

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1271

H. P. 1068

House of Representatives, March 12, 1981

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Benoit of South Portland.

Cosponsor: Representative Michael of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Improve the Administration of the General Assistance Program.

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

Sec. 1. 22 MRSA § 4504, sub-§ 3, ¶ B, as enacted by PL 1977, c. 417, § 12, is amended to read:

B. Provide that all individuals wishing to make application for relief shall have the opportunity to do so; and shall submit their applications on a standardized form prepared and provided by the Commissioner of Human Services;

Sec. 2. 22 MRSA § 4504, sub-§ 3, ¶ C, as enacted by PL 1977, c. 417, § 12, is repealed and the following enacted in its place:

C. Provide that each municipality shall designate a person who shall be available each day to accept and act upon general assistance applications; and

Sec. 3. 22 MRSA § 4504, sub-§ 3, ¶ D, is enacted to read:

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

Sec. 4. 22 MRSA § 4504, sub-§ 4, as enacted by PL 1977, c. 417, § 12, is amended to read:

4. Ordinance filed. Each municipality shall present a copy of the ordinance establishing eligibility standards to the Commissioner of Human Services. **The ordinance shall be reviewed by the commissioner and must meet minimum standards of eligibility and need as established by the commissioner by regulation. The standard shall be sufficient to maintain health and decency. This regulation shall be reviewed annually and modified as necessary by the commissioner.** Any amendment or modification of the municipal ordinance shall be submitted to the commissioner for **approval and** filing.

Sec. 5. 22 MRSA § 4504, sub-§ 6 as enacted by PL 1979, c. 382, § 2, is amended to read:

6. Department assistance. The department shall offer assistance to municipalities in complying with this chapter. The department ~~may~~ shall review **annually** the administration of the general assistance program of any municipality ~~whether or not reimbursement is given.~~ This review shall include a discussion with and, if necessary, recommendations to the administrator of the general assistance program as to the requirements of this chapter. **The department shall annually conduct training programs for municipal officials on the administration of the general assistance program. If 60 days after review and recommendations the commission finds willful noncompliance with the requirements of this chapter, he shall bring judicial action to enforce compliance by the noncomplying municipality.**

Sec. 6. 22 MRSA § 4505, first sentence, as last amended by PL 1975, c. 574, § 3, is further amended to read:

Any action relative to the grant, denial, reduction, suspension or termination of relief provided under this chapter must be communicated to the applicant or recipient in writing and ~~shall include the specific reason or reasons for such action and shall state that the person affected has a right to a hearing on a standardized form prepared and provided by the Commissioner of Human Services and shall include the specific reason or reasons for such action and shall notify the person affected of his rights under section 4507.~~

Sec. 7. 22 MRSA § 4507, as repealed and replaced by PL 1977, c. 417, § 14, 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 inaction concerning his application for general assistance under this chapter shall have the right to a fair hearing. If a person's application has been approved, there shall be no revocation of general assistance during the period of entitlement until that person has been provided notice and an opportunity for hearing as provided in this section. After 24 hours from the time a person applies for general assistance, or immediately after a person receives notice that an approved application has been revoked, that person may request a hearing within 5 working days.

A hearing shall be held before a fair hearing officer of the State within 7 days of

receipt by the municipality of a written request therefor. The commissioner may by regulation require that hearings be held within a shorter time to review requests for assistance of an immediate and urgent nature.

The hearing shall be limited to the issues raised by the written decision from which an appeal is taken and shall be conducted pursuant to the Maine Administrative Procedure Act, Title 5, section 9051 to 9064, except that the proceeding shall not be a public proceeding under Title 1, chapter 13, and the public shall not have the right to attend unless otherwise requested by the applicant or recipient.

The decision of the fair hearing officer shall be rendered within 3 working days of the completion of the hearing.

Review of any action or failure to act under this chapter shall be pursuant to the Maine Rules of Civil Procedure, Rule 80B and Title 5, sections 11001 to 11008. In the event that the decision of the court results in a reversal, in whole or in part, of the decision appealed from, the plaintiff's attorney's fees for such service shall be paid by the municipality.

STATEMENT OF FACT

In October, 1980, the Department of Human Services released the results of a year-long study of general assistance. The study showed over 400 Maine municipalities in violation of one or more state laws regarding general assistance.

This bill is designed to correct some of the problems that were widespread, while still enabling municipalities to retain control of their individual programs.

A number of the proposals in this bill are recommendations suggested by the department in its report.

This bill would do the following:

1. Establish a system of standardized applications and forms;
2. Insure someone available everyday to take applications;
3. Allow the Commissioner of Human Services to establish minimum general assistance needs;
4. Allow the department to conduct annual training sessions for general assistance administrators;
5. Enable the department to bring legal action against municipalities willfully violating the law; and
6. Establish fair hearings, run by the State, to guarantee impartiality in the general assistance appeals process.

This bill does not change municipal authority to determine general assistance eligibility, set up work programs and determine needs to be met above the minimums. The bill does not change the right of municipalities to be reimbursed in appropriate circumstances.