

1902.

AID FOR THE AGED — LEGAL SETTLEMENT — RECIPIENT OF SUCH AID CANNOT BE CONSIDERED SUPPORTING HIMSELF WITHOUT RELIEF — SUCH GRANT CONSIDERED RELIEF.

SYLLABUS:

In determining legal settlement, a recipient of aid under the laws governing the granting of aid for the aged cannot be considered as supporting himself without relief under the provisions of law for the relief of the poor and such a grant must be considered as relief.

Columbus, Ohio, February 21, 1940.

Hon. Ferdinand E. Warren, Prosecuting Attorney,
Ottawa, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion which reads as follows:

"I would like your opinion on the following matter:

In determining legal settlement, is an aid for the aged grant considered as relief?"

"Legal settlement" is defined in Section 3477, General Code, which section reads in part as follows:

"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. * * *"

It will be noted that in order to obtain a legal settlement a person must have continuously resided and supported himself in the county for twelve consecutive months without relief under the provisions of law for the relief of the poor, or relief from any charitable or benevolent association.

The question now would seem to be whether or not a recipient of aid under the laws governing the granting of aid for the aged can be considered as supporting himself without relief under the provisions of law for the relief of the poor.

Section 1359-2, General Code, which sets out the conditions to be fulfilled in order to be eligible for aid for the aged, reads in part as follows:

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

* * *

* * *

* * *

(h) *Is unable to support himself, * * **

(Emphasis mine.)

It will be noted that before one is eligible for such aid he must have ful-

filled the conditions of Section 1359-2, *supra*, one of the requirements being that he be unable to support himself. If one is unable to support himself, he is eligible for an aid for the aged grant, assuming the other conditions of Section 1359-2, *supra*, have been satisfactorily fulfilled. It follows that if one is granted aid, he cannot be considered as supporting himself.

My position is further strengthened by an opinion found in the Opinions of the Attorney General for 1933, Vol. I, page 414. In the course of the opinion the then Attorney General ruled as follows:

“Although one has continuously resided in a county for twelve consecutive months and in a township therein for three consecutive months, if during that time he has been receiving soldier’s relief under sections 2930, *et seq.*, he has not established a legal settlement under sections 3477 and 3479.”

In an opinion reported in Opinions of the Attorney General for 1919, Vol. I, page 53, it was held that the blind relief statute was a provision of law for the relief of the poor under Section 3477, *supra*. In another opinion reported in the Opinions of the Attorney General for 1928, Vol. III, page 227, it was held that aid furnished by the State Division of Charities to a mother for the care of her children constituted relief of the type mentioned in Section 3477, *supra*.

I am of the view that there is no material distinction between a law providing for the relief of needy blind persons, needy children and soldiers who require assistance and a law governing those who are recipients of aid for the aged grants. Further, since one of the conditions of Section 1359-2, *supra*, for receiving an aid for the aged grant is that one be unable to support himself, it certainly follows that he cannot be considered as self-supporting by receiving such aid.

Therefore, in view of the foregoing and in specific answer to your inquiry, I am of the opinion that a recipient of aid under the Old Age Pension Law cannot be deemed as supporting himself, without relief, under the provisions of law for the relief of the poor, and in determining legal settlement, an aid for the aged grant is considered as relief.

Respectfully,

THOMAS J. HERBERT,

Attorney General.