

OLD AGE ASSISTANCE: Applicant may appeal to the Circuit Court from the decision of the State Board as to amount of assist allowed

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Mr. C.E. Larkins, Vice Chairman,
Buchanan County Old Age Assistance Board,
Room 26, Court House,
St. Joseph, Missouri.

Dear Sir:

This will acknowledge receipt of your letter requesting an opinion from this Department, which reads as follows:

"It is the contention of the Chairman of this Board that an applicant has no right of appeal to the Circuit Court on the action of the State Board except as to his or her property or income, residential or other qualifications, to receive the benefits of this Act, and may not appeal from the decision of the Board as to the amount of allowance in each case.

"We would appreciate an early opinion by your office in this matter as we have a large number of applicants who are much dissatisfied with the allowance in their case, and we desire to give them the proper information as to how to proceed."

Section 10 of the Old Age Assistance Act provides:

"Whenever an application is made for old age assistance, the county board shall promptly make investigation of the facts, and after hearing the applicant, if it

approves the application, shall make a recommendation of the amount of assistance to be allowed, or, if it disapprove, make a recommendation that no assistance be allowed. Upon the request of an applicant, the county board may, if it sees fit, direct a rehearing, of which the applicant shall have at least ten days' notice, and at which he may appear and offer evidence. The decision of the county board shall be forwarded to the State Commissioner who may approve or disapprove, or recommend changes in the decision of the county board. If the State Commissioner and the county board are unable to agree in regard to the allowance, disallowance, or the amount of assistance, the application, along with a record of all the proceedings in regard to it, shall be forwarded to the State Board for review, whose decision shall be final, subject to the right of appeal as herein otherwise provided.
* * * * "

An applicant's right to appeal to the Circuit Court from the action of the State Board is found in Sec. 25 of the Act, which said section reads as follows:

"Any person claiming the benefits of this Act who is aggrieved by the action of the State Board as to his or her property or income, residential or other qualifications to receive the benefits of the Act may appeal from its decision to the circuit court of his or her judicial circuit within ninety days from the decision complained of, by giving the State Board notice of such appeal; such appeal shall be had and tried in the circuit court de novo as appeals from decisions of justices of the peace, and the judgment rendered thereupon shall be final; and if such judgment be in favor of the appellant a certified copy of same shall be mailed to the State Board."

The amount of assistance that a person is entitled to by reason of the provisions of the Old Age Assistance Act is determined according to Section 5 of said Act "with due regard to the conditions in each case"; in other words, the amount of assistance is necessarily determined by reference to the applicant's "property or income, residential or other qualifications".

CONCLUSION

It is the opinion of this department that an applicant for Old Age Assistance may appeal to the Circuit Court from the decision of the State Board as to the amount of assistance allowed him for the reason that in reality an appeal for this reason is an appeal predicated upon the alleged wrongful action of the State Board as to the applicant's "property or income, residential, or other qualifications".

If such an appeal be taken, the matter must be determined in the Circuit Court de novo as appeals from the decisions of justices of the peace, and the judgment rendered thereupon shall be final.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

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