

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

bcw

JST

✓

# STATE OF MAINE

Inter-Departmental Memorandum Date 4 August 1971

To Albert Anderson, Jr., Ph.D., Director Dept. Bureau of Mental Retardation

From Courtland D. Perry, Assistant Atty. Gen'l. Dept. Mental Health and Corrections

Subject Payments on Behalf of Vocational Rehabilitation Clients Not "Aid to the Disabled" and Not Payable Into Special Revenue Account of Department of Mental Health and Corrections.

SYLLABUS:

Payments made by the Department of Health and Welfare to the Pineland Hospital and Training Center on behalf of Vocational Rehabilitation Division clients admitted thereto, are not payments made as "Aid to the Disabled" and therefore, may not be allocated to the Special Revenue Account of the Department of Mental Health and Corrections known as the "Mental Health Program Improvement Fund."

FACTS:

Certain mentally retarded persons, clients of the Vocational Rehabilitation Division of the Department of Health and Welfare are referred to, and admitted to the Pineland Hospital and Training Center, pursuant to 34 M.R.S.A. 1964, §2152, subsec. 1 C, as amended, and are participants in the Bliss Vocational Rehabilitation Unit at the Pineland Hospital and Training Center.

QUESTION:

May amounts paid by the Vocational Rehabilitation Division of the Department of Health and Welfare to the Pineland Hospital and Training Center on behalf of clients referred by such Division and admitted to the Pineland Hospital and Training Center, who are participants in the Bliss Vocational Rehabilitation Unit of that institution,

Albert Anderson, Jr., Ph.D., Director  
Bureau of Mental Retardation

4 August 1971

- 2 -

be allocated to the Special Revenue Account of the Department of Mental Health and Corrections established under P.L. 1965, c. 503, §3, and known as the "Mental Health Program Improvement Fund"?

ANSWER:

No.

REASON:

Funds received by the Department of Mental Health and Corrections authorized to be allocated to the Special Revenue Account of that Department known as the "Mental Health Program Improvement Fund", may be only those funds paid by the Department of Health and Welfare, pursuant to P.L. 1965, c. 503, §1, appearing as 22 M.R.S.A. 1964, §3301, subsec. 1, which reads as follows:

"1. Aid. "'Aid'" means money payments to, or in behalf of or medical care or any type of remedial care or any related services to needy individuals who qualify for aid to the aged, blind or disabled."

The restriction that funds payable into the Special Revenue Account be derived from payments made under the last above cited statute is found in P.L. 1965, c. 503, §3, which read as follows:

"All sums received by the Department of Mental Health and Corrections under section 1 shall be credited to a special revenue account in the Department of Mental Health and Corrections to be known as the Mental Health Program Improvement Fund. At least 50% of the sums in the fund shall be transferred, with the approval of the Governor and Council, to the Department of Health and Welfare to finance insofar as possible a liberalized definition of disability by including mental disease or disorder as a basis for eligibility for assistance. Sums remaining in the Mental Health Program Improvement Fund shall be utilized by the Department of Mental Health and Corrections, with the approval of the Governor and Council, for improvement of mental health programs."

The only potentially applicable "aid" category in question here is that category

4 August 1971

- 3 -

known as "aid to the disabled". For the applicable definition of "disabled" we refer to 22 M.R.S.A. 1964, §3301, subsec. 4, which reads as follows:

"'Disabled'" means a needy individual who is 18 years of age or older and who is permanently and totally disabled."

The mentally retarded persons, clients of the Vocational Rehabilitation Division of the Department of Health and Welfare referred to the Pineland Hospital and Training Center and admitted thereto, pursuant to 34 M.R.S.A. 1964, §2152, subsec. 1 C, as amended,\* who become participants in the Bliss Vocational Rehabilitation Unit of that institution are not disabled persons as defined in Title 22, §3301, subsec. 4. Payments are not made on their behalf under Title 22, §3301, subsec. 1 (P.L. 1965, c. 503, §1). Such referred clients of the Vocational Rehabilitation Division of the Department of Health and Welfare enter the Pineland Hospital and Training Center as participants in Vocational Rehabilitation Programs cooperatively established and operated pursuant to 22 M.R.S.A. 1964, c. 713 (P.L. 1969, c. 457, §1). Such persons in order to

---

\* 34 M.R.S.A. 1964, §2152, subsec. 1 C (P.L. 1969, c. 349) provides in pertinent part:

"C. Referral. A mentally retarded client of the Vocational Rehabilitation Division of the Department of Education, recommended for admission by a vocational rehabilitation counsellor of that division, may be admitted to the Pineland Hospital and Training Center, upon his own application or the application of his parent, other next of kin or legal guardian....."

Reference is here made to the Vocational Rehabilitation Division of the Department of Education. By P.L. 1969, c. 457, §2 the Vocational Rehabilitation Division of the Department of Education was transferred to the Department of Health and Welfare. It is to that Division and clients thereof that this Opinion applies.

4 August 1971

Bureau of Mental Retardation

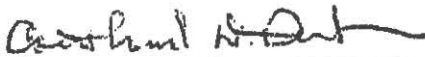
- 4 -

be eligible clients of the Vocational Rehabilitation Division of the Department of Health and Welfare must fall within the definition of "handicapped individual", set forth in 22 M.R.S.A. 1964, §3054, subsec. 6 (P.L. 1969, c. 457, §1) which reads as follows:

"6. Handicapped individual. "'Handicapped individual'" means any individual who has a physical or mental disability which constitutes a substantial handicap to employment, but which is of such nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is consistent with his capacities and abilities. "'Handicapped individual'" also means any individual who has a physical or mental disability which constitutes a substantial handicap to employment for whom vocational rehabilitation services are necessary for the purposes of the determination of rehabilitation potential.

"An individual who is under a physical or mental disability means an individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting his activities or functions."

Payments made by the Department of Health and Welfare with respect to Vocational Rehabilitation Facilities and Services as defined in 22 M.R.S.A. 1964, §3054, subsecs., 7, 8 (P.L. 1969, c. 457, §1), provided to clients of the Vocational Rehabilitation Division and referred to, and admitted to the Pineland Hospital and Training Center are not payments made as "aid to the disabled", and, therefore, if made to the Pineland Hospital and Training Center on behalf of such referred clients may not be allocated to the Special Revenue Account of the Department of Mental Health and Corrections known as the "Mental Health Program Improvement Fund".



Courtland D. Perry  
Assistant Attorney General

CDP/f