

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date May 19, 1975

To: David Smith, Commissioner

Dept. Health and Welfare

From: Eliot Field, AAG

Dept. Attorney General's Office

Subject Reporting Of Denials To Immigration Service

SYLLABUS:

The Maine Department of Health and Welfare may not now disclose information to the U.S. Border Patrol regarding the citizenship status of an applicant for AFDC or Food Stamp benefits, however, it should be noted that a Social Security Act amendment (Pub. Law 93-647, Part B), effective July 1, 1975, and the regulations adopted thereunder will alter the confidentiality standards in the AFDC program.

FACTS:

The U.S. Border Patrol has requested the Maine Department of Health and Welfare to inform them of all situations where a person applies to the Department of Health and Welfare for some form of assistance and is denied such assistance because he or she is not a U.S. citizen or legally registered alien. In accordance with the Department's interpretation of present restrictions on the disclosure of such information, the Department has thus far refused to comply with this request.

QUESTION:

May the Maine Department of Health and Welfare disclose to the U.S. Border Patrol information on applicants for assistance (AFDC and Food Stamps) when, in the application process, it appears that such applicants are not U.S. citizens or legally registered aliens?

ANSWER:

No, but note that the AFDC confidentiality standards will be changing effective July 1, 1975.

REASONS:

The Social Security Act and The Food Stamp Act, and the federal regulations thereunder set forth specific confidentiality standards regarding the use and disclosure of information concerning applicants for AFDC and Food Stamp program benefits. Maine, as a participant in these programs, has enacted laws and regulations which impose these confidentiality standards in the Maine AFDC and Food Stamp programs.

To: David Smith, Commissioner
From: Eliot Field, AAG
May 19, 1975

Page 2

In the AFDC program the use or disclosure of information concerning applicants or recipients is limited to purposes directly connected with the administration of the program, such as establishing eligibility, determining amount of assistance, and providing services for applicants and recipients. 42 USCA §602(a) (9); 45 CFR 205.50(a) (1) (i); 22 MRSA §42(a); Maine Public Assistance Payments Manual, Chap. I, Sec. D, p. 1 (rev. 7/74).

In the Food Stamp Program the use or disclosure of information obtained from applicant households is restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act and the regulations thereunder. 7 USCA §2019(e) (3); 7 CFR §271.1(f); 22 MRSA §42(a); Maine Food Stamp Manual §2041.

Since the U.S. Border Patrol and its purposes are not directly connected with the administration or enforcement of either the AFDC or Food Stamp program, any disclosure of information to the Border Patrol regarding an applicant's citizenship status would violate the confidentiality standards and therefore be illegal.

Caveat: An amendment (P.L. 93-647, Part B) to the Social Security Act will change the confidentiality standards in the AFDC program effective July 1, 1975. This amendment will not affect confidentiality standards in the Food Stamp Program.

EF/mgm