

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1842

H.P. 1324

House of Representatives, March 21, 2014

**An Act To Amend the Laws Governing the Temporary Assistance
for Needy Families Program**

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GILLWAY of Searsport. (GOVERNOR'S BILL)
Cosponsored by Senator HAMPER of Oxford and Representatives: FITZPATRICK of
Houlton, NADEAU of Fort Kent, SANDERSON of Chelsea, SIROCKI of Scarborough,
WALLACE of Dexter, Senator: WHITTEMORE of Somerset.

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

2 **Sec. 1. 19-A MRSA §2605, sub-§1, ¶A**, as amended by PL 1997, c. 530, Pt. A,
3 §4, is further amended to read:

4 A. "Public assistance" means public assistance as provided under Title 22, section
5 3173, 3271, or 3762 ~~or 3790~~.

6 **Sec. 2. 22 MRSA §16, sub-§1, ¶C**, as amended by PL 1997, c. 530, Pt. A, §7, is
7 further amended to read:

8 C. "Public assistance" means aid, assistance or benefits available through:

9 (1) A program of temporary assistance for needy families administered in this
10 State pursuant to chapter 1053-B ~~or the Parents as Scholars program pursuant to~~
11 ~~chapter 1054-B;~~

12 (2) A program of medical assistance administered in this State pursuant to
13 chapter 855; or

14 (3) Any other program that is based on need and is conducted or administered by
15 this State.

16 **Sec. 3. 22 MRSA §21, sub-§8-A**, as enacted by PL 1997, c. 530, Pt. A, §9, is
17 repealed.

18 **Sec. 4. 22 MRSA §22, first ¶**, as amended by PL 1997, c. 530, Pt. A, §10, is
19 further amended to read:

20 The department is authorized to establish an electronic benefit transfer system for the
21 issuance of benefits under the AFDC, food stamp, Temporary Assistance for Needy
22 Families, ~~Parents as Scholars~~ and Medicaid programs.

23 **Sec. 5. 22 MRSA §3762, sub-§4**, as enacted by PL 1997, c. 530, Pt. A, §16, is
24 amended to read:

25 **4. Promoting support by both parents.** The department shall enforce laws and
26 establish policies to ensure that both parents contribute to the economic support of their
27 child or children and to promote every child's right to economic support from both
28 parents. Applicants for and recipients of assistance may refuse to cooperate in the
29 establishment of paternity or child support enforcement for good cause related to
30 domestic violence, including situations when cooperation may result in harm to the parent
31 or child, or when the child was conceived as a result of incest or rape. ~~Evidence~~
32 ~~supporting a good cause determination includes, but is not limited to, the evidence~~
33 ~~specified in section 3785, subsection 13.~~ The department shall notify all applicants and
34 recipients orally and in writing of the availability of this determination. When a
35 determination of good cause is made by the department, the department may not impose
36 sanctions or penalties against the applicant or recipient or engage in any other activity
37 that could subject any member of the family to harm.

1 **Sec. 6. 22 MRSA §3762, sub-§10**, as enacted by PL 1997, c. 530, Pt. A, §16, is
2 repealed.

3 **Sec. 7. 22 MRSA §3762, sub-§12**, as enacted by PL 1997, c. 530, Pt. A, §16, is
4 repealed.

5 **Sec. 8. 22 MRSA §3762, sub-§14**, as enacted by PL 1997, c. 530, Pt. A, §16, is
6 amended to read:

7 **14. Notification to Legislature.** The department shall notify the joint standing
8 committee of the Legislature having jurisdiction over health and human services matters
9 of any request for waivers from the United States Department of Health and Human
10 Services or any other federal agency concerning the implementation of chapters 1053-A,
11 1054, and 1054-A and 1054-B.

12 **Sec. 9. 22 MRSA §3763, sub-§1-A**, as enacted by PL 2011, c. 380, Pt. PP, §4, is
13 amended to read:

14 **1-A. Partial and full termination of benefits.** Benefits under this chapter must be
15 terminated by the department under the provisions of subsection 1 and ~~sections 3785 and~~
16 section 3785-A as follows:

17 A. For a first failure to meet the conditions of a family contract, termination of
18 benefits applies to the adult recipient; and

19 B. For a first failure to meet the conditions of a family contract for which termination
20 of benefits under paragraph A lasts for longer than 90 days and for a 2nd and
21 subsequent violation, termination of benefits applies to the adult recipient and the full
22 family unit; ~~and.~~

23 ~~C. Prior to the implementation of a full family unit sanction, the department shall~~
24 ~~offer the adult recipient an opportunity to claim good cause for noncompliance as~~
25 ~~described in section 3785.~~

26 Benefits that have been terminated under this subsection must be restored once the adult
27 recipient signs a new contract under subsection 1 and complies with the provisions of the
28 family contract.

29 **Sec. 10. 22 MRSA §3763, sub-§11** is enacted to read:

30 **11. Domestic violence.** The department shall provide all applicants for assistance
31 under this chapter with information both orally and in writing of the availability of
32 services for victims of domestic violence.

33 **Sec. 11. 22 MRSA §3769, sub-§1**, as enacted by PL 1997, c. 530, Pt. A, §16, is
34 amended to read:

35 **1. Payment priority.** Payments made on behalf of the department for TANF
36 assistance, ~~the Parents as Scholars Program under chapter 1054-B~~ and for foster care have
37 priority over other payments and must be made without delay whether or not they are

1 pursuant to a state plan or contract. The department shall cooperate with other state
2 agencies to accomplish priority payments.

3 **Sec. 12. 22 MRSA §3785**, as amended by PL 1997, c. 530, Pt. A, §§20 to 24, is
4 repealed.

5 **Sec. 13. 22 MRSA §3785-A, sub-§1, ¶B**, as enacted by PL 2001, c. 335, §1, is
6 amended to read:

7 B. Provide the individual with a notice that states the basis for the sanction ~~and a~~
8 ~~complete list of good cause reasons as set forth in section 3785; and~~

9 **Sec. 14. 22 MRSA §3785-A, sub-§1, ¶C**, as enacted by PL 2001, c. 335, §1, is
10 repealed.

11 **Sec. 15. 22 MRSA §3788, sub-§1-A**, as enacted by PL 1997, c. 530, Pt. A, §26,
12 is repealed.

13 **Sec. 16. 22 MRSA §3788, sub-§3**, as amended by PL 2013, c. 376, §1, is further
14 amended to read:

15 **3. Assessment.** Each participant's case manager shall conduct an initial assessment
16 to determine that individual's education, training and employment needs based on
17 available program resources, the participant's skills and aptitudes, the participant's need
18 for supportive services, local employment opportunities, ~~the existence of any good cause~~
19 ~~circumstances under section 3785~~ and, to the maximum extent possible, the preferences
20 of the participant. The department shall document findings in the participant's case
21 record indicating any barriers to participation, including, but not limited to, any physical
22 or mental health problems, including learning disabilities or cognitive impairments, ~~or~~
23 ~~other good cause circumstances specified in section 3785.~~

24 **Sec. 17. 22 MRSA §3788, sub-§3-A**, as enacted by PL 2013, c. 376, §2, is
25 amended to read:

26 **3-A. Comprehensive screening and assessment.** If upon an initial screening or at a
27 later date it is determined that a participant has physical or mental health impairments,
28 learning disabilities, cognitive impairments or limitations related to providing care for a
29 household member with a disability or serious illness or a child with a serious behavioral
30 condition, the participant must be offered the opportunity for a comprehensive assessment
31 that may result in referral for alternative services, supports and income benefits. If the
32 participant chooses to have a comprehensive assessment, the participant must be referred
33 to a qualified professional to identify the strengths and needs of and barriers faced by that
34 participant. The participant's case manager shall ensure that any accommodation or
35 support services necessary for the participant to participate in the assessment are made
36 available to the participant. The participant may supplement this assessment with
37 medical records or any other credible information related to the participant's ability to
38 participate in program activities. An assessment under this subsection may also be
39 initiated at the choice of the participant at any time. The individual performing this
40 assessment shall recommend to the case manager any services, supports and programs

1 needed to improve the economic self-sufficiency and well-being of the participant and the
2 participant's family based on the assessment.

3 In coordination with the participant, the case manager shall establish a plan for the
4 participant and the participant's family based on the assessment that includes appropriate
5 services, supports and programs consistent with the findings and recommendations of the
6 assessment that may include:

7 A. Referral to a community agency qualified to assist the participant with services,
8 supports, education, training and accommodations needed to reduce or overcome any
9 barriers to achieving self-sufficiency and to fulfill the participant's personal and
10 family responsibilities; and

11 B. Assistance needed by the participant to obtain federal social security disability
12 insurance benefits or federal supplemental security income benefits.

13 ~~This subsection does not preclude a determination that the participant is temporarily~~
14 ~~unable to participate, including participation in any assessment pursuant to this~~
15 ~~subsection, due to good cause as described in section 3785. Any determination made~~
16 ~~under this subsection may be appealed in accordance with section 3762, subsection 9.~~

17 A participant who chooses to participate in a comprehensive assessment under this
18 subsection and fails to participate ~~without good cause~~ may be sanctioned in accordance
19 with section 3763, subsection 1-A, paragraph A regardless of any previous sanctions that
20 the participant may have incurred.

21 The department shall provide training for case managers regarding their job
22 responsibilities and their obligation to comply with the requirements of the federal
23 Americans with Disabilities Act of 1990; the federal Rehabilitation Act of 1973; and the
24 Maine Human Rights Act when interviewing and providing information to participants,
25 when referring participants for alternative services or when considering whether the
26 participant requires reasonable accommodations in order to participate in the ASPIRE-
27 TANF program.

28 **Sec. 18. 22 MRSA §3788, sub-§6**, as amended by PL 2009, c. 291, §9, is further
29 amended to read:

30 **6. Education, training and employment services.** The ASPIRE-TANF program
31 must make available a broad range of education, training and employment services in
32 accordance with section 3781-A, subsection 3 and the federal Personal Responsibility and
33 Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105 and
34 the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4. These
35 services and activities must include all of those services and activities offered by the
36 Additional Support for People in Retraining and Employment Program on October 1,
37 1989, except in 2-year and 4-year postsecondary education ~~and except as provided in~~
38 ~~chapter 1054-B~~. This section does not prohibit the department from purchasing
39 equivalent services from providers other than those from whom those services were
40 purchased on October 1, 1989. When a particular approved education or training service
41 is available at comparable quality and cost, including the cost of support services, and the
42 implementation of the family contract would not be unreasonably delayed, the program
43 participant may choose to enroll for that service with the provider of that person's

1 preference. If this decision is not mutually agreed to by the participant and the case
2 manager, the decision must be reviewed by the case manager's supervisor. These services
3 do not include reimbursement for the cost of tuition or mandatory fees for postsecondary
4 education unless:

5 A. The participant is unable to secure other educational funding needed to complete
6 the participant's family contract due to:

7 (1) Poor credit as determined by the educational funding source; or

8 (2) The consideration by the educational funding source of resources from past
9 years that are not actually available to the participant;

10 B. In the determination of the department, failure to pay the tuition or fee would
11 result in higher ASPIRE-TANF program costs to achieve the participant's approved
12 goal; or

13 C. The participant meets an exception specified in rules adopted by the department.

14 When a substantially similar postsecondary education or training program of comparable
15 quality is available at both a public and private institution, within a reasonable
16 commuting distance for the participant, the department may choose to approve the
17 program offered at the public institution if the participant's program can be completed at
18 less cost at the institution.

19 **Sec. 19. 22 MRSA §3788, sub-§10, ¶C**, as amended by PL 2005, c. 480, §1, is
20 repealed and the following enacted in its place:

21 C. For individuals who are satisfactorily participating in an education or training
22 program, the department must determine the acceptability of the activity for purposes
23 of meeting the participation requirements of this chapter using the same criteria as are
24 used for any individual in the ASPIRE-TANF program.

25 **Sec. 20. 22 MRSA §3788, sub-§11, ¶B**, as amended by PL 1997, c. 530, Pt. A,
26 §26, is further amended to read:

27 B. ASPIRE-TANF participants who are attending school or are involved in an
28 equivalent educational program recognized by the Department of Education or a local
29 school board are considered to be in the education, training or treatment component
30 ~~and their participation is not limited to 24 months.~~ The department shall encourage
31 recipients younger than 20 years of age who have not completed high school to attend
32 traditional high school.

33 **Sec. 21. 22 MRSA §3788, sub-§11, ¶D**, as enacted by PL 2001, c. 335, §3, is
34 amended to read:

35 D. If a claim of disability ~~or other good cause~~ is made by a participant, the
36 department shall assess the circumstances of the claim. If ~~good cause~~ disability is
37 found to exist, the department shall offer reasonable alternative participation
38 requirements if and to the extent required by federal law, and document them in the
39 participant's family contract and case record.

