



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

November 4, 1999

Jim Ryan
ATTORNEY GENERAL

FILE NO. 99-022

TOWNSHIPS:
Indigent Veterans' Eligibility
for General Assistance

The Honorable Gary W. Pack
State's Attorney, McHenry County
2200 North Seminary Avenue
Woodstock, Illinois 60098

Dear Mr. Pack:

I have your letter wherein you inquire whether an indigent veteran may be denied general assistance because he or she is receiving financial assistance from the county veterans assistance commission. For the reasons hereinafter stated, it is my opinion that an indigent veteran is not eligible to receive general assistance relief from a township or county and financial aid from the county veterans assistance commission simultaneously.

In responding to your inquiry, it is helpful to review the origins and history of veterans assistance commissions. The provision of relief for indigent and "suffering soldiers, sailors

The Honorable Gary W. Pack - 2.

and marines, who served in the war of the rebellion, and their families" was originally authorized in 1895 by "AN ACT to regulate the granting of relief to indigent war veterans and their families" (see 1895 Ill. Laws 83): In 1907, that Act was repealed and replaced by "AN ACT to regulate the granting of relief to indigent war veterans and their families". (See 1907 Ill. Laws 79; Ill. Rev. Stat. 1908, ch. 23, pars. 140-147a.) This enactment, which was commonly known as the Bogardus Act, and was the progenitor of the current Military Veterans Assistance Act (330 ILCS 45/0.01 et seq. (West 1998)), expanded the class of veterans to whom assistance was made available and the circumstances in which the families of veterans could receive assistance.

As originally enacted, recommendations for relief for indigent veterans under the Bogardus Act were provided by the relief committee of the appropriate veterans' post or camp. (See Ill. Rev. Stat. 1908, ch. 23, par. 141.) In the ensuing years, as multiple posts, camps, chapters or detachments of military veterans organizations were founded in counties, the creation of a central assistance commission known as the veterans assistance commission was authorized. (Ill. Rev. Stat. 1947, ch. 23, par. 153h.) Currently, the county veterans assistance commission has general oversight of the distribution of all moneys and supplies

The Honorable Gary W. Pack - 3.

appropriated by the county for the benefit of indigent veterans. (330 ILCS 45/2, 9 (West 1998); see also Makowicz v. County of Macon (1980), 78 Ill. 2d 308, 310.)

At its inception, the relief provided to military veterans and their families under the Bogardus Act was separate and distinct from that provided to the poor and needy. (Creighton v. Pope County (1943), 320 Ill. App. 256, 259, rev'd in part on other grounds, 386 Ill. 468 (1944).) Thus, payments made under the Bogardus Act were considered obligations owing those veterans rendering service in the defense of the nation, a form of military pension. (People ex rel. McDonough v. Mills Novelty Co. (1934), 357 Ill. 285, 294; Creighton v. Pope County (1943), 320 Ill. App. at 259-60.) Consequently, a person could receive both general assistance and veteran's assistance at the same time. People ex rel. McDonough v. Mills Novelty Co. (1934), 357 Ill. at 294; Town of Galesburg v. Town of Kewanee (1942), 313 Ill. App. 268.

In 1967, the General Assembly enacted the Illinois Public Aid Code. (See 1967 Ill. Laws 122; Ill. Rev. Stat. 1967, ch. 23, par. 1-1 et seq., now codified at 305 ILCS 5/1-1 et seq. (West 1998).) Under the Public Aid Code, veterans assistance commissions are denominated as "local governmental units" that provide "general assistance to indigent war veterans and their

The Honorable Gary W. Pack - 4.

families under section 12-21.13 of Article XII [of the Code]". (305 ILCS 5/2-14 (West 1998).) You have inquired whether, under current law, an indigent veteran may receive aid from the township (305 ILCS 5/12-21.2 (West 1998)) or county (305 ILCS 5/12-21.1 (West 1998)), as the case may be, and the county veterans assistance commission simultaneously.

Section 11-17 of the Illinois Public Aid Code (305 ILCS 5/11-17 (West 1998)) provides:

"Duplication or Supplementation of Aid Prohibited--Exceptions. Except (1) for Medical Assistance provided under Article V, or (2) when necessary to accomplish the purposes of this Code, where not inconsistent therewith, and subject to the rules of the Illinois Department, a person receiving aid under any one of Articles III, IV, VI or VII of this Code shall not at the same time receive aid under any other of such Articles or any other financial aid from the State, [or] any political subdivision thereof * * *." (Emphasis added.)

The primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly. (People v. Latona (1998), 184 Ill. 2d 260, 269.) Legislative intent is best evidenced by the language used in the statute. (Davis v. Toshiba Machine Co. (1999), 186 Ill. 2d 181, 185.) Where statutory language is clear and unambiguous, it must be given effect as written. People v. Martinez (1998), 184 Ill. 2d 547, 550.

The Honorable Gary W. Pack - 5.

Under the language of section 11-17 of the Code, it is clear that a person who receives aid under any of the specified articles of the Public Aid Code is ineligible to receive, at the same time, any other financial assistance from the State or a political subdivision thereof. Therefore, it must be determined: (1) whether the general assistance provided by counties or townships or by veterans assistance commissions is provided pursuant to articles III, IV, VI or VII of the Public Aid Code; and (2) whether a veterans assistance commission is a political subdivision of the State.

In counties under township organization, the supervisors of their respective towns serve ex officio as the supervisors of general assistance of said towns. (305 ILCS 5/12-21.2 (West 1998).) In counties not under township organization, the presiding officer of the county board designates a supervisor of general assistance for the county. (305 ILCS 5/12-21.1 (West 1998).) Section 12-21.8 of the Illinois Public Aid Code (305 ILCS 5/12-21.8 (West 1998)) provides, in pertinent part:

"Duties of supervisors of general assistance. Except [in counties of 3,000,000 or more in population], the Supervisor of General Assistance shall receive and pay out moneys raised by taxes or allocated by the State for public aid purposes and shall provide public aid to all persons eligible therefor under Article VI of this Code. State and municipal funds for General Assis-

The Honorable Gary W. Pack - 6.

tance purposes in a city, village or incorporated town of more than 500,000 population shall be received and disbursed as provided in Section 12-10.

* * *

"

(Emphasis added.)

Under section 12-21.8, it is clear that general assistance is awarded pursuant to the provisions of article VI of the Illinois Public Aid Code. (305 ILCS 5/6-1 et seq. (West 1998).) Thus, under the proscriptions of section 11-17 of the Code, a person who receives general assistance is precluded from receiving any other financial assistance from the State or a political subdivision thereof.

With respect to whether a veterans assistance commission is a political subdivision of the State, the phrase "political subdivision" is not defined in the Illinois Public Aid Code. It has long been established, however, that undefined statutory terms must be given their ordinary and popularly understood meaning. (Gem Electronics v. Department of Revenue (1998), 183 Ill. 2d 470, 475.) The phrase "political subdivision" commonly refers to "[a] division of the state made by proper authorities thereof * * * for purpose of carrying out a portion of those functions of state which by long usage and inherent necessities of government have always been regarded as public". (Black's Law Dictionary 1159 (6th ed. 1990).) The phrase includes subordinate

The Honorable Gary W. Pack - 7.

political bodies such as counties, townships or municipal corporations. (Ballentine's Law Dictionary 960 (3d ed. 1969).) It appears, therefore, that units of local government which exercise some sovereign power would ordinarily be considered political subdivisions of the State.

As previously noted, in section 2-14 of the Public Aid Code "County Veterans Assistance Commissions providing general assistance to indigent war veterans and their families under Section 12-21.3 of" the Code are described as local governmental units. Moreover, section 12-21.5 of the Code (305 ILCS 5/12-21.5 (West 1998)) indicates that county veterans assistance commissions in counties with a population of less than 3,000,000 generally are considered to be local governmental units. In Makowicz v. County of Macon (1980), 78 Ill. 2d 308, the supreme court was asked to determine, inter alia, whether the Veterans Assistance Commission of Macon County or the Macon County Board had the authority to discharge a secretary in the office of the Veterans Assistance Commission. In reaching its conclusion that the persons employed by the Commission were employees of the Commission, not of the County, the court noted:

" * * *

* * * Those sections [of the Public Aid Code] referring to county veterans' assistance commissions and local governmental

units antedate our constitution of 1970, but it is to be noted that the local government article of our constitution, that is, article VII, provides in section 1 for 'units of local government,' an almost identical term.
* * *

* * *

It may be that the Commission, identified by statute as a 'local governmental unit,' is to be considered a unit of local government exercising limited governmental powers in respect to limited governmental subjects. * * *

* * *

"
Makowicz v. County of Macon (1980), 78 Ill. 2d at 312-3.

Similarly, in Hazen v. County of Peoria (1985), 138 Ill. App. 3d 836, the Illinois Appellate Court reviewed the circuit court's entry of an order requiring the county to pay the veterans assistance commission's attorneys fees. In reaching its conclusion that the attorney for the veterans assistance commission was not entitled to compensation from general county funds, but rather must be paid from veterans assistance commission funds, the court stated:

"

* * *

Since the State's Attorney has no duty to represent other units of local government, the county board has no obligation to provide funds from the county general fund to compensate special counsel for the VAC [veterans assistance commission] in this case, where the State's Attorney represents the county in

The Honorable Gary W. Pack - 9.

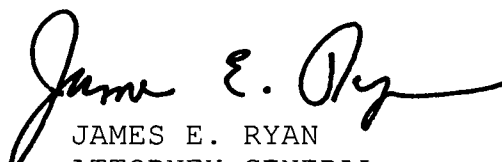
litigation involving the VAC. Accordingly, we hold that the attorney for the VAC is not entitled to compensation from general county funds but rather must be paid from VAC funds. This holding is consistent with the decision of the Supreme Court of Illinois in Makowicz v. County of Macon (1980), 78 Ill. 2d 308, 399 N.E.2d 1302, that the superintendent and other VAC employees are employees of the VAC and not of the county board.

* * *

Hazen v. County of Peoria (1985), 138 Ill. App. 3d at 842.

Based upon these statutes and cases, it is my opinion that a county veterans assistance commission is a unit of local government exercising limited governmental powers with respect to limited governmental subjects. As such, it is a political subdivision of the State. Under section 11-17 of the Public Aid, a person who receives general assistance under article VI of the Public Aid Code is ineligible to receive financial assistance from a political subdivision of the State. Consequently, it is my opinion that a person may not receive general assistance from the county or township and financial assistance from the county veterans assistance commission simultaneously.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL