

BLIND PENSION: In Re: Maintenance costs granted applicant for blind pension while attending school under the rehabilitation program does not constitute income or money received from any source as provided in Section 9451, R. S. Mo., 1939.

April 17, 1946



Missouri Commission for the Blind
Jefferson City, Missouri

Attention: Mrs. Lee Johnston, Executive Director.

Gentlemen:

This will acknowledge receipt of your recent request for an opinion, which letter reads as follows:

"In taking into consideration eligibility for a blind pension, the law grants an income of \$900.00 from any source.

"We have a case of a young man who is a student at the University of Missouri under our Vocational Rehabilitation Department for whom we are paying maintenance. Should the amount of maintenance which has been paid for him in the last twelve months be taken into consideration in checking up on his income for eligibility? As this may come up in other cases, we would like to have your opinion."

Section 9451, Page 786, Laws Missouri 1943, provides, in part, that no person shall be eligible for a blind pension who has income or is the recipient of \$900.00 or more per annum from any source whatsoever, and reads:

"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, * * *"

Under Section 9447, R. S. Mo. 1939, the Missouri Blind Commission is authorized to make expenditures for rehabilitation of certain persons and pay the temporary costs of food, raiment and shelter. Said statute reads:

"The duties of said commission shall be to prepare and maintain a complete register of the blind persons within this state and to collate information concerning their physical condition, cause of blindness and such additional information as may be useful to the commission in the performance of its other duties as herein enumerated, and to investigate and report to the general assembly from time to time the condition of the blind within this state, with its recommendations concerning the best method of relief for the blind; to adopt such measures as the commission may deem expedient for the prevention and cure of blindness; to establish and maintain at such places within this state as the commission may deem expedient shops and workrooms for the employment of blind persons capable of useful labor, and to provide superintendence and other assistance therefor and instruction therein; to compensate the persons so employed in the manner and to the extent that the commission shall deem proper; to provide such means for the sale of the products of the blind as the commission shall deem expedient; to act as a bureau of information for the purpose of securing employment for the blind of this state elsewhere than in the shops and workrooms of the commission, and to this end the commission is authorized to procure and furnish materials and tools and to furnish aid and assistance to blind persons engaged in home industries and to buy and sell the products of the blind wherever and however produced within this state; to provide for the temporary cost of the food, raiment and shelter of deserving blind persons engaged in useful labor; to ameliorate the condition of the blind by such means consistent with the provisions of this article as the commission may deem expedient: Provided, however, that no part of the funds appropriated by the state shall be used for solely charitable purposes; the object and purpose of this article being to encourage capable blind persons in the pursuit of useful labor and to provide for the prevention and cure of blindness."

Furthermore, Section 9453, R. S. Mo. 1939, indicates that Article I, Chapter 54, R. S. Mo. 1939, shall not be construed to grant benefits to anyone physically or mentally capable of receiving vocational training, who refuses for any reason to avail himself of such training, and further authorizes said Commission to admit said applicant to the pension roll if otherwise qualified and he signifies his willingness and readiness to enter upon such course. Said section reads:

"This article shall not be so construed as to grant the benefits thereof to any blind person between the ages of twenty-one (21) and fifty (50) years who has no occupation and who, being both physically and mentally capable of some useful occupation or of receiving vocational or other training, who refuses, for any reason, to engage in such useful occupation or to avail himself or herself of such vocational or other training: Provided, that the commission is hereby empowered to grant its certificate admitting to the pension roll any applicant, otherwise qualified for a pension who signifies his or her willingness and readiness to enter upon a course of vocational or other training; but in the event any such person fails for more than a reasonable time to enter upon such course of training, without good cause, upon recommendation of the commission the state auditor shall strike the name of such person from the blind pension roll."

Therefore, in view of the foregoing statutory provisions, unquestionably the Missouri Commission for the Blind is authorized to furnish such training if there is an appropriation for such expenditure.

In House Bill 270, section 3, page 11, we find the 63rd General Assembly appropriated funds for the Commission for the Blind for the period beginning July 1, 1945, and ending June 30, 1946. Said appropriation includes funds for administration of the blind pension, personal service, operation, rehabilitation and prevention of blindness. Apparently the 63rd General Assembly was of the opinion that the Commission for the Blind was authorized to carry out the rehabilitation program provided for in the foregoing statutes and appropriated funds for carrying out such program. Furthermore, the 78th Congress of the United States enacted Public Law 113 which provides for participation in the payment of maintenance costs under the rehabilitation program during certain training periods upon the state meeting certain federal requirements. Said act, in part, reads:

"Sec. 3. (a) From the sums made available pursuant to section 2, the Secretary of the Treasury shall pay to each State which has an approved plan for vocational rehabilitation, for each quarter or other shorter payment period prescribed by the Administrator, the sum of amounts he determined to be--

* * * *

"(3) one-half of necessary expenditures under such plan in such period (exclusive of administrative expense) for rehabilitation services specified in subparagraphs (A), (B), (C), (D), and (E), to disabled individuals (not including war disabled civilians) found to require financial assistance with respect thereto, after full consideration of the eligibility of such individual for any similar benefit by way of pension, compensation, or insurance, such rehabilitation services being--

* * * *

"(E) maintenance not exceeding the estimated cost of subsistence during training including the cost of any necessary books and other training material."

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Such payments should not be considered as income on money received by the applicant from any source whatsoever for the reason that all the statutes, both state and federal, clearly indicate that for such applicant to qualify for a blind pension, if he is mentally and physically able, he must attend such school of training and, furthermore, the state and federal government have provided for maintenance costs while attending such school of training. All of which indicates that both Congress and the Legislature of the State of Missouri fully intended that such appropriation for maintenance costs during a training period should be in addition to their blind pension and not be considered as income. If it were so considered it might work a grave injustice and in many instances prevent persons otherwise eligible from qualifying for a blind pension. As often cited, both in the decisions and opinions rendered by this department, the blind pension law is remedial and should be liberally construed with the object in view that was sought to be accomplished. In *Dahlin v. Missouri Commission of the Blind*, 262 S. W. 420, l.c. 424, the Court after announcing the foregoing rules of construction said:

"(11) 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."

Furthermore, we understand that such maintenance afforded applicants by the state and federal government is not paid directly to the applicant and student but to the person with whom he is boarding. Apparently a contract is entered into by the Missouri Commission for the Blind with the operator of the boarding house where said applicant resides.

CONCLUSION

Therefore, it is the opinion of this department that the money paid by the state and federal government for maintenance of an

applicant for a blind pension during the period of training under the rehabilitation program should not be considered as income or money received by the applicant as provided under Section 9451, R. S. Mo. 1939.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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