

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

ENVIRONMENTAL PROTECTION,
DEPARTMENT OF1985-861986-87

All Other

\$1,750

Effective September 19, 1985.

CHAPTER 489

S.P. 297 - L.D. 786

AN ACT to Clarify the General Assistance Law.

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

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

7. Income. "Income" means any form of income in cash or in kind received by the household, including net remuneration for services performed, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

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

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

B. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

C. Income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, income shall be considered available for the week, weeks, month or months it was

intended to cover when it was received by the applicant or members of the applicant's household the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. The consideration shall not disqualify an applicant who has exhausted his income to purchase basic necessities, provided that his income does not exceed the income standards established by the municipality.

Sec. 2. 22 MRSA §4301, sub-§10, as enacted by PL 1983, c. 577, §1, is amended to read:

10. Need. "Need" means the condition whereby a person has insufficient person's income, money, property, credit, assets or other means resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance established by the municipality.

Sec. 3. 22 MRSA §4305, sub-§3-A is enacted to read:

3-A. Maximum levels of assistance. Municipalities may establish maximum levels of assistance by ordinance. The maximum levels of assistance shall set reasonable and adequate standards sufficient to maintain health and decency. Each ordinance shall be subject to a review, as provided in section 4323, of the maximum levels of assistance by the department, upon complaint, to ensure compliance with this chapter.

Sec. 4. 22 MRSA §4305, sub-§4, as enacted by PL 1983, c. 577, §1, is amended to read:

4. Ordinance filed. Each municipality shall present a copy of the ordinance establishing eligibility standards, maximum levels of assistance, administration and appeal procedures to the Department of Human Services. The ordinance filed shall include all forms and notices, including the application form, notice of decision and appeal rights. Any amendment or modification of the municipal ordinance shall be submitted to the department for comment and filing.

Sec. 5. 22 MRSA §4308, as enacted by PL 1983, c. 577, §1, is repealed and the following enacted in its place:

§4308. Applications

In order to receive assistance from any municipi-

pality, the applicant or a duly authorized representative must make written application to the overseer, except that in an emergency the application may be made verbally and assistance shall be granted temporarily. Further assistance shall be granted upon completion of a written application and determination of eligibility.

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

2. Emergencies. Any person who does not have sufficient resources to provide one or more basic necessities in an emergency shall be eligible for assistance, although he would be otherwise ineligible, except as provided in this subsection.

A. A person who is currently disqualified from general assistance for a violation of section 4315, 4316-A or 4317 is ineligible for emergency assistance under this subsection.

B. Emergency assistance under this subsection is not available to pay a bill for a basic necessity when that bill is more than 2 months old and the person requesting the assistance had sufficient income, money, assets or other resources available to pay for the basic necessity when the bill was received. The person requesting assistance shall be required to provide evidence of income for the applicable time period.

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

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

§4316-A. Work requirement

1. Ineligibility for assistance. An applicant is ineligible for assistance for 60 days if the municipality establishes that the person, without just cause:

A. Refuses to search for employment when that search is reasonable and appropriate;

B. Refuses to register for work;

C. Refuses to accept a suitable job offer under this section;

D. Refuses to participate in a training or educational program which would assist him in securing employment;

E. Quits work after an initial application for assistance;

F. Willfully fails to perform a job assigned under subsection 2; or

G. Willfully performs a job assigned under subsection 2 below the average standards of that job.

2. Municipal work program. A municipality may require that an otherwise eligible person who is capable of working be required to perform work for the municipality or work for a nonprofit organization, if that organization has agreed to participate as an employer in the municipal work program, as a condition of receiving general assistance. The municipality may also require recipients, as a part of the municipal work program, to participate in a training or educational program which would assist him in securing employment. The municipal work program is subject to the following requirements.

A. No person may, as a condition of general assistance eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person would otherwise receive under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is computed at a rate of at least the State's minimum wage.

B. No person may be required to work under this subsection for a nonprofit organization if that work would violate a basic religious belief of that person.

C. In no case may an eligible person performing work under this subsection replace regular municipal employees or regular employees of a participating nonprofit organization.

D. In no case may an eligible person in need of emergency assistance be required to perform work under this subsection prior to receiving general assistance.

E. Expenses related to work performed under this subsection by an eligible person shall be considered in determining the amount of net general assistance to be provided to the person.

F. General assistance provided by a municipality for work performed by an eligible person under this subsection shall be:

(1) Included in the reimbursable net general assistance costs; and

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

3. Limitations of work requirement. In no case may any work requirement or training or educational program under this section interfere with a person's:

A. Existing employment;

B. Ability to pursue a bona fide job offer;

C. Ability to attend an interview for possible employment;

D. Participation in a primary or secondary educational program intended to lead to a high school diploma; or

E. Participation in a training program which is either approved or determined, or both, by the Department of Labor to be reasonably expected to assist the individual in securing employment. This paragraph does not include participation in a degree granting program, except when that program is under the Job Training Partnership Act or the Welfare Employment Education and Training Program.

4. Eligibility regained. A person who has been disqualified for not complying with any work requirement of this section may regain his eligibility during the 60-day period by becoming employed or otherwise complying with the work requirements of this section.

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

A. Physical or mental illness or disability;

- B. Below-minimum wages;
- C. Sexual harassment;
- D. Physical or mental inability to perform required job tasks;
- E. Inability to work required hours or to meet piece work standards;
- F. Lack of transportation to and from work or training;
- G. Inability to arrange for necessary child care or care of ill or disabled family member;
- H. Any reason found to be good cause by the Department of Labor; and
- I. Any other evidence which is reasonable and appropriate.

The overseer shall not require medical verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention. In any case in which the overseer requires medical verification and the applicant has no means of obtaining such verification, the overseer shall grant assistance for the purpose of obtaining that verification.

Sec. 8. 22 MRSA §4318, as enacted by PL 1983, c. 577, §1, is repealed and the following enacted in its place:

§4318. Recovery of expenses

A municipality or the State, which has incurred general assistance program costs for the support of any eligible person, may recover the full amount expended for that support either from the person relieved or from any person liable for the recipient's support, their executors or administrators, in a civil action. In no case may a municipality or the State be authorized to recover through a civil action, the full or part of, the amount expended for the support of a previously eligible person, if, as a result of the repayment of that amount, this person would, in all probability, again become eligible for general assistance.

Sec. 9. 22 MRSA §4320, 2nd ¶, as repealed and replaced by PL 1983, c. 697, §3, is amended to read:

The municipal officers, their designee or the State shall file a notice of the lien with the register of deeds of the county wherein the property is located within 30 days of making a mortgage payment. That filing shall secure the municipality or state's lien interest for an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same eligible person. Not less than 10 days prior to the filing, the municipal officers, their designee or the State shall send notification of the proposed action by certified mail, return receipt requested, to the owner of the real estate and any record holder of the mortgage. The lien notification shall clearly inform the recipient of the limitations upon enforcement contained in this section; it shall also contain the title, address and telephone number of the municipal official who granted the assistance. A new written notice including these provisions shall be given to the recipient each time the amount secured by the lien is increased. The lien shall be effective until enforced by an action for equitable relief or until discharged.

Sec. 10. 22 MRSA §4322, 2nd ¶, as amended by PL 1983, c. 697, §4, is further amended to read:

The person requesting the appeal shall be afforded the right to confront and cross-examine any witnesses against him, present witnesses in his own behalf and be represented by counsel or other spokesman, and be advised of these rights in writing. The decision of such an appeal shall be based solely on evidence adduced at the hearing. The person requesting the appeal shall, within 5 working days after the appeal, be furnished with a written decision detailing the reasons for that decision. When any decision by a fair hearing authority or court authorizing assistance is made, that assistance shall be provided within 24 hours. Review of any action or failure to act under this chapter shall be pursuant to the Maine Rules of Civil Procedure, Rule 80-B. The municipality shall keep and provide a sufficient record of fair hearing for the court review make a record of the fair hearing. The municipality's obligation shall be limited to keep a taped record of the proceedings. Costs for preparing any transcripts which are required to pursue an appeal of a fair hearing authority's decision shall be paid for by the applicant.

Sec. 11. 22 MRSA §4323, sub-§§1 and 4, as enacted by PL 1983, c. 577, §1, are amended to read:

1. Review. The department shall review the administration of general assistance in each municipality for compliance with this chapter. This review shall be made on a regular basis and may be made in response to a complaint from any person as necessary.

The department shall inspect the municipality's records and discuss the administration of the program with the overseer. The overseer or his designee shall be available during the department's review and shall cooperate in providing all necessary information.

The department shall report the results of its review in writing to the municipality and, when applicable, to the complainant. The written notice shall set forth the department's findings of whether the municipality is in compliance with this chapter.

4. Appeal. Any municipality which or person who is aggrieved by any decision or action made by the department pursuant to this section shall have the right to appeal pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. A request for that appeal shall be in writing and shall be made within 30 days of receiving notification. The appeal shall be held within 30 days of receipt of that request and shall be conducted by one or more fair hearing officers. In no event may an appeal be held before a person or body responsible for the decision or action. Review of any decision under this section shall be pursuant to the Maine Rules of Civil Procedure, Rule 80 C.

Sec. 12. 22 MRSA §4324, as enacted by PL 1983, c. 577, §1, is repealed.

Sec. 13. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

HUMAN SERVICES, DEPARTMENT OF

Administration - Income Maintenance

Positions	(3)
Personal Services	\$65,215
All Other	6,400
Total	<u>\$71,615</u>

Provides funds
for a Fair Hearing
Officer, A

Field Examiner and a Clerk Typist to hold hearings and investigate complaints generated by changes in the General Assistance Program.

Sec. 14. Effective date. This Act shall take effect October 1, 1985.

Effective October 1, 1985.

CHAPTER 490

S.P. 381 - L.D. 1048

AN ACT to Clarify and Improve the Laws on Education in the Unorganized Territory.

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

Sec. 1. 5 MRSA §8002, sub-§2, as amended by PL 1981, c. 464, §1, is further amended to read:

2. Agency. "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term shall not include the Legislature, Governor, courts, University of Maine, Maine Maritime Academy, vocational-technical institutes, the Commissioner of Educational and Cultural Services for schools of the unorganized territory, school administrative units, special purpose districts or municipalities, counties or other political subdivisions of the State. ~~From July 17, 1978 until January 17, 1979, the term "agency" shall not include the Department of Marine Resources-~~

Sec. 2. 20-A MRSA §3251, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§3251. School privileges