

BLIND PENSIONS: Under Section 9456, R. S. Missouri 1939, treatments  
APPROPRIATIONS: or operations recommended by examining oculist  
must be furnished by the State.

November 14, 1941

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Mrs. Lee Johnston  
Chief Investigator  
Missouri Commission for the Blind  
Jefferson City, Missouri



Dear Mrs. Johnston:

This will acknowledge receipt of your request for an official opinion under date of November 6, 1941, the pertinent part of which reads:

"Section 9456, Revised Statutes, 1939, reads in part as follows:

"No person shall be entitled to the benefits of this article who shall refuse to submit to treatment or operation to effect a cure when recommended by the examining oculist and approved by the Commission."

"Will you please render an official opinion as to whether or not the Missouri Commission for the Blind is justified in placing persons on the pension roll, whose vision might be improved by operation or treatment as recommended by the examining eye physician, inasmuch as the Missouri Commission for the Blind no longer has any funds to pay for such operation or treatment and indigent applicants have

no means of providing for same themselves, nor is there any other public agency which undertakes this expense.

"This situation is particularly true of elderly persons who have become totally blind through cataracts on both eyes, whose vision might be improved by operation, but who have no means of paying for such operation."

Section 9456, R. S. Missouri 1939, reads as follows:

"It shall be the duty of the commission for the blind to make such regulations relative to the examination of applicants for pension, including the examination by the oculist and of all matters deemed necessary connected with the administration of this article. The examination and certificate of the oculist shall not exceed \$5.00 for each applicant, together with such expense as may necessarily be incurred in making examination where same is not made in his office; such fee and such expense shall be paid by the commission for the blind, but in the case the applicant, concerning whom the expense was so incurred shall subsequently receive a pension, the amount of such expense and fee for examination shall be deducted from the first pension received by applicant and upon proper voucher and requisition by the commission, the state auditor shall issue a warrant to the commission in reimbursement of same. The examining oculist shall state in his certificate (1) the amount of vision in each eye, (2) the cause of blindness, (3) the

possibility of curing same by treatment or operation, (4) the physical and mental condition of applicant and such other matter as may be deemed by the commission of value in dealing with matters coming within its authority. No person shall be entitled to the benefits of this article who shall refuse to submit to treatment or operation to effect a cure when recommended by the examining oculist and approved by the commission; but upon submission to such treatment or operation the pension of applicant, otherwise entitled thereto, shall be paid as in other cases: Provided further, that no applicant who is more than seventy-five years of age, shall be required to submit to an operation to restore his or her vision in order to come under the provisions of this article, but may voluntarily submit to operation."

The above provision, among other things, provides for an examination by an oculist, and one thing the examination must reveal is the possibility of curing said applicant by treatment or by operation. It further provides that no one shall be entitled to benefits who shall refuse to submit to treatment or operation to effect a cure when recommended by the oculist and approved by the commission, and further provides, that if upon submission to such treatment or operation the pension to the applicant, otherwise entitled thereto, shall be paid as in other cases.

One of the cardinal rules of statutory construction is to ascertain and give effect to the lawmakers' intent, considering the language honestly and lawfully to ascertain its plain and rational meaning and to permit its object and manifest purpose. (State v. Pope, 126 S. W. (2d) 1201, 1. c. 1210.)

Another equally well established rule of construction is that words of common usage ought to be construed in their natural and ordinary meaning. (Botz v. Kansas City Southern, 314 Mo., 391, 1. c. 411.)

In Section 9456, supra, we find the words "submit" and "submission". Such words are defined in Funk & Wagnall, New Standard Dictionary in this manner; "submit"--"To give up to or place under the government or treatment of another; yield; subject; surrender; \* \* \*"; "submission"--"The act of submitting; a yielding to the power or authority of another; obedience; hence, action in conformity with the wishes of a superior."

Applying the above rules of construction, in construing Section 9456, supra, we must conclude that if an applicant has consented to treatment or operation as recommended by an oculist upon examination then he has complied with the statutory requirements of 9456, supra.

The Sixty-first General Assembly appropriated \$50,000. for investigating applicants for blind pensions and the investigation of the merits and status of those already upon the pension rolls. This appropriation further provides that no part shall be used for any purpose not directly connected with or indispensable to the investigation of the applications for blind pensions and the status of recipients now on the roll, all of which clearly excludes any possibility of using such appropriation for operation or treatment of applicants for blind pensions for the reason it is not a prerequisite to investigating an applicant. (Section 3, page 166, Laws of 1941.)

"Commission for the Blind. There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Fifty Thousand Dollars (\$50,000.00) for the use and benefit of the Commission for the Blind, to be expended under the direction of said Commission for the investigation of

applications for blind pensions and for the investigation of the merits and status of those now on the pension rolls. No part of said appropriation shall be used by said Commission for any purpose not directly connected with or indispensable to the investigation of the applications for blind pensions and the status of present recipients of blind pensions. "

Specific appropriations have heretofore been made for such expenses as treatment and operation of applicants for blind pensions which leads us to believe that the lawmakers were of the opinion that under the law the matter of treatment and operation of the applicants was an obligation upon the State.

The courts in this State have repeatedly held that construction of a statute by those charged with enforcing it, while not binding upon the courts, is entitled to much weight where the meaning is uncertain. (Automobile Gas Company v. City of St. Louis, 32 S. W. (2d) 281; 326 Mo. 435. In re Bernays Estate, 126 S. W. 209; 344 Mo. 135.) Since the blind pension law was not amended by the Sixty-first General Assembly apparently it was an oversight in that body failing to appropriate sufficient funds for treatment and operation of blind pension applicants.

Another fundamental rule of construction is to favor such construction as will not lead to evil, unjust, oppressive or absurd results. (State v. Irvine, 72 S. W. (2d) 96; 335 Mo. 261; Fischbach Brewing Company v. City of St. Louis, 95 S. W. (2d) 335; 231 Mo. App. 793.

Certainly no one will deny that by far the majority of blind pension applicants are persons with little or no means for securing medical services for treatments or operations. To hold the applicant had to pay for such treatment and operation would be placing an unjust and absurd construction on this statute which we think the legislature never contemplated.

Therefore, it is the opinion of this Department that if a person applying for a blind pension is found by the oc-

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ulist examining him to be in need of treatment or an operation and so recommends same, and the applicant indicates he is willing to submit to such treatment or operation, then he has complied with the provisions of Section 9456, supra, and is entitled to a blind pension regardless of whether or not the State is able to furnish him with such treatment or operation.

Respectfully submitted,

AUBREY R. HAMMETT, JR.  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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