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ARIZONA ATTORNEY GENERAL

August 2, 1961

Mr. Fen Hildreth, Commissioner
State Department of Public Welfare
Room 125, State Office Building
Phoenix 7, Arizona

Dear Commissioner:

In your letter of July 11, 1961, you pose certain problems to this office. The first of these comes about in a situation where children are living with their natural mother and their stepfather. The stepfather, although he has a sufficient income, refuses to pay any money towards the maintenance and upkeep of his stepchildren. In such a case the question becomes, can the Department of Public Welfare expend any funds to aid these children and, if so, in what amount?

A.R.S. §46-207(A)(3) provides:

"A. In no event shall assistance paid any recipient under this title be an amount, which when added to income from all other sources, causes the total of income and grant to exceed:
* * *

3. For three or more recipients in the same family unit, two hundred twenty dollars per month."

In the event the stepfather's income were to be in excess of \$220.00, would this above-quoted prohibition deny the Department of Public Welfare the power to aid the stepchildren? In this jurisdiction a stepfather has no legal obligation to support his stepchildren as the burden of the children's support remains with the natural father.

It would appear to this office that for the purposes of Title 46, the stepchildren are a separate family unit even though they, with their natural mother, are living with the stepfather. Under these circumstances, it is obvious the stepchildren as a family unit have no income so as to make them ineligible for assistance because of A.R.S. §46-207(A)(3).

Originator	OPINION NO.
BARRY LEVERANT	
I Concur	
DARRELL SMITH	
STIRLEY NEWELL	
I Concur	
CLARK KENNEDY	

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We then must determine what the amount of assistance will be. A.R.S. §46-294(A) provides:

"A. In determining the amount of assistance which a recipient may receive the state and county departments shall consider and take into account living conditions and all facts and circumstances surrounding the applicant or recipient, including earning capacity, income and resources from whatever source received. The amount of assistance when added to all other income, resources, support and maintenance shall provide such person with a reasonable subsistence compatible with the mode of living to which the recipient is accustomed. In each case an assistance plan shall be adopted based upon the foregoing provisions of this section. In no event shall the total amount of assistance paid under this article to any recipient exceed eighty dollars for any calendar month for a family containing one dependent child, and twenty-seven dollars for each additional dependent child, but in no event shall any one family receive assistance in excess of two hundred twenty dollars per month."

It can be seen from a reading of this section that normally it is expected that a dependent child will be living with one or both parents and that one or both parents will also have a need for assistance. In the case before us, however, this is not true. You do not have a responsibility by the Department of Public Welfare for either of the parents. This is so as the stepfather has a sufficient income for himself and the natural mother of the children. The stepchildren are the only ones who are dependent and eligible for public welfare assistance.

It is, therefore, the opinion of the Attorney General that in computing a total amount of aid under A.R.S. §46-294, the department does not allot a maximum of \$80.00 for the first dependent child and \$27.00 for each dependent child thereafter, but that the department must compute assistance in an amount not to exceed \$27.00 per dependent child.

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I trust this will be of assistance to you.

Cordially yours,

ROBERT W. PICKRELL
The Attorney General

BARRY LEVERANT
Assistant Attorney General

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