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SECRET—STATE COMMUNICATION—DIVISION OF AID FOR AGED—MAY NOT PERMIT INDUSTRIAL COMMISSION TO EXAMINE FILE OF OLD AGE RECIPIENT—PURPOSE TO DETERMINE IF MEDICAL DATA CONSISTENT WITH THAT PLACED ON FILE FOR WORKMEN'S COMPENSATION—SECTION 1359-24a G. C. LIMITS DISCLOSURE OF INFORMATION TO "PURPOSES DIRECTLY CONNECTED WITH ADMINISTRATION OF AND FOR AGED OR OTHER FORMS OF PUBLIC ASSISTANCE."

SYLLABUS:

The Division of Aid for the Aged may not permit the Industrial Commission to examine the file of an old age recipient to determine whether the medical data there is consistent with that placed on file in the claim for workmen's compensation in view of the provisions of Section 1359-24a, General Code, which limit disclosure of such information to "purposes directly connected with the administration of aid for the aged or other forms of public assistance."

Columbus, Ohio, September 1, 1949

Hon. J. H. Lamneck, Director of Public Welfare
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Under Section 1359-24a of the General Code, it is unlawful 'except for purposes directly connected with the administration of aid for the aged or other forms of public assistance, in accordance with the rules and regulations and interpretations of the division, for any person or persons to solicit, disclose, receive, make use of, or authorize or knowingly permit, participate

in, or acquiesce in the use of, any list of names of, or any information concerning persons applying for or receiving aid for the aged, directly or indirectly obtained from the records, papers, files, or communications of the division or its subdivisions, or acquired in the course of the performance of official duties.'

"Recently, we had a request from The Industrial Commission, relative to a claim for workmen's compensation, for permission to examine the file of an old age recipient to determine whether the medical data on file with the Division of Aid for the Aged was consistent with that placed on file in the claim for workmen's compensation.

"Under the above-mentioned section of the law and the provisions of the Social Security Act, which also make the information obtained by the Division of Aid for the Aged in recipient cases confidential, can this Department legally grant such a request to The Industrial Commission of Ohio?"

As I look at your inquiry, the principal question to be disposed of is whether or not a statutory prohibition against disclosure of information contained in records or other papers of one agency of the government applies to prevent disclosure of such information to another agency.

I believe this question can be readily answered by referring to the general rule with respect to "state secrets," which I consider analogous to the present situation. In 42 O. Jur. 238, under the heading "State Secrets and Communications to Public Officers", it is said:

"It is well settled that courts will not compel the disclosure of state secrets by other departments of the government in ordinary judicial proceedings. * * *" (Citing 28 Ruling Case Law, p. 518, Sec. 105, cited favorable in 1936 O. A. G. 500, 504.)

Perhaps more illustrative of the point is the case considered by the Supreme Court of Kentucky, Fayette County, et al. v. Martin, Commissioner of Revenue, 279 Ky. 387, 130 S. W. (2nd) 838, where a county and city officials joined together to compel the Kentucky Tax Department to permit them to inspect and examine the annual franchise tax reports of certain corporations doing business in the county and city concerned to facilitate local tax enforcement and collection. A Kentucky statute prohibited disclosure of such information except to certain officials, boards and to any Kentucky city; no provision was made for disclosure to the counties. The court granted mandamus to the city under the statute, but denied the privilege to the county and in so doing over-

ruled the county's plea that inspection should be permitted under the common law rule with respect to inspection of public records.

In view of the preceding, I think it is reasonably clear that a statutory prohibition against disclosure of information in the files of one government agency operates to prevent disclosure of such information to another agency.

Judging from the list of prohibited acts—to solicit, disclose, receive, make use of, or authorize or knowingly permit, participate in, or acquiesce in the use of—the legislative intent is strong and clear to restrict the use of information in the possession of the Division of Aid for the Aged “to purposes directly connected with the administration of aid for the aged or other forms of public assistance.” It can hardly be said that the purpose for which the Industrial Commission desires access to the files of the Division of Aid for the Aged are directly connected with aid for the aged or other forms of public assistance.

Therefore, in specific answer to your question, I am impelled to the conclusion that the Division of Aid for the Aged may not permit the Industrial Commission to examine the file of an old age recipient to determine whether the medical data there is consistent with that placed on file in the claim for workmen's compensation in view of the provisions of Section 1359-24a, General Code, which limit disclosure of such information to “purposes directly connected with the administration of aid for the aged or other forms of public assistance.”

In view of the conclusion which I have reached, it will not be necessary to examine application of the Social Security Act to the question propounded by you.

Respectfully,

HERBERT S. DUFFY,
Attorney General.