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Federal Funds: Civil Emergency Preparedness
37-A MRSAP 62-A

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August 24, 1977

To: George Kaplan, Bureau of Civil Emergency Preparedness
From: Kay R. H. Evans, Assistant Attorney General
Re: Interpretation of 37-A M.R.S.A.

Your memo of June 16, 1977, requested review of Title 37-A M.R.S.A. Sec. 62-A, with particular attention to the four lettered paragraphs of subsection 1. You indicated that there was some concern that these four paragraphs "do not refer to the same subject and . . . can be interpreted individually." What I understand from your memo is concern that the parts of subsection 1 of section 62-A are not sufficiently complete to provide a mechanism adequate to accomplish the purpose for which it was enacted.

It is my opinion that, read individually, these paragraphs can be "interpreted individually," and as such, are of problematic meaning. However, when read, as they must be, State v. Boyajian, 344 A.2d 410 (Me., 1975) in conjunction with each other and with the rest of section 62-A, they sufficiently reveal the legislative purpose and provide sufficient guidance for action to avoid being disastrously vague or ambiguous.^{1/}


Paragraph A, in specified circumstances, gives the Governor authority (subparagraph 1) to determine the existence of defined financial needs not otherwise met; to accept a federal grant to meet such needs, and (subparagraph 2) to make an agreement with the federal government to share the cost of such a grant. Paragraph B authorizes the Governor to make grants of financial assistance in circumstances specified as in paragraph A to meet needs defined as in paragraph A. Though these two paragraphs are not specifically cross-referenced, the link of identical language is strong evidence of their interrelationship.

^{1/} The legislative history is of no assistance in assessing legislative intent, as the L.D. passed unamended and undebated through the legislature.

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Paragraph C requires the Governor to make "such regulations as are necessary for the carrying out of this section. . . ." Other provisions of 62-A give the Governor authority to make rules and regulations "necessary to carry out the purposes of this subsection" (subsections 2-C and 4-C) but do not require him to do so. Undeniably there is ambiguity, and one must question whether the Legislature intended to use "section" or "subsection" in paragraph C. You might seek legislative clarification of this, but in the meantime, even as presently written, paragraph C clearly applies to subsection 1.

The language of paragraph D gives rise to the same question of whether the term "section" or "subsection" was intended. While paragraph D also clearly applies to subsection 1, it could also apply to subsection 3, the only other place in the statute where the term "financial assistance" appears. However, given the subject matter of subsection 3, it seems extremely unlikely that the Legislature intended paragraph D to apply thereto. You might also seek legislative clarification of paragraph D, but in the meantime, it is my view that paragraph D, as written, also applies to subsection 1.



KAY R. H. EVANS
Assistant Attorney General

KRHE:jg