

MAINE STATE LEGISLATURE

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House Amendment "A" to L.D. 2608

(Filing No. H-823)

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CHAPTER 855-B
ADMINISTRATION

§ 3261. Agreement for Federal Administration

1. The department shall enter into an agreement with the Secretary of the United States Department of Health, Education and Welfare or its successors, under which the secretary, through the Social Security Administration, on behalf of the State of Maine, shall administer the program of state supplemental income benefits authorized in sections 3271 and 3274. The agreement shall contain all requirements for, and limitations and qualifications on, state supplemental income benefits which Title XVI of the United States Social Security Act, as amended, or regulations adopted thereunder, make necessary in order to qualify the State for administration of state supplemental income benefits by the secretary. The agreement may include, but need not be limited to, provisions to implement the programs of state supplemental benefits pursuant to this Part.

2. The department shall take any and all reasonable action necessary to effect an agreement with the secretary of administration of all state supplemental income benefits. Insofar as an agreement pertains to so-called "optional" state supplemental income benefits provided pursuant to section 3271, such administration by the secretary on behalf of the State shall be effective for benefits payable July 1, 1974 and thereafter.

The department shall take any and all reasonable action to assure that such agreement shall contain provisions that the secretary shall administer the program, particularly as relates to processing of applications, receipt of benefits by eligible applicants, and hearing and reviews, in a manner which is timely and convenient to the applicant and beneficiary.

§ 3262. Applying for benefits

An individual who is a resident of the State of Maine and who applies to the Social Security Administration for supplemental security income benefits pursuant to Title XVI of the Social Security Act shall be deemed to be applying for state supplemental income benefits provided pursuant to this Part and for medical care benefits provided by the State of Maine pursuant to Title XIX of the Social Security Act. Eligibility of a person for any benefit shall be determined in accordance with applicable laws of the United States and State of Maine.

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§ 3263. Hearings and review

Regarding state supplemental income benefits administered by the secretary, any individual who is or claims to be an eligible individual or eligible spouse pursuant to this Part and is in disagreement with any determination concerning this Part by the United States Department of Health, Education and Welfare shall be provided a hearing before the secretary in accordance with the hearings and review provisions of subsection (C), section 1631 of Title XVI.

§ 3264. Fiscal procedures

There shall be advanced with the authorization of the department, from the State Treasury to the secretary, prior to the first day of each month, an amount equal to the secretary's estimate of state supplemental benefits authorized pursuant to this Part for such month corrected for any adjustments resulting from benefits relating to any other month. The department shall conduct, at least once each fiscal year, an audit of such benefits paid by the secretary on behalf of the State.

An agreement shall specify procedures for making payments to the secretary and limitations on such payments, limits on state supplemental payments for patients in health care facilities, provision for recoupment of overpayments, or payments unlawfully procured, of state supplementary payments, adjustments against future state payments on account of such recoupment, and any other fiscal and quality control provision deemed advisable by the department.

§ 3265. Confidentiality

Information concerning an applicant or beneficiary under this Part shall be held in strict confidence. The department and secretary shall disclose or use such information only for purposes directly relating to administration of this Part.

§ 3266. Acceptance of federal provisions

All provisions of sections 1611, 1612, 1613, 1614 and 1615 relating to determination of benefits, and sections 1631, 1632 and 1633 relating to procedural and general provisions, of Title XVI of the United States Social Security Act, as amended, are accepted and are deemed to apply to the program of state supplemental security income benefits to the extent that they may be required to conduct a state supplemental income program as pursuant to this Part.

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CHAPTER 855-C

BENEFITS

§ 3271. Program

1. A program of regular monthly state supplemental income for blind, disabled and elderly people shall be provided for residents of the State of Maine. Benefits under the state supplemental income program shall be based on need and provided in supplementation of benefits provided by the United State Government to aged, blind and disabled individuals pursuant to Title XVI of the United States Social Security Act, as amended. Benefits shall be provided to any person who, on account of blindness, disability or age, qualify for supplemental security income provided pursuant to Title XVI of the United States Social Security Act, as amended, and may, based on need, be provided to individuals who would, but for their income, be eligible for such supplemental security income benefits.

2. The department, to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder, shall establish, with the advice of the Maine Committee on Aging and the Maine Human Services Council, standard levels of state supplemental income benefits for blind, disabled and elderly people. The benefits shall be provided under a modified flat benefit system, and may vary by marital status, and by living arrangements to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder. The benefits shall not be based on individual budgeted need and shall not vary by category or geographical area. Benefits for a couple, except as provided under section 3273, subsection 1, paragraph B, shall be equal to the sum of the amount of benefit for an individual and 50% of the benefit for an individual.

3. The department may also require, as a condition of eligibility, that any applicant for benefits or beneficiary under this Part must apply for any income supplementation that may be available under any other federal or state programs operated pursuant to the provisions of the Social Security Act, if it reasonably appears that such applicant or beneficiary is likely to be eligible for income supplementation under such other programs.

§ 3272. Standard

1. The standard utilized to determine need shall be the current annual budget at the lower level of living for a retired couple as most recently determined by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine, or budgets which are consistent with such a budget at the lower level of living, taking into account budget variances by marital status and living arrangements permitted pursuant to Title XVI and regulations promulgated thereunder.

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§ 3273. Types of benefits

1. The department shall take action, as necessary, to assure that, within the limits of available funds, a state supplemental income benefit, when combined with a federal supplemental security income benefit, shall consist of such amounts that the sum shall:

A. Increase the minimum monthly federal payment standard, in addition to that established pursuant to federal law, by an amount of at least \$8 per month for an individual and \$12 per month for a couple;

B. For an individual who resides in an adult foster home or boarding home, in addition to the benefits provided herein under subsections A and C, provide sufficient income to allow the individual for personal needs an amount equal to the rates set in subsection (e) (i) (B) of section 1611 of Title XVI of the United States Social Security Act, as amended, plus an amount sufficient to meet the monthly per resident payment rate as established by the department for such home in which the individual resides; and

C. For a beneficiary who resides in a living arrangement which meets a living arrangement classification established by the department, but who does not reside in an adult foster home or boarding home, in addition to the minimum federal payment level as adjusted pursuant to paragraph A, provide, based on such living arrangement classification, an amount not to exceed \$42 per month for an individual and \$63 per month for a couple.

2. Participation limited

A. The limitation on eligibility of certain individuals established in subsections (e) (i) (A) and (e) (i) (B) of section 1611 of Title XVI of the United States Social Security Act, as amended, shall apply to benefits provided pursuant to this section. Benefits to patients in health care facilities shall be limited to those provided under the Federal Supplemental Security Income Program.

B. A beneficiary of the federal supplemental security income program or of the state supplemental security income program shall not be eligible for elderly householders tax and rent refunds pursuant to Title 36, Part 9, chapter 901.

3. Payments for boarding home care

A. If an agreement cannot include payment levels and variations thereof to provide the individual sufficient income to meet the monthly per resident payment rate for boarding home care, the department shall take any and all reasonable action necessary to the goal of achieving, within a reasonable time, a payment structure for each boarding home that will permit execution of an agreement with the secretary for administration of all state supplemental income benefits.

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B. In the unfortunate and unlikely event that such an agreement cannot be effected to provide the individual sufficient income as specified in subsection 1, paragraph B, the department may provide a special grant whenever the benefit pursuant to subsection 1, subsection B, is insufficient to meet the rate set for a boarding home. The department shall make such special grant preferably via a vendor payment system or via payment to a payee designated by the individual, or if necessary, via payment to the individual. Noting the intent of Title XVI of the United States Social Security Act, as amended, the administrative efficiencies, and the substantial cost savings to Maine taxpayers, it is the intent of the Legislature that the department shall take any and all reasonable action to obtain the approval of the secretary for a system of vendor payments for such special grants.

4. Appropriations available for benefits provided in subsection 1 shall be budgeted and authorized for expenditure by the department in a priority sequence. First, the available appropriation shall be budgeted and expended to increase the minimum monthly federal payment, as specified in subsection 1, paragraph A. Second, any balance of the appropriation remaining after such budgeting, shall be budgeted and expended to provide an individual sufficient income to meet the monthly per resident payment rate for adult foster and boarding home care as provided in subsection 1, paragraph B and subsection 3. Finally, any balance of the appropriations remaining after such budgeting shall be budgeted and expended to provide benefits related to variations by living arrangements as provided in subsection 1, paragraph C.

5. Retroactive payments relating to benefits provided in subsection 1, paragraph B, and subsection 3 shall not be made for any care provided prior to April 1, 1974. Retroactive payments relating to benefits provided in subsection 1, paragraphs A and C, shall not be provided for any period of time prior to July 1, 1974.

6. Future changes in types of benefits

A. It is the declared intent of this Act that, if it is proposed that benefits provided pursuant to subsection 1 are to be increased on any future date, that such proposal shall recommend, and implementation of such increases shall provide, that the benefits pursuant to subsection 1, paragraph A, shall be increased, and the benefits pursuant to subsection 1, paragraph B, shall be increased, rather than increasing benefits pursuant to subsection 1, paragraph C.

B. Effective July 1st of every year, after the year 1974, the sum of the monthly amount of any state supplemental income benefit authorized by

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subsection 1, paragraphs A and C, plus the amount of the minimum monthly federal supplemental security income in effect at such time shall be increased by a percentage amount equal to the percentage rise in the United States Consumer Price Index for April first of that year over the level of the Index for April first of the previous year plus such additional percentage amount as is recommended annually by the department. Such an increase shall be made only insofar as appropriations are available. In determining the additional percentage amount, consideration shall be given to the goal of reaching, within a reasonable time, a benefit level equal to or consistent with the current budget at the lower level of living for a retired couple established by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine.

If, on April 1st of any year, the sum of the monthly amount of any state supplemental payment authorized by subsection 1, paragraphs A and C, plus the amount of the minimum monthly federal supplemental security income in effect at such time, is equal to or exceeds the amount resulting from 12 divided into the current annual budget at the lower level of living for a retired couple as most recently established by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine, taking into account variances by marital status and living arrangements as established by the department, a budget which is not inconsistent with said annual budget divided by 12, such increase provided on July 1st next following shall be limited to the percentage rise in the Index.

§ 3274. Mandatory payments

1. Amount of payment. The department shall provide so-called "mandatory" state supplemental income payments to beneficiaries of the supplemental security income program who receive payments under the state's former aid to the aged, blind and disabled program based on eligibility established for the month of December, 1973.

A so-called "mandatory" state supplemental income benefit, when combined with a federal supplemental security income benefit, shall, to the extent required by federal law to qualify the State of Maine to receive federal matching funds for medical care pursuant to Title XIX of the United States Social Security Act, as amended, and in so far as funds are available, be at least equal to and in no event less than the level of payment to such a recipient effective for December, 1973, under the former state aid to the aged, blind and disabled program, based on eligibility for December, 1973, in accordance with standards of payment applicable to such aid.

2. Administration. Insofar as an agreement made pursuant to section 3261 pertains to so-called "mandatory" payments, it shall provide that the department enter into an agreement with the secretary under which the secretary, through the Social Security Administration, on behalf of the State of Maine, shall administer, effective with payments issued on January 1, 1974 and thereafter the program of so-called "mandatory" state supplemental income benefits authorized in subsection 1.

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3. Applying for benefits. Persons who receive payments under the state's former aid to aged, blind and disabled Program based on eligibility established for the month of December, 1973, shall, if eligible, receive benefits provided pursuant to this Part and for medical care benefits provided by the State of Maine pursuant to Title XIX of the United States Social Security Act, as amended, without filing an application for supplemental security income with the Social Security Administration.

4. Inconsistent provisions. The provisions of sections 3271, 3272 and 3273 do not apply to so-called "mandatory" payments. If any provision of these sections is inconsistent with this section, this section, as it relates to mandatory payments, shall prevail.

CHAPTER 855-D SPECIAL PROVISIONS

§ 3275. Applicability of chapter

The provisions of this chapter apply only to so much of state supplemental income to the blind, disabled and elderly as is administered directly by the department, and not to so much thereof as is administered by the secretary. When the administration of any portion of the state supplemental income program is transferred to the secretary, these provisions shall no longer apply to such portion of the state supplemental income program.

§ 3276. Disqualification

Any beneficiary of state supplemental income not administered by the secretary shall be disqualified from receiving benefits unless he files with the department, whenever the department may require it, information concerning his income, assets and other conditions relating to his financial circumstances.

§ 3277. Regulations

The department shall promulgate such temporary rules and regulations, consistent with the laws of the State of Maine, which are necessary or desirable for administration of this Part. The effect of such rules shall terminate on July 1, 1975.

§ 3279. Unindorsed checks; procedure

When, for any reason whatsoever, a person who has been determined to be eligible for state supplemental income is unable to indorse the check for the last payment approved for him prior to his death, the department may approve payment by the State of obligations incurred by the recipient for board and room in anticipation of the receipt of such check, such payments to be authorized in accordance with the rules and regulations of the department. Any claim which may be paid under this section must be pre-

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mented to the department in writing within 60 days of the date of the death of the eligible person.

§ 3277. Liability of relatives

The spouse of a beneficiary of state supplemental income shall, if of sufficient ability, be responsible for the partial or total support of such persons. In determining the ability of such spouse, his assets as well as his income shall be considered.

The Attorney General shall bring proceedings in the name of the State of Maine in any court of competent jurisdiction to compel any person liable under this section to contribute to the support of any recipient of such benefit, if, after reasonable efforts on the part of the department, voluntary contributions have not been made. The court shall determine a fair and reasonable amount for support to be paid by the defendant to the department as reimbursement for moneys furnished to a recipient.

The action shall be brought as a petition for support upon not less than 7 days' notice. Upon failure to pay the support ordered, execution shall issue. The State shall pay the expense of commitment and support when the defendant is committed to jail on execution and he may be discharged in the same manner as provided by Title 19, section 722.

The department shall encourage and stimulate voluntary contributions from the parents and adult children of the recipients of such aid, if such relatives are of sufficient ability to contribute toward the support of such recipients.

§ 3280. Civil rights

The state supplemental income program shall be conducted in accordance with Title VI of the Civil Rights Act, as amended.

§ 3281. Provisions severable

The provisions of chapters 855-A, 855-B, 855-C and 855-D are severable and, if any of the provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect nor impair any of the remaining provisions. If any of the provisions of said chapters shall be in violation of the provisions of the Federal Social Security Act as in effect on the effective date of this Act, such provision shall be null and void and the department shall, in that event, take such action as is consistent with the intent of this Act and as is necessary to continue participation by the State of Maine in the program authorized by Title XVI of the United States Social Security Act, as amended. If any of the provisions of this Act shall be in violation of any amendment to the Social Security Act which shall take effect subsequent to the effective date of this Act, the department shall recommend to the Legislature legislation which is necessary or desirable to conform the laws of the State to such amendments.

Sec. 2. R. S., T. 22, cc. 951, 953, 955 and 957, repealed. Chapters 951, 955 and 957 of Title 22 of the Revised Statutes are repealed.

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Sec. 3. R. S., T. 22, § 3461, sub-§ 1, repealed. Subsection 1 of section 3461 of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 631 of the public laws of 1973, is repealed.

Sec. 4. R. S., T. 22, § 3461, sub-§ 5, repealed and replaced. Subsection 5 of section 3461 of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 631 of the public laws of 1973, is repealed and the following enacted in place thereof:

5. Ward. "Ward" means a person for whom the department has been duly appointed guardian pursuant to Title 18, chapter 501, subchapter III-B.

Sec. 5. Effective dates. This Act, except for the sections noted below, shall be retroactive to January 1, 1974. Benefit provisions of subsection 1, paragraphs A and C. of section 3273, shall be payable effective July, 1974, and thereafter, or in the event an agreement cannot be made between the department and secretary for administration, effective July 1, 1974, of so-called "optional" supplementation by the secretary, subsection 1, paragraphs A and C. of section 3273, shall be payable effective the first month after July, 1974, in which the secretary issues payments pursuant to an agreement. Benefit provisions of subsection 1, paragraph B, and subsection 3 of section 3273 shall be payable by the department effective April, 1974, and thereafter until such time as an agreement is made between the department and secretary for administration of so-called "optional" supplementation. Effective with the first month the secretary issues payments pursuant to such an agreement, the benefit provisions of subsection 1, paragraph B, and subsection 3 of section 3273 shall be payable by the secretary to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder, and otherwise such benefits shall be payable by the department to the extent the secretary is not allowed to make such payments pursuant to Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder.

† → Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.'

Statement of Fact

The purpose of this amendment is to repeal the creation of the Bureau of Income Supplementation within the Department of Health and Welfare.

Filed by Mr. LaPointe of Portland.

Reproduced and distributed under the direction of the Clerk of the House.

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