



THE ATTORNEY GENERAL OF TEXAS

WAGGONER CARR
ATTORNEY GENERAL

AUSTIN 11, TEXAS

December 2, 1963

Hon. John Winters
Commissioner
Department of Public Welfare
Austin, Texas

Opinion No. C-189

Re: As a part of its legal responsibility for Child Welfare Services, may the county pay the personnel employed in Child Welfare Units eight cents (8¢) a mile for official travel incurred in the performance of their official duties?

Dear Mr. Winters:

This is in reply to your letter of November 21, 1963, in which you asked the following question:

"As a part of its legal responsibility for Child Welfare Services, may the county pay the personnel employed in Child Welfare Units eight cents (8¢) a mile for official travel incurred in the performance of their official duties?"

In addition, you have furnished us factual background as follows:

"Over a number of years the State Department of Public Welfare in cooperation with the County Commissioners' Court has established Child Welfare Units in a number of counties in the State.

"The State Department of Public Welfare pays the salaries of most of the personnel employed in the Units, while the county pays the salaries in some instances of some of the personnel and pays the other expenses incident to conducting the Child Welfare Unit within the county.

". . .

"It has been the pattern over a number of years for the county in many instances to furnish

the travel expenses for the Worker as a part of the county's contribution to the overall Child Welfare Program within the county. In many instances this was done on the basis of a stipulated amount per month.

"The Department considered that it would be more equitable if the travel expenses were paid on the basis of actual mileage traveled by the Worker. In formulating the agreement with the county, the Department had suggested that the rate for mileage be established on the basis of the official legal rate or mileage schedule provided for State employees which is currently eight cents (8¢) a mile.

"The counties are in agreement with using the official State rate or mileage schedule; however, some of the County Auditors have raised the question as to the legality of the county's paying the legal rate for mileage paid by the State on the basis that they cannot legally pay this amount to county employees. . . ."

In Attorney General's Opinion No. 0-5943 (1944), in considering the method of handling expenditures of county funds for child welfare services administered by Child Welfare Boards, it was stated that the Legislature has conferred upon the Commissioners' Court power to expend funds for the purpose enumerated in the Child Welfare Act and that:

". . . Section 40, Article 695c, supra, expressly provides that funds may be expended for the administration of the Board and to provide for services to and support of children in need.

The opinion further stated that acquiring the services of a stenographer and paying for such services would be proper since:

"Every function performed by the Board or its stenographer would be a direct benefit to the children within the Board's province."

It is likewise our opinion that travel expenses connected with providing services and support of children covered by Article 695a, Vernon's Civil Statutes, and related Acts may be properly paid out of County funds.

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The Statutes, however, are silent as to the rate per mile that persons employed in Child Welfare Units may be paid for travel incurred in carrying out the official business of the Child Welfare Units. While the Legislature by House Bill 86, Acts of the 58th Legislature, Regular Session, 1963, provided that State employees would receive eight cents (8¢) a mile for official travel expense, this does not apply to persons employed by Counties.

It is our opinion, therefore, that the Commissioners' Court in allowing travel expenses may pay such money as is reasonable and necessary to fulfill the duties and responsibilities of Child Welfare Units. This office has continually stated that the determination of what constitutes reasonable and necessary expenses is a question of fact and is to be determined by the Commissioners' Court itself. Attorney General's Opinions Nos. O-995 (1939), O-3670 (1941) and V-607 (1948).

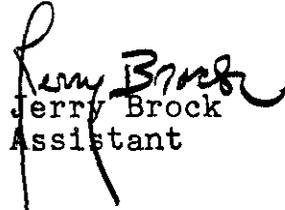
SUMMARY

Persons employed by County Child Welfare Units may receive reasonable and necessary travel expense while fulfilling their official duties, the determination of what constitutes reasonable and necessary expenses being a question of fact to be decided by the Commissioners' Court of the county.

Very truly yours,

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Attorney General

By


Jerry Brock
Assistant

JB:mkh:wb

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