

DIVISION OF WELFARE:
COUNTY WELFARE OFFICE:
MONTHLY REPORT OF RECIPIENTS:
A PUBLIC RECORD:

Section 208.120 Laws of 1953 requires county welfare office to keep report of names, addresses, and amount paid each beneficiary of old age assistance, aid to dependent children and permanently and totally disabled persons during preceding month. Report is public record and open to public inspection at all times during business hours of welfare office. All information regarding applicants or recipients other than names, addresses and amount of grants whether in monthly reports or other records of welfare office is confidential and cannot be revealed to public. Employees of office who require persons to execute affidavit, that if permitted to examine monthly reports they will keep information confidential is illegal, as procedure is not provided for by any Missouri statutes.

October 28, 1953

Honorable B. H. Stone
Representative of
Madison County
Route No. 3
Fredericktown, Missouri



Dear Sir:

This is to acknowledge receipt of your recent request for a legal opinion of this department calling for a construction of House Bill No. 45 of the 67th General Assembly. The particular inquiry of your opinion request reads in part as follows:

"The question involved is that they are requesting a form of affidavit in the welfare office here in Madison County, before anyone can scan the records of those receiving assistance. This is not intended to happen as the purpose of the bill was to make it possible for anyone who cared to do so, may scan these records, but shall not use them for political, commercial reasons or for publication."

Section 208.120, RSMo 1949, as amended by Laws of 1951, page 754, relating to old age assistance, aid to dependent children and aid to permanently and totally disabled persons, records and information relating to that subject was repealed by House Bill No. 45 of the 67th General Assembly and a new section was enacted in lieu of same to be known as Section 208.120. Said section reads as follows:

"For the protection of applicants and recipients, all officers and employees of the State of Missouri are prohibited, except as hereinafter provided, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients

of benefits or the contents of any records, files, papers and communications, except in proceedings or investigations where the eligibility of an applicant to receive benefits, or the amount received or to be received by any recipient, is called into question, or for purposes directly connected with the administration of old age assistance, aid to dependent children, and aid to the permanently and totally disabled. In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of benefits, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence.

"The Division of Welfare shall in each county welfare office maintain monthly a report showing the name and address of all recipients certified by such county welfare office to receive old age assistance, aid to dependent children and aid to the permanently and totally disabled benefits, together with the amount paid to each recipient during the preceding month, and each such report and the information contained therein shall be open to public inspection at all times during the regular office hours of the county welfare office; provided, however, that all information regarding applicants or recipients other than names, addresses and amounts of grants shall be considered as confidential.

"It shall be unlawful for any person, association, firm, corporation or other agency to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of any name or list of names for commercial or political purposes of any nature; or for any name or list of names of recipients secured from such report in the county welfare office to be published in any manner. Anyone willfully or knowingly violating any provisions of this section shall be guilty of a misdemeanor. If the violation is by other than an individual, the penalty may be adjudged

against any officer, agent, employee, servant or other person of the association, firm, corporation or other agency who committed or participated in such violation and is found guilty thereof."

The inquiry of the opinion request calls for a construction of the above quoted section which we shall endeavor to give in our present discussion.

The decisions of the appellate courts of this state have long held that the primary rule of statutory construction is to give effect to the intention of the lawmakers, and, if possible, to ascertain such legislative intent from the words used in the particular statute. This rule is so well established and so elementary in nature that we believe it is unnecessary to cite any court decisions on this phase of statutory construction. However, it must be remembered that such primary rule of statutory construction is applicable only in those instances when the statute under construction is ambiguous and of uncertain meaning. When the language used in the statute is not ambiguous, or of uncertain meaning, then such rule of statutory construction is not to be applied. The rule to be applied in such latter instances is stated in the case of State ex rel. Bell v. Phillips Petroleum Co., 349 Mo. 360. At l.c. 370, the court said:

"* * * We find no ambiguity or uncertainty in this statute. * * * If Section 8437, supra, is clear and unambiguous, it must be construed in accordance with its manifest intent and we may not search for a meaning beyond the statute itself. (State ex rel. Cobb v. Thompson, 319 Mo. 492, 5 S. W. (2d) 57, 59.) * * *"

(Underscoring ours.)

The provisions of Section 208.120, supra, have not been expressed in ambiguous terms or terms of uncertain meaning, but rather said provisions have been expressed in language of plain, clear, and ordinary meaning; therefore, the primary rule of statutory construction is inapplicable in construing the provisions of said section.

The statement of facts given in the opinion request is not clear to us. As we understand such facts, it appears that the employees of the County Welfare Office of Madison County, require, as a condition precedent to granting permission to examine the records of those receiving assistance, the making of an affidavit, which procedure the writer seems to question.

No description of the records in the welfare office which are allowed to be examined by the public is given except "the records of those receiving assistance," and no statement is made as to the nature of the contents of the affidavit required.

Since the opinion request calls for a construction of Section 208.120, supra, contained in House Bill No. 45, of the 67th General Assembly, it is assumed that "the records of those receiving assistance" mentioned in the opinion request, has reference to the monthly report required to be maintained in each county welfare office in the state under the provisions of the above mentioned statute, showing the name and address of all recipients certified by such county welfare office to receive old age assistance, aid to dependent children and aid to the permanently and totally disabled, together with the amount paid to each recipient during the preceding month.

It is also assumed that the affidavit mentioned in the opinion request is to the effect that the affiant, if allowed to examine the monthly reports of the county welfare office will keep any information obtained therefrom, relating to the recipients of the different benefits confidential, and will not disclose, receive, make use of, permit, participate in, or acquiesce in the use of any name or list of names obtained from said records for commercial or political purposes of any nature, and will not publish said name or list of names.

The information contained in said monthly reports is not confidential, but a public record which any person has a legal right to examine at all times during the regular office hours of said welfare office.

However, all information regarding applicants or recipients other than names, addresses and amounts of grants, whether contained in the monthly reports or other records of the county welfare office, is confidential, which the employees of the county welfare office cannot legally disclose to the public.

If these are the records referred to in the opinion request, then the employees of the welfare office cannot require any person to execute the particular form of affidavit referred to in such opinion request before said person is permitted to examine the monthly report of recipients for the preceding month. Said employees are acting without any legal authority in making such requirements, since such a procedure is not provided for under the provisions of any Missouri statute.

CONCLUSION

It is therefore the opinion of this department that under the provisions of Section 208.120, Laws of 1953, the Division of Health shall in each county welfare office maintain a monthly report showing the name and address of each applicant certified by such county welfare office to receive old age assistance, aid to dependent children and aid to the permanently and totally disabled, together with the amount paid to each recipient for the preceding month. That said reports are public records and shall be open to public inspection at all times during the regular office hours of the county welfare office. However, all information regarding applicants or recipients other than names, addresses and amounts of grants, whether contained in the monthly reports or other records of the county welfare office, is confidential, which information the employees of said office cannot legally disclose to the public. That when employees of the county welfare office require, as a condition precedent, the making of an affidavit by one, that if permitted to examine the monthly reports of recipients receiving the respective benefits on file in that office, he will keep any information obtained therefrom confidential, that said employees are acting without any legal authority, as such a procedure is not provided for under the provisions of any Missouri statutes.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul W. Chitwood.

Very truly yours,

JOHN M. DALTON
Attorney General

PNC/lw