

"by sentence of general court martial,' 'by sentence of summary court martial' or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the Armed Forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase."

From all of the foregoing, the answer to the question is simple. Unless the officer connected with service in the Army, Navy, Air Corps, Marine Corps or in any of the other services of the Armed Forces can show that he or she was separated from active full-time duty, in accordance with the definition hereinbefore given, advantage may not be taken of the constitutional provision granting exemptions to citizens and residents of this State who have served in the Armed Forces in time of war.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By : BENJAMIN M. TAUB,  
*Deputy Attorney General.*

OCTOBER 2, 1951.

THE HONORABLE SANFORD BATES, *Commissioner,*  
*Department of Institutions and Agencies,*  
State Office Building,  
Trenton, New Jersey.

FORMAL OPINION—1951. No. 32.

MY DEAR COMMISSIONER:

This acknowledges your request of recent date for an interpretation of the provisions of chapter 139, P. L. 1951 which presents three queries.

In your first question you desire to be advised regarding the liability of the several counties to appropriate moneys and make provision for the payment of the county's share of the cost of providing financial assistance to needy persons of the age of 18 years or over who are permanently and totally disabled.

We are of the opinion, and we so advise you, that the provisions of chapter 139, P. L. 1951, do impose a clear responsibility and liability upon the several counties to provide the necessary funds and make same available to the county welfare boards thereof to make payment of the county's share of the cost of providing financial assistance to needy persons above the age of 18 years who are permanently and totally disabled, for the reasons set forth herein.

In the title of chapter 139, P. L. 1951, it is declared to be a supplement to chapter 7, Title 44, Revised Statutes, which deals generally with grants of Old Age Assistance.

In section 1 of the law we are now considering it is provided that:

"Any needy person residing in New Jersey who has attained the age of 18, who is permanently and totally disabled by reason of any physical or mental impairment, other than blindness, shall be entitled to receive assistance from the county welfare board of the county in which he resides."

And thereafter certain limitations are placed upon these payments with which we need not now concern ourselves for they have no application to the question to be resolved.

It is clearly stated in section 2 of the new law that the assistance to be extended thereunder shall be governed by the requirements, conditions, limitations and procedures established by the act to which chapter 139 is a supplement (Title 44, chapter 7, R. S.) except that the recipient shall not be required to pledge his property as a condition precedent to the granting of this aid and further that the cost sharing provisions of R. S. 44:7-25 shall not apply.

The law establishes the basis upon which the cost of this assistance program shall be shared by the State, county and Federal Government, and requires the State to pay to the several counties any moneys received from the Federal Government by way of contribution to this category of assistance, plus an additional sum equal to one-half of the cost remaining after deduction the amount of federal participation.

The statute imposes upon the several counties an obligation to provide the necessary funds for the payment of one-half of the cost of rendering this type of financial aid to eligible needy persons qualifying under chapter 139, a portion of which will be reimbursed to each of the counties when Federal moneys are made available for payment of the federal share of the cost of this program.

The provisions of R. S. 44:7-24, a portion of the act to which chapter 139 is a supplement, clearly defines the manner in which the county welfare board shall annually fix and determine the amount required to pay the estimated amounts of the county's share of this category of assistance and imposes upon the board an obligation to request the board of freeholders of the county to make such sum available. Therein it is further required that the board of freeholders shall appropriate such sum of money and make it available to the county welfare board to permit payment of the county's share of the cost of this category of assistance together with the necessary costs for the administration of the program.

It is further stated in this applicable section of Title 44 that the board of chosen freeholders shall be required to make such sums available even if it becomes necessary to secure temporary loans, certificates of indebtedness or loan bonds.

The clear legislative intent of chapter 139, P. L. 1951, is to establish within Title 44, Revised Statutes, a completely new category of assistance to persons who have attained the age of 18 years and who are permanently and totally disabled. The same obligation, which is imposed upon the several counties to provide funds for the payment of Old Age Assistance, within Title 44, R. S., is established with respect to this new type of financial aid.

In your second question, you advise that each county budget carries an appropriation for payment of the county share of the cost of Old Age Assistance under chapter 7, Title 44, Revised Statutes. You desire to be advised whether the provisions of chapter 139, P. L. 1951, would permit the several counties to utilize this appropriation for Old Age Assistance for the payment of aid for needy persons as defined as eligible therefor in chapter 139, P. L. 1951.

With respect to this question, we are required to inform you that this is a matter which should be made the subject of a ruling by the respective county counsel since it deals solely with the administration of the internal affairs of the county and with county funds.

Your third and concluding question is whether the State has legal authority to advance to the several counties that portion of the cost of this assistance program which ultimately will be borne by the Federal Government, the transmittal of which appears subject to some delay at this time.

We find no warrant of authority in law to permit such advance payment by the State and are required to advise that the counties must make available the moneys necessary to defray their portion of the cost of this program, subject to later reimbursement to them when funds are available from the Federal Government.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By : EUGENE T. URBANIAK,  
*Deputy Attorney General.*

ETU:HH

OCTOBER 9, 1951.

HON. CHARLES R. ERDMAN, JR., *Commissioner,*  
*Department of Conservation and Economic Development,*  
520 East State Street,  
Trenton, New Jersey.

FORMAL OPINION—1951. No. 33.

DEAR COMMISSIONER ERDMAN:

This will acknowledge receipt of your recent letter wherein you request an opinion in connection with the following:

“Whether the benefits of chapter 263, P. L. 1947, as amended by chapter 138, P. L. 1948, and chapter 331, P. L. 1951, extend to a case of paraplegia, osteochondritis or hemiplegia where such condition has resulted from a disease contracted while in active military or naval service.”

The answer to this is in the affirmative for the reasons hereinafter set forth.

The applicable parts of the present law (L. 1947, c. 263, as amended by L. 1949, c. 192; L. 1950, c. 196 and L. 1951, c. 331) read as follows:

“A veteran who served in the active military or naval forces of the United States and who is suffering from paraplegia and has permanent paralysis of both legs and lower parts of the body, or who is suffering from osteochondritis and has permanent loss of the use of both legs, or who is suffering from hemiplegia and has permanent paralysis of one leg and one arm, or either side of the body, resulting from *injury* to the spinal cord, skeletal structure, or brain . . .”

(Italics mine.)

The law prior to its being amended referred to “traumatic injury.” In order to determine the construction to be placed on this statute, particularly as to what