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BLIND PENSIONS - Right of Missouri Commission for the Blind
to suspend payment of.

September 11, 1934



Missouri Commission for the Blind,
3058 Westminister Place,
St. Louis, Missouri.

Attention Miss Marie M. Finsch,
Pension Secretary.

Gentlemen:

A request for an opinion has been received from you under date of August 23, 1934, such request being in the following terms:

"We respectfully request your advice as to whether or not the Commission has authority to suspend payment of pension to pensioners, who refuse to pay their debts, such as rent, grocery bills, doctor bills, and so forth.

We have pensioners who have accounts with grocers, who give them credit for three months and expect to receive payment of account when the pensioner receives his quarterly check and then the pensioner refuses to pay. These accounts range from \$5.00 to \$50.00. Naturally these merchants appeal to us for assistance in collecting their bills.

Also can we legally, under the law, suspend payment of pension to those who dissipate or permit others to dissipate their pension, and as a result are without funds and are on relief rolls and being assisted by organized charities. We have cases where pensioners are without funds a week after receiving pension and are appealing to these charities to give them financial assistance. In several instances we have insisted pensioner give power of attorney to some reliable, reputable person, which has been done and as a result the pensioner is receiving the full benefit of the pension of the state. Are we within our bounds in doing this? Our only object is, of course, to protect the pensioner and to aid and assist him, when he is apparently unable to do so for himself.

Assuring you of our appreciation for your advice in this matter, we beg to remain"

Revised Statutes of Missouri 1929, Section 8893, provides that certain blind persons "shall be entitled to receive * * * an annual pension * * * payable in equal quarterly installments." There are two usual methods of dispensing money charitably, one, the method of direct payment for relief, and the other, the method of another person or an administrative body receiving such money and applying it for the use of the person being supported, in which latter method, which is a form of trusteeship, the beneficiary never receives the actual money devoted to his use, but only receives the things purchased therewith. It will be observed that the above statute indicates that the first of these methods is the method prescribed for blind pensioners.

Revised Statutes Missouri 1929, Section 8899, which relates to the method of distribution of blind pensions, provides in part that each pensioner must fill in and send to the State Auditor as a condition precedent to the receipt of each installment of his pension a requisition "containing, among other things, a statement that the requisitioner is the recipient of the pension personally and that he or she has the free and full use of such pension." If pensions were suspended in the manner suggested in your letter, it would not be possible for such pensioners to make this statement in their requisition and consequently it would not seem that the State Auditor would be justified in drawing his warrant for the payment of such pensions.

Revised Statutes Missouri 1929, Section 8902, provides as follows:

"It shall be unlawful for any person, organization, society, group or association to request, require, coerce, solicit or induce any pensioner under this article to contribute, donate, give, allot or part with, unwillingly, for any purpose whatever, any moneys received as a pension under this article; and any person, agent or representative of such organization, society, group or association who commits any such act or acts shall be guilty of a misdemeanor; and it shall be the duty of the commission for the blind to investigate all such cases coming to its attention and report same to the proper authorities."

This statute in its use of such terms as "allot" and "part with" would seem to mean that attempts on the part of other persons than pensioners to have such pensioners commit themselves in advance of the receipt of their pensions to the giving away of such pensions would be prohibited. Furthermore, such Section 8902 cannot, of course, mean that pensioners cannot disperse the money received

as pensions after its receipt, because such a construction would deprive pensioners of the use of the money so received and, therefore, such Section and its prohibitions must relate to restraints on the anticipation of pension money, i. e. to attempts to convey it before it is received and, therefore, the suspension of payments or the insistence that pensioner give a power of attorney, as outlined in your letter, might well be regarded as a misdemeanor under this statute.

The question might be raised as to whether or not a person seeking and receiving charity from other agencies might be disqualified from receiving blind pensions by that part of Revised Statutes Missouri 1929, Section 8893, which provides as follows:

"and provided further, that no blind person shall be entitled to the benefits of this article * * * while publicly soliciting alms in any manner or through any artifice in any part of this state"

However, we do not believe that the provision just quoted would disqualify persons receiving relief from organized charity because it is our opinion that the statutory provision relates to public solicitation of alms such as the solicitation in public places from members of the public of contributions, and that such provision does not relate to the receiving of funds or commodities from organized charities.

A short answer to your inquiry might be that the Commission cannot suspend the actual payments of money to petitioners because under the statutes as we construe them the Commission never has any physical control over such pension money. Chapter 51 of the Revised Statutes of 1929 gives the Commission extensive powers in determining whether or not an applicant should be placed on the pension roll and in having applicants removed from the pension roll, but once an applicant is on the pension roll, as we understand this chapter and especially Section 8899 thereof, such pensioner secures his quarterly payments directly from the State Treasurer and sends his requisition therefor in directly to the State Auditor, and the Commission for the Blind has no direct connection with or control over the distribution of such pension money, as under the statutes the Commission has no legal right to receive or disburse it.

In conclusion, it is our opinion that the Missouri Commission for the Blind has no authority to suspend payments of blind

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pensions to any pensioners legally and properly on the blind pension roll.

Yours very truly,

EDWARD H. MILLER

ASSISTANT ATTORNEY GENERAL.

APPROVED:

Correll P. Smith

(ACTING) ATTORNEY GENERAL