WELFARE, DEPARTMENT OF PUBLIC: Relative authority and duty of County Director and County Board of Public Welfare with respect to awards.

May 7, 1936.

Hon. Wayne Coy,
Acting Administrator,
State Department of Public Welfare,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following questions:

"1. Is the County Director of Public Welfare or the County Board of Public Welfare of each county responsible for making the final decision and granting awards of assistance as provided in Sections 37 and 75?

"2. Must there have been an individual action on each individual case on the part of the County Board of Public Welfare before any award can be made?

"3. Who has the responsibility for making changes of awards, revocation of awards, modifications of awards and rejections of applications as not being eligible?

"4. Is it necessary that the Board, in its official proceedings, record the official action on each individual case?

"5. Which of the above functions which are reposed in the County Board of Public Welfare can be delegated by the Board to the County Director of Public Welfare?

"6. Must awards, changes of awards, revocation of awards, and rejections of applications be signed by the members of the Board or the County Director of Public Welfare?

"(a) In what capacity does he sign, as County Director of Public Welfare or as Secretary of the Board?

"(b) In all such items must there be a direct reference to the action of the Board or can the County Director say ‘by authority of the County Board of public Welfare of .......... County’?"
The sections referred to in your first question are sections 37 and 75 of The Welfare Act of 1936, and are as follows:

"Section 37. Granting of assistance. Upon the completion of such investigation, the COUNTY DEPARTMENT shall decide whether the applicant is eligible for assistance under the provisions of this Act, and shall likewise determine the amount of such assistance and the date on which such assistance shall begin. In determining the amount of such assistance, due account shall be taken of any income or property of the applicant and of any support which he may receive from other sources. THE COUNTY DEPARTMENT SHALL make an award which, including any subsequent modification thereof, shall be binding upon the county, and shall be complied with by the county until such award or modified award is vacated. THE COUNTY DEPARTMENT shall notify the applicant and the state department of its decision in writing. Such assistance shall be paid monthly to the recipient upon warrant of the county auditor, from the county welfare fund, upon a verified schedule of the recipients and the amount payable to each such recipient, prepared and verified by the county director, in accordance with THE AWARDS MADE BY THE COUNTY BOARD. All schedules shall be filed in the form prescribed by the state department." (Our italics and capitals.)


"Section 75. Granting of assistance. Upon the completion of such investigation, THE COUNTY DEPARTMENT shall decide whether the child is eligible for assistance under the provisions of this Act and shall determine the amount of such assistance and the date on which such assistance shall begin. In determining the amount of such assistance, due account shall be taken of any income or property of the child and of any support which he may receive from other sources. THE COUNTY DEPARTMENT shall make an award which, including any subsequent modification thereof, shall be binding upon the county and shall
be complied with by the county until such award or modified award is vacated. THE COUNTY DEPARTMENT shall notify the applicant and the state department of its decision in writing. Such assistance shall be paid monthly to the recipient upon warrant of the county auditor, from the county welfare fund, upon a verified schedule of the recipients and the amount payable to each such recipient, prepared and verified by the county director, in accordance with THE AWARDS MADE BY THE COUNTY BOARD. All schedules shall be filed in the form prescribed by the state department.” (Our italics and capitals.)


The first of the above sections refers to the granting of assistance to aged persons and the second to the granting of assistance to dependent children.

In the consideration of your questions I desire to refer, also, to Section 27 of The Welfare Act of 1936, which is as follows:

“Section 27. Use of term ‘department.’ Whenever by any of the provisions of this Act, or of any other Act, any right, power or duty is imposed or conferred on the state department of public welfare, the right, power or duty so imposed or conferred shall be possessed and exercised by the state board of public welfare or the county board of public welfare, as the case may be, unless otherwise provided in this Act, or unless any such right, power or duty is delegated to the duly appointed agents or employees of such department, or any of them, by an appropriate rule, regulation or order of the state board or the county board.” (Our italics.)


In view of the foregoing provisions, answering your first question, I think it is reasonably clear that in the absence of a contrary provision in the Act, which I do not find, the responsibility for making the final decisions and granting awards of assistance as provided in Sections 37 and 75 rests with the several County Boards of Public Welfare, unless
such responsibility or some part thereof has been by the
proper board lawfully delegated to one of its duly appointed
agents or employees as provided in said Section 27.

The answer to your second question is in the affirmative.

The answer to your third question is the same as the answer
to the first. See, in addition to the sections already referred
to, Sections 43 and 73.

Answering your fourth question, I think the Board should
record in its official proceedings its official action on each in-
dividual case. The details are to be prescribed by the State

Your sixth question presents some difficulties. The next to
the concluding sentence of each of Sections 37 and 75 refers
to the awards as “awards made by the county board” which
does not occur in the sections concerning changes in awards.
However, I doubt whether any different rule was intended
to apply to reconsiderations than applies to the consideration
of original applications and I doubt whether any true dele-
gation is intended to apply to any such matters so as to make
the Director stand in the place of the principal; but appar-
ently the Board may in its discretion authorize the Director
to act for it pursuant to an appropriate rule, regulation or
order fixing a specific basis to govern his action where such
a rule, regulation or order may be made to cover the case
under consideration.

Answering your sixth question, I think awards, changes of
awards, revocation of awards and rejections of applications
should be signed by the members of the Board unless the au-
 thority so to do has been delegated to the Director, in which
case, he may sign them, making an appropriate reference to
his authority so to do. Where the Director is authorized to
sign for the Board I think it is probably sufficient to state in
the body of the instrument that such signing is “by authority
of the County Board of Public Welfare of .......... County,”
inserting the name of the County in the blank; but the au-
 thority should be formally entered of record in the minutes
of the Board.