

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

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Subject FORMAL OPINION: DISCLOSURE OF A.F.D.C. INFORMATION TO THE INTERNAL  
REVENUE SERVICE

## SYLLABUS:

Pursuant to 42 U.S.C.A. 602(a)(9), the Department of Human Services is prohibited from disclosing information on A.F.D.C. recipients to the Internal Revenue Service.

## FACTS:

The Internal Revenue Service has requested information from the Department of Human Services regarding individual A.F.D.C. recipients. The request was for copies of welfare applications, financial statements and records of amounts paid. The department has continued to refuse to give out this information because of the confidential nature of A.F.D.C. records. The I.R.S. maintains that 42 U.S.C.A. 602(a)(9) authorizes the department to disclose information on A.F.D.C. recipients to employees of the I.R.S. because they are "public officials who require such information in connection with their official duties."

## QUESTION AND ANSWER:

Does 42 U.S.C.A. 602 (a)(9) entitle the Internal Revenue Service to information from the Department of Human Services regarding individual A.F.D.C. recipients? NO.

## REASONS:

42 U.S.C.A. 601 requires a State participating in an A.F.D.C. program to submit a plan to the Secretary of Health, Education, and Welfare, indicating methods and procedures to be utilized by the State in administering its program. 42 U.S.C.A. 602 lists all the requirements which must be included in the State plan. Pursuant to subsection (a)(9) of section 602, the State plan in the past had to "provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to families with dependent children..." Public Law 93-647, the Social Services Amendments of 1974, amended 42 U.S.C.A. 602 (a)(9) to provide further for disclosure to "public officials who require such information in connection with their official duties". However, effective August 1, 1975, Public Law 94-88 repealed the provision for disclosure to public officials. 602 (a)(9) currently reads as follows:

"(9) provide safeguards which restrict the use of [sic] [or] disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan

of the State approved under this part, the plan or program of the State under part B, C, or D of this subchapter or under subchapter I, X, XIV, XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter, (B) any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient;"

45 C.F.R. 205.50, regulating the disclosure of information on A.F.D.C. applicants and recipients, in the past authorized disclosure of information to "public officials who require such information in connection with their official duties..." However, effective February 3, 1976, section 205.50 was amended in order to bring the regulations of HEW into conformity with the statutory changes brought about by P.L. 94-88 which amended 42 U.S.C.A. 602 (a) (9). Currently, 45 C.F.R. 205.50 reads in part as follows:

"(a) State plan requirements. A State plan under title IV-A of the Social Security Act, except as provided in paragraph (e) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with [sic] [the administration of the program]: Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients..."

Paragraph (a), in conformance with 42 U.S.C.A. 602(a) (9), also lists other instances where disclosure is permitted. None of these exceptions permit disclosure of information on A.F.D.C. applicants and recipients to the Internal Revenue Service.

TEG:bjw