

DATE: 07-18-90

CITATION: VAOPGCPREC 63-90
Vet. Aff. Op. Gen. Couns. Prec. 63-90

TEXT:

Subject: Benefits for Blind Veterans Under 38 U.S.C. § 614

(This opinion, previously issued as Administrator's Decision 984, dated December 16, 1963, is reissued as a Precedent Opinion pursuant to 38 C.F.R. §§ 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

QUESTION PRESENTED:

Does section 614, title 38, United States Code permit the furnishing of mechanical or electronic equipment to eligible blind veterans for the purpose of aiding them to overcome the economic handicap of blindness or is such equipment limited to that which will aid blind veterans in overcoming the physical handicap of blindness?

COMMENTS:

The question requires reconsideration of the opinion of the Solicitor of the Veterans Administration dated February 4, 1947 (Op. Sol. 116-47). This opinion had the effect of establishing criteria for determining the kinds of mechanical or electronic equipment which may be furnished to eligible veterans under the quoted provisions of the law and limited the grant to cases in which the purpose of their intended use could be shown to aid in overcoming the physical handicap as distinguished from an economic handicap attributed to blindness. The specific case giving rise to the current consideration of the question involves a blinded veteran who has requested that the tape recorder previously supplied him by the Veterans Administration be replaced by recording equipment especially adapted for use with his office telephone.

Section 614 of title 38, United States Code, provides:

"The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and he may pay all necessary travel expenses to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness." (Emphasis supplied)

In the discussion on the floor of the Senate on the amendment to H.R. 4519 (the bill enacted as PL 309, 78th Cong., and now incorporated in 38 U.S.C. § 614) which added

the provision relating to mechanical and electronic equipment, Senator Wagner, who had offered the amendment, said:

"The purpose of this would be to provide blind veterans with talking-book machines, Braille typewriters, watches, electrical recording machines, which are used for writing letters, and other electrical and mechanical appliances and devices being developed for the blind--a great many of which would be of great help and in some cases even more desirable to the blinded veterans than seeing-eye dogs."

Neither the act nor its legislative history purports to give special meaning to the term "handicap," except as it is clearly related to the disability of blindness. It is reasonable to assume that the Congress intended to employ the word, in context, in its ordinary sense, i.e., to mean a "disadvantage that renders an achievement, or especially success in competition, more difficult." (Webster's New International Dictionary, Second Edition, Unabridged)

Accordingly, it is unnecessary to speculate whether it was intended that the phrase "handicap of blindness" should be construed as a "physical handicap" or as an "economic handicap." Indeed, if the beneficial effect of the statute is to be achieved, it would be difficult to so distinguish the term. If, as is clearly the case, a person is put to any disadvantage through loss of sight, it follows that such disadvantage or handicap renders the earning of a livelihood more difficult to achieve.

Apart from the foregoing, the statutory provision here under consideration is remedial in nature and should be liberally construed. Senate Report No. 856, to accompany H.R. 4519, 78th Congress, stated, in pertinent part: "It is entirely consistent with the obligation which the Nation owed to disabled veterans that every reasonable means of assisting blind veterans should be utilized." And, House Report No. 1352, 78th Congress, stated, in part: "The committee has considered the special interest of all in assisting the disabled blind veterans in becoming adjusted to civilian life."

Consistent with the clear congressional intent, both Administrator's Decisions Nos. 581 and 868 properly directed liberal implementation of Public Law 309. The following language in Administrator's Decision No. 868 is equally applicable to the question under consideration:

"The benefits granted by the act were not intended to be dispensed niggardly under a narrow construction of the word 'entitled' but in a liberal manner befitting the spirit of appreciation and responsibility which impelled the passage of the act. The result which Congress sought to achieve can be obtained under a fundamental rule of statutory interpretation, that is, that a remedial statute, such as the act under consideration, should be liberally construed. Pleasants v. United States, 22 Fed. Supp. 964, affirmed 305 U.S. 357, 83 L. ed 217; Securities and Exchange Commission v. Starmont, 31 Fed. Supp. 264; State of Minnesota v. Kelley, 126 Fed.2d 863; Benas v. Maher, 128 Fed.2d 247; and Lambur v. Yates, 148 Fed 137. "

HELD:

Any mechanical or electronic equipment which, as determined by the proper authorities in the Veterans Administration, will aid otherwise eligible blind veterans to overcome the handicap of blindness may be furnished such veteran under the provisions of 38 U.S.C. § 614 No distinction is to be drawn between "physical" or "economic" handicap in determining the need for such equipment but its intended use must, of course, be found to be an aid in overcoming the handicap of blindness. To the extent that earlier opinions may be in conflict with this holding, they are modified to accord herewith. Op. Sol. 116-47 is hereby overruled. (Opinion of the General Counsel, dated December 10, 1963, approved December 16, 1963, C XXXXXXXXX).

This decision is hereby promulgated for observance by all officials and employees of the Veterans Administration (Department of Veterans Affairs).

VETERANS ADMINISTRATION GENERAL COUNSEL
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