

Opinion No. 51.**Public Welfare—Temporary Employment—Relief Rolls—Old Age Assistance.**

Held: Under the provisions of Chapter 122, Laws of 1943, persons coming within the purview of the act, after having their names dropped from the relief rolls by reason of temporary employment, are entitled upon the termination of such employment to have their names restored to the relief rolls without further application or other formalities, their status thereafter being on the same footing as any other recipient of old age assistance.

May 1, 1943.

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

Dear Mr. Price:

Your letter seeking an interpretation of the provisions of Chapter 122, Laws of 1943, relates to the restoration of recipients of old age assistance who have been employed during the war emergency upon the termination of the employment on the general relief roll. Your inquiry is directed as to the effect of this act in repealing existing public welfare statutes.

The act contains a general repeal clause repealing all acts in conflict therewith. This is what is generally known as an implied repeal statute.

Repeals by implication are not favored. (Ex parte Naegele, 70 Mont.

129, 234 Pac. 269; *State v. Board of Commissioners of Cascade County*, 89 Mont. 37, 296 Pac. 1.)

A general repealing statute, as this one, is not to be considered as repealing by implication special statutes. (*Equitable Life Insurance Company v. Hart*, 55 Mont. 76, 173 Pac. 1062.)

To make tenable the claim an earlier statute was repealed by a later one the two acts must be plainly and irreconcilably repugnant to or in conflict with each other, must relate to the same subject, and must have the same object in view. (*Wheir v. Dye*, 105 Mont. 347; *State ex rel. Browning v. Brandjord*, 106 Mont. 395; *Montana-Dakota Utilities Company v. City of Havre*, 109 Mont. 164.)

The act relates only to those recipients who are temporarily employed and whose old age assistance has been discontinued because of such emergency employment. It provides upon the termination of such employment they be reinstated on the relief rolls.

This act does not conflict with the provisions of subdivision (b) of Section II, Part III, of Chapter 85, requiring the applicant to demonstrate his income is inadequate to provide a reasonable subsistence compatible with decency. It does not repeal Section IX of Part III of Chapter 82, requiring the recipient to report an increase in income. Likewise it does not repeal Section X of Part III of Chapter 82, as amended at the last session of the legislature, providing for review by the county welfare department for grants of old age assistance, as this section.

The purpose and object of this act is to provide for the reinstatement or restoration of the names of the recipients of old age assistance to the relief rolls upon the termination of their employment, without the formality of making an application and investigation of the claim as otherwise would be required by law.

Persons who undertake temporary emergency war work employment during the war emergency who were therefore recipients of old age assistance must report this change in their status; and, if as a result of such report they are no longer entitled to old age assistance, their names should be dropped from the roll. Thereafter—upon the termination of such employment—their names are to be restored or reinstated to the relief rolls without application or in-

vestigation. After such restoration the Public Welfare Department may then, in the usual manner, review these cases and make such appropriate orders with reference to these cases as they would make in any other case where the recipient's name has been placed on the relief rolls.

Cases coming within the purview of this act are to be treated in the same manner as in other cases, with the exception the names of the recipients are reinstated on the roll without application, investigation or other formalities heretofore required by persons whose assistance had been withdrawn and thereafter sought to have it renewed.

Sincerely yours,
R. V. BOTTOMLY
Attorney General