

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundred and Ninth Legislature
at the

SECOND SPECIAL SESSION

October 10, 1979 and October 11, 1979

CHAPTER 574

H. P. 1589 — L. D. 1691

AN ACT Providing Funds for Emergency Home Heating Assistance for Certain Elderly and Low-Income Households and for the Winterization, Citizens' Assistance and Housing Rehabilitation Technician Programs and Correcting an Error in the Energy Inventory Reporting Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after extremely cold winter weather has begun; and

Whereas, due to their extremely limited incomes and the dramatically increased cost of energy, many elderly, disabled and other low-income people are in imminent danger of being left without fuel or other energy sources for home heating during this coming winter; and

Whereas, federal energy assistance adequate to meet Maine's needs will not be available during the most critical winter months; and

Whereas, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Short title. This Act shall be cited as the Emergency Home Heating Act of 1979.

Sec. 2. Legislative purpose. This legislation recognizes that, although all Maine citizens are having to readjust their budgets to cope with dramatic increases in energy prices, many low-income Maine citizens, especially older persons on fixed incomes, are having to choose between fuel and food. For many poor families in Maine there is not enough income to meet the cost of basic necessities. At the same time, there is reason to believe that federal programs designed to cope with this problem will not be in effect, not be adequately funded or both, in a timely and appropriate manner to meet the needs of Maine's low-income households for this coming winter.

Accordingly, the immediate purpose of this legislation is to supplement federal programs aimed at lessening the impact of high energy costs, including increased rent, on low-income households. The longer term purpose is to reduce the dependence of low-income households on increasingly scarce and expensive nonrenewable sources of energy through a strengthened program of home winterization and repair.

Sec. 3. Definitions. As used in this Act, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Community action agency. "Community action agency" means a Maine nonprofit corporation designated as a community action agency in accordance with the United States Economic Opportunity Act of 1964, Public Law 88-452, as amended.

2. Division. "Division" means the Division of Community Services of the Executive Department.

3. Elderly household. "Elderly household" means a household in which the head of household is 60 years of age or older.

4. Emergency assistance. "Emergency assistance" means the federal categorical program for assistance given to recipients of Aid to Families with Dependent Children and other low-income families with dependent children which have increased fuel or rental costs.

5. Energy for home heating. "Energy for home heating" means all types of energy actually used to heat a residence, such as coal, oil, kerosene, gas, including bottled gas, electricity and wood.

6. Income. "Income" means total cash receipts before taxes, as defined in 45 Code of Federal Regulations §1060.2-2(c) (1), as it existed on October 4, 1979.

7. Local program operator. "Local program operator" means a municipality or community action agency selected pursuant to section 5, subsection 5 of this Act.

8. Low-income. "Low-income" means income less than or equal to poverty guidelines.

9. Other low-income families with dependent children. "Other low-income families with dependent children" means intact low-income families where deprivation of parental support does not exist and who have children under the age of 18 or under the age of 20 if the child is still attending school and not graduated from high school.

10. Poverty guidelines. "Poverty guidelines" means the federal poverty guidelines set forth in the attachment to 45 Code of Federal Regulations §1060.2-2, as it existed on October 4, 1979.

11. Special circumstance allowance. "Special circumstance allowance" means the federal Health, Education and Welfare categorical program for assistance given to recipients of Aid to Families with Dependent Children which have increased fuel or rental costs.

Sec. 4. Home Heating Crisis Assistance Program established. There is established a one-time special Home Heating Crisis Assistance Program for 3 months of the winter of 1979-80. This program shall be administered by the Division of Community Services, which shall coordinate its outreach and all other activities in administering this program with the Department of Human Services and other appropriate state agencies.

Sec. 5. Program administration.

1. Uniform implementation. The division may provide standard forms, requirements and procedures, to ensure uniform implementation of this program.

2. Binding grant agreements. The division may enter into binding grant agreements with local program operators to implement this Act.

3. Entitlement to amount or form of assistance. This one-time program does not entitle any household to a certain amount or form of assistance.

4. Expenditure of federal funds. If a household qualifies under both federal and state programs, federal funds or federally matched funds shall be used before state funds.

5. Selection of local program operators. The division may select local program operators, except that a qualified municipality shall be given first option to serve as local program operator within the municipality. Should neither a municipality nor a community action agency be both willing and qualified to serve as a local program operator for any given area of the State, the division shall

arrange for such area to be served by the division or the Department of Human Services.

6. Prohibition of multiple benefits. The Division shall by rule insure that multiple benefits are not made in any form under this Act.

Sec. 6. Rulemaking.

1. Promulgation of rules. The division shall promulgate rules as provided by the Administrative Procedure Act, Revised Statutes, Title 5, chapter 375, except that the 90-day period provided in the Revised Statutes, Title 5, section 8054, subsection 3, shall not apply to these rules. The rules shall take effect no later than November 15, 1979.

2. Scope of rules. These rules shall incorporate the following policies, standards and requirements.

A. Eligibility requirements shall be as follows: To be eligible, a household shall need assistance to obtain adequate energy for home heating, and shall:

(1) Have a head of household who is:

(a) Receiving supplemental security income; or

(b) Receiving or eligible for Elderly Homeowners Tax and Rent Refund under the Revised Statutes, Title 36, chapter 901; or

(2) Have a household income less than or equal to 100% of poverty guidelines.

(3) Notwithstanding subparagraphs (1) and (2), a household which has been certified eligible for assistance under section 8 of this Act or under the 1979-80 federal Community Services Administration Emergency Crisis Assistance program is not eligible for assistance under this section.

B. Assistance shall be provided as follows.

(1) For certified eligible households, payment shall be made directly to the household's suppliers of energy for home heating, as follows.

(a) The payment shall be promptly applied by the supplier to the household's account as future credit.

(b) The credit shall not be applied against surcharges or outstanding balances.

(c) The sum of all payments under this subparagraph on behalf of an eligible household shall not exceed the actual cost of energy supplied.

(d) Assistance provided shall be made available to the household in no fewer than 2 installments, 2 of which shall be made no sooner than 30 days apart. The first installment shall be made available on December 14, 1979 or as soon as practicable after the date the household is certified eligible, whichever date comes later.

(2) For certified eligible tenant households which do not directly purchase energy for home heating, assistance shall be provided in the form of rent reductions based on vendor payment to the landlord's supplier or suppliers of energy for heating the rental unit, as follows.

(a) Such payment shall be promptly applied by the supplier to the landlord's account as a future credit.

(b) Such credits shall not be applied against surcharges or outstanding balances.

(c) The amount of the payment under this subparagraph shall be based on the need of the tenant household, which shall be determined by multiplying 20% of the actual monthly rent as of October 1, 1979 times 3.

(d) The sum of all payments under this subparagraph on behalf of any eligible tenant household shall not exceed the need of the household as determined in division (c).

(e) Based on payment provided under this subparagraph to the landlord's energy supplier, the landlord shall make 2 equal reductions in the rent of each certified eligible tenant household. The sum of the 2 rent reductions shall be equal to the sum of all payments under this subparagraph on behalf of an eligible tenant household. The landlord shall make the first reduction in rent so as to be effective within the 30-day period following December 14, 1979 or the date that payment is made to the landlord's energy supplier, whichever date comes later. The landlord shall make the second reduction in rent so as to be effective within the 30-day period following January 14, 1980 or 30 days after payment is made to the landlord's energy supplier, whichever date comes later.

(f) Tenants whose rent is limited to 25% of income through a federal subsidy program are not eligible for payment under this subparagraph.

C. No direct cash payment shall be made to any household under this program.

D. Priority shall be given to eligible low-income elderly households.

E. Assistance received under this section shall not be considered as income for purposes of determining eligibility or benefits under any income maintenance program, including but not limited to general assistance, veteran's benefits, food stamps, supplemental security income or Aid to

Families with Dependent Children unless prohibited by federal law; nor shall it be considered income for state tax purposes. Any member of a certified eligible household receiving assistance under this section shall not be eligible for fuel assistance through the General Assistance program unless it can be shown that the assistance previously received has been used for his energy needs and a new need for assistance can be documented.

F. Applications for assistance under this program shall be made on or before February 29, 1980.

G. Payments to vendors under this program must be fully utilized on behalf of the eligible household before May 1, 1980. Any amount not so utilized must be returned to the State by May 30, 1980.

3. Additional rules. These rules shall also include, but not be limited to:

A. Procedures and requirements for applying for assistance under this program;

B. Procedures for certification of eligible applicants;

C. Criteria for selection of local program operators shall include, but are not limited to:

(1) An adequate accounting system with appropriate fiscal controls to ensure no overpayments on behalf of eligible households or of the total funds received from the Division of Community Services;

(2) Ability to utilize a reasonable number of personnel to take applications a reasonable amount of time, some of which should be in the evenings and on weekends;

(3) Ability to provide outreach for this program which shall include utilizing a reasonable number of personnel to make in-home visits to elderly and disabled households and to assure adequate publicity of this program among residents of the area to be served;

(4) Sufficient administrative staff so that a person or persons not involved in intake of applications can be assigned to verify that applications are correct and complete and to certify as to eligibility for assistance;

(5) In the case of a municipality, written notice to the Director of the Division of Community Services of a vote, after notice and hearing of the municipal officers, as defined in the Maine Revised Statutes, Title 30, section 1901, subsection 7, that the municipality requests designation as a local program operator for this program. The notice must be signed by the chief municipal officer and be received by the Director of the Division of Community Services on or before November 10, 1979; and

(6) In the case of a community action agency, written notice to the Director of the Division of Community Services of a board vote at a duly held board of directors meeting that the agency requests designation as a local program operator for this program. The notice shall be signed by the president or chairman of the board or his agent and be received by the Director of the Division of Community Services on or before November 10, 1979;

D. Allocation formula for the initial disbursement of program funds to local program operators. The formula shall include percentages of low-income and elderly population in the local area to be served and shall be developed in conjunction with the State Planning Office;

E. Reporting requirements of local program operators, which at a minimum shall include a breakdown every 2 weeks of the number of households certified and the amount of assistance to be provided these households and monthly reporting of all expenditures and obligations;

F. Conditions for participation in the program by vendors, which shall include at least:

(1) Reconnection of utilities or delivery of fuel is to be made upon vendor's receipt of notice of certification for payment;

(2) For any remaining balances, the customer is to be offered a reasonable deferred payment arrangement or a level payment plan;

(3) A reconnection charge is to be paid by the customer only where such a charge was company practice prior to September 1, 1979; and

(4) No security deposit is required to be paid except where the deposit was required by state law or explicit regulation prior to September 1, 1979 and, where so required, is included in a deferred payment arrangement;

G. Requirements for review of denials of assistance, which shall include at least:

(1) Provisions for notifying the applicant in writing of the reasons for denial of assistance, that he may appeal the denial and that he may submit additional information, in writing, orally, or both, which the applicant believes would justify a favorable determination;

(2) Provisions to ensure that the local program operator's review of appeals will be made in a timely manner and by a person other than the one making the initial determination;

(3) Provisions for notifying the applicant in writing of the local program operator's final decision and that he may request a review of the denial by the Director of the Division of Community Services or his designee who shall

have authority to override the decision of the local program operator; and

(4) The methods which the local program operator must employ to publicize the existence of the appeal process;

H. Requirements governing use of administrative funds, which shall not exceed 5% of the total funds allocated to a local program operator pursuant to this Act;

I. Provisions for distributing information to all applicants for assistance under this program on available home winterization and repair services and services offered by the State Office of Energy Resources, including the home energy audit service;

J. Procedures and requirements for notifying each certified eligible household of the form and amount of assistance to be provided it. This notification must be made as soon as practicable after the local program operator's issuance of notification to the appropriate vendor or vendors of a household's certification for payment under this Act;

K. Maximum levels of assistance for certified eligible households in accordance with section 13 in order to carry out the immediate legislative purpose of this Act; and

L. Other matters relevant to the funding and operation of this program.

Sec. 7. Monitoring and accountability of Home Heating Crisis Assistance Program funds. The Division of Community Services shall assign adequate staff and establish appropriate internal procedures to assure adequate program monitoring, fiscal control and accountability of program funds.

Sec. 8. Emergency assistance for certain households receiving Aid to Families with Dependent Children and for other low-income families with children.

1. **Administration.** The Department of Human Services shall administer a Special Circumstance Allowance or an Emergency Assistance Program, or both, as the commissioner deems appropriate for 3 months of the winter of 1979-80, subject to availability of federal matching funds. The department shall coordinate its outreach and activities in administering this program with the Executive Department, Division of Community Services and other appropriate state agencies. The department is authorized, but not required, to delegate the operation of all or part of its assistance program under this section to the Division of Community Services unless such delegation is prohibited by applicable federal law.

2. **Rulemaking.** The department shall promulgate rules to cover all aspects of administration of this program. These rules shall be issued so as to take effect

on or before November 15, 1979 and in accordance with the Administrative Procedure Act, Maine Revised Statutes, Title 5, chapter 375, except that the 90-day period provided in the Maine Revised Statutes, Title 5, section 8054, subsection 3, shall not apply to the issuance of these rules.

3. Scope of rules. These rules shall be in accordance with existing department rules and applicable federal law and shall incorporate the policies, standards and requirements included in section 6 of this Act unless prohibited by applicable federal law.

4. Eligibility for assistance provided under this section. Rules promulgated under this section shall incorporate the following eligibility requirements unless prohibited by applicable federal law.

A. Households which are receiving Aid to Families with Dependent Children and whose income is at or below 100% of poverty guidelines are income eligible to receive assistance under this section.

B. Other low-income families with dependent children with household income at or below 100% of poverty guidelines are income eligible to receive assistance under this section.

C. To be certified eligible for assistance under this program a household must be both income eligible and in need of the assistance.

D. No household which has been certified eligible for assistance under section 6 of this Act or under the 1979-80 Community Services Administration Emergency Crisis Assistance Program is eligible for assistance under this section.

5. Monitoring and accountability of funds appropriated to the Department of Human Services. The Department of Human Services shall assign adequate staff and establish appropriate internal procedures to assure adequate program monitoring, fiscal control and accountability of program funds.

Sec. 9. Audit. The Department of Audit shall conduct a special audit of funds appropriated under this Act. The department shall report the results of its audit to the Legislature's Joint Committee on Audit and Program Review, on or before December 31, 1980.

Sec. 10. Confidentiality. The names and specific amounts of assistance received under this Act or specific information about the income or assets shall be confidential and not open to public inspection.

Upon the request of a municipal official charged with the responsibility of administering general assistance, the division or local program operator shall release information regarding a specific case receiving assistance. Such information shall be restricted to those facts necessary for the official to make a

determination on a general assistance application. The official shall be subject to the same rules of confidentiality as the division.

Sec. 11. Federal expenditure limits raised. In order to implement the purposes of this Act and to provide for the expenditures necessary for the operation of State Government for the fiscal year 1979-80, the federal expenditure limits of the following accounts are increased by the following amounts:

POLICY AREA UMBRELLA PROGRAM APPROPRIATION	AMOUNT ADDED TO EXISTING FEDERAL EXPENDITURE LIMIT
07 EXECUTIVE DEPARTMENT	1979-80
0052 Division of Community Services	
3028.1 Community Services	
Personal Services	\$ 100,000
All Other	6,899,000
Capital Expenditures	1,000
0052 Executive — Division of Community Services	
3028.2 Community Services — Energy	
Personal Services	114,637
All Other	3,496,363
03 HUMAN SERVICES	
0138 Social Welfare — Aid to Families with Dependent Children	
3319.1 Social Welfare — Aid to Families with Dependent Children	
All Other	3,000,000

The Governor is authorized to adjust the federal expenditure limit should such adjustments be required as a result of any change in the federal share.

Sec. 12. 5 MRSA § 5010, sub-§ 4, as enacted by PL 1979, c. 372, § 2, is repealed and the following enacted in its place:

4. Penalty provisions. Any owner or lessee of a primary storage facility covered by this section who fails to provide the information required by this section or who knowingly or recklessly supplies false or misleading information shall be guilty of a violation of Title 17-A, section 453. Any owner or lessee of a

primary storage facility who, in fact, supplies false or misleading information is subject to a civil penalty of \$2,500, payable to the State, to be recovered in a civil action.

Sec. 13. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

1979-80

EXECUTIVE DEPARTMENT

Division of Community Services

Home Heating Crisis Assistance

Personal Services	\$ 47,710
All Other	\$ 866,250
Capital Expenditures	1,750

Provides funds for the Home Heating Crisis Assistance Program. Position count is omitted because of partial federal funding. Provides funds for the General Fund share of 12 employees, 10 of which shall be project employees, who will operate both this program and the federal crisis program, needed office equipment and all other funds for the Home Heating Crisis Assistance Program. Position count is omitted because of partial federal funding.

Home Winterization

Personal Services	10,681
All Other	917,993
Capital Expenditures	125

Provides funds for housing repair materials, partial funding of 3 existing staff positions, needed office equipment and all other funds for the Home Winterization Program. Position count is omitted because of partial federal funding.

Housing Rehabilitation Technician Program

Personal Services 4,336

All Other 73,664

Provides state matching funds for continuation of Housing Rehabilitation Technician Program, including temporary partial funding of one existing staff position. Position count is omitted because of partial federal funding.

Citizens' Assistance Service

All Other 2,628

Provides funds for telephone costs of expanded, toll-free Citizens' Assistance Service.

TOTAL EXECUTIVE DEPARTMENT \$1,925,137

AUDIT, DEPARTMENT OF

All Other \$ 20,000

Provides funds for administrative costs, including travel and printing of special audit report on funds appropriated under this Act.

HUMAN SERVICES, DEPARTMENT OF

All Other 1,554,863

Provides funds for emergency assistance for certain low-income households with dependent children based on a 50/50 federal-state matching ratio. The Commissioner of Human Services shall notify the Commissioner of Finance and Administration of the actual matching ratio when it is finalized by the Federal Government. Any part of this appropriation not required because of adjustment in the federal percentage shall not be used for another purpose but shall lapse to the General Fund. \$93,713 of the amount

appropriated above shall be matched by a like amount of federal funds and shall be used for administration of this part of the program.

TOTAL GENERAL FUND APPROPRIATION \$3,500,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective October 18, 1979