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A PERSON RECEIVING "SOLDIERS' RELIEF" UNDER CHAPTER 5901., R.C. IS NOT RECEIVING "POOR RELIEF" WITHIN THE PURVIEW OF §5113.05, R.C.—§5113.05, R.C., CHAPTERS 5113., 5901., C.

SYLLABUS:

A person receiving "soldiers' relief" under Chapter 5901., Revised Code, is not receiving "poor relief" within the purview of Section 5113.05, Revised Code, defining legal settlement for the purposes of Chapter 5113., Revised Code.

Columbus, Ohio, May 26, 1960

Prosecuting Attorney, Defiance County  
Defiance, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"I have been requested by the County Welfare Office to request your opinion as follows:

"Does the receipt of Soldiers & Sailors Welfare qualify as relief and affect the legal settlement of the recipient as set forth in Revised Code Section 5113.05? Our situation is this. The party moved to the County of Defiance in 1956 and resided here for a period of approximately 14 months. Substantially, during her entire stay in Defiance County, she was a recipient of assistance from the Soldiers & Sailors Commission of Defiance County. She then moved to the County of Lucas and has been on relief, apparently, from the Welfare Agency in Lucas County

since that date. Lucas County now desires to charge back against the County of Defiance the relief given, claiming that her last legal residence was here in Defiance County and as such, we are responsible. We are denying that she ever qualified her residence here in Defiance County due to the fact that she was a recipient of relief and, therefore, did not gain legal settlement.

“Your attention is invited to Section 5113.05 of the Revised Code of Ohio, which reads in part as follows:

“ ‘Legal settlement for the purposes of Sections 5113.01 to 5113.14, inclusive, of the Revised Code is acquired by residing in one county for a period of one year *without* receiving poor relief or relief from a private agency which maintains records of relief given . . . . .”

“It is my opinion that since this party was a recipient of relief from the Soldiers & Sailors Commission of Defiance County during the period of time she was in Defiance County she never acquired legal settlement in Defiance County and as a result, we are not responsible for any welfare she may receive in Lucas County.

“I would appreciate your opinion as to whether or not the receipt of Soldiers & Sailors welfare is considered poor relief and would act as a bar to a party acquiring legal settlement.”

Chapter 5113., Revised Code, deals with poor relief. Section 5113.05, Revised Code, provides in part:

“Legal settlement for the purposes of sections 5113.01 to 5113.14, inclusive, of the Revised Code, is acquired by residing in one county for a period of one year without receiving poor relief or relief from a private agency which maintains records of relief given. A person having a legal settlement in any county in the state shall be considered as having legal settlement in the township or municipal corporation therein in which he has last resided continuously for three consecutive months without receiving poor relief. \* \* \*”

By the term “soldiers and sailors welfare,” contained in your request, I assume that you are referring to the welfare provided by Chapter 5901., Revised Code. This chapter provides for a soldiers’ relief commission in each county to administer relief to needy soldiers, sailors, marines, and airmen and to their needy parents, wives, widows, and minor children. The question to be determined, therefore, is whether a person receiving “soldiers’” relief is receiving “poor relief” within the meaning of Section 5113.05, *supra*.

In Opinion No. 424, Opinions of the Attorney General for 1933, page 414, the then attorney general held in the syllabus:

“Soldiers’ relief granted under sections 2930, et seq., of the General Code, is relief of the poor within the contemplation of sections 3477 and 3479, defining legal settlement.”

Sections 2930 *et seq.*, General Code, were the predecessors of the present Chapter 5901., *supra*. Sections 3477 and 3479, General Code, dealt with public relief and though the law has been changed considerably since 1933, were the forerunners of the present poor relief law, Chapter 5113., *supra*. Regarding legal settlement, Section 3477, *supra*, read in part:

“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, subject to the following exceptions:

“\* \* \*”

In referring to this provision it was stated at page 416 of Opinion No. 424, *supra*:

“Your question is whether soldiers’ relief granted under sections 2930 to 2941, inclusive, to ‘all needy soldiers, sailors and marines,’ as provided in section 2934, is ‘relief under the provisions of law for the relief of the poor.’ It appears self-evident that a provision of law for the relief of ‘needy’ persons is one for the relief of the poor. It seems to me immaterial that section 2934 concerns needy soldiers rather than all needy persons, or needy persons of some other class. In an opinion reported in Opinions of the Attorney General for 1919, Vol. I, page 53, one of my predecessors held that the blind relief statute (as amended, 103 O.L. 60) was a provision of law for the relief of the poor under section 3477. In another opinion of this office, reported in Opinions of the Attorney General for 1928, Vol. III, page 2227, 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 kind mentioned in section 3477. I see no material distinction between a law providing for the relief of needy blind persons or needy children and one for the relief of soldiers who require assistance.”

While the statutes dealing with soldiers’ relief are substantially the same as those existing in 1933 (Chapter 5901., *supra*), the poor relief law has undergone many changes since that date. The former Sections 3476 *et seq.*, General Code, were repealed in 1949 and a new poor relief

law, Sections 3391-13 to 3391-24, General Code, was enacted (Amended Substitute House Bill No. 277 of the 98th General Assembly). Sections 3391-13 to 3391-24, *supra*, were recodified in the general code revision of 1953 as Sections 5113.01 to 5113.15, inclusive, and 5113.99, Revised Code (Chapter 5113., *supra*).

As a part of the 1949 legislation, Section 3391-14, General Code, now Section 5113.03, Revised Code, was enacted. This section reads as follows:

“Poor relief shall be given on a budgetary basis and shall be sufficient to maintain health and decency, taking into account the requirements and the income and resources of the recipient. *The receipt of other forms of public assistance shall not prevent the receipt of poor relief if additional need exists.*”

(Emphasis added)

In commenting on the poor relief legislation of 1949 one of my predecessors in Opinion No. 568, Opinions of the Attorney General for 1951, page 325, at pages 328 and 329, stated:

“The laws relating to poor relief generally, underwent a radical revision by the 98th General Assembly and Sections 3476 to 3494, of the General Code, which had been the foundation of poor relief administration for a long time, were repealed. The new act which is found in 123 Ohio Laws, page 607, became effective on October 20, 1949. \* \* \*

“In my opinion the provisions of law just referred to, which relate to the general administration of poor relief, have no bearing whatever as qualifying relief of the special character contemplated by the soldiers’ relief law.”

Regarding the receipt of “aid for the aged” which is a form of assistance just as is “soldiers’ relief,” another of my predecessors, in Opinion No. 1607, Opinions of the Attorney General for 1950, page 183, held in the syllabus:

“Aid for the aged does not constitute poor relief, as that term is defined in Section 3391-1 *et seq.*, General Code, as enacted by Amended Substitute House Bill No. 277 of the 98th General Assembly.”

At page 185 of Opinion No. 1607, *supra*, it is stated:

“Numerous Attorney General’s opinions have been written interpreting former Section 3477, General Code, so as to deny individuals the right to acquire a legal settlement where they are

recipients of various forms of relief, including aid for the aged. It will be observed, however, that those opinions evolve around that portion of the section which read 'and supported himself or herself for twelve consecutive months.' It must be noted that the legislature in enacting Section 3391-16, *supra*, failed to include that phrase in the new act. It should be further noted that the legislature, when it enacted Section 3391-14, *supra*, clearly indicated that other forms of public assistance shall not prevent the receipt of poor relief if additional need exists. In the face of that provision, I must conclude that receipt of aid for the aged is not poor relief within the meaning of Section 3391-1, *et seq.*, of the General Code."

The conclusion of Opinion No. 1607, *supra*, was followed in Opinion No. 1083, Opinions of the Attorney General for 1952, page 26, it being stated at pages 27 and 28:

"The question of whether the receipt of aid for the aged constitutes 'poor relief' within the meaning of Section 3391-16, General Code, was considered by my predecessor in office in Opinion No. 1607, Opinions of the Attorney General for 1950, page 183, the syllabus of which reads as follows:

"'Aid for the aged does not constitute poor relief, as that term is defined in Section 3391-1 *et seq.*, General Code, as enacted by Amended Substitute House Bill No. 277 of the 98th General Assembly.'

"It was pointed out in such opinion that while aid for the aged is public assistance, it is not included within the definition of poor relief, I concur with the conclusions expressed in such opinion."

It will be noted that Section 3477, General Code, interpreted in the 1933 opinion (Opinion No. 424, *supra*), referred to "relief under the provisions of law for the relief of the poor"; and it was interpreted that a provision of law for the relief of "needy" persons was one for "the relief of the poor." It will further be noted that the present Section 5113.05, *supra*, refers specifically to a person receiving "poor relief," and in my opinion means "poor relief" under Chapter 5113., *supra*, and as defined in Section 5113.01, Revised Code, reading:

"'Poor relief' means food, clothing, public or private shelter, the services of a physician or surgeon, dental care, hospitalization, and other commodities and services necessary for the maintenance of health and decency.

"Poor relief may be given in cash, by order, or both, and shall be inalienable whether by way of assignment, charge, or

otherwise, and exempt from attachment, garnishment, or other like process. Local relief authorities shall not disburse funds through any private organization. Poor relief may be given to persons living in their own homes or other suitable quarters, but not to persons living in a county home, city infirmary, jail, or tuberculosis sanitorium or to children who are not living with their parents, guardians, or other persons standing in place of parents.”

My conclusion in this regard is strengthened by the provisions of Section 5113.03, *supra*, stating that the “receipt of other forms of public assistance shall not prevent the receipt of poor relief if additional need exists.” This provision demonstrates the intent of the legislature that “poor relief” be distinguished from other forms of public assistance—soldiers’ relief being one of these other forms of assistance. Also, as noted above, this was the interpretation followed in Opinions Nos. 568, 1607 and 1083, *supra*.

Answering your specific question, therefore, it is my opinion and you are advised that a person receiving “soldiers’ relief” under Chapter 5901., Revised Code, is not receiving “poor relief” within the purview of Section 5113.05, Revised Code, defining legal settlement for the purposes of Chapter 5113., Revised Code.

Respectfully,

MARK McELROY

Attorney General