

April 21, 1977

This same analysis has been adopted by several states in the interpretation of the confidentiality provisions of their respective Employment Security Laws. In Marceau v. Orange Realty, Inc., 92 A.2d 656 (N.H. 1952), the New Hampshire court reviewed the confidentiality statute of the Employment Security Commission (which is virtually identical to the Maine provision) and held that the records had to be produced upon the service of a subpoena. The court found that "the records are confidential in the sense that they are not to be voluntarily disclosed by the Commission, and the obligation to disclose information required in the administration of justice should not be limited without a clear legislative mandate." Other cases adopting this same view are Carr v. Monroe Manufacturing Co., 431 F.2d 384 (5th Cir. 1970); Powers v. Superior Court, 82 A.2d 885 (R.I. 1951); Bell v. Bankers Life Casualty Co., 64 N.E.2d 204 (Ill. 1945).

The Maine Employment Security Commission confidentiality statute is similar to the statutes discussed in the above situations, and it contains no express language barring the disclosure of information in a court proceeding.

Administrative Regulation No. 1 of the Maine Employment Security Commission (see attached copy) provides that no records shall be disclosed or produced pursuant to a subpoena except in certain specified situations. One of the situations in which the disclosure of records is authorized is to public employees in the performance of their public duties.

As the Maine statute provides no express language prohibiting the disclosure of information in a court proceeding and as the attached Administrative Regulation indicates that the information must be released pursuant to a subpoena to a public official, the Employment Security Commission must release Employment Security records to public officials in the performance of their public duties for use in court proceedings upon the issuance of a subpoena.

PMM:er

enc.

2720