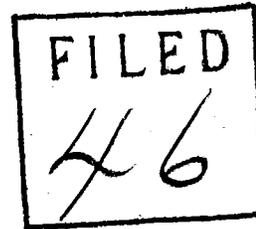


April 15, 1946



4-22

Missouri Commission for the Blind
102 State Capitol Building
Jefferson City, Missouri

Attention: Mrs. Lee Johnston,
Executive Director

Gentlemen:

This will acknowledge receipt of your request for an opinion, which reads:

"Will you kindly render an opinion on the following case: an applicant for the blind pension has been receiving \$78 per month ADC for some time. For the past five months he has been employed at \$10 per week. His combined income for the past twelve months has been considerably more than \$900.00.

"Inasmuch as the law states 'That no person shall be entitled for a pension under this article who has an income, or is the recipient, of Nine Hundred Dollars (\$900.00), or more per annum from any source whatever'. Would this render this applicant ineligible to receive a blind pension?

"Our understanding of an ADC grant is that is for the use of the children for whom it is given. Should this be considered as an income for the applicant, or as an income for his children."

We assume, for the purpose of this opinion, that if this applicant was not receiving the \$78.00 per month as aid for dependent children that he would qualify for a blind pension since he would not be the recipient of income in the amount of \$900.00 from any source whatever.

Section 9451, pages 786-7, Laws of Missouri, 1943, reads in part:

"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 provision 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 nine hundred (\$900.00) dollars or more per annum from any source whatever,
* * *"

Section 9408, page 645, Laws of Missouri, 1941, provides who shall be entitled to receive benefits under said act for aid to dependent children. Subsection (2) thereof reads as follows:

"(2) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with, father, mother grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother,

stepsister, uncle or aunt, in a place of residence maintained by one or more of such relatives as his or their own home;"

Section 9417, page 647, Laws of Missouri, 1941, specifies who shall receive such benefits, and reads in part:

"Benefits hereunder shall be delivered to the applicant in person or, in the event of his incompetency, to his legally appointed guardian, and in the case of a dependent child to the person or relative with whom he lives. * * *"

In view of the foregoing provisions, there certainly can be no question but that the aid for dependent children referred to in the Social Security Act is primarily for the purpose of the children qualifying for same and is merely paid to the relative with whom said children are living for the benefit of said children, and cannot be considered as income or money received by the applicant for a blind pension as the word "income" is ordinarily construed under the law.

There is a well-established rule of statutory construction that a statute should not be construed so as to make it unreasonable where it can be given a reasonable construction and that it should receive a sensible construction such as will effectuate legislative intention, if possible, so as to avoid an unreasonable or an absurd conclusion. (See State ex rel. St. Louis Public Service Co., v. Public Service Commission, 34 S. W. (2d) 486, 326 Mo. 1169; also see Chrisman v. Terminal Railroad Ass'n., 157 S. W. (2d) 230, 237 Mo. App. 181.)

48 C. J., Section 4, page 787, states the following principle regarding pension laws:

"While it has been held that a statute making it a criminal offense to violate a pension law must receive strict construction, it has been uniformly held that laws creating the right to pensions must be liberally construed with the view of promoting the objects of the lawmaking body; and their force and

effect are not to be conformed to the literal terms of the statute."

In Dahlin v. Missouri Commission for the Blind, 262 S. W. 420, the Springfield Court of Appeals in construing the blind pension law held that it is remedial and should be liberally construed and also construed with the object in view that was sought to be accomplished, and in so holding said (1, c. 424):

"The blind pension law is remedial, and should therefore be liberally construed; also it should be construed with the object in view that was sought to be accomplished. Straughan v. Meyers, 268 Mo. 580, 187 S. W. 1159; Lusk v. Public Service Com., 277 Mo. 264, 210 S. W. 72.

"Where certain terms of a statute are ambiguous, resort may be had to its title as a clue or a guide to its meaning. Straughan v. Meyers, supra. Looking to the title of both the act of 1921 and the act of 1923, we find that the purpose was to provide pensions for the deserving blind.

"Guided by these rules of construction, we do not think that the Legislature intended to exclude from the blind pension those who can merely distinguish between light and darkness, or motion, or the direction of motion, and no more. 'Light perception,' as used in the act, we construe to mean all that field or scope of vision from the mere ability to distinguish between light and darkness up to the ability to discern form; that is, when one is able to recognize the form of an object, such person has a greater vision than light perception. Such is the scope of light perception as defined by Dr. Schmidtman and Hansel & Sweet, quoted supra, and also by part of the specialists who testified

at the trial in the circuit court. Most of the specialists, however, as above stated, who were before the circuit court, seem to have considered that light perception should be confined to the lowest degree of vision--that is, the mere ability to distinguish between light and darkness--and that any greater vision would be greater than light perception. We do not believe that the Legislature intended such a restricted and limited scope. Such a restricted and limited construction would, for all practical purposes, render ineligible all those except the totally blind."

Conclusion

Therefore, it is the opinion of this department that the benefits under the Aid for Dependent Children Program that this applicant is receiving, is not income, to him, as the word is used in Section 9451, supra, but that said applicant is merely acting as trustee for the children who are recipients of said benefits under the Social Security Act, and therefore such benefits as he is receiving under the Social Security Act should not be taken into consideration in determining his qualifications for a blind pension.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

APPROVED:

J. H. TAYLOR
Attorney General