

STATE BOARD OF HEALTH: Persons included within the term "Persons on Relief" as used in Sec. 9060, Laws 1937, p. 356 as relates to fees of registrar.

October 21, 1937

Doctor Harry F. Parker
State Health Commissioner
Jefferson City, Missouri

10-22



Dear Sir:

This department is in receipt of your letter of September 13, 1937, in which you request an opinion as follows:

"On September 6th, House Bill 464, entitled An Act to Repeal Sec. 9060, R.S. Mo. 1929, and to enact a new section, Laws 1937, p. 356, relating to fees to be paid State Registrar, became effective.

We are now confronted with the following questions in the application of the new law:

1. Are we permitted to issue free certified copies to the Missouri W.P.A.; to the W.P.A. in other states?
2. Are we permitted to issue free certified copies to county and city relief agencies receiving federal funds in Missouri and other states,
3. Are we permitted to issue free certified copies to Old Age Pension or Social Security Boards in Missouri; in other states? Would this apply to both state and local offices?

We propose to require a statement on the letterhead of the agencies requesting the copy, to the effect that the certified copy is required to perfect a claim of a person on relief or any dependent of any person who was on relief for a claim upon the government of the United States."

Section 9060 R.S. Missouri 1929, as reenacted, Laws Missouri 1937, page 356, is in part as follows:

"The state registrar shall, upon request, furnish any applicant a certified copy of the record of any birth or death registered under provisions of this article, for the making and certification of which he shall be entitled to a fee of fifty cents to be paid by the applicant.
* * * * Except whenever a certified copy or copies of any public record in the State of Missouri is required to perfect the claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the United States, the State Registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor. * * *"

We have underlined the pertinent part of the above section.

The intention of the legislature is clear in this section in so far as they provided free certified copies of certain records for a certain classification of persons. The classification of the person entitled to the free certified copy is, that he must be a person on relief, or the dependent of a person who was on relief and need the same to substantiate a claim which that person has against the government of the United States.

The legislature in this act did not attempt to classify the type of relief a person must be on or what type of claim the person must have against the government of the United States. They merely said "any person on relief" and "any claim against the government of the United States".

"Relief", as defined in Webster's New International Dictionary 2nd Edition, means:

"Aid in the form of money or necessities for indigent persons."

In 53 C.J. p. 1295, "relief" is defined to mean:

"The assistance or support, pecuniary or otherwise, granted to indigent persons by the proper administrators of the poor laws."

In Bouvier's Law Dictionary, Baldwin's Edition 1934, the word "indigent" has been defined to mean:

"The needy, the poor, those who are destitute of property and the means of comfortable subsistence."

In Words & Phrases, 1st Edition, it is said:

"The word 'relief' in resolutions by a town making provisions for the 'aid and relief' of families of volunteer soldiers, implied want, need or necessity on the part of the applicants, and indicated that the provision there made was charitable".

In 48 C.J. p. 428, it is said:

"Generally the terms 'pauper', 'poor', 'poor person', 'indigent person', 'person in distress', etc., in statutes providing for the relief of such persons, are used to describe that class of persons who are so destitute and helpless as to be dependent for their support upon public charity."

While generally the above mentioned terms are used to describe a certain class of persons, the legislature of this state used the term "person on relief" which certainly could have no other meaning except those persons who, because of certain conditions, are dependent upon public charity for this support.

The term public charity is defined in Bouvier's Law Dictionary, Baldwin's Edition 1934, as:

"A charity which is so general and indefinite in its objects as to be of common and public benefit. It would be almost impossible to say what charities are public and what private in their nature. 2 atk. 87."

In *Newton v. Newton Burial Park*, 34 S.W. 2nd (Mo.) 1.c. 120 the court, quoting from 5 R.C.L. 293 said:

"A gift is a 'public' charity when there is a benefit to be conferred on the public at large, or some portion thereof, or upon an indefinite class of persons. Even if its benefits are confined to specific classes, as decrepit seamen, laborers, farmers, etc., of a particular town, it is well settled that it is a public charity. The essential elements of a public charity are that it is not confined to privileged individuals, but is open to the indefinite public. It is this indefinite, unrestricted quality that gives it its public character. * * * A charity may restrict its admissions to a class of humanity, and still be public; it may be for the blind, the mute, those suffering under special diseases, for the aged, for infants, for women, for men, for different callings or trades by which humanity earns its bread, and as long as the classification is determined by some distinction which involuntarily affects or may affect any of the whole people, although only a small number may be directly benefited, it is public."

In view of the above definitions any money or necessities, whether from private sources or from governmental sources, when used to aid indigent persons who come within a certain classification, is public charity and the person receiving such aid is a person on relief. This is true, even though that person by performing certain labor, partially

supports himself. As is said in 48 C.J. p. 429:

"A person who is unable to provide for and maintain himself is a pauper, * * * *
And where a family is in want, the members thereof are poor and unable to support themselves, (is) within the meaning of the various statutes, although the head of the family earns enough for their partial support."

Therefore, we think that the intention of the legislature by the use of the term, "person on relief", was to mean a pauper or indigent person who was receiving aid in the form of money or necessaries from some public charity, even though that person may perform some service for the aid received or partially support himself.

The legislature did not in this act require that the claim, for which the person on relief needs the certified copy of a record to substantiate, be a particular kind or type of a claim against the government of the United States. The term "any claim" has a very broad meaning and would include any debt, demand or other evidence of liability arising out of contract or tort which the government of the United States is legally or morally obligated to pay. Had the legislature intended that the claim be a particular kind, they might have easily said so. The same is true with the question of whether or not the registrar may issue this free certified copy of a record to a person who does not reside within this state.

The language of this exception clause is couched in comprehensive and broad terms, and as is said in *State ex rel Bernero v. McQuillin*, 246 Mo. l.c. 534 "should receive a construction in aid of the broad intendments of the lawmaker". The law says any person on relief and any claim against the government of the United States, and we think this should be construed as any, every and all persons who come with the classification of person on relief, whether they reside in Missouri or not, and as any, every and all claims of whatever nature against the government of the United States.

In your request, you state that you propose to require a statement on the letterhead of the agencies requesting the certified copy of the record to the effect that the certified copy is required to perfect the claim of a person on relief, or any dependent of a person who was on relief for a claim upon the government of the United States. In this connection, we desire to call to your attention that this law does not contemplate that these requests are to come from others than the individual applicants themselves. Although

in all probability in practice the request will be made by someone on behalf of the individual who desires the certified copy. Yet, we wish to make it clear that the law does not require that the request for the certified copy must come through the agency from which the applicant receives his relief maintenance. Also, the act does not contemplate issuing the certified copy to boards or agencies which are in charge of the administration of aid to persons on relief but rather, contemplates that these certified copies are to be issued to the persons themselves instead of to the head of the organization or institution from which the person receives his relief.

The act makes no provisions as to the procedure to be followed by the registrar to determine whether or not the applicant for said certified copy is entitled to a free copy. With the law thus, it is within the power of the State Board of Health to promulgate some reasonable rule for each applicant to comply with so that the registrar may make his determination and such rule of necessity must require that the applicant submit information which discloses that he is on relief and that he does, in fact, have a claim against the government of the United States.

CONCLUSION

Therefore, it is the opinion of this department that the term "person on relief" is used in Section 9060, R.S. Missouri 1929, as reenacted Laws 1937, p. 356, includes those persons termed as indigent and receiving aid from a private charitable organization or some Federal, State, county or city governmental agency, whether the same is supported by its own funds or wholly or in part by federal funds. The act implies to those who come within its provisions in other states as well as Missouri. We think persons who are listed upon the rolls from which the W.P.A. draws its workers and the persons working on W.P.A. projects are included within this act, and those under similar schemes carried out by the States, counties and cities, if there be such. The act includes persons receiving aid from private charitable organizations, if by their administration of the relief given is such that it brings them within the

definition of public charity, and those persons receiving Old Age Assistance or other persons receiving relief aid under Social Security Laws and the inmates of public or private institutions for the indigent. Further, it is our opinion that the claim upon the government may be any type of claim for which there is reasonable cause to believe that the government is legally or morally obligated to pay.

Respectfully submitted,

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APPROVED:

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(Acting) Attorney General

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