

4291.

OLD AGE PENSION—RECIPIENT OF OLD AGE PENSION NOT ENTITLED TO BLIND RELIEF—UNNATURALIZED PERSON NOT ELIGIBLE FOR OLD AGE PENSION BUT ELIGIBLE FOR BLIND RELIEF.

SYLLABUS:

1. *A person receiving an Old Age pension is not entitled to blind relief while receiving such Old Age Pension by virtue of the inhibition against such contained in section 2967, General Code.*

2. *By virtue of subdivision (c) of Section 1359-10, General Code, an unnaturalized person is not entitled to an Old Age Pension.*

3. *An unnaturalized person, assuming all other conditions of the blind relief laws are complied with, is entitled to blind relief.*

COLUMBUS, OHIO, May 25, 1935.

HON. GEORGE N. GRAHAM, *Prosecuting Attorney, Canton, Ohio.*

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

“Will you kindly give us your opinion on the following questions:

First: May one receiving old age pension be granted and paid blind relief by the County Commissioners and if so, will the amount be limited by the sum being received as Old Age Pension?

Second: Is an unnaturalized person entitled to blind relief and old age pension?”

Section 2967, General Code, a part of the blind relief law, provides in part:

“\* \* \* 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 four hundred dollars 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)

In an opinion of the Attorney General for 1914, Vol. II, page 1303, it was held as disclosed by the syllabus:

“The words, ‘and such relief shall be in place of all other relief of a public nature,’ as found in section 2967, G. C., do not preclude a pensioner of the federal government from drawing blind relief, nor does the drawing of a federal pension affect the right of a blind person to relief under the Ohio blind relief laws.”

Two reasons were stated for this conclusion in the opinion at page 1303:

“1. The federal pension is not ‘relief’ in the sense of the language used in section 2967.

2. The language of 2967 has no application to relief furnished by another government than the state of Ohio, or some of its subdivisions."

In reported Opinions of the Attorney General for 1931, Vol. I, page 175 at page 178, it was stated:

"In conclusion it is my opinion that the relief furnished to a blind person under section 2967, and its related sections, is for the sole benefit of such blind person, and while no further relief may be granted for the benefit of such person when she has received the allowance as made, there is nothing to prevent an allowance being made for her minor children under facts and circumstances bringing them within the provisions of sections 1683-2 et seq. (relating to mother's pension). \* \* \*"

However, in view of the express language of Section 2967, General Code, "and such relief shall be in place of all other relief of a public nature" it is my opinion that the Old Age Pension provided in Sections 1359-1 to 1359-30, both inclusive, is "relief of a public nature" and consequently it is my opinion that one receiving an Old Age Pension may not be granted blind relief while receiving such Old Age Pension. Although it may be stated that an Old Age Pension is not strictly poor relief to "paupers", nevertheless it is a form of public relief to a designated class of the public, that class being composed of persons of sixty-five years of age and upwards whose incomes do not exceed three hundred dollars per year. The support of such persons by the state is a well recognized humanitarian duty under the conditions of modern society. Of course, the option of which type of relief is desired would be with the blind person in the case you mention and such person could take advantage either of the blind relief laws or the Old Age Pension Law, but may not receive relief under both laws.

I come now to your second question which asks whether or not an unnaturalized person is entitled to blind relief and an Old Age Pension.

By virtue of the express provisions of the Old Age Pension Law, i. e. Section 1359-2, subdivision (c) an unnaturalized person is not entitled to an Old Age Pension. Such section provides in part:

"No person shall be entitled to aid under this act unless he fulfills the following conditions:

\* \* \*

\* \* \*

\* \* \*

(c) Is a citizen of the United States, and has been such for at least fifteen years immediately prior to making application for aid; \* \* \*."

Whether or not an unnaturalized person is entitled to blind relief presents a more difficult question and one upon which I am unable to find any former opinions ruling on the precise point. Section 2966, General Code, relative to blind relief provides:

"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 1683-2, General Code, relative to Mothers' Pensions, provides in part:

" \* \* \* and such mothers and children have a legal residence in any coun-

ty of the state for two years, the juvenile court may make allowance to each of such women as follows: \* \* \*

In an opinion of one of my predecessors in office to be found in Opinions of the Attorney General for 1917, Vol. I, page 278, it was held as disclosed by the syllabus:

“Under the provisions of the law relating to mothers’ pensions, the widow of an unnaturalizer person is entitled to a pension under the same conditions as is the widow of a naturalized citizen.”

This opinion appears to be strictly analogous to the precise point raised by your inquiry and consequently it is my opinion that an unnaturalized person, assuming all other conditions of the law are complied with, is entitled to blind relief.

Summarizing, it is my opinion that:

1. A person receiving an Old Age Pension is not entitled to blind relief while receiving such Old Age Pension by virtue of the inhibition against such contained in Section 2967, General Code.
2. By virtue of subdivision (c) of Section 1359-10, General Code, an unnaturalized person is not entitled to an Old Age Pension.
3. An unnaturalized person, assuming all other conditions of the blind relief laws are complied with, is entitled to blind relief.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

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4292.

HEALTH DISTRICT—CITY AND GENERAL HEALTH DISTRICTS COMBINE  
—AUTHORITY OF CITY COUNCIL TO ENACT ORDINANCES REGULATING  
PASTEURIZATION OF MILK.

SYLLABUS:

1. *When a city health district unites with a general health district under the provisions of section 1261-20, General Code, the council of the city embraced within such city health district has the power to enact an ordinance regulating the pasteurization of milk, unless such ordinance is in conflict with regulations of the board of health of the combined health district in which said city is located.*
2. *If such ordinance is enacted, the city is without authority to require the combined board of health to enforce it.*
3. *Under such a combination, the board of health of the combined health district may pass a health regulation requiring the pasteurization of milk to be sold in a city which is located within said combined health district.*
4. *When a city health district unites with a general health district under the provisions of section 1261-20, General Code, the regulations of the board of health of the city health district made prior to uniting with the general health district, may be adopted by the board of health of the combined health district for, and be enforced in, the territory comprising the former city health district. However, only regulations*