

MAINE STATE LEGISLATURE

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December 1, 1938

To the Attorney General from the Assistant assigned to M. U. C. C.
Re: Relief Work

The Maine Unemployment Compensation Commission has requested a ruling as to the status of payments received by individuals for services performed on Federal, State or Municipal relief work projects.

In the early days of the administration of the benefit program, I gave the Commission an informal opinion that such services were more in the nature of charitable relief than employment as contemplated under the Maine Law and that consequently, even though a person were receiving work relief, he would, nevertheless, be eligible for unemployment benefits.

Subsequently, the Social Security Board adopted, as a statement of policy, the principle that work relief constitutes a security wage, as such individuals would be required to declare "earnings" received from such sources in applying for unemployment benefits and that the amount so received should be deducted from the weekly unemployment benefit amount to which the individual would otherwise be entitled. For the purpose of harmonious relationship between this State Agency and the Social Security Board and to facilitate administration, I changed my previously stated opinion and the Unemployment Commission followed the policy adopted by the Social Security Board.

These events transpire in January, February and March of 1938. The problem should be settled by this time, but I am informed by the Commission that the status of relief workers is a source of constant confusion in its administration.

It is my opinion that when one has earned sufficient wage credits in industry to entitle him to unemployment benefits, in the event he becomes unemployed, the Maine Law creates a right in that individual to claim and receive such benefits purely as a matter of right and not as a matter of charity. While it may be true that the performing of services for remuneration upon work relief projects may be employment in common parlance, I can not believe that such activity can constitute employment within the meaning of the Maine Unemployment Compensation Law. Such services are not performed in a capacity in any respect analogous to jobs in industry. The individual is not permitted to remain on the job until the work is done but only until such times as he has received what amounts to a bare subsistence amount for himself and his family and when this amount is received he is removed from the relief roll and another takes his place.

The administrative difficulties can be briefly summarized as follows: Under the system that the Commission is now following, unemployment benefits are supposed to be reduced by the amount of relief work wage that the claimant has received during the week. As the Commission reduces benefits by such amounts, the relief Agency is required to increase the relief work, the claimant then must report increased relief work which thereby reduces the weekly unemployment benefit amount, thus starting a vicious circle.

The system which I believe should be followed, which the Commission believes should be followed and which, in my opinion, is more reasonably justified as a matter of law would require the Commission to pay the weekly benefit amount in full which the claimant is entitled to as a matter of right and then if the claimant needs more money for his subsistence wage, the relief project organizations can give the claimant relief work in such amounts as may be necessary to make the difference between his unemployment benefits and his weekly subsistence expense.

I, therefore, recommend that this department, in responding to the request of the Commission for a ruling, should issue its ruling to the effect that:

"Federal, State or Municipal subsistence allowances in any form are not employment within the meaning of the Maine Unemployment Compensation Law."

For your convenience, in the event that you wish to follow this recommendation, I am enclosing a letter prepared for your signature addressed to the Commission to this effect.

John S. S. Fessenden
Assistant Attorney General

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