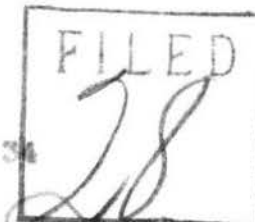


BLIND PENSIONS - Right of Missouri Commission for the Blind to investigate income qualifications of pensioner.

September 12, 1934



Missouri Commission for the Blind,
3333 Westminister Place,
St. Louis, Missouri.

Attention Miss Marie M. Finan,
Pension Secretary.

Gentlemen:

A request for an opinion has been received from you under date of August 17, 1934, such request being in the following terms:

"Since the pension law provides that any one who has an income or is the recipient of \$600.00 or more per annum from any source whatever shall not be eligible to receive the pension, it is our understanding that in cases of where we know our pensioners have an income over and above the pension limit, it is our duty to check on said income. Accordingly we have requested these pensioners to fill out the enclosed blank.

This pensioner has refused to fill out this statement - stating she has not kept a record of her income. We understand she does have additional income.

We, therefore, respectfully request you advise what action, if any, we are to take relative to payment of pension. Is she to continue to receive the pension when we do not know whether or not her income is within the pension limit?"

Revised Statutes Missouri 1929, Section 3693, which defines persons entitled to receive blind pensions, contains the following:

"Provided, that no such person shall be entitled to a pension under this article who has an income, or is the recipient, of six hundred (\$600.00) dollars or more per annum from any source whatever."

Whether or not an applicant for a pension or a person on the blind pension roll is receiving an income of \$600.00 or more per year is a question of fact requiring investigation on the part of the State or its instrumentalities so that possible violations of the law will be prevented, and the responsibility for having persons ineligible to receive pensions stricken from the rolls rests with the Missouri Commission for the Blind under that part of Revised Statutes Missouri 1929, Section 3693, which

provides as follows:

"whenever it shall become known to the commission that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to such person at his or her last known residence address, such fact shall be certified to the state auditor and the name of such person shall be stricken from the blind pension roll;"

The last statutory quotation above shows that the certification to the State Auditor of the fact of ineligibility of a person on the blind pension roll is the responsibility of the Commission, but the statutes do not directly delegate to any person or body the duty of making the investigation necessary to find out the existence or non-existence of such fact. However, it would seem that the Missouri Commission for the Blind would be the logical and appropriate agency to make this investigation for the following reasons:

A. It is the duty of the Commission for the Blind to determine whether or not the income of an applicant for a pension is sufficiently small to entitle such applicant to a pension, as Revised Statutes Missouri 1929, Section 3901, provides in part as follows:

"Any person claiming the benefits of this article who is aggrieved by the action of the commission for the blind as to his or her property or income, * * * may appeal from its decision to the circuit court"

B. Chapter 51 of the Revised Statutes of 1929 which deals with blind pensions designates the Missouri Commission for the Blind and its officers and employees and the State Auditor as the officers or agencies or persons charged with the enforcement of the blind pension law, and if a choice should be made between these two in fixing the responsibility for keeping track of the eligibility of persons on the blind pension roll, it would seem that the choice should rest with the Commission and its officers and employees who are in far more intimate touch with the blind pensioners than the State Auditor of whose work the blind pension law is only a small fraction.

C. If the power and duty to investigate the eligibility from the point of view of income of blind pensioners does rest with the Commission for the Blind, such power must include the power to ask questions of pensioners and to require a pensioner

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to fill in a form of report prescribed by the Commission which would seem within the power of the Commission which, by Revised Statutes Missouri 1929, Section 8891, is authorized to "adopt bylaws or rules and regulations for its government", and by Section 8897 is authorized to prepare the form of application blanks to be used by persons applying to receive blind pensions.

In conclusion, it is our opinion that if the Missouri Commission for the Blind is satisfied after investigation that a person on the blind pension roll is receiving from other sources sufficient income to make such pensioner ineligible to receive a blind pension, the Commission may certify this fact to the State Auditor, and that such certification could be made if the Commission is unable to find out from any other source the extent of such pensioner's income when such pensioner refused to supply such information.

Very truly yours,

EDWARD H. MILLER

ASSISTANT ATTORNEY GENERAL

APPROVED:



(ACTING) ATTORNEY GENERAL