

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1296

H. P. 982

House of Representatives, March 6, 1973

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Talbot of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Improve the Pauper Relief System.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 22, § 4458, repealed and replaced. Section 4458 of Title 22 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4458. Duty of municipalities to relieve poor

1. **Duty.** Municipalities shall relieve persons residing therein without regard to their settlement or lack thereof, when, on account of poverty, they need relief.

2. **Standards.** Each municipality shall, no later than 90 days from the effective date of this Act promulgate written standards of eligibility for pauper relief. Such standards shall:

A. Provide that all individuals wishing to make application for pauper relief shall have opportunity to do so, and that pauper relief shall be furnished, within 24 hours of the date of submission of an application, to all eligible individuals;

B. Provide a schedule of goods and services necessary to the maintenance of minimum decency and health for families of various sizes, including individuals;

C. Provide a schedule of the moneys needed to obtain those goods and services referred to in paragraph B;

D. Provide a schedule of the moneys to be paid to the families who are in need of those goods and services when that need is continuous or that need is short term or arises as a result of an emergency, or both;

E. Provide a schedule of the income and assets which shall be computed as being available to a family and which shall guarantee that only such income and assets as are actually in the immediate possession and control of the family shall be computed as available;

F. Provide for a definition of "needy" to insure that all families whose available income and assets, as set forth in paragraph E, is less than need, as set forth in paragraphs B and C, will be eligible to receive pauper assistance;

G. Provide that persons who desire to work or who are working shall have deducted from their available income as defined in paragraph E all necessary work-related expenses;

H. Provide that any moneys paid to meet any short-term or emergency need, as set forth in paragraph D, shall be adequate to meet the entire cost, as set forth in paragraph E, required to obtain food, clothing, housing, medical care, medicine and any transportation necessary to obtain any of the above goods and services;

I. Provide that the schedules promulgated pursuant to paragraphs C and D shall reflect accurately the amounts necessary to enjoy a reasonable standard of living, and be adjusted annually to reflect fully changes in living class.

3. —copies. Each municipality shall ensure that copies of these standards are made available to the public for inspection or copying at a reasonable cost at the office of the overseer of the poor.

4. —filing. Each municipality shall file with the Commissioner of Health and Welfare a copy of these standards within 10 days of their promulgation, said copy to be available for public inspection or copying at a reasonable cost.

5. —injunctive relief. In the event that a municipality or the commissioner fails to comply with any of the duties set forth in subsections 1 to 4, any person shall have the right to seek declaratory and injunctive relief to compel performance of the same in the Superior Court in the county in which he resides.

Sec. 2. R. S., T. 22, § 4459, amended. The first sentence of section 4459 of Title 22 of the Revised Statutes is amended to read as follows:

Overseers shall have the care of all paupers or persons dependent upon the town for their support residing in their town and cause them to be ~~relieved and~~ employed at the expense of the town.

Sec. 3. R. S., T. 22, § 4467, amended. The first sentence of section 4467 of Title 22 of the Revised Statutes is repealed and the following enacted in place thereof:

The spouse, father of minor children and mother of minor children, living within the State and of sufficient ability, shall support persons chargeable in proportion to their respective ability.

Sec. 4. R. S., T. 22, § 4476, amended. The first paragraph of section 4476 of Title 22 of the Revised Statutes is amended to read as follows:

Overseers shall relieve persons destitute, found in their towns and have no settlement therein, and in case of death, decently bury them or dispose of their bodies according to section 2883; the expenses whereof, ~~and of their removal~~ incurred within 3 months before notice given to the town chargeable, may be recovered of the town liable by the town incurring them, in an action commenced within 2 years after the cause of action accrued and not otherwise; and may be recovered of their kindred in the manner provided in this chapter.

Sec. 5. R. S., T. 22, §§ 4464, 4470, 4477, 4478, 4480, 4481, 4482, and 4487, repealed. Section 4464, section 4470, section 4477, as amended by chapter 247 of the public laws of 1965, section 4478, sections 4480, 4481, 4482 and 4487 all of Title 22 of the Revised Statutes, are repealed.

Sec. 6. R. S., T. 22, §§ 4497-4500, additional. Title 22 of the Revised Statutes is amended by adding 4 new sections, 4497-4500 to read as follows:

§ 4497. Right to a fair hearing

Any person aggrieved by any action or failure to act of the overseers of the poor, with respect to his application for or receipt of relief under this chapter, shall have the right to a fair hearing to review such action or failure to act.

§ 4498. Fair hearing

1. Regulations. In order to provide efficient and fair administration of the pauper relief program in this State, each municipality shall promulgate regulations governing the conduct of fair hearings within 90 days after the effective date of this Act. Such regulations shall provide:

A. That requests for a fair hearing must be made orally or in writing, to the fair hearing officer within a reasonable time from the receipt of the notice set forth in section 4499;

B. That fair hearing must be conducted by the fair hearing officer within no more than 24 hours from the receipt thereof of a request for such fair hearing, said time to include the rendition of a decision by the officer;

C. The forms to be used by the overseer acting pursuant to section 4499;

D. The procedures for the conduct of a fair hearing including provisions for an applicant or recipient to be represented by counsel or by any person of his choice, provisions for an applicant or recipient to present witnesses and arguments on his behalf, provisions for an applicant or recipient to confront and cross-examine adverse witnesses, provisions for an applicant or recipient to examine, prior to the hearing, any documents which will be considered, provisions for making an accurate record of the proceedings

and for transcribing that record where necessary, an impartial fair hearing officer, a decision made only on the evidence presented at the hearing, and a provision that the burden of proof shall be upon the municipality.

2. **Judicial review.** Judicial review of any fair hearing decision may be had by any aggrieved person, by filing a complaint for review of governmental action with the Superior Court in the county where the aggrieved party resides, or, if a municipality, where situated, pursuant to Rule 80B of the Maine Rules of Civil Procedure.

3. —copies. Each municipality shall insure that copies of these regulations are made available for inspection or copying at a reasonable cost, at the office of the overseers of the poor.

4. —filing. Each municipality shall file with the Commissioner of Health and Welfare a copy of these regulations within 10 days of their promulgation, said copy to be available for public inspection or copying at a reasonable cost.

5. —injunctive relief. In the event that a municipality or the commissioner fails to comply with any of the duties set forth in subsections 1 to 4, any person shall have the right to seek declaratory and injunctive relief to compel performance of the same in the Superior Court in the county in which he resides.

6. **Definitions.** As used in this chapter, unless otherwise stated, the following terms shall have the following meanings:

A. **Applicant** means a person who has directly or through someone acting responsibly for him requested assistance from the municipality and whose application has not been terminated.

B. **Denial** means any decision by a municipality not to provide pauper relief following the submission of an application therefore.

C. **Recipient** means any individual who receives, or who has received, pauper relief during the previous week.

D. **Reduction** means action by a municipality to decrease the amount of pauper relief given to an individual who has received such relief during the previous week.

E. **Termination** means action by a municipality to provide no further pauper relief to an individual who has received such relief in the previous week.

7. **Costs.** Any costs incurred by the appointment of a fair hearing officer required by this section may be absorbed by each municipality or shared by several municipalities pursuant to Title 30, section 1951.

§ 4499. Notice to be given by overseer

Any action of the overseer taken with respect to an application for or receipt of relief under this chapter, shall be promptly communicated to the applicant in writing which sets forth the reason for such action and informs the applicant of his right to a fair hearing if he is aggrieved by that action and of the procedures necessary to exercise that right.

§ 4500. Finality of action by overseer

No action of the overseer, including a denial, reduction or termination of relief, shall be final or of any effect until an applicant for or recipient of relief has:

1. Waiver. Waived his right to a fair hearing by affirmatively so indicating in writing or by not requesting a fair hearing within the time limits established therefor by the municipality; or
2. Hearing. Been accorded a fair hearing in which a final decision has been rendered.

STATEMENT OF FACT

A crisis exists in many of our Maine communities with the absence of rules and regulations pertaining to the granting of municipal welfare assistance. Both municipal officials and welfare applicants are frustrated by the absence of rules on welfare eligibility. This problem has often resulted in law suits brought against towns by aggrieved welfare applicants. This bill endeavors to make the administration of local welfare fair to all concerned.