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STATE OF MAINE

Inter-Departmental Memorandum Date July 3, 1975

David E. Smith, Commissioner Dept. Health and Welfare

From Joseph M. Kozak, Assist. Atty. Gen. Dept. Attorney General

Subject FORMAL OPINION CONCERNING DEPARTMENT OF HEALTH AND WELFARE REIMBURSEMENT FOR MUNICIPAL GENERAL RELIEF EXPENDITURES

SYLLABUS:

The Department of Health and Welfare is only authorized to reimburse municipalities for general relief expenditures which the department considers to be reasonable and appropriate. In determining whether a general relief expenditure is reasonable and appropriate the department may obtain, from municipalities seeking reimbursement, all pertinent information from their general relief records upon which eligibility and the amount of relief were based.

General relief expenditures which are made by a municipality without regard to its written rules and regulations as well as general relief expenditures made by a municipality which has not promulgated written rules and regulations governing general relief are not reimbursable.

FACTS:

22 M.R.S.A. §4497 imposes upon each municipality liability for the relief of persons present within and dependent upon it for their support. 22 M.R.S.A. §4504 requires municipalities to operate and administer their general relief programs in accordance with written rules and regulations.

Pursuant to 22 M.R.S.A. §4499 a municipality may obtain 90% reimbursement from the Department of Health and Welfare for general relief expenditures, exceeding .0006 of its assessed valuation during any fiscal year, which the department considers to be reasonable and appropriate. In seeking this reimbursement some municipalities have been willing to provide the department with only the names of the persons whom they relieve as well as an indication of the amount expended for their relief. These municipalities have questioned the department's authority to examine their general relief records for the purpose of determining the reasonableness and appropriateness of expenditures upon which reimbursement is sought.

Several municipalities have not promulgated written rules and regulations governing general relief as required by 22 M.R.S.A. §4504 while others have furnished relief without regard to the standards outlined in the rules and regulations they have promulgated.

QUESTIONS & ANSWERS:

1. Does the Department of Health and Welfare have a right to review individual general relief case records in order to determine whether or not relief furnished by a municipality, and for which State reimbursement is sought, is reasonable and appropriate? YES.

2. Can the Department of Health and Welfare withhold reimbursement where no records are maintained by a municipality which indicate how eligibility and amount of assistance were determined? YES.

3. Does the Department of Health and Welfare have a responsibility to withhold reimbursement where it is evident that a municipality does not follow its own rules and regulations relating to general relief? YES.

4. Does the Department of Health and Welfare have the responsibility to withhold reimbursement funds from those municipalities which do not have written standards and policies, although the Department believes that the assistance granted in a specific case was not excessive? YES.

ANSWERS AND REASONS:

1. The language of 22 M.R.S.A. §4497 which requires municipal officials to "...keep full and accurate records of the names of indigent persons so relieved or supported, together with the amounts paid by them for such support and relief..." cannot reasonably be construed as allowing a municipality to maintain general relief records containing only the names of each general relief recipient along with an indication of the amount of relief furnished to each of them. It appears that the Legislature's use of the words "full and accurate" to modify the words "records of the names of indigent persons so relieved" in 22 M.R.S.A. §4497 are intended to indicate that all the information necessarily incident to each specific general relief case be maintained by the municipality rather than a requirement that the municipality merely maintain a full and accurate list of names of recipients along with an indication of the amount of relief furnished to them. This Legislative intent flows from a reading of the entire chapter dealing with municipal support of the poor. 22 M.R.S.A., Chapter 1251.

Specific provisions of that chapter require written documentation relative to general relief cases upon which a municipality must determine eligibility for general relief as well as the amount of assistance it should provide. For example, 22 M.R.S.A. §4504 requires that a municipal general relief program be operated and administered in accordance with written rules and regulations which must be accessible to the public and must be filed with the Commissioner of Health and Welfare. Those written rules and regulations must include standards of eligibility which govern both need and amount of assistance. §4504 further provides that a person wishing to apply for relief may do so and the municipality must furnish that relief to the individual, if found eligible under the municipal rules and regulations, within 24 hours of the date of submission of the application for relief. 22 M.R.S.A. §4505 requires written decisions concerning such applications. It provides,

"Any action relative to the grant, denial, reduction, suspension or termination of relief provided under this chapter must be communicated to the applicant or recipient in writing and shall include the specific reason or reasons for such action and shall state that the person affected has a right to a hearing."

Finally, a person aggrieved by a decision or failure to act in regard to his application for relief is provided a fair hearing as well as a

right to Superior Court review pursuant to Rule 80-B of the Maine Rules of Civil Procedure.

It is apparent from reading the provisions of Chapter 1251 that written documentation concerning eligibility must exist within the framework of the municipal general relief programs and that such documentation should form a part of a full and accurate record of each general relief case.

The Department of Health and Welfare, pursuant to 22 M.R.S.A. §4499, can only reimburse municipalities for those general relief expenditures it considers "reasonable and appropriate." In order to make such a determination the Department must be provided with more objective criteria than simply a name followed by an indication of the amount of assistance furnished. The Department should have access to the same information utilized by the municipality when it made its determination of eligibility as well as the amount of assistance it would furnish. The Department can then assess this information against the particular municipality's written rules and regulations which should be filed with the Department in accordance with 22 M.R.S.A. §4504. (It is suggested that the filing requirement of §4504 serves the purpose of providing the Department with each municipality's standards against which the Department can assess the reasonableness and appropriateness of expenditures upon which reimbursement is sought).

Consequently, municipalities seeking reimbursement pursuant to 22 M.R.S.A. §4499 should furnish or otherwise make available to the Department of Health and Welfare more information than simply the names of recipients as well as an indication of the amount of relief furnished.

2. Pursuant to 22 M.R.S.A. §4499 the Department of Health and Welfare is only permitted to reimburse municipalities for those general relief expenditures considered reasonable and appropriate by the Department.

Where no records are kept by a municipality the Department would obviously lack the factual basis upon which a finding of reasonableness and appropriateness could be made. Absent such a factual basis reimbursement must be denied.

3. Since municipalities are required to furnish general relief pursuant to their rules and regulations, a finding that those rules and regulations have not been followed would indicate that the particular general relief expenditure upon which reimbursement is sought is not appropriate and therefore not reimburseable. Of course, the Department should not withhold such reimbursement where deviations from the strict language of a municipality rules and regulations do not materially affect the eventual determination of eligibility or the amount of relief furnished.

4. Although such relief may appear to be reasonable, 22 M.R.S.A. §4499 requires the Department to find that the relief furnished was both reasonable and appropriate. Municipalities who have failed to comply with the requirement of promulgating written rules and regulations are clearly not administering the kind of general relief programs mandated by the Legislature in Chapter 1251 and are therefore not subject to its reimbursement provisions.