

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 786

6
7 S.P. 297

In Senate, February 28, 1985

8 Referred to the Committee on Human Resources. Sent down for
9 concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Berube of Androscoggin.

Cosponsored by Senator Carpenter of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Clarify the General Assistance Law.
18

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

21 Sec. 1. 22 MRSA §4301, sub-§3, as enacted by PL
22 1983, c. 577, §1, is amended to read:

23 3. Eligible person. "Eligible person" means a
24 person who is qualified to receive general assistance
25 from a municipality according to standards of eligi-
26 bility determined by the municipal officers whether
27 or not that person has applied for general assist-
28 ance. Any person regularly attending a school, col-
29 lege, university or a course of vocational or techni-
30 cal training, all beyond the secondary level, for any
31 purpose other than to obtain a high school diploma is
32 ineligible to receive general assistance unless the
33 education or training is part of the municipal work
34 program or a program described in section 4316-A,
35 subsection 4, paragraph C.

1 Sec. 2. 22 MRSA §4301, sub-§7, as enacted by PL
2 1983, c. 577, §1, is amended to read:

3 7. Income. "Income" means any form of income in
4 cash or in kind received by the household, including
5 net remuneration for services performed, any payments
6 received as an annuity, retirement or disability ben-
7 efits, veterans' pensions, workers' compensation, un-
8 employment benefits, benefits under any state or fed-
9 eral categorical assistance program, supplemental se-
10 curity income, social security and any other payments
11 from governmental sources, unless specifically pro-
12 hibited by any law or regulation, court ordered sup-
13 port payments, income from pension or trust funds and
14 household income from any other source, including
15 relatives or unrelated household members.

16 The following items are not available within the
17 meaning of this subsection and subsection 10:

18 A. Income property, tools of trade, governmental
19 entitlement specifically treated as exempt assets
20 by state or federal law;

21 B. Actual work-related expenses, whether item-
22 ized or by standard deduction, such as taxes, re-
23 tirement fund contributions, union dues, trans-
24 portation costs to and from work, special equip-
25 ment costs and child care expenses; or

26 C. Income of children below the age of 18 years
27 who are full-time students and who are not work-
28 ing full time.

29 ~~In determining need, income shall be considered~~
30 ~~available for the week, weeks, month or months it was~~
31 ~~intended to cover when it was received by the appli-~~
32 ~~cant or members of the applicant's household. The~~
33 ~~consideration shall not disqualify an applicant who~~
34 ~~has exhausted his income to purchase basic necessi-~~
35 ~~ties.~~

36 Sec. 3. 22 MRSA §4301, sub-§10, as enacted by PL
37 1983, c. 577, §1, is amended to read:

1 10. Need. "Need" means the condition whereby a
2 person has insufficient person's income, money, prop-
3 erty, credit, assets or other means available
4 resources to provide basic necessities for the indi-
5 vidual and the individual's family are less than the
6 standards established by the municipality.

7 In determining need, income shall be considered
8 available for the week, weeks, month or months it was
9 received. If the total amount of income a person re-
10 ceives or expects to receive in any 30-day period ex-
11 ceeds the standards established in the municipal or-
12 dinance, the person will not be considered in need.
13 This consideration will not disqualify a person who
14 has exhausted his income to purchase basic necessi-
15 ties.

16 Sec. 4. 22 MRSA §4308, as enacted by PL 1983, c.
17 577, §1, is repealed and the following enacted in its
18 place:

19 §4308. Applications

20 In order to receive assistance from any munici-
21 pality, the applicant or a duly authorized represen-
22 tative must make written application to the overseer,
23 except that, in an emergency, the application may be
24 made verbally and assistance shall be granted tempo-
25 rarily. Further assistance shall be granted upon
26 completion of a written application and determination
27 of eligibility.

28 1. Initial; subsequent applications. Any person
29 who makes an application for assistance, who has not
30 applied for assistance during the previous 6 months,
31 shall have his eligibility determined on the basis of
32 need. All subsequent applications within 6 months
33 shall be considered in accordance with this chapter
34 and the municipal ordinance.

35 2. Emergencies. A person who requests assist-
36 ance in an emergency situation will be considered el-
37 igible for assistance, although he would be otherwise
38 ineligible, provided that he is not currently dis-
39 qualified due to a violation of the general assist-
40 ance program. It will not be considered an emergency
41 when a person requests assistance with a bill for a

1 basic necessity that is more than one month old if
2 the person had sufficient income, resources or assets
3 to pay for the basic necessity when the bill was re-
4 ceived. A person who requests emergency assistance
5 is responsible for demonstrating that he did not have
6 sufficient income, resources or assets to pay for the
7 bill when it was received.

8 Sec. 5. 22 MRSA §4311, sub-§1, as enacted by PL
9 1983, c. 577, §1, is amended to read:

10 1. Departmental reimbursement. When a municipal-
11 ity incurs net general assistance costs in any fiscal
12 year in excess of .0003 of that municipality's 1981
13 state valuation as determined by the State Tax Asses-
14 or in the statement filed by him as provided in Ti-
15 tle 36, section 381, the Department of Human Services
16 shall reimburse the municipality for 99% 100% of the
17 amount in excess of these expenditures, 10% of which
18 will be used for the cost of administering this chap-
19 ter. The department shall reimburse a municipality
20 only when the department finds that the municipality
21 has been in compliance with all requirements of this
22 chapter. If a municipality elects to determine need
23 without consideration of funds distributed from any
24 municipally-controlled trust fund which must other-
25 wise be considered for purposes of this chapter, the
26 department shall reimburse the municipality for 66
27 2/3% of the amount in excess of such expenditures
28 when the department finds that the municipality has
29 otherwise been in compliance with all requirements of
30 this chapter.

31 Sec. 6. 22 MRSA §4316, as amended by PL 1983, c.
32 697, §§1 and 2, is repealed.

33 Sec. 7. 22 MRSA §4316-A is enacted to read:

34 §4316-A Work requirement

35 1. Condition of eligibility. After an initial
36 application, recipients may receive assistance if
37 they are eligible, provided that they fulfill the
38 work requirement in accordance with this chapter and
39 the municipal ordinance.

1 Recipients are required to register for work, search
2 for employment, accept employment and not quit work.
3 Any recipient who does not comply with the work re-
4 quirement, without just cause, shall be ineligible to
5 receive assistance for up to 60 days.

6 2. Municipal work program. A municipality may
7 require that an otherwise eligible person who is ca-
8 pable of working be required to perform work for the
9 municipality as a condition of receiving general as-
10 sistance. The municipality may also assign recipi-
11 ents to participate in a training or educational pro-
12 gram that is expected to lead to employment, or as-
13 sign recipients to work at a nonprofit organization
14 at the request of that organization.

15 A person who refuses or fails to perform, without
16 just cause, an assignment under this subsection, or
17 who willfully performs the assignment below average
18 standards, shall be ineligible to receive assistance
19 for up to 60 days. This work requirement shall be
20 subject to the following.

21 A. No person may be required to do any amount of
22 work that exceeds the value of the general as-
23 sistance he is eligible to receive, the value of
24 which is computed at a rate at least equal to the
25 state's minimum wage.

26 B. In no case may a person performing work under
27 this subsection replace regular employees.

28 C. In no case may a person in need of emergency
29 assistance be required to perform work under this
30 subsection prior to receiving general assistance.

31 D. Any expenses related to work performed under
32 this subsection shall be considered in determin-
33 ing the amount of net general assistance to be
34 provided to the person.

35 E. General assistance provided by a municipality
36 for work performed under this subsection shall
37 be:

38 (1) Included in the reimbursable net gener-
39 al assistance costs; and

1 (2) Itemized separately in reports to the
2 Department of Human Services under section
3 4311.

4 3. Just cause. Just cause for failure to meet
5 work requirements or the use of potential resources
6 shall be found when there is reasonable and
7 verifiable evidence of:

8 A. Physical or mental illness or disability;

9 B. Below-minimum wages;

10 C. Sexual harassment;

11 D. Physical or mental inability to perform re-
12 quired job tasks;

13 E. Inability to work required hours or to meet
14 piece work standards;

15 F. Lack of transportation to and from work or
16 training;

17 G. Inability to arrange for necessary child care
18 or care of ill or disabled family member;

19 H. Any reason found to be good cause by the Em-
20 ployment Security Commission; and

21 I. Any other evidence which is reasonable and
22 appropriate.

23 The overseer shall not require medical verification
24 of medical conditions which are apparent or which are
25 of such short duration that a reasonable person would
26 not ordinarily seek medical attention. In any case
27 in which the overseer requires medical verification,
28 and the applicant has no means of obtaining such ver-
29 ification, the overseer shall grant assistance for
30 the purpose of obtaining that verification.

31 4. Limitations. In no case may the work re-
32 quirement interfere with a person's:

33 A. Existing employment, or his ability to attend
34 a bona fide job interview or pursue a job offer;

1 B. Participation in a primary or secondary edu-
2 cation program intended to lead to a high school
3 diploma; or

4 C. Participation in an apprenticeship or train-
5 ing program sponsored by the State Government or
6 Federal Government.

7 5. Eligibility regained. A person who has been
8 disqualified for not complying with the work require-
9 ment may regain his eligibility by becoming employed
10 or by complying with the requirement which he vio-
11 lated.

12 Sec. 8. 22 MRSA §4318, as enacted by PL 1983, c.
13 577, §1, is repealed.

14 Sec. 9. 22 MRSA §4318-A is enacted to read:

15 §4318-A. Recovery of expenses

16 1. Civil action. A municipality or the State,
17 which has incurred general assistance program costs
18 for the support of any eligible person, may recover
19 the full amount expended for that support from the
20 recipient in a civil action. In no case may a munic-
21 ipality or the State be authorized to recover through
22 a civil action, the full or part of, the amount ex-
23 pended for the support of the recipient. As a re-
24 sult of the repayment of that amount, the recipient
25 would, in all probability, again become eligible for
26 general assistance.

27 2. Direct reimbursement. When assistance is
28 granted to a person who has a right to apply or who
29 has applied for benefits from any source, including,
30 but not limited to, accident or health insurance,
31 workers' compensation or other disability insurance,
32 the overseer shall require the recipient to assign
33 his right to the benefits up to the amount of assist-
34 ance granted subsequent to the date upon which the
35 right first existed. The municipality shall notify
36 any potentially liable 3rd party of the existence of
37 the assignment. The assignment may be enforced in
38 any court of competent jurisdiction.

1 3. Method of recovery. A municipality may em-
2 ploy either or both of the methods of reimbursement
3 described in subsections 1 and 2. Nothing in this
4 section prevents a municipality from also seeking re-
5 imbursement pursuant to section 4319 at the same
6 time.

7 Sec. 10. 22 MRSA §4320, 2nd ¶, as repealed and
8 replaced by PL 1983, c. 697, §3, is amended to read:

9 The municipal officers, their designee or the
10 State shall file a notice of the lien with the regis-
11 ter of deeds of the county wherein the property is
12 located within 30 days of making a mortgage payment.
13 That filing shall secure the municipality or state's
14 lien interest for an amount equal to the sum of that
15 mortgage payment and all subsequent mortgage payments
16 made on behalf of the same eligible person. Not less
17 than 10 days prior to the filing, the municipal offi-
18 cers, their designee or the State shall send notifi-
19 cation of the proposed action by certified mail, re-
20 turn receipt requested, to the owner of the real es-
21 tate and any record holder of the mortgage. The lien
22 notification shall clearly inform the recipient of
23 the limitations upon enforcement contained in this
24 section; it shall also contain the title, address and
25 telephone number of the municipal official who
26 granted the assistance. A new written notice includ-
27 ing these provisions shall be given to the recipient
28 each time the amount secured by the lien is in-
29 creased. The lien shall be effective until enforced
30 by an action for equitable relief or until dis-
31 charged.

1

STATEMENT OF FACT

2

The purpose of this bill is to clarify the eligibility conditions of the general assistance program.

3

4

Section 1 specifically states that students attending school beyond the secondary level are ineligible to receive general assistance unless they are in a training program sponsored by the State Government or Federal Government, or unless their education is part of the municipal work-for-welfare program.

5

6

7

8

9

10

Sections 2 and 3 repeal a paragraph relating to the determination of need in the Maine Revised Statutes, Title 22, section 4301, subsection 7 and transfer it to the Maine Revised Statutes, Title 22, section 4301, subsection 10. This subsection clarifies that a person is in need if his income, resources and assets are less than the standards established in the municipal ordinance. Further, it clarifies that when determining need, income will be considered available for the period it was received, but if the cumulative total of income received during the 30-day period meets or exceeds the maximum income level in the ordinance and the person does not have a deficit, he will not be considered in need.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

In 1983, the 111th Legislature adopted the policy that the first time people applied for general assistance, need would be the only eligibility condition; thereafter, as a recipient, people would have to meet all other eligibility conditions including, requirements to work, make use of available resources, use income for basic necessities and not commit fraud. Section 4 retains that policy, however, it clarifies that need is determined in accordance with the standards established in the municipal ordinance.

25

26

27

28

29

30

31

32

33

34

35

Section 4 also clarifies what constitutes an emergency. The emergency provision is an integral component of the general assistance program since it serves as a "safety net." As currently written, the emergency provision allows people to circumvent the intent of the law. Section 4 addresses the issue of "back bills" and clarifies that municipalities are

36

37

38

39

40

41

1 not responsible for such bills if the person had suf-
2 ficient income or resources to pay for the bill when
3 it was received.

4 Section 5 allows municipalities which exceed the
5 base level in expenditures for general assistance
6 grants to receive an additional 10% to be used to de-
7 fray the cost of administering the state mandated
8 general assistance program that is becoming increas-
9 ingly expensive.

10 Section 7 rearranges and clarifies the section
11 relating to the work requirement. A major substan-
12 tive change occurs which allows municipalities to as-
13 sign people to work at nonprofit organizations as
14 part of the work-for-welfare program. This change
15 expands the number and types of job assignments, and
16 help general assistance recipients gain useful job
17 skills.

18 Section 9 eliminates some inconsistencies related
19 to the ability of municipalities to recover the
20 amount of assistance granted. It allows municipali-
21 ties to require people who are awaiting an insurance
22 settlement, workers' compensation benefits or similar
23 payments to provide for the assignment of the amount
24 of the assistance that was received during the wait-
25 ing period.

26 Section 10 allows the municipal officers to des-
27 ignate a person, such as the overseer, to file no-
28 tices of liens when the municipality pays for a mort-
29 gage with general assistance funds. The current re-
30 quirement that the municipal officers must sign the
31 notices is cumbersome.

32 1330011785