

BLIND PENSIONS: Combined income of blind applicant and sighted spouse in excess of \$600.00 does not destroy eligibility of applicant where neither has income in excess of \$600.00 per annum.

----- June 9, 1942 -----

Mrs. Lee Johnson
Chief Investigator
Missouri Commission for the Blind
102 Capitol Building
Jefferson City, Missouri



Dear Mrs. Johnson:

Under date of May 14, 1942, you wrote this office requesting an opinion as follows:

"Kindly render an opinion on the following question. In investigating the amount of income received by the blind pensioner or applicant or his sighted spouse, should a total of Six Hundred Dollars (\$600.00) or more as joint income, be the basis for disallowing or striking a person from the rolls, or should the blind pensioner and his spouse each be entitled to an income up to Six Hundred Dollars (\$600.00)?"

It is our understanding the question relates to the total combined income of the blind person and the sighted spouse, and this opinion is written on that assumption.

Section 9451, R. S. Missouri, 1939, contains the income limitation referred to in your letter. This section is in part as follows:

"Every adult blind person, twenty-one years of age or over, of good moral character, who shall have been a resident of the state of Missouri for ten

consecutive years or more next preceding the time for making application for the pension herein provided, and every adult blind person, twenty-one years of age or over, who may have lost his or her sight while a bona fide resident of this state and who has been a continuous resident thereof since such loss of sight, shall be entitled to receive, when enrolled under the provisions of this article, an annual pension as provided for therein, payable in equal quarterly installments: 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 whatever, or who owns property, or has an interest in property to the value of five thousand (\$5,000.00) dollars or more, or who lives with a sighted husband or wife who has an income or is the recipient of six hundred (\$600.00) dollars or more per annum from any source whatever or has property or an interest in property to the value of five thousand (\$5,000.00) dollars or more, * * * * *

It will be observed the statute makes no mention of the combined income of a blind applicant and a sighted spouse. And from this section of the statute the answer to your question must be determined.

It is a primary rule of statutory construction that the intention of the Legislature should be sought for and given effect. *Graves v. Purcell*, 85 S. W. (2d) 543, and this should be done from the words used, if possible, unless the intention is in conflict with the Constitution. In *re Costello's Estate*, 92 S. W. (2d) 723. The Constitution, Article IV, Section 47, merely authorizes the Legislature to provide pensions for deserving blind persons. So the

entire matter is left to the Legislature. State ex rel. v. Thompson, 317 Mo. 903.

In Section 9451, supra, there appears to be some conflict. It authorizes the payment of a pension to certain blind persons, it next, by a proviso, limits the payment to persons who have an income in excess of Six Hundred Dollars (\$600.00) per annum. This would indicate it was apparent - by the thought of the lawmakers - that six hundred dollars (\$600.00) per annum at least would be required to adequately maintain one person. This is followed by a further proviso which prohibits the payment of a pension to a blind person living with a sighted spouse, when the sighted spouse has an income in excess of six hundred dollars (\$600.00) per annum. At no place is the combined income of a blind person and a sighted spouse mentioned.

By Section 655, R. S. Missouri, 1939, in interpreting statutes, words in ordinary usage, are to be given their ordinary meaning. The words used in this section are all words in common use, and no assistance can be derived from any technical words used in the section.

Another rule of statutory construction to which attention is directed is the object and purpose of the statute must be kept in mind. White v. Greenlee, 85 S. W. (2d) 21. The object and purpose of this section under the constitutional grant of authority is to grant to deserving blind persons a pension or gratuity from the state in order that they may be properly maintained.

A further rule of interpretation is that laws are presumably passed in a spirit of justice and for the welfare of the community and that they should be interpreted to further that purpose and attain that end. City of St. Louis v. Brandis Coal Co., 137 S. W. (2d) 668.

Also, in construing a statute, the court will adopt the meaning most in accord with the purpose of the statute. O'Malley v. Continental Life, 75 S. W. (2d) 837.

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The intention and object of the law was to grant to blind persons, without sufficient means, assistance from the state, in order that they might be adequately maintained; the amount granted is small, Twenty-five Dollars (\$25.00) per month; and at no place is there contained any provision prohibiting the giving of a pension to a blind person otherwise qualified when the combined income of such blind person and the sighted spouse exceeds Six Hundred Dollars (\$600.00) per annum, and neither alone has an income in excess of this amount. Had it been the intention of the Legislature to prohibit the payment of a pension under such a condition, a further proviso could have been included quite easily when the law was passed.

CONCLUSION

From the foregoing it is the conclusion of the writer that a blind person living with a sighted spouse, if neither the blind person nor the sighted spouse has an income in excess of Six hundred Dollars (\$600.00) per annum, although the combined income of the couple would exceed the sum of Six Hundred Dollars (\$600.00) per annum, would be eligible to receive a blind pension.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

WOJ/rv