

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Second Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and First Legislature
AT THE
SPECIAL SESSIONS

January 6-17, 1964

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Chapter 433

AN ACT Relating to Aid to the Aged, Blind or Disabled, and Aid to the Medically Indigent and Transferring Burial Allowance Program for Veterans to Department of Veterans Services.

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, under Federal policies the State of Maine must operate under a combined program for the aged, disabled and blind; and

Whereas, under our present laws these 3 programs are administered separately; and

Whereas, unless they are combined as provided for by the following legislation, approximately \$300,000 a year in Federal matching funds to the State of Maine would be lost; and

Whereas, the loss of any or all of these matching funds would seriously handicap the welfare programs in these 3 categories; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., c. 25, §§ 276 - 319-Y, repealed. Sections 276 to 319, as amended, sections 319-A to 319-T, as enacted by section 30 of chapter 405 of the public laws of 1955 and as amended, section 319-U, as enacted by chapter III of the public laws of 1955, and sections 319-V to 319-Y, as enacted by chapter 367 of the public laws of 1961, all of chapter 25 of the Revised Statutes are repealed.

Sec. 2. R. S., c. 25, §§ 275-A - 275-X, additional. Chapter 25 of the Revised Statutes is amended by adding 24 new sections, to be numbered 275-A to 275-X, to read as follows:

'Aid to the Aged, Blind or Disabled, Medically Indigent.

Sec. 275-A. Department to administer aid to the aged, blind or disabled, and aid to the medically indigent. The department shall administer the law relating to aid to the aged, blind or disabled, and medical or remedial care and services for medically indigent persons who are not recipients of aid to dependent children or aid to the aged, blind or disabled. It is empowered to employ, subject to the Personnel Law, such assistants as may be necessary to carry out sections 275-A to 275-X and to coordinate their work with that of the other social welfare work of the department.

The department is authorized and empowered to make all necessary rules and regulations for the administration of this aid, including but not limited to defining the term "medically indigent", the type of medical care to be provided,

the amount to be paid for hospitalization and the length of hospitalization allowed during a fiscal year.

The department shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the law under which they may be furnished.

Sec. 275-B. Definitions.

I. Aid. "Aid" means money payments to, or medical care in behalf of or any type of remedial care in behalf of needy individuals who qualify for aid to the aged, blind or disabled, but does not include any such payments to or care in behalf of any individual who is a patient in an institution for tuberculosis or psychosis, mental disease, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or any individual who is an inmate of a public institution, except as a patient in a medical institution.

II. Aged. "Aged" means a needy individual who is 65 years of age or older.

III. Blind. "Blind" means a needy individual who is over 16 years of age and has no vision or whose vision, with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

IV. Disabled. "Disabled" means a needy individual who is 18 years of age or older and who is permanently and totally disabled.

Sec. 275-C. Administration of funds. All moneys made available under sections 275-A to 275-X shall be expended under the direction of the department, and the department is empowered to direct the expenditures therefrom of such sums as may be necessary for the purposes of administration. All aid granted under such sections shall be paid monthly by the State.

The department is authorized to establish a Medical Care Accumulation Fund to be used solely for the payment of medical, hospital or remedial care costs of recipients of aid to dependent children and aid to the aged, blind or disabled under this chapter. The fund shall be created by periodic payments into it based on a monthly amount per case as determined by the department, which monthly amount may be paid into the fund even though the monthly amount added to the money payment exceeds the maximum money payment in the particular category. Said payments shall be made from the respective appropriations for aid to dependent children and aid to the aged, blind or disabled and from federal grants available under the Social Security Act, as heretofore and hereafter amended. The payments out of the fund of the costs of medical, hospital or remedial care shall be made to those persons or agencies furnishing such services. The department is authorized and empowered to make all necessary rules and regulations for the administration of and expenditures from said fund.

Sec. 275-D. Acceptance of provisions of federal law. The department is authorized, subject to the approval of the Governor and Council, to:

I. Apply for assistance. Apply for federal assistance under Title XVI of the Federal Social Security Act and acts amendatory thereof and additional thereto; and to comply with such conditions, not inconsistent with sections 275-D to 275-X, as may be required for such assistance;

II. Reports. Make such reports in such form and containing such information as the Federal Government may from time to time require, and comply with such provisions as the Federal Government may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 275-E. Federal grants. The Treasurer of State shall be the appropriate officer of the State to receive federal grants on account of aid to the aged, blind or disabled, and medical or remedial care and services for the medically indigent, and administration thereof, as contemplated by Title XVI of the Federal Social Security Act, and the State Controller shall authorize expenditures therefrom as approved by the department.

Sec. 275-F. Application procedure for aid to the aged, blind or disabled. Applications for aid to the aged, blind or disabled shall be made to the department on forms provided by the department. Said applications shall contain such information as may be required by the department.

An application shall not be considered unless accompanied by an individual sworn statement made on the part of the spouse, parents and each adult child of said applicant residing in this State and accessible. Such statements shall include full information regarding individual income, assets and liabilities. If such applicant has previously applied and there are on file with the department any of the necessary sworn statements, then the applicant need only furnish such additional sworn statements as the department may require. If the applicant is unable to obtain the sworn statement from such child, parents or spouse, then upon proof of his inability to do so, the department shall obtain such statement or the required information from any available source and proceed to process the application. Any determination made under this section shall be subject to the right of appeal by the applicant under section 275-J.

When the parent-child relationship between a parent and child was broken during the minority of the child and no significant relationship has ever been resumed, such person shall not be considered as a child of such parent in sections 275-A to 275-V.

Sec. 275-G. Requisites for aid. Aid to the aged, blind or disabled shall be granted only to any applicant who:

I. Qualifications. Meets the qualifications as defined in section 275-B;

II. Income. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

III. Residence. Has resided in the State continuously for one year immediately preceding the application;

IV. Inmate. Is not an inmate of any public institution, except as a patient in a medical institution as provided in section 275-B; but an inmate of such an institution may file application for aid under sections 275-A to 275-V, and

any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution;

V. Spouse. Has no spouse residing in this State and able to support him.

Applicants for aid based on blindness under sections 275-A to 275-X shall be examined by an ophthalmologist, a physician skilled in diseases of the eye or a licensed optometrist in the State of Maine. The expense of the examination may be paid by the State. The department is authorized to establish rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for aid under said sections.

On the basis of the findings of the examination for blindness as provided in this section, supplementary services may be provided by the department to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined in section 275-B. Such supplementary services may include necessary traveling and other expenses to receive optometric, medical, surgical, clinical or hospital treatment as may be approved by the department, or payment for such services or treatment.

Sec. 275-H. Amount of aid. The amount of aid which any person shall receive shall be determined on a budgetary basis with due regard to the conditions existing in each case and in accordance with the rules and regulations made by the department. This aid shall be sufficient, when added to all other income and support, to provide a reasonable subsistence compatible with decency and health; but not exceeding the maximum amount allowable by federal matching in accordance with Title XVI of the Social Security Act, as amended. Earned income in the amount stated in the Social Security Act, as amended, shall be disregarded in making a budget for a blind recipient.

Sec. 275-I. Recipients of aid not to be pauperized. The receipt of aid to the aged, blind or disabled shall not pauperize the recipient thereof, and the receipt of general assistance by such recipient shall not be considered to be pauper support. General relief expense incurred by any municipality or by the State in behalf of such recipient may be paid from funds made available for the relief of the poor, but shall in no other respect be treated as pauper expense. The town of settlement, or the State in non-settled cases, shall reimburse the place of residence for such general relief in the same manner as provided in chapter 94, sections 24 and 28. Medical or remedial care and services for the medically indigent provided for any person under this chapter shall not be considered as pauper supplies as defined by chapter 94, section 2.

Sec. 275-J. Appeal. Any person who is denied aid, or who is not satisfied with the amount of aid allotted to him, or is aggrieved by a decision of the department made under any provision of sections 275-A to 275-V, or whose application is not acted upon with reasonable promptness shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing. When the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner.

Sec. 275-K. Aid may be paid to a guardian or conservator. If an applicant for or a recipient of aid is found by the department to be incapable of taking care

of himself or his money, payment shall be made only to a legally appointed guardian or conservator for his benefit.

Sec. 275-L. Inalienability of aid. All rights to aid shall be absolutely inalienable by any assignment, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor.

Sec. 275-M. Disqualification of applicant and recipient. Any applicant for or recipient of aid to the aged, blind or disabled, who divests himself directly or indirectly of any property without a reasonable consideration shall forfeit all right to receive aid under sections 275-A to 275-V, for a period of 2 years from the date of the property transfer unless the property or its equivalent is restored to the applicant or recipient.

Any recipient of aid to the aged, blind or disabled shall be disqualified from receiving aid unless he files with the department whenever the department may require it, the following information:

I. Income and assets. A statement concerning income, assets and liabilities of the recipient sworn to by the recipient;

II. Income and assets of children, parents and spouse. An individual sworn statement made on the part of each adult child, parents and spouse of said recipient residing in this State, and such statements shall include full information regarding individual income, assets and liabilities.

If the recipient is unable to obtain the sworn statement from such child, parents, or spouse, then upon proof of his inability to do so, the department shall obtain such statement or the required information from any available source and proceed to process the case. Any determination made under this section shall be subject to the right of appeal by the recipient under section 275-J.

Sec. 275-N. Changes of circumstances. If at any time during the continuance of aid the recipient thereof become possessed of any property or income in excess of the amount last disclosed to the department, it shall be the duty of the recipient immediately to notify the department of the receipt or possession of such property or income, and the department may, after investigation, either cancel the aid or change the amount thereof in accordance with the circumstances.

Sec. 275-O. Illegal payments recovered. The department may recover the amount expended for aid in a civil action from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the Attorney General in the name of the State of Maine, and the amount recovered shall be credited to the aid to the aged, blind or disabled fund or to the fund for medical or remedial care and services for the medically indigent.

Sec. 275-P. Funeral expenses of person receiving aid. On the death of an active recipient of aid to the aged, blind or disabled, reasonable funeral expenses not exceeding \$150 shall be paid by the State if the estate of the deceased is insufficient to pay the same.

Sec. 275-Q. Payment of certain obligations of deceased recipients. When for any reason whatsoever a recipient of aid to the aged, blind or disabled is unable

to properly indorse the check for the last payment approved for him prior to his death or commitment to an institution, the department may approve payment by the state of obligations incurred by the recipient for board or medical or nursing services in anticipation of the receipt of such check but not in excess of the amount of the check. Any claim which may be paid under the foregoing must be presented to the department in writing within 60 days of the date of the death or commitment of the recipient.

Sec. 275-R. When aid may be suspended. Appropriations for aid to the aged, blind or disabled, and for medical or remedial care and services for the medically indigent shall not lapse but shall be a continuing account so long as federal grants are available to match the state's contribution. No payments matchable by federal funds shall be made out of said account if federal grants or state appropriations are withdrawn, except that medical or remedial care or services contracted for before the date of such withdrawal shall be paid. If at any time the grant available to match funds provided by law and to be distributed under sections 275-A to 275-X shall cease to be available, the Governor shall forthwith publicly so proclaim, and upon date of such proclamation said sections shall be suspended. Any money left in said fund in the event of withdrawal of federal grants or state appropriations shall be divided between the State and the Federal Government in proportion to the amount contributed by each.

Sec. 275-S. Liability of relatives to support. The spouse, parents and adult child of a recipient of aid to the aged, blind or disabled, shall, if of sufficient ability, be responsible for the partial or total support of such persons. In determining the ability of such relative, his assets as well as his income shall be considered.

The Attorney General shall bring proceedings in the name of the State of Maine in any court of competent jurisdiction to compel any person liable under this section to contribute to the support of any recipient of such aid, if after reasonable efforts on the part of the department, voluntary contributions have not been made. The court shall determine a fair and reasonable amount for support to be paid by the defendant to the department as reimbursement for moneys furnished to a recipient.

The action shall be brought as a petition for support upon not less than 7 days' notice. Upon failure to pay the support ordered, execution shall issue. The State shall pay the expense of commitment and support when the defendant is committed to jail on execution and he may be discharged in the same manner as provided by chapter 166, section 64.

Sec. 275-T. Claims against estate. Upon the death of a person who is receiving aid to the aged, blind or disabled or who has received such aid at any time during his lifetime, the State shall have a claim against his estate, allowable in probate court and enforceable in accordance with sections 275-A to 275-V. Such claim shall have priority over all unsecured claims against such estate, except:

- I. Administrative expenses. Administration expenses, including probate fees and taxes;
- II. Expenses of last sickness. Expenses of last sickness;
- III. Funeral expenses. Funeral expenses, not exceeding \$400, exclusive of clergymen's honorarium and cemetery expense.

The Attorney General shall collect any claim which the State may have against such estate. No such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the recipient and said spouse does not marry again. If the State participates in federal funds for the purposes of sections 275-A to 275-X, a sum equal to the pro rata share to which the United States is equitably entitled of the net amount collected from the estate of the recipient, with respect to aid to the aged, blind or disabled furnished him, shall be promptly paid by the Treasurer of State to the United States as required by the laws of the United States.

Sec. 275-U. Fraudulent representations; penalty. Any person who by means of a willfully false statement or representation, or by impersonation or other fraudulent devices, obtains or attempts to obtain, or aids or abets any person to obtain:

- I. Assistance not entitled. Aid to which he is not entitled;
- II. Larger assistance. A larger amount of aid than that to which he is entitled;
- III. Forfeited assistance. Payment of any forfeited installment of aid;

and any person who knowingly buys or aids or abets in buying or in any way disposing of property of a recipient in such way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both.

Sec. 275-V. General penalty. Any person who violates any of the provisions of sections 275-A to 275-V for which no penalty is specifically provided shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both. If a recipient of aid is convicted of an offense under this section, the department may cancel the aid.

Sec. 275-W. Services for the blind. The department shall provide, or cooperate with other public agencies in providing a program of services for the blind, including the prevention of blindness, the locating of blind persons, medical service for eye conditions, vocational guidance and training of the blind, the placement of blind persons in employment, assistance to the blind in marketing the products of home industries, the instruction of the adult blind in their homes, and other social services to the blind.

Sec. 275-X. Blind children to Perkins Institution or other qualified school. Upon the request of the parents or guardians, the department may send such blind children as it may deem fit subjects for education, for a term not exceeding 10 years, and thereafter in the discretion of the department, in the case of any pupil, to the Perkins Institution and Massachusetts School for the Blind at Watertown, Massachusetts or other school considered by the department to be qualified to provide suitable education for the blind child. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the Governor. The sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution, shall be paid by

the State. Nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.'

Sec. 3. R. S., c. 26, §§ 20-21, additional. Chapter 26 of the Revised Statutes is amended by adding 2 new sections, to be numbered 20 and 21, to read as follows:

'Burial of Honorably Discharged Soldiers and Sailors.

Sec. 20. State to pay burial expenses of destitute soldiers and sailors and their widows. Whenever any person who has served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of his death a resident of this State and in destitute circumstances, the State, through the Department of Veterans Services, shall pay the necessary expenses of his burial; or whenever the widow of any person who served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of her death a resident of this State and being in destitute circumstances and having no kindred living within this State and of sufficient ability legally liable for her support, the State shall pay the necessary expenses of her burial. Such expenses shall not exceed the sum of \$250 in any case and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead.

Sec. 21. Cities and towns to pay expenses and reimbursed by State; person not constituted a pauper. The municipal officers of the city or town in which such deceased, mentioned in section 20, resided at the time of his death shall pay the expenses of his burial, and if he die in an unincorporated place, the town charged with the support of paupers in such unincorporated place shall pay such expenses. In either case upon satisfactory proof by such town or city to the Department of Veterans Services of the fact of such death and payment, the State shall refund to said town or city the amount so paid. The person whose burial expenses are paid in accordance with this section and section 20 shall not be constituted a pauper thereby. Said proof shall contain a certificate from the Adjutant General of the State to the effect that such person was an honorably discharged soldier or sailor or the widow of an honorably discharged soldier or sailor.'

Sec. 4. R. S., c. 94, §§ 45-46, repealed. Section 45, as amended by chapter 243 of the public laws of 1957 and section 46, both of chapter 94 of the Revised Statutes, are repealed.

Sec. 5. **Payment.** Upon payment of the claim by the Department of Veterans Services, as provided for in the Revised Statutes, chapter 26, sections 20 and 21, the Department of Health and Welfare will reimburse the Department of Veterans Services for the expenditures so made from any available funds that may properly be used for this purpose. The reimbursement so made shall be credited to the operating funds available to the Department of Veterans Services.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.