

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1257

H.P. 871

House of Representatives, March 21, 1991

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MANNING of Portland.
Cosponsored by Senator CONLEY of Cumberland.

STATE OF MAINE

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

**An Act to Give Legal Effect to General Assistance Decisions Made by
the Administrative Hearings Unit of the Department of Human Services.**



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

2
4 22 MRSA §4323, sub-§4, as amended by PL 1985, c. 489, §§11
and 14, is further amended to read:

6 4. Appeal. Any A municipality or person who is aggrieved
8 by any a decision or action made by the department pursuant to
this section ~~shall have~~ has the right to appeal pursuant to the
10 Maine Administrative Procedure Act, Title 5, chapter 375,
subchapter IV. A request for that appeal shall must be in
12 writing and shall be made within 30 days of receiving
notification. The appeal shall must be held within 30 days of
14 receipt of that request and shall be conducted by one or more
fair hearing officers. ~~In no event may an~~ An appeal may not be
16 held before a person or body responsible for the decision or
action. The decision of a fair hearing officer is binding on the
18 department and all municipalities, both in the specific case
before the examiner and in all other cases containing the same
20 questions of law or administrative interpretation, unless the
department or the municipality appeals the decision of the fair
22 hearing officer and a court sustains the appeal. Any other law
notwithstanding, the department may appeal a fair hearing
24 decision to a court. Review of any a decision under this section
shall ~~be~~ is pursuant to the Maine Rules of Civil Procedure, Rule
26 80 C.

28 STATEMENT OF FACT

30 This bill requires municipalities and employees of the
32 Department of Human Services to apply decisions by the
department's Administrative Hearings Unit to subsequent general
34 assistance cases involving the same questions of law or
administrative interpretation. Currently those decisions have no
36 precedential value and as a result, they are sometimes ignored.
Creating binding authority for those decisions will enhance the
38 efficiency and value of the administrative process. The bill
also authorizes the department to appeal a fair hearing
40 decision. This authority is necessary because of certain
limitations in the Maine Administrative Procedure Act.