

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1309  
6

7 H.P. 916

House of Representatives, April 16, 1985

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

10 EDWIN H. PERT, Clerk

Presented by Representative Carroll of Gray.

11 Cosponsored by Senator Bustin of Kennebec and Representative Nelson  
of Portland.

12 STATE OF MAINE  
13

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

17 AN ACT to Improve the Administration of  
18 General Assistance.  
19

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

22 Sec. 1. 22 MRSA §4305, sub-§3, as enacted by PL  
23 1983, c. 577, §1, is amended to read:

24 3. Standards of eligibility. Municipalities may  
25 establish standards of eligibility, in addition to  
26 need, as provided in this chapter. Each ordinance  
27 shall establish standards which shall:

28 A. Govern the determination of eligibility of  
29 persons applying for relief and the amount of as-  
30 sistance to be provided to eligible persons;

31 B. Provide that all individuals wishing to make  
32 application for relief shall have the opportunity  
33 to do so and shall submit their applications on a  
34 standardized form prepared and provided by the  
35 commissioner; and

1 C. Provide that relief shall be furnished or de-  
2 nied to all eligible applicants within 24 hours  
3 of the date of submission of an application; and

4 D. Meet minimum standards regarding eligibility  
5 and need as established by the commissioner by  
6 rule. The standards shall be sufficient to main-  
7 tain health and decency and shall be reviewed and  
8 modified as necessary by the commissioner.

9 Sec. 2. 22 MRSA §4311, sub-§1, as enacted by PL  
10 1983, c. 577, §1, is amended to read:

11 1. Departmental reimbursement. When a municipal-  
12 ity incurs net general assistance costs in any fiscal  
13 year in excess of .0003 of that municipality's 1981  
14 state valuation as determined by the State Tax Asses-  
15 sor in the statement filed by him as provided in Ti-  
16 tle 36, section 381, the Department of Human Services  
17 shall reimburse the municipality for 90% 100% of the  
18 amount in excess of these expenditures ~~when the de-~~  
19 ~~partment finds that the municipality has been in com-~~  
20 ~~pliance with all requirements of, 10% of which shall~~  
21 ~~be used for the cost of administering this chapter.~~  
22 The department shall reimburse a municipality only  
23 for benefits in accordance with the minimum standards  
24 established by rules promulgated by the commissioner  
25 and administered in compliance with all requirements  
26 of this chapter. If a municipality elects to deter-  
27 mine need without consideration of funds distributed  
28 from any municipally-controlled trust fund which must  
29 otherwise be considered for purposes of this chapter,  
30 the department shall reimburse the municipality for  
31 66 2/3% of the amount in excess of such expenditures  
32 when the department finds that the municipality has  
33 otherwise been in compliance with all requirements of  
34 this chapter.

35 Sec. 3. 22 MRSA §4316, sub-§4, ¶F is enacted to  
36 read:

37 F. The provisions of Title 39 shall apply to re-  
38 ipients of general assistance assigned to work  
39 under this subsection, who are deemed employees  
40 for the purpose of Title 39, section 2, subsec-  
41 tion 5, and an award may be made against the mu-  
42 nicipality where the person injured was engaged  
43 in work at the time of the injury.

1           Sec. 4. 22 MRSA §4321, as enacted by PL 1983, c.  
2 577, §1, is amended to read:

3           §4321. Grant, denial, reduction or termination to be  
4           communicated in writing; right to a hearing

5           Any action relative to the grant, denial, reduc-  
6 tion, suspension or termination of relief provided  
7 under this chapter must be communicated to the appli-  
8 cant in writing. The decision shall be on a stan-  
9 dardized form prepared and provided by the commis-  
10 sioner and shall include the specific reason or rea-  
11 sons for that action and shall inform the person af-  
12 fected of his right to a hearing, the procedure for  
13 requesting such a hearing, the right to notify the  
14 department and the available means for notifying the  
15 department, if he believes that the municipality has  
16 acted in violation of this chapter. All proceedings  
17 relating to the grant, denial, reduction, suspension  
18 or termination of relief provided under this chapter  
19 are not public proceedings under Title 1, chapter 13,  
20 unless otherwise requested by the applicant or recip-  
21 ient.

22           Sec. 5. 22 MRSA §4322, as amended by PL 1983, c.  
23 697, §4, is repealed and the following enacted in its  
24 place:

25           §4322. Right to a fair hearing

26           Any person aggrieved by a decision, act, failure  
27 to act or delay in action concerning his application  
28 for general assistance under this chapter shall have  
29 the right to a fair hearing. If a person's applica-  
30 tion has been approved, there shall be no revocation  
31 of general assistance during the period of  
32 entitlement until that person has been provided no-  
33 tice and an opportunity for hearing as provided in  
34 this section. After 24 hours from the time a person  
35 applied for general assistance, or immediately after  
36 a person receives notice that an approved application  
37 has been revoked, that person may request a hearing  
38 within 5 working days.

39           A hearing shall be held before a fair hearing of-  
40 ficer of the State within 7 days of receipt by the  
41 municipality of a written request therefor. The com-

1 missioner may by rule require that hearings be held  
2 within a shorter time to review requests for assist-  
3 ance of an immediate and urgent nature.

4 The hearing shall be limited to the issues raised  
5 by the written decision from which an appeal is taken  
6 and shall be conducted pursuant to the Maine Adminis-  
7 trative Procedure Act, Title 5, sections 9051 to  
8 9064, except that the proceeding shall not be a pub-  
9 lic proceeding under Title 1, chapter 13, and the  
10 public shall not have the right to attend unless oth-  
11 erwise requested by the applicant or recipient.

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

15 Review of any action or failure to act under this  
16 chapter shall be pursuant to the Maine Rules of Civil  
17 Procedure, Rule 80B, and Title 5, sections 11001 to  
18 11008. In the event that the decision of the court  
19 results in a reversal of the decision appealed, in  
20 whole or in part, the plaintiff's attorneys' fees for  
21 that service shall be paid by the municipality.

22 **Sec. 6. Commission established.** There is estab-  
23 lished a Special Select Commission on the Administra-  
24 tion and Financing of General Assistance, which shall  
25 investigate present and alternative methods of admin-  
26 istering and financing the general assistance program  
27 within the State.

28 1. Membership. The commission shall be ap-  
29 pointed by the Speaker of the House of Representa-  
30 tives and the President of the Senate and shall in-  
31 clude: Four Legislators, including members from the  
32 Joint Standing Committee on Human Resources and the  
33 Joint Standing Committee on Appropriations and Finan-  
34 cial Affairs; 2 representatives of municipalities; 2  
35 representatives of welfare directors; 2 representa-  
36 tives of private charitable organizations with knowl-  
37 edge of and experience with general assistance; and 2  
38 representatives of low-income recipients of general  
39 assistance.

40 2. Duties. The commission shall inquire into  
41 the experience and adequacy of the present methods of

1 administration and financing of the general assist-  
2 ance program, and the extent to which low-income cit-  
3 izens currently receive the benefits provided by law  
4 and required to provide the basic necessities essen-  
5 tial to maintain themselves and their families. The  
6 commission shall investigate alternative methods of  
7 administration of the financing of the general as-  
8 sistance program to more completely, efficiently or  
9 more equitably meet the program's objectives. The  
10 commission's inquiry shall include, but not be lim-  
11 ited to, whether the State should assume more com-  
12 plete responsibility for financing and administering  
13 general assistance. The commission shall make recom-  
14 mendations to the First Regular Session of the 113th  
15 Legislature, including recommended changes in the  
16 statutes, administration and appropriations.

17 3. Staff and assistance. In order to carry out  
18 its duties, the commission shall be appropriated  
19 \$30,000, of which \$25,000 shall be used to contract  
20 with a person or organization with experience in  
21 studying the delivery of income maintenance and so-  
22 cial service programs. The methods for conducting  
23 the study and the amount to be awarded by the commis-  
24 sion shall be determined through the competitive bid  
25 process after the commission has given public notice  
26 of the specifications of the study and the time peri-  
27 od for its conduct. The person or organization cho-  
28 sen to conduct this study shall work with the commis-  
29 sion in completing the report to be submitted to the  
30 113th Legislature. The Department of Human Services  
31 and the Division of Community Services shall provide  
32 research, clerical and computer assistance to the  
33 commission and give unrestricted access to their  
34 records, rules, policies and data, except for those  
35 items which they are legally obligated to keep confi-  
36 dential.

1 STATEMENT OF FACT

2 In 1980, the Department of Human Services con-  
3 ducted a study of general assistance which found wide  
4 variations in enforcement and compliance, among the  
5 Maine municipalities, of the state laws regarding  
6 general assistance. In 1983, the Legislature enacted  
7 a major recodification of general assistance laws  
8 which was designed in part to increase the uniformity  
9 and regularity of compliance and state supervision.  
10 Major municipalities have found their general assist-  
11 ance costs continuing to rise, while many smaller mu-  
12 nicipalities spend very little and consequently do  
13 not receive state reimbursement. Different interpre-  
14 tations of state law continually arise with no mecha-  
15 nism for resolution, except for costly judicial re-  
16 view in individual cases.

17 This bill provides greater state assistance and  
18 supervision to municipalities to both relieve some of  
19 the burden on local property taxpayers and to insure  
20 more uniform treatment of recipients throughout the  
21 State.

22 Section 1 provides that the Department of Human  
23 Services shall prepare a standard application form  
24 for use in all municipalities. Section 1 also pro-  
25 vides that the Commissioner of Human Services shall  
26 establish by rule minimum standards of eligibility  
27 sufficient to maintain health and decency which all  
28 municipalities shall meet.

29 Section 2 provides that the Department of Human  
30 Services shall reimburse a municipality, after the  
31 municipality reaches the current threshold of .0003  
32 of the 1981 state valuation, 100% of all further gen-  
33 eral assistance expenditures, including 10% for ad-  
34 ministrative costs, provided that the municipality's  
35 program has been conducted in compliance with stan-  
36 dards and rules adopted by the Commissioner of Human  
37 Services.

38 Section 3 clarifies that the Workers' Compensa-  
39 tion Act covers any individuals employed by a munici-  
40 pality in a general assistance "workfare" program.

1           Section 4 provides that the Commissioner of Human  
2 Services shall prepare a standardized form for gener-  
3 al assistance decisions for use in all municipali-  
4 ties.

5           Section 5 provides that fair hearings for denial  
6 of general assistance shall be before the Department  
7 of Human Services fair hearing officers.

8           Section 6 provides for an in-depth study of al-  
9 ternative methods of administration and financing of  
10 general assistance to be prepared for the next Legis-  
11 lature.

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