

AID TO BLIND:
DEPARTMENT OF PUBLIC
HEALTH AND WELFARE:

State Welfare Department is required to prepare public assistance budget of income and expenses in determining need for aid to the blind.

OPINION NO. 222 (1966)
17 (1967)

January 24, 1967

Honorable Robert A. Young
State Senator, 24th District
3500 Adie Road
St. Ann, Missouri



Dear Senator Young:

This is in response to your letter regarding the administration of the Aid to the Blind Program in this state. You enclose a letter you received from Mr. G. Arthur Stewart, President, Missouri Federation of the Blind, Inc., giving their views concerning the matter and requesting an opinion from this office regarding the same.

The state program for Aid to the Blind and Blind Pensions are provided for in Chapter 209, RSMo 1959, as amended. There are two separate programs with different eligibility requirements, each administered by the State Division of Welfare of the Department of Public Health and Welfare. The question submitted deals only with Aid to the Blind Program, which plan is found in Sections 209.210 to and including 209.340, RSMo 1959, as amended. Section 209.220, RSMo 1959, provides:

"1. As a guide to the interpretation and application of this law, the public policy of this state is declared to be that the care, relief and welfare of blind persons who are in need and who are unable to support themselves in whole or in part is a special matter of state concern and requires the enactment of this measure to promote the public health and general welfare of the citizens of this state.

"2. To provide such care and aid to the deserving blind at public expense, a state-wide system of aid to the blind is hereby established to operate in a uniform manner with due regard to the economic opportunities of blind persons and recognizing that the needs of employed blind persons require retention

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of an amount of their income to meet the special expenses arising from blindness.

"3. It is hereby expressly declared to be the intention of this general assembly to grant pensions to the blind as provided in sections 209.010 to 209.160, and aid to the blind as provided herein, and that the words 'pensioning of the deserving blind' as used in any law of this state shall be construed to include aid to the blind."

Section 209.230, as amended in 1963, provides in part that "Aid to the blind shall be granted under this law to a blind person" and including certain qualifications as set out in the statute, one of which is subparagraph 8, which reads as follows:

"(8) Who does not have an income, or is the recipient of three thousand dollars or more per annum from any source whatever, or who lives with a sighted spouse who does not have an income, or is the recipient of three thousand dollars or more per annum from any source whatever;"

Section 209.240, as amended in 1965 provides in part:

"1. The division of welfare shall, for the purpose of obtaining federal financial participation in aid to the blind payments, prepare a budget taking into consideration the necessary expenses in accordance with standards developed by the division of welfare and the income and resources of the individual claiming aid to the blind. In preparing such budget the division of welfare shall disregard the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month. Every person passing the vision test and having the other qualifications provided in this law shall be entitled to receive aid to the blind in the amount of eighty dollars monthly. Any person disqualified to receive aid to the blind may apply for pension to the blind as provided in sections 209.010 to 209.160.

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The question submitted concerns the interpretation of these provisions of the above statutes. As stated in the letter from the Missouri Federation of the Blind, Inc., their contention is that any person meeting the requirements of Section 209.230, subdivision 8, is ipso facto in need and hence eligible for benefits provided he meets the other requirements of this section, while the State Division of Welfare contends that such person must be found to be in need after a budget study is made by the Division taking into consideration the income and expenses as provided in Section 209.240. In other words, the federation contends that if the person does not have income of three thousand dollars or more he is eligible for Aid to the Blind benefits without regard to his needs if he meets the other provisions of Section 209.230.

The rule in construing statutes is stated in *Parks v. State Social Security Commission*, 160 S.W.2d 823, l.c. 825, as follows:

"[1, 2] We think that the language of the statute is plain, but even were it subject to construction, the rule of statutory construction mentioned by claimant are not applicable. It is well established that 'in construing a statute, the legislative intention is to be determined from a general consideration of the whole act with reference to the subject matter to which it applied, and the particular topic under which the language in question is found, and the intent as deduced from the whole will prevail over that of a particular part considered separately. * * * It is a cardinal rule of construction of statutes that effect must be given, if possible, to the whole statute and every part thereof. To this end it is the duty of the court, so far as practicable, to reconcile the different provisions so as to make them consistent, harmonious, and sensible. Just as an interpretation which gives effect to the statute will be chosen instead of one which defeats it, so an interpretation which gives effect to the entire language will be selected as against one which does not.' (Italics ours.) 59 C.J. pp. 993 to 999, inc."

In the case of *City of St. Louis v. Carpenter*, 341 S.W.2d 786, l.c. 788, in discussing the rules for statutory construction, it is stated:

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"[5, 6] Statutes relating to the same or similar subject matter, even though enacted at different times and found in different chapters, are in pari materia and must be considered together when such statutes shed light on the statute being construed. State ex rel. Smithco Transport Co. v. Public Service Commission, Mo., 316 S.W.2d 6, 12[6]; State ex rel. Wright v. Carter, Mo., 319 S.W.2d 596, 600[7]; State ex rel. Spink v. Kemp, 365 Mo. 368, 283 S.W.2d 502, 526[38].* * *"

Sections 209.220, 209.230 and 209.240, regarding Aid to the Blind, were first enacted in 1951 as part of the Aid to the Blind Law. Section 209.230 was amended in 1963 and 209.240 in 1965. These sections must be construed together and effect given to each section, if possible. Section 209.220, supra, states that as a guide to the interpretation and application of this law the public policy of this state is declared to be that the care, relief and welfare of blind persons who are in need and who are unable to support themselves in whole or in part is a special matter of state concern. It is clear that under this provision Aid to the Blind law benefits are to be paid only to persons that are in need and that persons not in need are not eligible even though their vision may be impaired and they meet other eligibility requirements.

The Social Security Law, Title X, Section 1202, Title 42, Section 1202, Federal Code Annotated, Section 1202, Title 42, United States Code Annotated, Pocker parts, provides in part that the State agency in administering the Aid to the Blind program shall:

"(a) * * * (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency shall disregard (A) the first \$85 per month of earned income, plus one-half of earned income in excess of \$85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by

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the State agency, as may be necessary for the fulfillment of such plan;"

In order to comply with this federal statute, Section 209.240 was enacted and it provides in part that the Division of Welfare "shall", for the purpose of obtaining federal financial participation in Aid to the Blind programs, prepare a budget taking into consideration the necessary expenses and the income and resources of the individual claiming Aid to the Blind. It further provides for disregarding the same amounts of earned income as provided in the federal law.

In Section 209.230 (8), supra, Aid to the Blind benefits can be paid to a person having an income of three thousand dollars or less. It cannot be paid to a person having more than three thousand dollars, regardless of the need of such person for assistance, because the maximum income is set in the statute at three thousand dollars.

In the letter from the federation the fact is mentioned that Section 209.230 provides in part that aid "shall" be granted. It is their contention, apparently, that this is a mandatory requirement.

Section 209.240, supra, provides that the Division of Welfare "shall" prepare a budget of income and expenses in determining the needs of the person.

It is our view that the Division of Welfare is required under Section 209.240 to prepare a budget in determining the eligibility of a person to receive Aid to the Blind who meets the requirements of Section 209.230, supra. It was certainly not intended for a budget to be prepared for persons having three thousand dollars or more income because they could not be considered eligible for any assistance under Section 209.230. Therefore, in order to give Section 209.240 effect it must apply to persons having income of three thousand dollars or less, under Section 209.230(8), and that a person having income of three thousand dollars or less is eligible for Aid to the Blind only when he is found to be in need under the provisions of Section 209.240.

CONCLUSION

It is the opinion of this office that the Division of Welfare is required to prepare a budget as provided in Section 209.240 of the income and expenses in determining the needs of an applicant for Aid to the Blind who is otherwise eligible under Section 209.230.

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The foregoing opinion, which I hereby approve, was prepared
by my Assistant Moody Mansur.

Yours very truly,



NORMAN H. ANDERSON
Attorney General