

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

May 9, 1950

To George C. West, Esquire, Assistant Attorney General,
Department of Health and Welfare

Re: Old Age Assistance

At our conference today you showed me Miss Schopke's letter dated May 2, 1950, relative to federal participation in terminal payments of Old Age Assistance, which letter, I understand, was the result of requests I had made previously to you for clarification of the subject, particularly in relation to the standards appearing in the Handbook of Public Assistance Administration, as they relate to Section 269-A of Chapter 22, R. S. 1944, which was enacted as Section 1 of Chapter 122 of the Public Laws of 1945.

While I am, of course, no specialist in the field of Old Age Assistance, which is entirely within the scope of your duties, and am viewing the situation more or less as a stranger to the problems involved, I should like to suggest that possibly the federal authorities and perhaps people in the Department of Health and Welfare, may have misconstrued the section above cited.

You will remember that one of the reasons for the enactment of this section was to counteract the difficulty that was being experienced by Old Age Assistance recipients in getting into convalescent homes, due to the fact that they could not pay in advance and could not guarantee the last month's bill in the case of final sickness. It strikes me that this section, which is construed in Miss Schopke's letter as being a limitation on terminal payments, is not a limitation at all, but that on the contrary the statute creates a preference in favor of creditors in a particular category, namely creditors for board or medical or nursing services, which creditors may be paid directly by the department; but that in creating such preference the statute does not foreclose the right of any other creditor or proper person to receive the payment of any balance after administrative action is taken in favor of the preferred creditors.

I simply give you the foregoing, not as an official interpretation, but to show my reaction to the statute in the light of the approach of one who is not continuously confronted with administrative operations under it.

May I suggest that my interpretation would appear to be reasonable, since, as far as I can see, it would bring Maine's administration directly within the provisions of Paragraph 5430, Part IV, of the Handbook and does this without doing violence in any way to the words of the statute.

If you think there is any merit in my ideas, I would appreciate it if you would send them along to the proper federal authorities with a request for a reconsideration in the light of this new approach.

JOHN S. S. FESSENDEN

Deputy Attorney General