

It is the duty of the State Old Age Assistance Board to obtain as much benefit as possible from the Federal Government and not to pay retroactive claims.

July 6, 1936



Honorable Allen M. Thompson, Commissioner
Old Age Assistance Division
Jefferson City, Missouri

Dear Sir:

We have received your letter of June 26, 1936, in which you request this department for an opinion on the following subject:

"You are familiar with the Missouri Old Age Assistance Law pertaining to the payment of assistance. The Federal Government does not match retroactive grants except for the current quarter and the quarter immediately preceding the current quarter. In order that the State of Missouri may secure the largest possible sum of money from the Federal Government for the use of Old Age Assistance, it is our purpose to pay from the State Treasury only the retroactive grants that will receive Federal matching and let the grants for any months which do not receive Federal matching stand as an obligation of the state to be dealt with by the next session of the Legislature.

May we have an opinion of your office as to whether or not there would be any legal objection to such a plan. "

We are not certain that we have a correct understanding of the following part of your request.

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"The Federal Government does not match retroactive grants except for the current quarter and the quarter immediately preceding the current quarter."

for the reason, as we understand it, if the Federal Government matches a preceding quarter to a current quarter and matches following quarters, there could not be another preceding quarter.

Furthermore, the Federal Act, U.S.C.A. Title 42, 1935, cumulative annual pocket part, page 87, provides that the method of computing and paying such amounts to the State, is that the Social Security Board shall "prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under * * * a report filed by the State containing its estimate of the total sum to be expended in such quarter." Since we do not find any authority in the Federal Act authorizing the Federal Board to allot or grant to the State money for a preceding quarter to the current quarter, we do not feel that this department should pass upon any action that the Federal Board has or may take with reference to its powers and duties.

If we have a proper understanding of your inquiry, it is that you desire an interpretation of the Old Age Assistance Act enacted by the 1935 General Assembly of Missouri, found at page 309, et, seq., relative to the authority of the State Board to pay old age assistance for the current quarter and following quarters in preference to paying the old age assistance from the time that the applicant's petition was received by the County Boards, if funds are insufficient to pay both.

The Old Age Assistance Law was enacted for the purpose of complying with the constitutional amendment, which was voted by the people of Missouri on November 8, 1932. The amendment (Section 1) provides:

"That Article IV, Section 47 of the Constitution of Missouri be, and the same is hereby amended by adding at the end of said section the following words: 'Provided further, that nothing in this Constitution contained shall be construed as prohibiting the General Assembly from granting or authorizing the granting of, pensions to persons over seventy years of age, who are incapacitated from earning

a livelihood and are without means of support, as may be provided and regulated by law.'"

The Legislature, for the purpose of carrying out the wishes of the people as expressed by the constitutional amendment, supra, enacted the Old Age Assistance Law, (Laws of Missouri, 1935, pp. 309, et seq.) which became effective July 27, 1936. The sections of the law which are pertinent to your inquiry are as follows:

Section 4 of said Act, Laws of Missouri, page 309, which provides:

"Subject to the provisions and under the restrictions contained in this Act, every aged person who has no income or an income inadequate to provide a reasonable subsistence compatible with decency and health * * * "

Section 14, page 312, which provides:

"The assistance, if allowed, shall commence on the first day of the calendar month, following that on which the petition was received by the county board."

Section 24, pages 313 and 314, which provides:

"The State Board shall prepare an Old Age Assistance Roll upon which shall be placed the names of all those granted and then entitled to have Old Age Assistance Certificates. The State Board shall certify to the State Auditor the names of all those persons on the Old Age Assistance Roll, and the State Auditor shall supply to all person whose names then appear on the State Old Age Assistance Roll suitable blank forms for monthly or quarterly requisitions, as the case may be, which requisitions shall state among other things that the requisitioner is the recipient of the assistance

personally and that he or she has the free and full use thereof, and that the same is devoted exclusively to his or her needs, giving his or her present address; and each applicant shall forward each requisition for assistance last accrued to the State Auditor who shall draw a warrant in favor of such applicant upon the State Treasurer for any monies in the treasury available therefor * * *

Section 27, page 314, which provides:

* * * and the State Board shall cooperate with the Federal Government in the administration of this Act, furnish the Federal Government with any and all information desired relative to the payment of pensions or old age assistance and the cost of administration of this Act, and do any and all other things which may be necessary or required so that the State of Missouri may secure the full benefit of any Act of Congress providing for payment of all or part of the costs of carrying out the provisions of this act."

In construing the above sections it is necessary to keep in mind the fundamental rules of construction of statutes, and that all must be read together to ascertain the purpose and intention of the Legislature.

In 59 Corpus Juris, page 993, paragraph 594, it is said:

"In construing a statute, the legislative intention is to be determined from a general consideration of the whole act with reference to the subject matter to which it applies * * *, and the intent as deduced from the whole will prevail over that of a particular part considered separately."

And at page 995, paragraph 595:

"* * * It is a cardinal rule of construction of statutes that effect must be given, if possible, to the whole statute and every part thereof. To this and it is the duty of the court, so far as practicable to reconcile the different provisions so as to make them consistent, harmonious and sensible."

And in Lewis-Sutherland's Statutory Construction, Vol. 2, 2d Ed., page 693, it is stated:

"Intent is the spirit which gives life to a legislative enactment.' 'In construing statutes the proper course is to start out and follow the true intent of the Legislature and to adopt the sense which harmonizes best with the context and promotes in the fullest manner the apparent policy and objects of the Legislature.'"

And we find the rule stated succinctly in 25 Ruling Case Law, page 1006, paragraph 247, as follows:

"Obviously, in order that effect may be given to every part of an Act in accordance with the legislative intent, all the language of the act must be considered and brought into accord."

The Supreme Court of Missouri, in Logan v. State Highway Commission, 330 Mo. 1213, 1. c. 1219, said:

"The two sections of the statutes should be read and construed together. In construing a statute the court must, if possible, give effect to the whole and every part thereof, provided the interpretation reached is reasonable and not in conflict with the legislative intent."

From a reading of the whole act it is evident that it was the intention of the Legislature to provide assistance for every person qualifying under the provisions of the Act. The Legislature, for the purpose of making the Act effective, appropriated two and one-half million dollars (\$2,500,000), Section 46-H-2, page 179, Laws of Missouri, 1935, and the sum of two and one-half million dollars (\$2,500,000) was appropriated out of any funds granted to the State of Missouri by the Federal Government for old age assistance during the years 1935 and 1936, Section 46-H-3, which is a total appropriation of five million dollars (\$5,000,000) for said years, for old age assistance.

Section 14 of the Act unquestionably fixes the time when the assistance, if allowed an applicant by the County Board, shall commence, which is on the first day of the month following the time the petition was received by the County Board. The obligation of the State to the qualified applicant begins at such time. Whether or not the State meets the obligation and pays the qualified applicant, depends upon the action of the Legislature in providing funds therefor. The time that the Federal obligation and the State obligation begin are not concurrent. The Federal participation in matching the payments made by the State to a qualified applicant begins the preceding quarter to a current quarter.

The question is presented, what is the power and duty of the State Board in administering the Act in view of the State and Federal Acts? Calling your attention again to Section 27, supra, you will note that the section makes it mandatory for the State Board to cooperate with the Federal Government, "and do any and all other things which may be necessary or required so that the State of Missouri may secure the full benefit of any act of Congress providing for payment of all or part of the cost of carrying out the provisions of this Act."

It is certain and plain that it was the intention of the Legislature that the State Board should do everything necessary to obtain all the benefits possible from the Federal Government in carrying out the purposes of the Old Age Assistance Act of Missouri. It was not the intention of the Legislature of Missouri that assistance be paid out of the State funds exclusively, but should be paid from Federal and State funds.

It is not mandatory for the State Board to pay retroactive obligations. The mandatory provision in Section 14 applies only to the time when the obligation begins. For the State Board to pay out State funds in payment of retroactive claims, it will deprive thousands of eligible persons from receiving what they are entitled to for the current and following quarters and in administering the Missouri Act, it is the imperative duty of the State Board to obtain the full benefit of Federal funds that may be had by matching dollar for dollar.

Section 24 of the Act also supports the view that it was the intention of the Legislature that State funds should only be paid to eligible persons when such funds are matched by the Federal Government. The section contains the following language:

"* * * The State Board shall certify to the State Auditor the names of all those persons on the Old Age Assistance Roll, and the State Auditor shall supply * * * suitable blank forms for monthly or quarterly requisitions, * * * and each applicant shall forward each requisition for assistance last accrued to the State Auditor."

The above language is clear that it was the purpose of the Legislature that the requisitions and the payments thereof should be for a current quarter, that is, for the quarter which the State fund would be matched by the Federal fund.

Bearing in mind it was the intention of the people as expressed by the constitutional amendment, supra, that every person over seventy years of age who is "incapacitated from earning a livelihood and are without means of support" should have assistance, the Legislature intended to provide assistance for every such person and the conclusion is inescapable that it is the plain, mandatory duty of the Old Age Assistance Board to place the names of such persons on the Old Age Assistance Roll, and the State Board has no authority to arbitrarily select and pay a certain group, or a certain number of those who are incapacitated and without means of support and refuse payment to others so situated.

Since it was not the intention of the Legislature that the State Board should have discretionary power to select and pay a given number of eligible persons from the date their petitions were filed with the county boards and refuse payments to others, the State Board should pay all persons eligible to receive assistance under the Act fixing the amount that each should receive as authorized by Section 5 of the Act, which provides "with due regard to the conditions in each case", also taking cognizance of the amount of funds available therefor.

The unexpended funds (appropriations) of the State to pay old age assistance amount to \$1,425,053 .60, less the amounts necessary for funeral expenses, approximating \$50,000, which are not matched by Federal funds, will leave a balance of \$1,375,000, out of State funds available for old age assistance. If the rules and regulations of the Federal Social Security Board are com-

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plied with, the Federal Government will match the State's available funds dollar for dollar, which will make a total of \$2,750,000. Thus, the State of Missouri would have available \$2,750,000 for the paying of old age assistance in monthly payments, which payments must be in such amounts as will continue the payments until December 31, 1936.

CONCLUSION

It is, therefore, our opinion that the State Board should administer the Old Age Assistance Law of Missouri so as to obtain the full benefit of Federal funds to match the State's payments. It is our further opinion that the State Board should not pay retroactive payments if such payments would result in the non-matching of Federal funds, but the State Board should place on the Old Age Assistance Roll every person who is eligible to receive old age assistance.

Respectfully submitted,

Assistant Attorney General

Attorney General

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