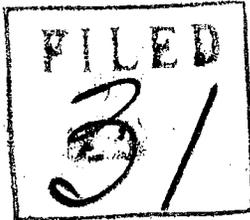


BOARD OF REHABILITATION: Not authorized to purchase
prosthetic devices for employee.



May 13, 1955

Mr. W. E. Freeland
Chairman
Board of Rehabilitation
Department of Labor and
Industrial Relations
Jefferson City, Missouri

Dear Sir:

I have received your request for an opinion of this office,
which request is as follows:

"May I submit a question to you, relative
to an expenditure from the appropriation
of the Sixty-Seventh General Assembly
from the Workmen's Compensation Fund for
the activity of the Board of Rehabilitation.
It is found on Pages 110-111, Laws of
Missouri, 1953. The pertinent part reads:

'For the original purchase of property,
for the repair and replacement of prop-
erty, and for operating expenses in-
cluding travel within and without the
State, and other necessary expenses for
the period beginning July 1, 1953, and
ending June 30, 1955.'

"We have as supervisor a young man who has
lost both arms and one foot. His work is
not only to supervise but to give moral
support and encouragement to victims of
industrial accidents. The success of this
work is such that the insurance companies
who pay for it from a special tax are highly
pleased, since it is putting disabled persons
back to employment and removing them from the
payment of benefits. In numbers of cases
disabled employees are drawing higher salaries
than they had before the accident.

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"Mr. Rousselot has artificial arms and a leg, which he has learned to use with such skill that he is a very valuable asset in the promotion of our activity. His accident occurred when he was about seventeen and he is now not quite twenty-four years of age. I consider him one of the safest auto drivers I have ever ridden with.

"The problem which I present is this. He has his own devices which he has bought and paid for and learned to use. However, I am in receipt of a letter from the National Research Council Amputee Team at the Jewish Hospital in St. Louis. They strongly recommend that an additional set of devices be procured for him, and express the opinion that it would greatly add to the usefulness of his service.

"The problem posed is this. He is quite satisfied with his devices and does not feel justified in expending the \$619.00 which is the estimated cost of the alternative devices. We are advised that if the State can purchase them there is a discount of ten per cent. Naturally, these would have to be fitted to him and, hence, would have value only for his own use. Without any thought of argument, let me submit that certain emoluments do accrue in the course of public service that because of their personal nature are granted to individuals; for instance, as an illustration in a small way, sets of statutes are regularly furnished to members of the General Assembly. These have the names of the members imprinted on the books and are always considered as belonging to the individuals at the end of the session. I would have no hesitancy in submitting a request to buy a brief case for the use of this employee and having his name stamped upon it.

"The devices are considered by this National Research Council as improving greatly the usefulness of his service."

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The statutory provisions for the establishment of the Board of Rehabilitation are found in Sections 287.140, 287.141 and 287.142, MoRS, Cum. Supp. 1953. Section 287.140 deals with the furnishing of medical and hospital treatment by employers to injured employees. Section 287.141 establishes the Board of Rehabilitation consisting of the three members of the Industrial Commission and the Director of the Division of Workmen's Compensation. The Board is required to study the problems of rehabilitation and to investigate and approve rehabilitation services. Provision is made in this section for the employer's offering physical rehabilitation to an injured employee, with provision for payment of benefits in the amount of \$10.00 per week from the Second Injury Fund to the employee during the period of rehabilitation. Provision is also made for hearing before the Board in the event of differences between the employer and the employee regarding the necessity or advisability of physical rehabilitation. Section 287.142 provides:

"All clerical, travel and other expenses incurred in connection with the administration of section 287.141 shall be paid from the workmen's compensation fund."

In your opinion request you have set out the appropriation from which you propose to make this expenditure in question.

In view of the over-all provisions of the rehabilitation statutes and the appropriation act in question, we are unable to discover any authority for the expenditure from this appropriation for the purpose referred to in your opinion request. From your opinion request it is apparent that the devices sought will be provided the individual in question. There is no indication that they are essential to enable him to perform his duties under the act. According to your opinion request he is now supplied with a set of devices with which he is satisfied, and therefore it could not be said that these new devices are essential if he is to perform his duties on behalf of the Board of Rehabilitation. Under such circumstances, we find no authority for the expenditure about which you inquire.

CONCLUSION

Therefore, it is the opinion of this office that the Board of Rehabilitation is not authorized to make an expenditure from

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its appropriation for the purpose of supplying an employee of the Board with an additional set of prosthetic devices.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Robert R. Welborn.

Yours very truly,

JOHN M. DALTON
Attorney General

RRW:ml