 1937 c. 438 s. 15; M. Supp. s. 8688-17.

256.84 UNITED STATES GOVERNMENT ASSISTANCE NOT TO BAR AID.

HISTORY. 1937 c. 438 s. 16; M. Supp. s. 8688-18.

256.85 LIBERAL CONSTRUCTION.

HISTORY. 1937 c. 438 s. 17; M. Supp. s. 8688-19.

Relative of child inmate of a public or private charitable institution may make application for aid for such child. OAG Dec. 21, 1937 (840-6).

256.86 UNITED STATES FUNDS TO BE APPROPRIATED TO STATE AGENCY.

HISTORY. 1937 c. 438 s. 18; M. Supp. s. 8688-20.

256.87 LIMITATIONS; RIGHTS; CITATION.

HISTORY. 1937 c. 438 ss. 19 to 21; M. Supp. ss. 8688-21 to 8688-23.

256.88 SOCIAL WELFARE FUND ESTABLISHED.

HISTORY. 1923 c. 106 s. 1; G.S. 1923 s. 4462; M.S. 1927 s. 4462; 1939 c. 8 s. 1; M. Supp. s. 4462.

256.89 FUND DEPOSITED IN STATE TREASURY.

HISTORY. 1923 c. 106 s. 2; G.S. 1923 s. 4463; M.S. 1927 s. 4463; 1939 c. 8 s. 2; M. Supp. s. 4463.

256.90 SOCIAL WELFARE FUND; USE; DISPOSITION; DEPOSITORIES.

HISTORY. 1923 c. 106 s. 3; G.S. 1923 s. 4464; 1925 c. 253; M.S. 1927 s. 4464; 1943 c. 236 s. 1.

256.91 PURPOSES.

HISTORY. 1923 c. 106 s. 4; G.S. 1923 s. 4465; M.S. 1927 s. 4465.

256.92 DIRECTOR OF SOCIAL WELFARE SHALL KEEP ACCOUNTS.

HISTORY. 1923 c. 106 ss. 5, 6; G.S. 1923 ss. 4466, 4467; M.S. 1927 ss. 4466, 4467.

256.93 DIRECTOR OF SOCIAL WELFARE TO TAKE POSSESSION OF ESTATES IN CERTAIN CASES.

HISTORY. 1929 c. 55 ss. 1, 2; 1939 c. 9; M. Supp. ss. 4467-1, 4467-2; 1943 c. 612 ss. 4, 5.

MINNESOTA STATUTES 1945 ANNOTATIONS

256.94 DIVISION OF SOCIAL WELFARE

1494

256.94 CONFERENCES OF VARIOUS OFFICIALS.

HISTORY. 1917 c. 224 s. 1; 1921 c. 403 s. 1; G.S. 1923 s. 4468; M.S. 1927 s. 4468.

256.95 EXPENSE OF ATTENDANCE AT CONFERENCE.

HISTORY. 1917 c. 224 s. 2; 1921 c. 403 s. 2; G.S. 1923 s. 4469; M.S. 1927 s. 4469.

256.96 COOPERATION WITH OTHER BOARDS.

HISTORY. 1923 c. 152 s. 1; G.S. 1923 s. 4461; M.S. 1927 s. 4461.

256.97 CHIEF OF DIVISION OF THE DEAF; DUTIES.

HISTORY. 1913 c. 238 ss. 2, 3; G.S. 1913 ss. 3829, 3830; G.S. 1923 ss. 4085, 4086; M.S. 1927 ss. 4085, 4086.