

STATE FEDERAL SOLDIERS' HOME : Persons may be admitted to the State
 OF MISSOURI: : Federal Soldiers' Home of Missouri who are
 APPLICANTS FOR ADMISSION: : citizens of Missouri and who were soldiers
 : and sailors honorably discharged from the
 : service of the United States who are in
 : indigent circumstances, and who, from any
 : disability not received in any illegal
 : act are unable to support themselves by
 : manual labor; the aged mother, wife or
 : widow of such soldier or sailor; army
 : nurses who served with the armies of the
 : United States; and ex-members of the en-
 : rolled Missouri Militia who served 90
 : days or more in the field during the
 : civil war.

April 7, 1955



Honorable Marvin H. McDaniel
 Superintendent
 State Federal Soldiers' Home
 of Missouri
 St. James, Missouri

Dear Mr. McDaniel:

This will be the opinion you requested from this office for the construction of the meaning of the terms of Section 212.140, RSMo 1949, respecting the eligibility of persons for admission to the State Federal Soldiers' Home of Missouri.

Your request reads as follows:

"I wish to make reference to Missouri Revised Statutes, 1949, Chapter 212, Soldiers' Home, Section 212.140, Who May Be Admitted.

"The Board of Trustees at their regular meeting on March 9th requested that I communicate with you and request an opinion with regards to Section 212.140 concerning a 90 days service. The opinion requested is should this be wartime service, ie, an applicant desiring admission to this Home having had more than 90 days wartime service with reference to the above referred to Statute."

Section 212.140 defining the conditions and circumstances under which persons may be admitted into said Home reads as follows:

"The soldiers and sailors who shall be entitled to admission into said

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home shall be citizens of the state of Missouri, who were honorably discharged from the service of the United States, and who are in indigent circumstances, and from any disability, not received in any illegal act, are unable to support themselves by manual labor, and that the aged mother, wife or widow of such soldier or sailor, and army nurses, who served with the armies of the United States or such ex-members of the enrolled Missouri militia, who served ninety days or more in the field during the civil war, shall also be entitled to admission in said home, provided they be in indigent circumstances and unable to support themselves by manual labor."

It is apparent that it was the intention of the Legislature in enacting said Section 212.140 to classify, and the effect of the terms of said section is to group persons eligible to admission in said Home, into definite classes. First, the section names as a class the soldiers and sailors who shall be entitled to admission into said Home. They shall be citizens, the section states, of the State of Missouri, who were honorably discharged from the service of the United States, and who are in indigent circumstances, and who, from any disability not received in any illegal act, are unable to support themselves by manual labor. Second, the section defines, in the singular, but as another class, the aged mother, wife or widow of such soldier or sailor. Third, the section proceeds to define as a third class of persons eligible for admission to said Home, army nurses who served with the armies of the United States. And, fourth, such ex-members of the enrolled Missouri Militia who served ninety days or more in the field during the civil war, are also made eligible to admission to said Home; provided they, the persons named in the second, third and fourth classes be in indigent circumstances and unable to support themselves by manual labor. We believe the sentence in said section referring to the standard of eligibility of any of such classes of persons to be admitted to said Home as requiring ninety days or more

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service in the field during the civil war refers only to such ex-members of the enrolled Missouri Militia and does not refer to or include persons in any other groups as so classified.

The first class of such persons entitled to admission to said Home comprises soldiers and sailors who were honorably discharged from the service of the United States and who are in indigent circumstances and who, from any disability not received in any illegal act, are unable to support themselves by manual labor. Nothing whatever is said in the section regarding the period of their service. It would therefore, we believe, mean any service, in any department of the United States military service. We believe the section as it so defines that class could properly end there with a period, and a complete class of persons who are eligible for admission to said Home would be conclusively defined, and that by no reasonable construction could it be said that such persons in such class would be required to furnish proof that they, or any of them, served as a part of their service ninety days or more in the field during the civil war. We do not believe that the determination of the eligibility of that class of persons for admission to said Home depends upon such ninety days service, or the fact that a ninety day period of service in the field was complied with. There are countless numbers of persons who have been in the military service of the United States who were not in the field even during wartime but were assigned to and did serve the United States in other military capacities, such as ordnance department, training, transportation or hospitals, or other units of the service of the United States. Their eligibility for admission to the Home, if otherwise qualified, would not be affected thereby.

The second group or class of persons entitled to admission to said Soldiers' Home is defined in said section as the aged mother, wife, or widow of such soldier or sailor. Manifestly, no requirement of actual military service in any capacity or in any place would be required of such persons for admission into said Home. Such persons, to be eligible to admission, we believe, would have

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to be in indigent circumstances and unable to support themselves by manual labor. A reasonable construction of the terms of the section would be, we believe, that the aged mother without any other necessity than her age, or the wife or widow of such soldier or sailor, regardless of their respective ages, any of whom is in indigent circumstances and unable to support herself by manual labor would be eligible for admission to said Soldiers' Home. Certainly, the Legislature did not intend for the section to mean, nor does it mean, that any such person as an aged mother, or the wife or widow of a soldier or sailor who had been in the service of the United States would be required to show that they had served ninety days or any other period in the field.

Third, the section means, we believe, describing the third class of persons eligible to be admitted into said Home, that it comprises army nurses who served with the armies of the United States. We do not think, nor does any word or sentence in said section referring to this class indicate, that army nurses, in order to establish eligibility for admission to said Home, are required to show that they served ninety days or more, or any other period of time, in the field during the civil war. The military history of the United States shows that nurses did serve in the field, but they, too, in various numbers, also served in hospitals and convalescent institutions in which soldiers and sailors were inmates, and many of such nurses no doubt never performed any nursing services for the United States in the field.

Fourth, this fourth and last class of persons made eligible by said section for admission into said Home refers to and means such former members (ex-members) of the enrolled Missouri Militia as the persons who, to become eligible, are required to have served ninety days or more in the field during the civil war in their service for the United States, provided they be in indigent circumstances and unable to support themselves by manual labor. It should be noted that this requirement is also made of the first class of soldiers and sailors who have been in the military service of the United States and who have been honorably discharged. The same requirement

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as to being indigent and unable to support themselves by manual labor, we believe, appearing in the proviso at the end of the section, includes all persons in classes two, three and four as we have outlined them.

CONCLUSION

It is, therefore, the opinion of this office that:

- 1) Persons eligible to admission to the State Federal Soldiers' Home of Missouri are soldiers and sailors who are citizens of the State of Missouri who were honorably discharged from the service of the United States and who are in indigent circumstances, and from any disability not received in any illegal act are unable to support themselves by manual labor;
- 2) The aged mother, wife or widow of such soldier or sailor, if such persons are in indigent circumstances and are unable to support themselves by manual labor;
- 3) Army nurses who served with the armies of the United States, if indigent and unable to support themselves by manual labor; and
- 4) Ex-members of the enrolled Missouri Militia who served ninety days or more in the field during the civil war, provided they be in indigent circumstances and unable to support themselves by manual labor.

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

Yours very truly,

JOHN M. DALTON
Attorney General

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