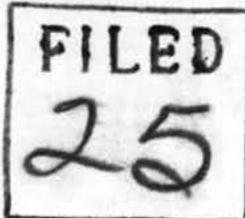


OLD AGE ASSISTANCE
DEFINED:
SECTION 306, USCA
Title 42:
BOARD OF CHIROPRACTIC
EXAMINERS:

Benefits up to the maximum can be paid to those receiving old age assistance to pay for chiropractic treatment or other remedial care.



July 1, 1952

7-2-52

State Board of Chiropractic Examiners
204½ East High Street
Jefferson City, Missouri

Attention: Dr. S. J. Durham, D.C.
Secretary

Gentlemen:

Your request for an opinion of this department has been assigned to me. Said request reading as follows:

"This Board has observed in Public Law 734, 81st Congress, Second Session, Section 303-a, Section 6, Social Security Act is amended to read as follows:

'Definition

"Section 6. For the purposes of this title, the term "old-age assistance" means money payments to, or medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are sixty-five years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution".

"It is the Board's opinion that anyone treated by us under the above Section is entitled to compensation for such treatment under the Public Health and Welfare laws of this state.

"We would greatly appreciate an opinion from you as to whether or not we are entitled to this compensation as are doctors, osteopaths and others named under this law."

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Section 6, set out by you above, is now part of Title 42, United States Code Annotated, Section 306, which reads as follows:

"306. 'Old-age assistance defined

"For the purposes of this subchapter, the term 'old age assistance' means money payments to, or medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are sixty-five years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof."

A reading of this section convinces us that the same was enacted by the Congress of the United States for the purpose of enabling the states to use "Old Age" Assistance funds for medical care. Of course to come under this statute this state would first have to pass legislation providing for these payments to be made as direct payments for "medical care in behalf of or any type of remedial care" the same to be made directly to the persons furnishing same, by the Missouri Department of Public Health and Welfare.

There is no statute of this state at the present time which would authorize our Department of Public Health and Welfare to make the payments heretofore mentioned to the individuals furnishing same to the aged in need of assistance.

The primary rule of statutory construction is to ascertain and give effect to the lawmakers' intent. *Norberg v. Montgomery*, 351 Mo. 180, 173 S.W.(2d) 387; *Wallace v. Woods*, 340 Mo. 452, 102 S.W.(2d) 91.

However, Section 208.010, RSMo 1949, reads as follows:

"In determining the eligibility of an applicant for public assistance under this law, it shall be the duty of the division of welfare to consider and

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take into account all facts and circumstances surrounding the applicant, including his earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the applicant is not found to be in need, assistance shall be denied. The amount of benefits when added to all other income, resources, support and maintenance shall provide such persons with reasonable subsistence compatible with decency and health. Irregular, casual and unpredictable income received by a claimant from performing odd jobs shall be excluded in calculating income. Benefits shall not be payable to any person who: * * * (Underscoring ours.)

From what has been said before regarding statutory construction, it is our opinion that the underscored part of the above statute allows the Missouri Department of Public Health and Welfare to increase the amount paid to those eligible for public assistance up to the maximum amount payable where such recipient of public assistance shows a need for the care of a physician, osteopath, chiropractor, chiropodist or nurse where this type of medical care is needed by said recipient. We are forced to this conclusion by the fact that direct payment by the Department of Public Health and Welfare is recognized to such practitioners under Section 306 Title 42, USCA which allows the state Department of Public Health and Welfare to make these payments directly where the state has enacted legislation enabling the Department to so do. We believe, without question, this is true because the Federal statute, supra, recognizes that this type payment can be made as it states: "the term 'old age assistance' means money payments to, or medical care in behalf of or any type of remedial care recognized under state law in behalf of, needy individuals who are sixty-five years of age or older, * * *"

CONCLUSION

It is, therefore, the opinion of this department that benefits up to the maximum can be paid to those receiving old age assistance to pay for chiropractic treatment or other remedial care.

Respectfully submitted,

APPROVED:

J. E. TAYLOR
Attorney General

A. BERTRAM ELAM
Assistant Attorney General

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