

MAINE STATE LEGISLATURE

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STATE OF MAINE *J. L. 15* *WAW*Inter-Departmental Memorandum Date December 19, 1975To Robert R. Washburn, DirectorDept. Veterans ServicesFrom Leon V. Walker, Jr., AssistantDept. Attorney GeneralSubject: Veterans Dependents Educational BenefitsSYNOPSIS:

Under the War Orphans and Widows Act (37 M.R.S.A. C.2, sub-CIII), an orphan, who was unable to enter and obtain benefits under the program for higher education before age 21 because engaged in service in the Armed Forces, and who entered the program when not over 25 years of age, as allowed by §50-J of that Act, was entitled to benefits to be computed from that date, and not from the date he first entered college prior to the age of 21 and prior to the date he became eligible for benefits as an orphan.

FACTS:

A person who graduated from high school in 1968 entered college in September, 1968, and completed 2-1/2 years. He then served in the armed forces, and was discharged in June, 1973. He resumed his college program in January, 1975, completing one semester.

On June 10, 1974, his veteran-parent was rated totally disabled as a result of service and at that time the son became an eligible orphan as defined in 37-A M.R.S.A. §50-J. He did not apply for benefits under the War Orphan program, however, until June 22, 1975, for a summer program at the University of Maine at Farmington. It was determined that he was eligible, and benefits were granted covering the 1975 summer program.

This orphan was born September 27, 1950, and will reach the age of 26 on September 27, 1976. Under §50-K, he may receive benefits for a period of time not exceeding 8 semesters of attendance nor exceeding 6 consecutive academic years from the date of first entrance. If the 6 year limitation is applicable from the time when he first attended a school of higher education, his eligibility will terminate on September 27, 1976. His eligibility date was as of June 10, 1974.

QUESTION:

Where the applicant was not eligible as an "orphan" at the time of his first enrollment, does the 6-year limitation apply from that date?

ANSWER:

No.

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REASON:

37-A M.R.S.A., §50-J, provides that orphans, as therein defined, who have graduated from high school and are not over 21 years of age at the time of first entering . . . an educational institution of collegiate grade, shall be eligible for benefits; "except that an orphan who has been unable to enter before the age of 21 because engaged in the Armed Forces of the United States may enter when not over 25 years of age. Section 50-K provides that in order to assist an orphan in securing higher education:

"... the bureau shall pay, for any person which it finds eligible for such assistance, a maximum of \$300 per year, for a period of time not exceeding 8 semesters of attendance nor exceeding 6 consecutive academic years from the date of first entrance, towards the cost of such higher education . . ."

Since the directive in the above section is that the bureau pay not exceeding 8 semesters of attendance or 6 consecutive academic years, it is clear that the words "from date of first entrance" means "first entrance" under the program for benefits and not first entrance into an educational institution prior to the date of the person's eligibility.

The orphan you refer to entered under the program when he was "not over 25 years of age" as allowed under the first paragraph of §50-J, and it is our opinion that his benefits should be computed under §50-K from that date.


Leon V. Walker, Jr.

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