

MAINE STATE LEGISLATURE

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New Draft of: H. P. 1359, L. D. 1696

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1869

H. P. 1674

House of Representatives, June 9, 1977

Reported by a Minority from Committee on Performance Audit and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Municipal General Assistance Programs.

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

Sec. 1. 22 MRSA, Pt. 5, first 4 lines, are repealed and the following enacted in their place:

PART 5

MUNICIPAL SUPPORT OF THE POOR

CHAPTER 125I

MUNICIPAL GENERAL ASSISTANCE PROGRAMS

Sec. 2. 22 MRSA § 4450, as last amended by PL 1971, c. 598, § 40, is repealed and the following enacted in its place:

§ 4450. Definitions

As used in this chapter, unless the context indicates otherwise, the following words and terms shall have the following meanings.

1. **Eligible person.** "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance.

2. **General assistance program.** "General assistance program" means a service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves

or their families. A general assistance program provides a specific amount or type of aid for defined needs during both:

- A. Limited periods of time; and
- B. Extended periods of time, subject to periodic review.

3. Net general assistance costs. "Net general assistance costs" means those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers and does not include the administrative expenses of the general assistance program.

4. Overseer. "Overseer" means an official designated by a municipality to administer a general assistance program. The municipal officers shall serve as a board of overseers if no other persons are appointed or elected.

Sec. 3. 22 MRSA § 4467 is amended to read:

§ 4467. Liability of relatives for support; procedure

The father, mother, grandfather, grandmother, children and grandchildren, by consanguinity, living within the State and of sufficient ability, shall support persons chargeable in proportion to their respective ability. A ~~town municipality~~, the State or any kindred of a ~~pauper~~ **eligible person** may complain to the Superior Court in the county where any of the kindred reside. The court may cause such kindred to be summoned, and upon hearing or default may assess and apportion a reasonable sum upon such as are found to be of sufficient ability, for the support of such ~~pauper~~ **eligible person** to the time of such assessment, and shall issue a writ of execution. Such assessment shall not be made to pay any expense for relief afforded more than 6 months before the complaint was filed. Such complaint may be filed with the clerk of the court who shall issue a summons thereon, returnable and to be served as writs of summons are. On suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner and be proceeded against as if originally named. The court may assess and apportion upon such kindred a sum sufficient for the future support of such ~~pauper~~ **eligible person** to be paid quarterly, until further order; and may direct with whom of such kindred consenting thereto and for what time he may dwell, having regard to his comfort and their convenience. On application of the ~~town municipality~~, the State or person to whom payment was ordered, the clerk may issue or renew a writ of execution returnable to the next term of the court to collect what may be due for any preceding quarter. The court may, from time to time, make any further order or complaint of a party interested and, after notice given, alter such assessment or apportionment. On failure to sustain a complaint, the respondents recover costs.

Sec. 4. 22 MRSA § 4483, as repealed and replaced by PL 1975, c. 574, § 1, is amended to read:

§ 4483. Reimbursement to individuals relieving eligible persons; prior approval; emergencies

Municipalities, as provided in section 4497, shall pay expenses necessarily incurred for services provided to ~~indigent~~ **eligible** persons anywhere in the State by any person not liable for their support, provided the municipality so liable shall be notified and shall approve such expenses and services prior to their delivery, except as provided in this section. In the event of an emergency admission of an ~~indigent~~ **eligible** person to a hospital, notification shall be made within 3 business days to the liable municipality. Notification of such emergency admission shall mean the receipt by municipal overseers ~~of the poor~~ of either a direct notice by telephone confirmed by a certified letter deposited in the United States mail or a written notice. In the event of the death of an ~~indigent~~ **eligible** person, written notification must be made prior to burial to the liable municipality.

Sec. 5. ~~22 MRSA § 4489~~ is repealed.

Sec. 6. ~~22 MRSA § 4491~~ is amended to read:

§ 4491. False representations to overseers

Whoever knowingly and willfully makes any false written representation to the overseers ~~of the poor~~ of any ~~town or city~~ **municipality** or their agents or to the department or its agents for the purpose of causing himself or any other person to be supported in whole or in part by a ~~town or city~~ **municipality** or by the State shall be ~~punished by a fine of not more than \$300 or by imprisonment for not more than 11 months~~ **guilty of a Class E crime.**

Sec. 7. ~~22 MRSA § 4492~~, as last amended by PL 1975, c. 293, § 4, is further amended to read:

§ 4492. Financial information to be furnished

A treasurer of any bank, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by a member of the ~~board of overseers of the poor~~ of any ~~town or city~~ **municipality** or its agents, or by the Commissioner of Human Services or the Bureau of Veterans Services of the amount deposited in the corporation or association to the credit of the person named in such request, who is a charge upon such ~~town or city~~ **municipality** or the State, or who has applied for support to such ~~town or city~~ **municipality** or the State. Whoever willfully renders false information in reply to such request shall be punished by a fine of not less than \$25 nor more than \$100, to be recovered on complaint in any court of competent jurisdiction for the use of the ~~town or city~~ **municipality** or the State making the request.

Sec. 8. ~~22 MRSA § 4497~~, as last amended by PL 1975, c. 704, is further amended to read:

§ 4497. Municipal general assistance; resident defined

Overseers ~~of the poor~~ of a municipality or some person or persons designated by them to act in their behalf shall have the care of all eligible persons who are residents of the municipality and shall cause them to be relieved at

the expense of that municipality, except as provided in section 4499. For the purposes of this section, a "resident" is defined as a person who has lived in a municipality for a period of at least 30 consecutive days immediately prior to the date of the person's application for assistance, the date of the person's receipt of outpatient treatment at or admission to a hospital or the date of the person's death.

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.

Nothing contained in this section shall establish a durational residency requirement for general assistance.

Overseers ~~of the poor~~ and other ~~officers~~ officials having charge of the administration of ~~welfare funds~~ a general assistance program shall keep full and accurate records of the names of ~~indigent~~ eligible persons so relieved or supported, together with the amounts paid by them for such support and relief and shall make annual returns of the number of such persons supported and relieved, with the costs, to the Department of Human Services.

Sec. 9. 22 MRSA § 4498, as last amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

§ 4498. Assistance; unincorporated place

When an organized municipality grants assistance to eligible persons from an unincorporated or unorganized township, the municipality shall be reimbursed 100% for net general assistance costs to such individuals. The Department of Human Services may appoint agents within the unorganized townships to administer a general assistance program.

Sec. 10. 22 MRSA § 4499, as last amended by PL 1975, c. 293, § 4, is further amended to read:

§ 4499. Costs; limit

When a municipality incurs net general assistance costs ~~for furnishing such general relief~~ in any fiscal year in excess of .0006 of that municipality's state valuation as determined by the State Tax Assessor in the statement filed by him as provided in Title 36, section 381, the Department of Human Services shall reimburse the municipality for 90% of the amount in excess of such expenditures which the department considers to be reasonable and appropriate. For the purposes of this section, the municipal officers shall submit to the Department of Human Services a monthly return on forms provided by the department stating the amount of net general assistance costs ~~for furnishing general relief~~ beginning at the end of the month in which the municipality's ~~general relief expenditures~~ net general assistance costs exceed the ceiling formula stated in this section.

Sec. 11. 22 MRSA § 4500-A, as enacted by PL 1973, c. 788, § 91, is repealed and the following enacted in its place:

§ 4500-A. Recovery of expense

A municipality or the State which has incurred net general assistance costs for the support of any eligible person may recover the full amount expended for such support either from the person so relieved or from any person liable for his support, their executors or administrators, in a civil action. In no case shall a municipality or the State be authorized to recover, through a civil action, the full or part of the amount expended for the support of a previously eligible person:

1. General assistance; eligibility. If as a result of the repayment of such amount this person would, in all probability, again become eligible for general assistance; or
2. General assistance; presently receiving. If this person is presently receiving any form of public assistance.

Sec. 12. 22 MRSA § 4504, as last amended by PL 1975, c. 623, § 32, is repealed and the following enacted in its place:

§ 4504. Establishment of eligibility standards

1. Program required; ordinance. A general assistance program shall be operated by each municipality and shall be administered in accordance with an ordinance enacted, after notice and hearing, by the municipal officers of each municipality.

2. Availability of ordinance. Each such ordinance shall be available in the town office and shall otherwise be easily accessible to any member of the public. Notice to that effect shall be posted.

3. Standards of eligibility. Each such ordinance shall establish standards of eligibility for relief. These standards shall:

A. Govern the determination of need of persons applying for relief and the amount of assistance to be provided to eligible persons;

B. Provide that all individuals wishing to make application for relief shall have the opportunity to do so; and

C. Provide that relief shall be furnished or denied to all eligible applicants within 24 hours of the date of submission of an application.

4. Ordinance filed. Each municipality shall present to the Commissioner of Human Services for filing a copy of the ordinance establishing eligibility standards. Any amendment or modification of the municipal ordinance shall be submitted to the commissioner for filing.

5. Work requirement. A municipality may, by an ordinance enacted after notice and hearing, by its municipal officers, provide that an otherwise eligible person who is capable of working may be required to perform work for the municipality as a condition to receiving general assistance. Any such work requirement shall be subject to the following provisions:

A. No person shall, as a condition of general assistance eligibility, be required to do any amount of work that exceeds the value of the net general

assistance that the person would otherwise receive under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is earned at a rate of at least the State's minimum wage.

B. In no case shall eligible persons performing work under this subsection replace regular municipal employees.

C. In no case shall work performed under this subsection interfere with an eligible person's:

- (1) Existing employment;
- (2) Ability to follow up on a bonafide job offer; or
- (3) Attendance at an interview for possible employment.

D. In no case shall an eligible person with an immediate need be required to perform work under this subsection prior to receiving general assistance.

E. Expenses related to work performed under this subsection by an eligible person shall be considered in determining the amount of net general assistance to be provided to the person.

F. An otherwise eligible person who refuses a suitable job offer under this subsection without just cause shall be ineligible for general assistance for a period of up to 60 days. This person may become eligible during this period of time if he becomes employed.

G. Failure of an otherwise eligible person to accept a suitable job offer under this subsection shall not affect the general assistance eligibility of any member of the person's household who is not capable of working, including at least:

- (1) A dependent minor child;
- (2) An elderly, ill or disabled person; and
- (3) A person whose presence is required in order to provide care for any child under the age of 6 or for any ill or disabled member of the household.

H. General assistance provided by a municipality for work performed by an eligible person under this subsection shall be:

- (1) Included in the reimbursable net general assistance costs; and
- (2) Itemized separately in reports to the Commissioner of Human Services under section 4499.

Sec. 13. 22 MRSA § 4506, 1st sentence, as enacted by PL 1973, c. 778, § 94, is repealed and the following enacted in its place:

In any instance when it is proposed to terminate, suspend or reduce general assistance which has been provided for at least any 3 weeks in any 4-week period or for at least any 4 weeks in any 8-week period, the recipient shall be

given timely and advanced notice detailing the reasons for the proposed action. Such notice shall inform the general assistance recipient of his right to request a pretermination evidentiary hearing within 3 working days following his receipt of the notice. This hearing shall be held within 30 working days of the recipient's request for the hearing.

Sec. 14. 22 MRSA § 4507, as enacted by PL 1973, c. 788, § 94, is repealed and the following enacted in its place:

§ 4507. Right to a Fair Hearing

Any person aggrieved with a decision, act, failure to act or delay in action concerning his application for general assistance under this chapter shall have the right to a fair hearing. After 24 hours from the time a person applies for general assistance, that person may request a hearing within 5 working days. A hearing shall be held by the municipality within 7 days following the receipt of a written request by the applicant for a fair hearing.

The hearing may be conducted by the municipal officers, a board of appeals created under Title 30, section 2411, or one or more persons appointed by the municipal officers to act as a fair hearing authority. In no event shall a hearing be held before the person or body responsible for the decision, act, failure to act or delay in action relating to the applicant.

The person requesting the hearing shall be afforded the right to confront and cross-examine any witnesses against him, present witnesses in his own behalf and be represented by counsel or other spokesman, and be advised of these rights in writing. The decision of such a hearing shall be based solely on evidence adduced at the hearing. The person requesting the hearing shall, within a reasonable time after the hearing, be furnished with a written decision detailing the reasons for that decision. Review of any action or failure to act under this chapter shall be pursuant to the Maine Rules of Civil Procedure, Rule 80-B.

Sec. 15. 30 MRSA § 5614 is repealed and the following enacted in its place:

§ 5614. Money for schools and general assistance programs

All plantations may raise and expend money for the support of schools and making and repairing schoolhouses as provided in Title 20, section 851, and for general assistance programs as provided in Title 22, chapter 1251, and for sums necessary for legal plantation expenses.

Sec. 16. **Transitional provision.** Any rule or regulation adopted by municipal officers pursuant to Title 22, section 4504 prior to the effective date of this Act shall remain in effect until superseded by ordinances adopted pursuant to this Act.

Sec. 17. **Sunset provision.** Title 22, section 4504, subsection 5, shall cease to be in effect on June 30, 1980.

STATEMENT OF FACT

This new draft has the following purposes.

1. Definition of general assistance. The new draft modifies the definition of "general assistance program" (sec. 2 of the bill) to include aid for defined needs during either a limited period of time or an extended period of time.

2. Technical corrections. The new draft corrects a technical error in section 8 of the bill. The bill erroneously left out a paragraph which is already in the law. The new draft adds that paragraph.

3. Recovery of expenses. The new draft specifies that recovery of general assistance payments through civil actions, (sec. 11 of the bill) can occur only if the person who received the payments is no longer receiving general assistance and if repayment by the person will not result in the person's becoming eligible for public assistance.

4. Eligibility standards. The new draft makes minor, clarifying changes in the provisions relating to eligibility standards for general assistance (sec. 12 of the bill).

5. Work requirement. The new draft makes both clarifying and more significant changes in the provisions relating to the work for welfare requirements (sec. 12 of the bill). The more important changes include provisions which:

A. Require any person who works for his aid to be provided with aid, the value of which is earned at a rate of at least the state's minimum wage;

B. Ensure that the performance of work as a requirement for general assistance will not replace regular municipal employees and will not interfere with the present job or possible future jobs of persons required to work for assistance;

C. Require that persons with immediate needs must get assistance first and can work later;

D. Require that work-related expenses must be considered in determining the amount of assistance to be provided;

E. Make otherwise eligible persons ineligible for general assistance for up to 60 days, if they are capable of working and if they refuse to accept a bonafide job offer;

F. Protect the eligibility of other persons in the household of an otherwise eligible applicant who refuses a bonafide job offer.

6. Pretermination hearings. The new draft returns the section relating to pretermination evidentiary hearings for general assistance recipients, which the bill repeals (sec. 13 of the bill). The new draft modifies the present statute by:

A. Providing for pretermination hearings for persons who have been receiving general assistance for either 3 weeks out of a 4-week period or 4 weeks out of an 8-week period;

B. Reducing from 5 to 2 the number of working days within which a person must request a pretermination hearing.

7. Transition. The new draft adds a new section 16 to the bill which provides that existing municipal rules and regulations will remain in effect until ordinances are passed that supersede them.

8. Sunset provision. Finally, the new draft places a sunset date of June 30, 1980 on the provisions relating to the work requirement.