

BLIND PENSION LAW: Defining the word "Maintain."

April 24, 1942

4-30

Mrs. Lee Johnston
Missouri Commission for the Blind
Capitol Building
Jefferson City, Missouri



Dear Mrs. Johnston:

Receipt is acknowledged of your letter of April 15, 1942, in which you request the opinion of this office upon the following question:

"Will you kindly render an opinion as to the eligibility of a person for a blind pension, who is living as a paid-up guest in a memorial home, an institution providing 'room, board, medical attention, nursing attention, laundry, and all services but no clothing, for an entry fee of \$1000.00 for life, in addition to burial if guest is unable to provide same.'

"Since the recipient has paid \$1000.00 for her room and board for life, and will not, therefore, be living on charity until such time as it would reasonably be supposed that the \$1000.00 had expired, would she be eligible to continue to receive the blind pension, which was granted to her while she was an inmate in this home?"

Section 9451, Article 1, Chapter 54, R. S. Mo. 1939, sets out what persons are eligible to receive a blind pension from the State of Missouri. This section contains among its

provisions:

"* * * and provided further, that blind persons who are maintained in either public, private, or endowed institutions, or by private persons who would otherwise be entitled to a pension under this article, shall not be entitled to the benefits of this article; * *."

Your question calls for construing this clause and defining the word "maintained" as used therein. An examination of the reported cases fails to reveal a case in which the word "maintained" as used in this section has been defined.

It is an elementary rule of statutory construction that in construing statutes the intention of the lawmakers should be ascertained from the words used in the law. And by Section 655, R. S. Mo. 1939, words in ordinary usage are to be given their ordinary meaning. The words used in the section are all words in ordinary use and the intention of the Legislature is quite apparent. To provide assistance by the State for certain blind persons who are in need of assistance and to exclude from such assistance certain excepted persons who are not in need of assistance.

The word "maintained" is the past tense of the transitive verb "maintain" and the word "maintain" has numerous definitions, among those definitions is the following:

"To bear the expense of; to support; as, to maintain a family."

In the Missouri case of State v. Tiegan, 253 S. W. 453, a case involving the failure to support children under the criminal laws, the words maintain and provide were said to be synonymous.

The word has been defined in cases in other states where in its use it relates to persons, and there are here set out several of such definitions:

"'Maintain' means 'to support; to supply with means of support; provide for; sustain; keep up.'"

State v. Board of Trust of Vanderbilt University, 164 S. W. 1151, 1170, 129 Tenn. 279.

"'Maintain' means to bear the expense of; to support; to keep up; to supply with what is needed."

Alexander v. Parker, 33 N. E. 183, 184, 144 Ill. 355, 19 L. R. A. 187, citing Webst. Dict.

Also, there are copied here definitions of the word "maintenance":

"'Maintenance' means sustenance, support by means of supplies of food, clothing, and other conveniences."

Wall v. Williams, 93 N. C. 327, 330, 53 Am. Rep. 458; Winthrop Co. v. Clinton, 46 A. 435, 437, 196 Pa. 472, 79 Am. St. Rep. 729; Alexander v. Parker, 33 N. E. 183, 184, 144 Ill. 355, 19 L. R. A. 187, citing Webst. Dict.

"'Maintenance' is the act of maintaining, keeping up, supporting; livelihood; means of sustenance; and, as applied to a person, it refers to the supplying of the necessities of life, the furnishing by one

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person to another, for his support, of the means of living, or food, or shelter, clothing, etc."

Federal Land Bank of St. Louis v. Miller, 42 S. W. (2d) 564, 184 Ark. 415.

Under the foregoing the word "maintained" as used in Section 9451, R. S. Mo. 1939, it is believed, means provided with the necessities of life. Under the laws, customs and habits, and in this climate, clothing is considered a necessity.

It is the conclusion of the writer that a person who receives food, shelter, nursing attention, and all attention except clothing is not being maintained under the foregoing definition.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney-General

APPROVED:

Roy McKittrick
Attorney-General

WOJ:CP