

**OPINION
49-208**

November 3, 1949 (OPINION)

WELFARE

RE: Soldier's Bonus is a Gratuitous Payment

I have your letter dated October 27th, 1949, in which you state that a widow is receiving old age assistance of \$404.00 per month, which is administered by the State Welfare Society and they have informed her what she must do with this bonus she is about to receive, as the mother of a deceased son, who was entitled to a bonus payment. You further state that she was instructed that she must set aside a portion of this bonus to take care of her own funeral expense when she dies, and use the balance of the bonus for her living expense until such money has become exhausted. Also that the Welfare Board will suspend her monthly old age checks until this bonus has been used up. You ask for an opinion of the Attorney General, whether or not the Welfare Board may act as set forth.

Chapter 236 of the 1949 Session Laws, entitled VETERANS ADJUSTED COMPENSATION ACT; Section-2 Subsection-3, states "beneficiary" in relation to a deceased veteran, means in order named.

- a) Surviving unremarried husband or wife.
- b) The surviving child or children and the lawful issue of a deceased child or children by right of representation.
- c) The surviving parent or parents.

If the son of the mother, a widow, was unmarried and does not have any issue by right of representation, then the mother is entitled to the bonus.

Now as to the claims which may be made against the payment. Section 6 of the act states: "In any case where the veteran or the applicant for payment under this act is indebted to the Veterans Aid Commission of the State of North Dakota, the Adjutant General shall determine the amount of indebtedness and certify such determination to the State Auditor, together with the record of payment due. Within the limits of the payment due, the State Auditor shall remit the amount of such indebtedness to the Veterans Aid Commission and pay to the applicant such difference, if any, to which he may be entitled." Further, Section-7 of the act, states: "Payments under this act shall be exempt from all taxation and from levy, garnishment, and sale on execution, any pledge, mortgage, sale, assignment, or transfer heretofore or hereafter made of any right, claim, or interest in any claim, or payment under this act shall be void and payment shall not be denied because of any sums owed to the state or any political subdivision except as provided for in Section-6 of this act" as cited above in this letter.

It is my opinion that the Welfare Board has no authority to direct

the manner in which the money received under this act should be expended.

It is a gratuitous payment to compensate for a loss and I further state that the Welfare Board should not discontinue any financial aid this woman is now receiving. The Legislature took it upon themselves to specifically exempt any claim against this payment except as provided for in Section-6 which is quoted above in this letter.

I trust this answers your inquiries.

WALLACE E. WARNER

Attorney General