

WELFARE, DIVISION OF: Division of Welfare may receive federal grant for needy disabled persons.

September 7, 1950

9-7-50

Honorable Proctor N. Carter  
Director, Division of Welfare  
State Dept. of Public Health & Welfare  
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your request for an official opinion, which reads as follows:

"On August 28, 1950, President Truman signed the Social Security Act amendments of 1950, making several major changes in the Federal Social Security Act. This Act is known as H.R. 6000. A new Title XIV has been added to the Federal Social Security Act, providing federal grants-in-aid to needy permanently and totally disabled individuals 18 years of age or older, effective October 1, 1950.

"The question has arisen as to whether or not the State of Missouri could participate in making payments to totally and permanently disabled persons under the federal and state laws.

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"We would appreciate receiving an opinion from you as to whether or not there are any legal inhibitions that would prevent the Division of Welfare from taking the necessary and required action to secure the full benefits of the above act of Congress relating to the payment of benefits to permanently and totally disabled persons."

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As stated in your request, the Eighty-first Congress, by H. R. 6000, amended the Federal Social Security Act. By Title XIV of said amendment, which provides federal grants-in-aid to needy permanently and totally disabled individuals, eighteen years of age or over, said grants are given to the various states for distribution.

The rule as to the right of a state to receive and accept money is stated in 59 C. J., Section 276, page 164, as follows:

"A state has in general the same rights and powers in respect of property as an individual. It may acquire property, real or personal, by conveyance, will, or otherwise, and hold or dispose of the same or apply it to any purpose, public or private, as it sees fit. The power of the state in respect of its property rights is vested in the legislature, and the legislature alone can exercise the power necessary to the enjoyment and protection of those rights, by the enactment of statutes for that purpose; and, where the state has not given its consent to the acquisition of property in a particular way, it is not entitled thus to acquire it. \* \* \*"

(Emphasis ours.)

We must therefore look to the statutes to determine whether the Division of Welfare of the State Department of Public Health and Welfare has been given the power to accept the federal grant in question.

Section 9416, R.S. Mo. 1939, provides that the Division of Welfare "is hereby directed to comply with the provisions of any act of congress providing for the distribution and expenditure of funds of the United States appropriated by congress for social security benefits, and to comply with any and all rules and regulations attached to or made a part of such appropriation act and not inconsistent with the Constitution and laws of Missouri."

Under Senate Bill No. 1062, enacted by the Sixty-fifth General Assembly, it is provided in part that the Division of

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Welfare within the Department of Public Health and Welfare is designated as the state agency to administer state plans and laws involving aid for direct relief or any other duties relating to social security which may be imposed upon the Department of Public Health and Welfare.

In Laws of Missouri, 1945, page 945, it is provided that the department, through and on behalf of the division, is given the power to adopt orders and findings and to co-operate with the federal government in matters of mutual concern pertaining to any duties wherein the department and the division are acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state plans.

The above statutes, we believe, are ample authority to empower the Division of Welfare to accept the grant in question.

Under House Bill No. 26 of the Sixty-fifth General Assembly the Division of Welfare is appropriated:

"All allotments, grants and contributions of funds from the Federal Government which may be received for the biennial period beginning July 1, 1949 and ending June 30, 1951, for the purpose of paying \* \* \* other public welfare programs, \* \* \*"

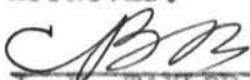
The above appropriation is broad enough to warrant the use of the money received from the federal government for the purpose for which it was granted.

#### CONCLUSION

It is, therefore, the opinion of this department that the Division of Welfare of the Department of Public Health and Welfare may secure and receive federal grants-in-aid to needy permanently and totally disabled individuals, eighteen years of age or over, provided for by Title XIV of the Federal Social Security Act.

Respectfully submitted,

APPROVED:

  
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