

# MAINE STATE LEGISLATURE

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Aliens' Medical Expenses  
Municipalities' Responsibility for Alien Medical Expenses  
22 M.R.S.A. 4497

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AUGUSTA, MAINE 04333

November 15, 1977

Honorable Donald F. Collins  
4 Dorcas Avenue  
Caribou, Maine 04736

Dear Senator Collins:

This responds to your request for an opinion on municipal liability for medical expenses of aliens.

QUESTION PRESENTED:

In the event that a non-resident alien is unable to pay the cost of his hospitalization, is the Maine municipality in which the hospital is located liable?

ANSWER:

Yes.

REASONING:

The applicable statutory provision is 22 M.R.S.A. § 4497, Municipal Relief of the Poor. Paragraph two of that section states the following:

"Overseers of the poor of a municipality shall also have the care of eligible persons who apply to them for assistance and who are neither residents of that municipality nor of any other municipality and shall cause them to be relieved at the expense of that municipality."

This provision was designed to cover two classes of people: (1) those who have recently moved and have not yet established residency in the new community, and (2) transients. The community in which someone from either of these two classes falls sick or dies is responsible for hospital and/or burial expenses when that individual is in need of relief.

Section 4497 brings Maine law into conformity with several recent U. S. Supreme Court decisions which have held invalid a residency requirement for the receipt of any type of welfare. Memorial Hospital v. Maricopa County, 415 U.S. 250, 94 S.Ct.

1076, 39 L. Ed. 2d 306 (1974) and Johnson v. Robinson, 296 F. Supp. 1165, affd. 394 U.S. 847, 39 S. Ct. 1622, 23 L. Ed. 2d 30 (1969). The imposition of such a requirement is regarded as an infringement on the constitutional right to travel. Shapiro v. Thompson, 394 U.S. 618, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969). Thus, it is clear from these decisions that no state may deny assistance to a citizen of any other state for the reason that residency has not been established.

The Supreme Court in Graham v. Richardson, 403 U.S. 365, 91 S. Ct. 1848, 29 L. Ed. 2d 534 (1971) decided the question of whether a state could condition welfare assistance upon citizenship. The Court held that state statutes which deny welfare benefits, either under Federal programs or state general assistance programs, to resident aliens because they are non-citizens or because they have not resided in the U.S. for a specified period of years are unconstitutional. This was found to be not only a denial of equal protection but also an encroachment upon the exclusive federal power to regulate immigration and naturalization.

Therefore, it is clear that a state cannot deny welfare benefits on the basis of residency alone or alienage alone. In an unanimous decision, the Court further held that even a transitory or unlawfully admitted alien is protected under the due process clauses of the 5th and 14th Amendments. Matthews v. Diaz, 426 U.S. 67, 96 S. Ct. 1883, 48 L. Ed. 2d 478 (1976). No state has the power to deter or restrict the travel of aliens to the United States or between the various states; this power is exclusively vested in the federal government. 426 U.S. at 86. The Court then stated the following:

"Insofar as state welfare policy is concerned, there is little, if any, basis for treating persons who are citizens of another state differently from persons who are citizens of another country. Both groups are noncitizens as far as the state's interest in administering its welfare programs are concerned." 426 U.S. at 85.

These Supreme Court decisions would prevent any State from discriminating on the basis of residency or alienage in the dispensation of welfare benefits. As a subdivision of the State, a municipality is likewise barred from acting in a discriminatory manner. Therefore, it is the responsibility of each community to provide assistance to any eligible indigent who receives medical care in that community whether he be an alien or citizen and whether he has residency in that community or in no community in the State.

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