In the case sub judice paragraphs "a" and "b" are specific, particular provisions, while paragraph "y" is a general provision. Therefore, the question is resolved by the application of the principle ennunciated supra.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: GRACE J. FORD,
Assistant Deputy Attorney General.

NOVEMBER 30, 1950.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 86.

DEAR COMMISSIONER BATES:

This acknowledges your request for an opinion from this office respecting certain aspects of the proper division of cost to be shared by the State and several counties for assistance furnished pursuant to the provisions of Chapter 5, Title 30.

Specifically, you desire to be advised whether the procedure now being followed by the State Board of Child Welfare, within the jurisdiction of your department, constitutes a proper interpretation to be placed upon the statutes referred to in your request and which will be dealt with hereinafter.

It is our opinion and we so advise you that the present procedure now being followed by the Board of Child Welfare with respect to division of cost between the State and several counties for assistance rendered under the pertinent sections of our statutes is a correct and proper interpretation of those laws.

An examination of the pertinent statutes reveals that in 1936 the Federal Government first made available to New Jersey a proportionate share of the cost of rendering assistance to dependent children under Chapter 5, Title 30, Revised Statutes. It became necessary, in connection therewith, to amend the New Jersey laws and this was accomplished by the provisions of Chapter 33, P. L. 1936. At that time, the Federal Government agreed to pay one-third of the cost of rendering assistance to children living with those relatives enumerated in R. S. 30:5-7, which was enacted in 1936 to conform with Federal requirements. With respect to assistance necessary for children not in this limited category, the Federal Government contracted to pay nothing.

It is significant, therefore, in reading R. S. 30:5-7, that each county was made chargeable with one-third of the cost of assistance rendered in Federal participation cases, the Federal Government paying one-third and the State paying the other one-third.

The law of 1936 further provided that in all other cases, i. e., those wherein the Federal Government would not participate, the county and State would each pay one-half of the cost of rendering such assistance. We are informed, further, that in any situation where the amount of the grant exceeded the maximum established by the Federal Government, beyond which the Federal Government would not participate, that such excess was paid in equal one-half shares by the State and county.

To further support this interpretation, it was also provided in R. S. 30:5-7 that, if Federal aid should be withdrawn, the county share of rendering such assistance to dependent children should be one-half in all cases.

Therefore, since the establishment of the program wherein the Federal Government began to contribute to the cost of rendering aid to dependent children in New Jersey, we see a legislative policy, clearly estalished, that the State and county shall each pay an equal share of that portion of the cost of rendering such assistance wherein the Federal Government did not participate.

It is also desirable to examine R. S. 30:5-8, relating to sharing the cost of assistance to dependent children, which related to the establishment of county legal settlement for such child. If such child did not have the one-year county settlement prescribed by statute, the State assumed the full burden of the cost until county residence was created and then the county would pay a sum equal to that paid by the State.

From the outset, the Federal Security Act imposed a maximum upon the amount of assistance rendered a child as to which the Federal Government would pay a proportionate share. We are informed that since 1936, it has been the accepted custom and procedure in New Jersey for the State to receive the Federal Government's share of the cost of such assistance based upon the maximum established by the Federal Act and thereafter the State and county pay the remainder in equal portions.

Subsequently, in 1944, the Federal Government increased its proportionate share, within established maximum ranges, to 50%. Thereupon, the New Jersey legislature, by Chapter 194, P. L. 1944, amended R. S. 30:5-7 to conform our law to the circumstances created by the Federal increase. In the 1944 amendment, since the Federal Government paid one-half of such cost, the county was made chargeable with one-fourth of the cost, when the child was living with certain specified relatives, and the State paid a like amount.

It is important to remember that in 1936, when Federal aid first began, and in 1944, when it was increased, the Legislature, by appropriate enactment, established the proportionate percentages to be paid by the counties. Since 1944, on two occasions, the Federal Government has further altered its program of participation to provide a still greater portion of Federal aid, within the maximum limits prescribed in the Federal Act. It is significant, however, that on these two occasions the Legislature did not alter the 1944 formula, which required the county to pay 25% of the cost of rendering assistance to dependent children within the maxima established by the Federal Government and in those cases wherein Federal participation was had.

Inasmuch as the Legislature, since 1944, permitted the formula to remain unchanged, the State had no alternative but to submit to the counties a bill for 25% of cost of this type of assistance within the limits of the maxima imposed by the Federal law. We are informed that this was the procedure, that it was accepted by the counties and the bills have been paid.

With respect to the cost of assistance rendered above the maxima prescribed by the Federal law where there is no Federal participation and in those cases where,

for other reasons, no Federal aid is forthcoming, we are informed that the State submitted to the several counties a bill for one-half of the cost of such assistance.

We are of the opinion that this is in conformity with the legislative intent as expressed in the earliest 1936 statute, and which was carried forward into the amendments thereto, to the effect that in situations where Federal aid was not available or was withdrawn that the cost of assistance in non-Federal cases would be borne equally by the State and the several counties affected thereby.

It appears to have been suggested that the county should only be required to pay 25% of the cost of assistance above the Federal maxima and that the State should pay 75% thereof. We must reject this view for we find it to be without support in the language of the law which has made specific provision for the distribution of cost in cases where the Federal Government does not participate or withdraws its financial support above the maximum arbitrarily established by it.

If it is to be the intention of the Legislature to provide for this type of unequal division of costs between the State and county in situations where the Federal maximum is exceeded, then such should appear in the language of the law in clear and unambiguous words. We find no such intent.

For the reasons stated hereinabove, we are of the opinion that the procedure followed by the State Board of Child Welfare in submitting bills to the several counties for the county share of the cost of rendering assistance to dependent children reflects a proper interpretation of the legislative intent set forth in the pertinent portions of our statutes.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: EUGENE T. URBANIAK,
Deputy Attorney General.

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