

BLIND PENSIONS: Income should be computed for twelve successive calendar months, not for calendar year.

August 21, 1942

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



Dear Mrs. Johnston:

Under date of August 11, 1942, you wrote this office requesting an opinion, as follows:

"The question has arisen in the case of several blind pensioners, whose income has increased during recent months because they are working in shops for the blind and on war orders, whether or not the law should be interpreted to mean that at any time during a year a pensioner becomes ineligible, through having earned more than Six Hundred Dollars (\$600.00) the previous twelve months and should be stricken, or whether this should be checked by fiscal years."

Section 9451, R. S. Mo. 1939, sets out the qualifications necessary to entitle a person to receive a blind pension. This section also contains the following clause:

"* * * Provided, that no such person shall be entitled to a pension under this article who has an income, or is the recipient, of six hundred (\$600.00) dollars or more per annum from any

source whatever, * * * * *

Your question calls for an interpretation of this clause.

The words "per annum" mean by the year, or, through the year. In the rules for construing statutes, Section 655, R. S. Mo. 1939, is the following rule:

"* * *; third, the word 'month,' shall mean a calendar month, and the word 'year' shall mean a calendar year, unless otherwise expressed, and the word 'year' be equivalent to the words 'year of our Lord; * * * * *'"

While the word "year" by Section 655, supra, ordinarily means calendar year, it may be interpreted to mean twelve calendar months, not necessarily the twelve calendar months starting January 1, and ending December 31, but any full twelve calendar months running in succession, or 365 days, when the context of the law in which the word is used clearly indicates such an intention on the part of the Legislature in enacting the law. *Muse v. London Assur. Corp.*, 13 S. E. 94; *Sims v. City of Bremerton*, 66 Pac. (2d) 863; *Lane v. Tarver*, 113 S. E. 452; *In re Stulman's Will*, 263 N. Y. S. 197.

Section 9454 R. S. Mo. 1939, contains the following:

"* * * And whenever it shall become known to the commission that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to such person at his or her last known residence address, such fact shall be certified to the state auditor and the name of such person shall be stricken from the blind pension roll: * * * * *"

In the case of Dahlin v. Missouri Commission for the Blind (when appeals were allowed from circuit courts) reported in 262 S. W. 420, the Springfield Court of Appeals, in discussing the time at which the eligibility of a person for a blind pension should be determined, spoke as follows at l. c. 421:

"Having disposed of the question of jurisdiction, we are brought to the merits. The question is raised as to the time at which the extent of vision of the applicant is to be determined. Is it the day of filing the application, or the date of the examination by the oculist, or the date the application is passed on by the commission, or the date of the trial in the circuit court on appeal from the commission? The first authoritative determination of the facts is made when the commission passes on the application. We see no reason why the commission should be bound to any date prior to the date of its determination. While the statute provides that the beginning of the pension shall be from the filing of the application, it is apparent that changes in the condition of the applicant as to any of the qualifications necessary to entitle a party to a pension might take place after the filing of the application which change might prevent its allowance.

"In addition to the question of the degree of sight possessed by the applicant, there are property and other qualifications. An applicant might not be subject to any of these disabilities when the application was filed, or when examined by the oculist, but might be subject

thereto when the application is passed on by the commission. In that event, the commission ought, and we think could, under the law, reject the application. Some one or more of these disabilities might be present when the application is filed, but not present when passed upon by the commission. In that event, it would seem that as to the commission, the condition at the time of the hearing before the commission should be the proper date at which to determine the facts as to the eligibility of the applicant. Suppose, on the evidence sent to the commission by the probate judge, it should appear that the applicant was eligible, but the commission should learn of other testimony which would show the applicant not eligible. We think that on proper notice to the applicant the commission could secure the attendance of witnesses, and hear further testimony, or, if they should think it advisable, require further examination by approved oculists before passing upon the application. * * * * *

This indicates the condition of the applicant at the time of the determination by the Commission should govern.

CONCLUSION

From the foregoing the conclusion follows that the words "income," and "per annum," as used in Section 9451, should be interpreted to mean twelve calendar months or three hundred sixty-five days and not the calendar year.

Respectfully submitted,

WOJ:CP

APPROVED:

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