

Opinion No. 13.

Clerk of the District Court, certified copy of marriage and divorce decree—Clerk and Recorder, certified copy of birth certificate—Fees—Military Service Men's Dependents.

Held: Clerks of district courts and county clerks and recorders may not issue and deliver, without the usual fees provided by law, certified copies of documents in their offices to applicants for wartime service men's allotments.

February 4, 1943.

Mr. Gerard F. Price, Director
Division of Public Assistance
Department of Public Welfare
Helena, Montana

Dear Mr. Price:

You have submitted to this office a request for an opinion whether the clerk of the district court may issue and deliver certified copies of divorce decrees and marriage licenses and whether the county clerk and recorder may issue and deliver certified copies of birth certificates, without fee, to service men's dependents who desire to participate in service men's allotments and allowances.

You suggest that, for many years past, similar documents have been made available without fees to ex-service men.

Ex-service men—by virtue of the provision of Section 5654.14, Revised

Codes of Montana, 1935, are entitled to receive, without fee, certified copies of any public records required by the bureau to be used in determining eligibility of any person to participate in benefits made available by such bureau. The term "bureau" as used in this section refers to the United States Veterans' Bureau or its successor. The term "benefits" refers to moneys payable by the United States through the bureau. (Section 5654.1, Revised Codes of Montana, 1935.)

The successor to the bureau referred to in this act is the Administrator of Veterans' Affairs. (Section 11-a, Title 38, U. S. C. A.)

The allowances to service men's dependents are provided for by the act of June 23, 1942, Sections 201 to 220, Title 37, U. S. C. A. Section 211 thereof provides the act shall be administered by the Secretary of War as to enlisted men in the Army, and by the Secretary of the Navy in its application to enlisted men in the United States Navy, the Marine Corps and the Coast Guard. They are thereby authorized to prescribe jointly or severally such regulations as shall be deemed necessary to enable them to carry out the provisions of the chapter and to delegate to such officers or employees of their respective departments as they may designate the performance of any of their functions under the chapter.

Thus it will be observed the wartime allowances to service men's dependent's are not paid through the Administrator of Veterans Affairs—and, consequently the provisions of Section 5654.15, Revised Codes of Montana, 1935, are without application.

The fees to be charged by the clerk of the district court for supplying certified copies of records are provided by Section 4919, Revised Codes of Montana, 1935, and the fees to be charged by the county clerk and recorder for certified copies of certificates of birth are provided for by Chapter 52, Laws of 1941. These sections contain no exceptions; and no exceptions exist in our law except as above set forth.

The clerks of the district courts and the county clerks and recorders are without authority—under existing statutes—to supply applicants for wartime service men's allotments with certified copies of documents without charging

the usual and regular statutory fees provided in such instances.

Sincerely yours,

R. V. BOTTOMLY
Attorney General