

1478.

BLIND RELIEF—RECIPIENT THEREOF DOES NOT FORFEIT RIGHT
THERE TO BY MOVING TO AND LIVING IN ANOTHER COUNTY
MORE THAN ONE YEAR.

SYLLABUS:

County Commissioners may not refuse a new grant of blind relief under Sections 2966, 2967, General Code, merely for the reason that such blind person has moved to another county and there resided for a period of more than one year, without obtaining a legal settlement.

COLUMBUS, OHIO, August 29, 1933.

HON. PAUL T. KLAPP, *Prosecuting Attorney, Miami County, Troy, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads as follows:

“At the request of the County Commissioners of Miami County, may I ask for your opinion upon the following subject:

A person who has been determined to be a suitable person to receive, and to whom a blind pension has been granted, has removed his place of residence from Miami County and remained absent for a period of time considerably in excess of one year, and who has during this time made his residence in another county within the State of Ohio. Upon this statement of facts, may the County Commissioners of Miami County refuse a new grant of said pension under General Code Sections 2966 and 2967, for the reason that said blind person is no longer a resident of Miami County, Ohio?”

The Sections applicable to your question, are as follows:

“Section 2965. Any person of either sex who, by reason of loss of eyesight, is unable to provide himself with the necessities of life, who has not sufficient means of his own to maintain himself, and who, unless relieved as authorized by these provisions would become a charge upon the public or upon those not required by law to support him, shall be deemed a ‘needy blind person.’”

“Section 2966. In order to receive relief under these provisions a needy blind person must become blind while a *resident* of this state, and shall be a resident of the county for one year.”

Section 2967, provides *inter alia*: “At least ten days prior to action on any claim for relief hereunder, the person claiming shall file with the board of county commissioners a duly certified statement of the facts bringing him within these provisions. * * * No certificate for qualification for drawing money hereunder shall be granted until the board of County Commissioners shall be satisfied by a certificate from a registered physician stating the extent to which the applicant’s vision is impaired, and giving his opinion as to the possibility of correcting the impairment by proper procedure; and from the evidence of at least two reputable residents of the county, that they know the applicant

to be blind and that he has the residential qualifications to entitle him to and that he is in need of the relief asked. * * * If the board of County Commissioners be satisfied that the applicant is entitled to relief hereunder, said board shall issue an order therefor in such sum as said board finds needed, not to exceed \$400 per annum, to be paid quarterly from the funds herein provided on the warrant of the county auditor, *and such relief shall be in place of all other relief of a public nature.*" (Italics the writer's.)

From these Sections it will be seen that the requirement for the allowance of blind relief may be summarized as follows:

1. Blindness.
2. Residence in the state at the time the blindness occurred.
3. Residence in the county for one year.
4. Inability by reason of such blindness to support himself.
5. Insufficient means of his own to support himself.
6. Inability of those charged by law to support him to do so.
7. That the applicant will be a charge upon the public unless granted such relief.

An analysis of the Sections of the General Code above quoted will show that the facts pertaining to the blindness and to the residence are jurisdictional and must be shown before any discretion as to the granting of relief may be exercised by the Commissioners. I am able to assume, however, for the purpose of this opinion, that the proper residential requirements were found by the Commissioners of Miami County to be present before the granting of blind relief to the particular person in question. The question presented is whether or not when such person changes his residence to another county the original county furnishing such relief is still responsible for such blind relief support.

Section 2966, General Code, above quoted, contains the provision that in order to obtain blind relief, a person must be a "resident" of a county for one year. The term "resident" is apparently used in this section in an unlimited and unqualified manner without any of the limitations thrown around the obtaining of a "legal settlement" under the laws providing for the support of the poor. However, because of parts of the Sections above quoted, the history of the legislation providing for relief of "needy blind persons," and the interpretation placed upon the legislation by the Supreme Court, it is necessary to interpret these laws in the light of other provisions of the General Code which refer to the support of the poor.

The particular provisions of the Blind Relief Laws to which I refer supra are:

"And who, unless relief is authorized by these provisions, would become a charge upon the public or upon those not required by law to support him." (Section 2965, G. C.).

and

"Such relief shall be in place of all other relief of a public nature." (Section 2967, G. C.).

The original legislation on this subject, as enacted April 25, 1904, was held unconstitutional by the Supreme Court in the case of *Auditor of Lucas County vs.*

State, 75 O. S., 114, for the reason that it authorized the expenditure, for private purposes, of public funds raised by taxation. In 1913 the legislature amended and supplemented the provisions of the original Act of 1904, restricting the provisions for relief to such persons, who by reason of loss of eyesight, would become a charge upon the public or upon those not required by law to support them, unless granted relief provided by the Act.

The curative provisions of this amendment of 1913 (103 O. L., 60) were held by the Supreme Court in *State ex rel vs. Edmondson*, 89 O. S. 351, to remove the objectionable features of the original Act and the legislation as thus amended was held constitutional.

The phrase "shall be a resident of the county for one year" in Section 2966, G. C. supra, has the same significance as the term "legal settlement" in the statutes relating to the general administration of poor relief.

The relief provided for the needy blind was considered by the court in *State ex rel vs. Edmondson supra*, as in the nature of poor relief, and at pages 357 and 358 of the opinion, the court said:

"The express object, and the practical provision, of the enactment is to furnish relief to the blind who are poor and needy, and to avoid the public burden. * * * * * Outdoor relief of the poor, as distinguished from relief in institutions, was fixed as a part of the policy and practice of Ohio one hundred years ago."

In the Opinions of the Attorney General for 1915, volume II, page 1432 it is stated:

"It seems quite clear that the legislature in providing a different qualification as to residence for a needy blind person than that required for other needy persons, did not intend to change the existing laws as to the county which should bear the burden of support. * * * It follows, therefore, if this applicant is not and could not become a public charge upon Lucas County, then Lucas County, under the provisions of Section 2966, supra, would have no authority to grant him blind relief. *On the other hand he must be a pauper, and therefore a charge upon the County in which he has a legal settlement, which said County must discharge its duty to support him by granting him blind relief.* His living in Lucas County does not relieve Crawford County of the duty to support him, and that County should continue to furnish him the relief even if he may now live in another county." (Italics the writer's.)

Accordingly it has been uniformly held in opinions of this office that the term "resident of the county" in this section has the same significance as in the statute (3477, G. C.) relating to the general administration of poor relief, which provides:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

See: Opinions of the Attorney General, 1915, volume I, page 1432; Opinions of the Attorney General, 1917, volume I, page 50; Opinions of the Attorney General, 1919, volume I, page 53; Opinions of the Attorney General, 1931, volume II, page 1203.

Much care is exhibited in the poor relief laws and these analogous blind relief laws to place the burden of the support upon the proper county, and a pauper cannot transfer the liability of his support from one county to another by moving to the other county. (See Section 3482, G. C.).

It can readily be assumed from your inquiry that the particular blind person in question has not obtained a new legal settlement in the county to which he has moved, and thus still has his legal settlement in Miami County.

The syllabus of the former opinion of this office, Opinions of the Attorney General, 1919, volume I, page 53, reads:

“In order to acquire the residential qualifications essential to an award of blind relief, the applicant must have resided and supported himself within the county for twelve consecutive months without relief under the laws providing for relief of the poor.”

“A person removing from one county to another but continuing to receive blind relief from the county of his former abode, does not acquire the residential qualifications entitling him to receive blind relief from the latter county.”

Specifically answering your inquiry, it is my opinion that the mere fact that a blind person receiving blind relief from a county moves into another county and lives there for more than one year, does not of itself give grounds for refusal of blind relief to such person by the county in which such relief was granted.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1479.

APPROVAL, BONDS OF NORTON TWP. RURAL SCHOOL DISTRICT,
SUMMIT COUNTY, OHIO—\$3,500.00.

COLUMBUS, OHIO, August 29, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.