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BLIND PENSION: Recipient of a blind pension cannot be stricken from the rolls until he has been given reasonable notice and such fact certified to the State Auditor.

July 8, 1939



Miss Marie M. Finan
Pension Secretary
Missouri Commission for the Blind
3630 Grandel Square
St. Louis, Missouri

Re: Joseph L. Loyd Pension

Dear Miss Finan:

This will acknowledge receipt of your request for an official opinion under date of July 6, 1939, which reads as follows:

"The above blind pensioner is employed in the Broom Shop in St. Louis, Missouri. His salary for the twelve month period prior to March 31, 1939 amounts to \$554.40. We have now been advised by the Metropolitan Life Insurance Company that in February, 1939 he received \$228.50 settlement on an insurance policy which provided that in the event of blindness the insured was to receive that amount in settlement of payment and a paid up policy. Therefore, his income for the year prior to March 31, 1939 amounts to \$782.90, which is greater than the limit of \$600.00 allowed by the blind pension law.

"We have advised Mr. Loyd that he is now ineligible to receive the blind pension and will not be eligible to receive same until at the end of a twelve month period during which time his income is not greater than \$600.00 or more. However, we will appreciate if you will advise if whether or not in striking his name from the roll, we can make this retroactive, that is can we at this time strike

July 8, 1939

him effective as of March 31, 1939, or, since we did not check his case until June, 1939, and did not know until that time that his income was in excess of the limit allowed by the law, and did not notify him until June 24, 1939 that he would be removed from the roll, will it be necessary for us to make the strike effective as of June 30, 1939?"

Unquestionably, under the facts stated in your letter, this recipient became ineligible when he received the settlement of \$228.50 from an insurance policy.

Section 8893, R. S. Mo. 1929, provides that when any person has an income, or is the recipient, of \$600.00 or more per annum from any source whatsoever, he is ineligible to receive a blind pension. Section 8893, supra, in part, reads as follows:

" * * * provided, that no such person shall be entitled to a pension under this article who has an income, or is the recipient, of six hundred (\$600.00) dollars or more per annum from any source whatsoever."

Therefore, as stated in your letter, this pensioner was the recipient of \$782.90 for the twelve months just prior to March 31, 1939, and for this reason he is no longer eligible to receive a blind pension.

Now, you inquire as to when the recipient shall be stricken from the roll. Under Section 8896, R. S. Mo. 1929, the Commission for the Blind is authorized, upon finding anyone ineligible, to mail the recipient reasonable notice and then certify such fact to the State Auditor, who shall strike him from the roll. Section 8896, in part, reads as follows:

" * * * And whenever it shall become known to the commission that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to

July 8, 1939

such person at his or her last known residence address, such fact shall be certified to the state auditor and the name of such person shall be stricken from the blind pension roll. * * *

Therefore, notwithstanding the fact that this recipient was ineligible for a short time while he was receiving a blind pension, the statute specifically requires that he shall not be stricken from the roll until reasonable notice has been given him.

It is the opinion of this department that this recipient cannot be stricken from the roll until after the notice was mailed on June 24, 1939. We consider from June 24 to June 30, 1939, a sufficient time to constitute reasonable notice. Therefore, this recipient should be stricken from the roll as of June 30, 1939.

Respectfully submitted

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

ARH:HR

APPROVED:

J. E. TAYLOR
(Acting) Attorney General