

Office  
October 28, 1947

Mr. Harry Hill, Commissioner  
State Social Security Board  
39 North Sixth Avenue  
Phoenix, Arizona

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Dear Mr. Hill:

You have submitted a request for an opinion on the following matter:

The Independent Order of Odd Fellows maintains a Home at Safford for aged and infirm members of their lodge and the needy widows and children of deceased lodge members. Expenses for running the Home are defrayed from a lodge fund raised by assessment on members. In order to be eligible for care for himself or his needy survivors, a member subscribes for such at the time he joins the lodge. This rule is relaxed in certain pressing circumstances. Generally, however, this category of membership is a guarantee of security in old age. The only further condition of entry is that any property possessed by the applicant must be turned over to the Home for a fund used to maintain the institution. The care accorded guests, as they are called, is of the best possible variety. They are given all necessities and even a small amount of spending money.

The question has arisen with respect to the administration of the Old Age Assistance Law, Article 2, Chapter 70, Arizona Code Annotated, 1939, whether the aged guests in the Home are eligible for assistance.

Section 70-202, Arizona Code Annotated, 1939, as amended by laws of 1941, Chapter 25, provides as follows:

**"ELIGIBILITY FOR ASSISTANCE.-** Assistance shall be granted under this article to any person who meets the following requirements:

1. Is not less than sixty-five (65) years of age.
2. Is a citizen of the United States.
3. Has resided in the state for not less than five (5) years within the nine (9) years, and continuously for not less than one (1) year, immediately preceding the date of application for assistance.

4. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
5. Is not an inmate of or being maintained by any municipal, state or federal institution at the time of receiving assistance; except as a guest of the home for aged and infirm Arizona pioneers. An inmate of any such institution, except a penal institution, may make application for assistance but the assistance, if granted, shall not begin until after he ceases to be an inmate. This paragraph shall not be construed to prohibit the granting of assistance to a person temporarily confined in an institution for medical or surgical care.
6. Has not, within five (5) years prior to the filing of application, made an assignment or transfer of property with the intent of rendering himself eligible for assistance under this article.
7. Is not because of physical or mental condition in need of continued institutional care, which care is reasonably available to him.
8. Does not have or own cash or other personal property, exclusive of household furniture, the fair value of which exceeds one thousand dollars (\$1,000).
9. Has not, during the twelve (12) months immediately preceding his application, received, and does not currently receive, an income from all sources, not including contributions and assistance from public or private charities, of a net value exceeding three hundred sixty dollars (\$360) per annum. (Laws 1937, ch. 70 § 2, p. 310; 1939, ch. 61, § 1, p. 166; 1941, ch. 25, § 1, p. 32.)"

It is our opinion that the above law, particularly Paragraph 4, conclusively answers this question in the negative. Assuming that the aged guests meet other requirements, it is patently impossible for them to qualify as persons so devoid of resources as to be lacking reasonable subsistence. The facts indicate that they have comfortable and adequate care in the

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Home, and that such care is theirs as long as they need it.

Since the underlying philosophy of the Social Security Act is to provide assistance for the needy (Maricopa County vs. State, 51 Ariz. 372; 77 Pac. (2d) 212), it is our opinion that both the spirit and the letter of the law renders the aged guests of this Home ineligible for Old Age Assistance.

Very truly yours,

JOHN L. SULLIVAN  
Attorney General

WILLIAM P. MAHONEY, JR.  
Assistant Attorney General

PERRY M. LING  
Assistant Attorney General

WPM:MK