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REPORT OF THE ATTORNEY GENERAL

SOCIAL SERVICES, DEPARTMENT OF: Merger of state and county social services

COUNTIES: Merger of state and county social services

The powers and duties of county boards of social services to develop, implement and administer general public relief programs are transferred by statute to the Department of Social Services.

Upon effective implementation of the statute, persons who were employees of a city or county department of social services become members of the State Employees Retirement System and members of the state classified civil service system.

Opinion No. 4973

April 16, 1976.

Hon. Robert W. Davis
State Senator
The Capitol
Lansing, Michigan

You have indicated to me that, as a result of the recent merger of the county departments of social services with the state department of social services, the definition of limits, duties and responsibilities of the county social services boards is now unclear. Therefore, you ask for my opinion on the following questions:

“1. What are the limits, duties and responsibility of the County Departments of Social Welfare after the recent merger of the State Department of Social Services?

2. What is the relationship between County Departments of Social Welfare and the Civil Service System in light of the recent merger?”

In answer to your first question, reference is made to the Social Welfare Act, 1939 PA 280, MCLA 400.1 *et seq*; MSA 16.401 *et seq*, as it existed prior to its amendment by 1975 PA 237. Section 45 provided in part:

“There is created a county department of social services, hereinafter called the county department, in each county of this state, which shall possess the powers granted and perform the duties imposed in this act.”

This office previously discussed the merger of the state and county departments of social services which resulted from 1965 PA 401 in OAG, 1967-1968, No 4607, p 174, 176-177 (February 6, 1968), and concluded as follows regarding the authority and responsibilities of county departments:

“. . . the county welfare department or county department of social services, as it is now called, has been made structurally a part of the state department of social services insofar as all programs financed with federally aided funds are concerned. I further advise you, however, that the county department of social services must also be regarded as a separate legal entity having its own specific duties and authorities with respect to general relief and other programs, such as hospitalization for the afflicted, as to which no state-federal participation is currently available. Therefore the county department is both a part of the

state department of social services with respect to certain functions, but continues as a separate entity with respect to those functions as to which its duties and authority remain exclusive—namely, those which do not participate in federally aided programs.

* * *

. . . [T]he implanting within the county social services department of a statutory function therein to act *as a local entity of the state department of social services* is not intended by the legislature to terminate the status of the county social services board *as a separate legal entity continuing to have certain exclusive duties and functions other than those performed by it as a local agent of the state department of social services, even though such exclusive county functions are now comparatively negligible.*" [Emphasis supplied.]

So, it can be seen that the county departments previously had exclusive responsibility to implement, maintain and administer general relief and other programs as to which no state-federal participation was available.

However, 1965 PA 401 represented an increased involvement of the state in the administration of welfare programs at the county level. This state involvement is furthered by 1975 PA 237, MCLA 400.14(2); MSA 16.414(2). Section 14(2) states:

"Other sections of this act to the contrary notwithstanding, all powers and duties of the county social services boards to develop, implement, and administer a program of general public relief are hereby transferred to the state department of social services effective beginning with the first county fiscal year following the effective date of this act." [Emphasis supplied.]

Section 18, MCLA 400.18; MSA 16.418 continues:

"(1) The state department shall provide for the distribution of such moneys as shall be appropriated by the legislature for public welfare grants in respect to general relief, but not expenditures in respect to a county medical care facility, other infirmary care or inpatient hospitalization, to the several county and district departments of social services on the basis of monthly reporting to the department by the county departments.

(2) Effective December 1, 1979 in counties having a fiscal year beginning December 1 and ending November 30th and effective January 1, 1980 in counties having a fiscal year beginning January 1 and ending December 31, all expenditures for a program of general public relief shall be appropriated from the general revenues of the state. The state shall assume the full cost of the general relief program for public welfare costs including total administration, but excluding costs incurred for county hospitalization and in the administration of and care in a county medical care facility or infirmary."

And Section 24, MCLA 400.24; MSA 16.424, states:

". . . The state department shall establish eligibility and financial standards for all forms of general public relief. . . ."

Thus, the exclusive county functions have been reduced even further. However, county functions do still remain.

This view is reflected in Section 66, MCLA 400.66; MSA 16.466, which states:

“As to those forms of relief which are in no part financed by state or federal funds, the decision of the county or district department of social services as to the denial, granting, form and amount of that relief shall be final.”

These remaining functions of the county departments of social services are set forth in Sections 45(2)(a) and 55 of the Social Welfare Act, MCLA 400.45(2)(a), 400.55; MSA 16.445(2)(a), 16.455.

In answer to your second question, it is necessary to refer to Section 100 of the Social Welfare Act, MCLA 400.100; MSA 16.490(10), which states in pertinent part:

“Persons who were employees of a city or county department of social welfare immediately prior to the effective date of this amendatory act [1965 PA 401], who (1) were members of a city or county retirement system and (2) become members of the state employees retirement system, shall be entitled to the benefits provided by Act No. 88 of the Public Acts of 1961. . . .”

In this same regard, Section 101, MCLA 400.101; MSA 16.490(11) says that:

“. . . [T]he director and all employees and assistants in . . . [county and city departments] shall become members of the state civil service system on or before July 1, 1967.”

These two sections (1) protect retirement benefits of former county employees who became state employees upon merger of the county welfare departments with the state department of social services, and (2) require the director and all employees and assistants to become members of the state civil service system. Since 1975 PA 237 makes no changes to these sections, the status of the county employees remains unchanged. However, under Section 49 of the Social Welfare Act, 1939 PA 280, MCLA 400.49; MSA 16.449, the counties continue to have a role in choosing the county director.

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