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PUBLIC ASSISTANCE BOARD OF APPEALS—WITHOUT AUTHORITY OR JURISDICTION TO REVIEW DECISIONS OF STATE DEPARTMENT OF PUBLIC WELFARE—IN RE APPLICATIONS FOR AID TO DEPENDENT CHILDREN WHERE APPEAL FILED BY COUNTY ADMINISTRATION TO PUBLIC ASSISTANCE BOARD OF APPEALS.

SYLLABUS:

The Public Assistance Board of Appeals is without authority or jurisdiction to review decisions of the State Department of Public Welfare, concerning applications for aid to dependent children where an appeal has been filed by the county administration to the Public Assistance Board of Appeals.

Columbus, Ohio, April 20, 1949

Hon. J. H. Lamneck, Director, Department of Public Welfare  
Columbus, Ohio

Dear Sir:

I wish to acknowledge receipt of your letter requesting my opinion, which states:

“Section 1359-39 establishes a Public Assistance Board of Appeals. Can a county official who is dissatisfied with the decision

of the State Department made after a hearing as provided in Section 1359-34 appeal the matter to the Public Assistance Board of Appeals, or is the decision of the State Department final and to be complied with by the county administration?"

I assume from the facts set out in your letter and supplemental information as contained in a letter from the county administration, that you are solely concerned about the power of the Public Assistance Board of Appeals to review an order as made and issued by the State Department of Public Welfare. It appears that an applicant was denied aid to dependent children by the county administration and later the applicant availed herself of the right to appeal to the State Department of Public Welfare; that the State Department of Public Welfare upon review of the application for aid, granted an order fixing the amount of aid to be received from which order the county administration seeks an appeal to the Public Assistance Board of Appeals.

The Legislature in 1936 (116 O.L., Pt. II, 188) enacted a plan of the state of Ohio for aid to dependent children, to conform to the requirements of title IV of the act of Congress of the United States, approved August 14, 1935, and known and styled as the "Social Security Act." By amendment of Section 1359-39, General Code, in 1941 (119 O.L. 668) the Public Assistance Board of Appeals was created. The pertinent part of that section, in relation to your question, reads as follows:

"There is hereby created a public assistance board of appeals consisting of the attorney general of the state of Ohio, the director of finance and the auditor of state. Any county official having a responsibility defined by law for the administration of aid to dependent children in the county may appeal to such board if dissatisfied with any order of the state department of public welfare issued pursuant to this section of this act. Such board shall review the action of the state agency as to whether such action was unreasonable, arbitrary or capricious and, upon reaching a decision, shall remand the case to the state agency for a redetermination of the issues by the state agency in accordance with the analysis by the board of appeals as to the legality and fairness of the issues involved. Such appeal shall be filed with the said board within three days after receipt of formal notice by the county administration for aid to dependent children from the state department of public welfare of its intention to invoke the provisions of authority granted herein and the said appeal shall be heard within three days thereafter. The board shall give its decision within ten days after the appeal has been made and shall send a copy of this decision to the state department of public welfare,

and to the county administration for aid to dependent children. Following the review by the board of appeals the state department shall proceed with the study of the issues involved and the findings of the state department shall be final, conclusive and binding upon the county administration."

Your request for my opinion involves an interpretation of this section of the General Code, which must be made in consideration of other sections of the Code on the subject matter which read as follows:

Section 1359-34, General Code.

"Application for aid under this act shall be made to the county administration and the application shall contain such information as the state department of public welfare may require. Whenever a county administration shall receive an application for aid under this act, it shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain the facts surrounding the application and to obtain such other information as may be required. Upon the completion of the investigation the county administration shall determine whether the applicant is eligible for aid under this act, the amount of aid he should receive and the approximate date when such aid shall begin. If, at any time during the continuance of aid, the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, it shall be his duty to notify the county administration of this fact immediately upon the receipt or possession of such additional income or resources.

"An applicant or recipient aggrieved because of a county administration's decision or delay in making a decision shall be entitled to appeal to the state department of public welfare in the manner prescribed by the said department and shall be afforded reasonable notice and opportunity for a fair hearing. All decisions of the state department of public welfare made on appeal shall be final and shall be binding upon and shall be complied with by the county administration."

Section 1359-35, General Code.

"\* \* \* (f) to afford a fair hearing to any individual entitled thereto under section 1359-34 of this act, in which case the finding and order of the state department of public welfare shall be final; (g) to administer and expend, pursuant to this act, any sums appropriated by the general assembly for the purposes of this act and all sums paid to the state of Ohio by the secretary of the treasury of the United States as authorized by title IV of the said 'social security act'; (h) to conduct such investigations from time to time as it may deem necessary for the purposes of this act; \* \* \*."

As a result of the reading of these sections I find that under Section 1359-34, supra, provision is made for the manner of filing applications for aid the determination of the eligibility of the applicant and the amount of aid to be allowed the applicant with the fixing of the approximate date when such aid will begin. Also under this section, an applicant or recipient is granted the right of appeal to the state department of public welfare because of a decision or a delay in making a decision by the county administration. This section further provides that all decisions made by the state department of public welfare shall be final and be binding upon and complied with by the county administration.

The Public Assistance Board of Appeals having been established under Section 1359-39, supra, is limited to consideration of appeals as are set out and defined in that section. Its limitation arises by that part of the section, reading as follows:

“\* \* \* Any county official having a responsibility defined by law for the administration of aid to dependent children in the county may appeal to such board if dissatisfied with any order of the state department of public welfare issued pursuant to this section of this act.”

The subject matter of this entire section is limited to any county official to appeal to the Public Assistance Board of Appeals where the amounts appropriated to the county board are withheld or the payments as aid to a recipient of the county for failure to comply with rules and regulations of this act. This limitation of the powers and authority of the Public Assistance Board of Appeals is expressed in clear language in this section of the act.

Where the intent of the Legislature is clear and that intent limits the functions of a body created and established by it, there need be no determination where the duties and powers are so clearly defined and limited, as under Section 1359-39, General Code, supra.

It is my opinion that the act and its respective Sections 1359-34 and 1359-39, supra, do not vest jurisdiction in the Public Assistance Board of Appeals to the reviewing of matters relating to the granting or denial of aid to applicants for aid to dependent children.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.