

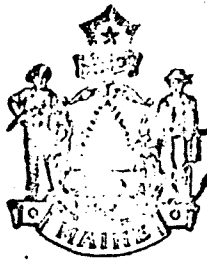
# MAINE STATE LEGISLATURE

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E. TIERNEY  
ATTORNEY GENERAL



81-59-A

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

June 24, 1981

Michael R. Petit  
Commissioner  
Department of Human Services  
221 State Street  
Augusta, Maine. 04333

Re: General Assistance Standards

Dear Commissioner Petit:

This opinion addresses the questions posed in your memorandum of March 4, 1981 about general assistance standards.

1. Can the municipality limit its assistance to only emergency or crisis situations and not consider ongoing basic needs of an individual or family?

General assistance is defined as a service "for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families." 22 M.R.S.A. § 4450(2). Section 4504(1) states that every municipality must administer a general assistance program. That program is, according to the definition quoted above, one of relief based on need. Because need cannot be measured by the nature of the circumstance that caused the need, a general assistance program cannot be limited to emergencies. Each municipality may, of course, through its description of basic necessities and the resources needed to provide them, limit to a reasonable extent assistance that it gives. However, each time an eligible person who is "unable to provide the basic necessities" applies, a municipality must grant assistance.

As described in § 4450(2), "[a] general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a

continuing 'grant-in-aid' or 'categorical' welfare program." Legislative history indicates that this language was added partly in response to the finding in Dupler v. City of Portland, 421 F. Supp. 1314, 1319 (D.Mé., 1976), that Maine's general assistance programs provide regularly recurring grants that serve as income maintenance or welfare grant programs. Me. Leg. Rec., 1977, pages 1550-53, 1722-23. The effect of the statutory language is not to limit the kinds of need that will be met, but rather to limit periods of entitlement. Thus municipalities, even when providing relief to meet an ongoing need, may require that applicants return periodically to the town office to demonstrate that the need still exists. The statute and legislative history are both silent about the length of time over which need should be measured, so municipalities again have a certain amount of discretion. However, municipalities must be reasonable in their choice of time periods. Short periods that are overly burdensome to applicants or that appear to harass or deter might amount to non-compliance with the mandate of the general assistance chapter to provide relief to eligible people who are in need.

2. Does the law require municipalities to share specifically with clients the method they use to determine need?

"Any action relative to the grant, denial, reduction, suspension or termination of relief provided under [the general assistance] chapter must be communicated to the applicant or recipient in writing and shall include the specific reason or reasons for such action . . . ." 22 M.R.S.A. § 4505. (emphasis added). The reason or reasons may cite applicable sections of the general assistance ordinance, which must, under § 4504(3)(A), "govern the determination of need." Whether municipal officials include actual computations in the required communication is discretionary. Even if municipal officials do not choose to include their computations, however, the calculations used to reach the decision must be made available for a fair hearing. Thus, although including the calculations in the written notice is not strictly mandated, town officials may find that if they do so, applicants will be able to make a more informed decision about whether to request a fair hearing. This may serve to lighten a municipality's fair hearing load.

3. Does the law require that, if there is a gap between need and actual available income, the municipality must meet that gap if requested?

The answer to question 1 discusses the legal requirement that municipalities aid persons who are otherwise unable to meet

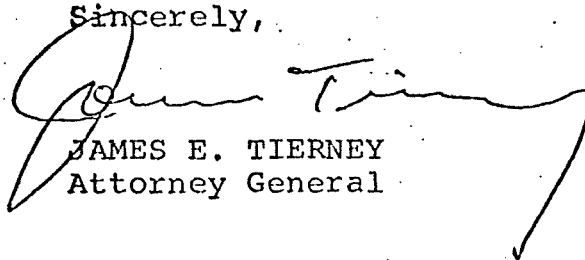
basic maintenance needs. Implicit in that requirement is a duty to raise the applicant's living standards to a level of subsistence. The language of § 4497, which states that municipalities "shall cause [certain eligible persons] to be relieved," reinforces that interpretation. If income and resources available to an applicant are insufficient to meet basic maintenance needs, then a municipality to which an eligible person makes his request must provide relief to meet those needs. Again, municipal officials have a certain amount of discretion when they frame their ordinance in determining level of need.

4. If the answer to 3 is yes, does the law require that the municipality explain to the individual that it will meet that need?

Section 4504(3) states that each general assistance ordinance "shall establish standards of eligibility for relief. These standards shall [g]overn the determination of need of persons applying for relief and the amount of assistance to be provided to eligible persons." The ordinance must be easily accessible to the public. § 4504(2). Ordinances complying with the statutes provide sufficient notice to applicants of their rights concerning unmet need.

I hope this information is helpful.

Sincerely,



JAMES E. TIERNEY  
Attorney General

JET:mfe