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RICHARD S. COHEN
ATTORNEY GENERAL

STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

September 23, 1980

Lawrence P. Greenlaw, Jr.
Special Assistant
Executive Department
State House
Augusta, Maine 04333

Dear Mr. Greenlaw:

I am writing in response to your request for an opinion from this office concerning the Emergency Home Heating Act of 1979. P.L. 1979, c. 574. Specifically, you inquire whether the Act as amended prohibits the State from making payments after June 30, 1980, to local program operators for program obligations incurred prior to that date as a result of the increase in the program's maximum energy assistance benefit level.

For the reasons stated below we determine that neither the original Act nor its amendment, P.L. 1979, c. 617, prohibits such payments.

The Act established a program to assist low income households in meeting the increased costs of heat for the winter of 1979-80. The Division of Community Services had overall authority to administer the energy assistance program. To that end, DCS entered into subgrant agreements with various agencies throughout the State. These local program operators in turn processed energy assistance applications, determined eligibility, and distributed assistance to eligible households. The subgrantees operated with DCS funds and pursuant to DCS regulations.

Energy assistance was provided in the form of vendor payments to the energy supplier of the eligible household or to the lessor if the eligible person or family lived in housing where heat was supplied by the landlord. The vendor payment was applied to the household's account as a future credit. Energy assistance could not be applied against surcharges or outstanding balances. Chapter 574 Sec. 6(B).

The maximum level of energy assistance was originally established at $200 per household. This level was increased by the Governor, pursuant to the applicable Federal statutes, to $350 per household on June 16, 1980. All eligible households automatically received the increased benefit levels. Accordingly, energy suppliers increased the credit accounts of recipients to reflect the higher level of assistance.[1/]

Throughout the life of the energy assistance program there had been in various areas of the State significant disparities in the degree of participation. Some local program operators experienced a flood of assistance applications, while others received relatively few applications.

When the new benefit levels were established, some local program operators found that they did not have enough State funds to reimburse energy suppliers and landlords for credit extended to eligible recipients. Other local programs still had a surplus of State funds even after the increase in the assistance maximums.

In response to this situation DCS amended the subgrant agreements of local program operators to reallocate funds from those operators with surplus monies to those needing additional funds. The reallocation process was not completed by June 30, 1980. The Department of Finance and Administration has refused to make payments to local program operators subsequent to that date contending that the amendment to the Act, P.L. 1979, c. 617 prohibits payments to localoperators after June 30. Approximately $43,000 of reallocation payments requested by DCS have not been processed by the Division of Accounts and Control.

The statutory provision at issue is Section 3 of P.L. 1979, c. 617, which amended the original Act.[2/] Section 3 reads as follows:

> G. Payments to vendors under this program must be fully utilized on behalf of the eligible household before June 30, 1980. Any amount not utilized by the vendor shall be returned to the local program operator no later than July 31, 1980. Any amount not utilized by the local program operator shall be returned to the Division of Community Services no later than August 31, 1980.

1/ We are informed that the increased amount could be applied to fuel obtained from the vendor after the date of the eligible household's application.

2/ It is clear from P.L. 1979, c. 717 that the Act's unexpended appropriations did not lapse on June 30, 1980. Hence, lapsing is not an issue in this matter.

Analysis of the statutory language and legislative history clearly indicates that Section 3 does not prohibit payments after June 30 to local program operators for obligations resulting from energy assistance rendered prior to July 1.

Chapter 617 came before the Legislature as L.D. 1956. Section 3 took its present form through an amendment (H-802) to the original bill. The statement of fact to the amendment indicates that its purpose was to extend from May 30 to June 30 the time within which recipients must have expended the energy assistance credited to their accounts. The amendment was not intended to, nor does it by its language, prohibit State payments after June 30 to reimburse vendors for energy provided to July 1.

We believe any other reading of the statute would lead to an illogical result. Since June 30 was the last day recipients could use up their credit benefits, it is unreasonable to assume that the Legislature also intended it to be the last day DCS could forward funds to local program operators to reimburse those vendors supplying energy. The final accounting of vendors and local program operators would necessarily have to occur after June 30. That the Legislature recognized this is reflected in the fact that Section 3 required vendors to return unexpended funds to local program operators by July 31 and required local program operators to return unexpended funds to DCS by August 31. Since the Legislature, through Section 3, permitted surpluses to be returned to DCS after June 30, logic compels us to conclude that it did not intend to prohibit DCS from reimbursing local program deficits after that date.

It is a clear rule of law that statutes should not be construed in a manner that leads to absurd results or would obviously thwart the purpose of the legislation. C.I.R. v. Brown, 380 U.S. 563 (1965), Mass. Financial Services, Inc. v. Securities Investor Protection Corp., 545 F.2d 754 (1st Cir. 1976) cert denied, 431 U.S. 904. Given the clear purpose to extend the energy credit to fuel purchases occurring prior to July 1, we believe that a construction of the Act which would prohibit payments after that date to local program operators, and thus to vendors, would only serve to frustrate the Legislature's intent.

I trust that this opinion will prove helpful. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

RICHARD S. COHEN
Attorney General

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