

OPINION NO. 67-094**Syllabus:**

1. A county welfare department may not pay its employees on a semi-monthly basis.
2. A county welfare department may not have a standard work week of $37\frac{1}{2}$ hours.

To: Wayne Ward, Director, Department of State Personnel, Columbus, Ohio
By: William B. Saxbe, Attorney General, October 17, 1967

I have before me your letter of recent date wherein you pose several questions with regard to Section 143.091, Revised Code, which places county welfare employees under the same salary schedule as state employees. You ask the following three questions:

"(1) If a welfare department continues to pay its employees on a semi-monthly basis, should the amount of pay be adjusted each pay period to conform with the number of work hours in that pay period, or should the amount of pay be constant?

"(2) Can a county welfare department continue to have a standard work-week of $37\frac{1}{2}$ hours? If so, should the employees be paid on the basis of hours worked or should they receive the same basic pay as the employee in another department who works a 40-hour week?

"(3) If employees on a $37\frac{1}{2}$ hour work-week are paid on an hourly basis for time worked, can the Director of State Personnel assign such

employees to a higher step in the pay range, in order to make up for the work-week difference?"

Section 143.091, Revised Code, effective July 25, 1967 (Amended Substitute House Bill No. 421) to which your letter refers states in pertinent part:

"(A) All positions, offices, and employments in each county department of welfare, except positions used exclusively in the retarded children's program or in an institution operated by a county welfare department, are hereby assigned to the pay ranges established in section 143.10 of the Revised Code if the classification is enumerated in section 143.09 of the Revised Code. * * *

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"(E) Employees of each county welfare department shall be paid a salary or wage in accordance with the rates set forth in section 143.10 of the Revised Code and progress in their employment pursuant to divisions (E), and (F), and (G) of section 143.10 of the Revised Code. The provisions of section 143.11 of the Revised Code concerning the standard work week shall also be applicable to employees of county departments of welfare."

(Emphasis added)

The standard work week as provided in Section 143.11, Revised Code, states in part as follows:

"Forty hours shall be the standard work week for all employees whose salary or wage is paid in whole or in part by the state. * * *

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Paragraph (E) of Section 143.091, supra, refers to Section 143.10, Revised Code, effective May 17, 1967; paragraph (B) of Section 143.10, Revised Code, states:

"(B) The pay schedule of all employees shall be on a bi-weekly basis with amounts computed on an hourly basis."

Construed together, the terms of Sections 143.091, 143.10 and 143.11, Revised Code, clearly provide that county welfare workers (1) should be paid bi-weekly, with salaries to be computed on an hourly basis; (2) should work the standard work week of 40 hours. This conclusion assumes that the workers referred to in your questions are not part-time employees as provided for in paragraph (C) of Section 143.10, supra.

My answer to your first and second inquiries render it unnecessary to consider your third question.

It is therefore my opinion and you are accordingly advised as follows:

1. A county welfare department may not pay its employees on a semi-monthly basis.
2. A county welfare department may not have a standard work week of $37\frac{1}{2}$ hours.