

ELEEMOSYNARY INSTITUTIONS: Providing room and board for employee is within the discretion of superintendent. Employee if not allowed board should be charged for same.

April 8, 1942

4-15

Hon. Ira A. Jones, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your request for an opinion, which reads as follows:

"In employing some employees at our institutions we furnish room and meals as a part of their compensation. Other employees are not furnished quarters and are given more compensation.

"Where we furnish maintenance, could we pay out of Personal Service the full amount and then have the employee pay the hospital for his maintenance and use the money that the employee pays to buy food with?"

Section 9320 R. S. Mo. 1939, provides as follows:

"The board may, by order entered of record, provide any employee board and living quarters in addition to salary, or wages, when such board finds it is for the best interest of the institutions under its care so to do."

The above statute provides that the board "may" provide any employee board and living quarters. It is a well established rule of statutory construction that when the word "may" is used in a statute that it is permissive only and not mandatory. State ex inf. McKittrick v. Wymore, 119 S. W. (2d) 941, 343 Mo. 98. Therefore, it is left to the sound discretion of the board whether, in addition to salary, an employee in any of the state eleemosynary institutions shall receive board and living quarters.

Section 9283, R. S. Mo. 1939, provides as follows:

"All nurses, attendants and other employees necessary to the economic administration of the several institutions shall be employed by the superintendent thereof and the compensation therefor shall be fixed by the superintendent with the approval of the board. The superintendent shall from time to time furnish to the board of managers a list of the several persons employed in the institution under his care, together with the salary paid such employee, and the board of managers shall have power and authority to reduce the number of employees and to reduce the salary of any of the employees therein."

Under the above section the amount of compensation received by any employee is fixed by the superintendent with the approval of the board and if the superintendent decides to give an employee increased compensation in place of room and board we believe this is a matter entirely within his discretion.

Section 9296 R. S. Mo. 1939, provides as follows:

"Any purchase of food, other than the usual quality purchased for the inmates thereof, to be used by or for anyone other than the inmates of said institution shall be charged directly to the individual responsible for said purchase."

Section 9365, R. S. Mo. 1939, provides as follows:

"Hereafter, whenever, under any law of this state, or any rule or regulation made under the authority of any law of this state, any county, municipality, guardian, trustee or person is required to pay any sum or sums of money for the support of any person confined in any penal institution, or in any state hospital, reform, industrial or other eleemosynary institution belonging to this state, or established or maintained by this state, or is required to pay any sum for the maintenance, use or benefit of any such institution, the same shall be paid, as may be now or hereafter provided by law, into the treasury of the institution entitled thereto."

We believe under the above sections that the state when it provides food to an employee whom the board has not by order declared to be entitled to such food in addition to his salary, should charge said employee for such food and the money received therefrom should go into the treasury of the institution. Section 9366, R. S. Mo. 1939, provides that all moneys received under Section 9365, supra, should be forwarded to the State Treasurer.

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CONCLUSION

It is, therefore, the opinion of this department that it is within the discretion of the board of managers of the eleemosynary institutions whether any employee shall receive in addition to his salary board and living quarters.

It is further the opinion of this department that the compensation received by the employees of the eleemosynary institutions is a matter entirely within the discretion of the superintendent of the institution, which amount, however, must be approved by the board of managers. An employee who is not entitled to board should be charged by the state if he receives meals from the state and the money so received should be placed in the treasury of the institution and forwarded to the State Treasurer.

Respectfully submitted,

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APPROVED:

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Attorney-General

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