

ADJUTANT GENERAL: Not necessary that application for soldiers' bonus be filed on blank furnished by Adjutant
SOLDIERS' BONUS: General, but informal letter will suffice.



January 27, 1955

Major General A. D. Sheppard
Adjutant General of Missouri
Jefferson City, Missouri

Attention: Richard F. Shelley
Captain, AGC, MONG
Administrative Assistant

Dear General Sheppard:

This is in response to your request for opinion received from your office dated December 29, 1954, which reads as follows:

"On page 653 of the Laws of Missouri, Sixty Sixth General Assembly, Section 9 - Payments to be made, how--rejected claims may be heard again, it is therein stated as to the deadline for filing the applications for a Missouri Soldiers' Bonus, World War I.

"This office respectfully requests an opinion as to whether or not an informal application such as exhibit 'A' attached can be accepted as meeting the deadline of 31 December 1954, rather than having an actual application form on hand. Many letters are being received each day from persons applying for the bonus from out-state and from other states which will not be completely processed by 31 December 1954. The Federal government in all claims from veterans will consider an application as being filed and continue to hold the claim open upon receipt of such a letter as exhibit 'A'.

"We have also attached a copy of the application blank (exhibit 'B') for additional information."

Major General A. D. Sheppard

Attached to your letter of request is a typical letter from an applicant for soldiers' bonus, which letter is as follows:

"I wish to make application for the Missouri bonus for World War 1 Veterans.

"My name is * * * and my service number is * * * and I was a private S.A.T.C. first district Normal School, Kirksville, Missouri.

"I was enlisted or inducted October 8, 1918 at Shelbyville, Missouri, and was discharged December 17, 1918. My Commanding Officer was * * *.

"It is my understanding that the request for this bonus must be made on or before December 31, 1954.

"Your assistance in this matter will be greatly appreciated.

"Thanking you and awaiting your reply, I am

* * * *

The law upon which your request is based, found in Laws of Missouri, 1951, page 653, reads, in part, as follows:

"Section 9. Payments to be made, how - rejected claims may be heard again. - It shall be the duty of the Adjutant General to determine as expeditiously as possible the persons who are entitled to the payments under this act and to make such payments in the manner herein prescribed. Applications for such payments shall be filed with the Adjutant General on or before December 31, 1954, and at such place or places as the Adjutant General may designate and upon the blanks furnished by the Adjutant General. The Adjutant General shall have the power to adopt all proper rules and regulations not inconsistent herewith to carry into effect the provisions of this act. * * *"

Major General A. D. Sheppard

In construing statutes it is basic, requiring no citation of authority, that the intent of the Legislature must be ascertained. It is apparent from the fact that this act has been extended so many times and from its wording that the Legislature intended for every eligible veteran of World War I to receive a bonus. At the same time it is equally as apparent that the Legislature deemed it desirable to set a cutoff date after which applications for bonus could not be made.

Under the above law the Adjutant General is given wide discretion in determining the place or places at which applications for payment should be filed and in preparing the blank form of application to be used by the applicant. He is further given the power to adopt all proper rules and regulations in order to carry into effect the provisions of the bonus law as long as such rules and regulations are not inconsistent with the act.

Although the above law is phrased in mandatory language, seemingly requiring the applications to be filed on blanks furnished by the Adjutant General, we believe that provision to be directory only.

It was said in *Granite Bituminous Paving Co. v. McManus*, 144 Mo. App. 593, 607, 129 S.W. 448:

"The distinction between mandatory and directory enactments has often been under consideration by the courts. Into which of these classes any given statute falls is to be determined by its character and purpose. If no substantial rights depend upon it and no injury can result from ignoring it, and the purpose of the Legislature can be accomplished in a manner other than as prescribed therein and substantially the same results obtained, then the statute will generally be regarded as directory. * * *"

The basic purpose of the act was to provide a bonus for eligible veterans of World War I. The duty was placed upon the Adjutant General to determine the persons eligible for such bonus. This determination can be made and the ultimate purpose of the Legislature accomplished without requiring that the application be filed on the blank furnished by the Adjutant General.

Further information and proof beyond that contained in the quoted letter may be necessary before the Adjutant General is able

Major General A. D. Sheppard

to make his determination that the applicant is entitled to the bonus. However, it is not required that this determination be made before December 31, 1954, but merely that the application be filed before that date.

CONCLUSION

It is therefore the opinion of this office that the provision in the Soldiers' Bonus law, found in Laws of Missouri, 1951, page 653, that "Applications for such payments shall be filed with the Adjutant General * * * upon the blanks furnished by the Adjutant General," is directory only and that a letter such as that quoted herein will suffice as an application for bonus.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

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