

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
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B. The activity meets permit by rule standards in rules adopted pursuant to this article, for any road crossing of a river, stream or brook, or for any soil disturbance adjacent to a great pond, river, stream or brook and the commissioner is notified before the forest management activity commences;

C. The forested wetland is not mapped as a significant wildlife habitat under section 480-I; and

D. Any road construction is not used to access development but is used primarily for forest management activities, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads that provide access to development in a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State, or Title 12, section 682, subsection 2, including divisions of land exempted by Title 12, section 682, subsection 2, paragraph A, for portions of the State under the jurisdiction of the Maine Land Use Regulation Commission.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective April 17, 1990, unless otherwise indicated.

CHAPTER 839

H.P. 1590 - L.D. 2202

An Act to Implement Certain Provisions of the Federal Family Support Act of 1988 and Improve Access to Services in the Additional Support for People in Retraining and Education Program

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

Whereas, certain provisions of the federal Family Support Act of 1988, must be implemented by April 1, 1990; and

Whereas, state law must be amended to enable that implementation; and

Whereas, the federal Family Support Act of 1988 enables the State to receive federal financial contribution for services currently provided solely with state funds; and

Whereas, the federal Family Support Act of 1988 provides significant new assistance to persons receiving federal Aid to Families with Dependent Children who are seeking to become self-sufficient; and

Whereas, in view of funding shortfalls, Additional Support for People in Retraining and Education spending must be reorganized to maximize the amount of funds available for education, training and support services for program participants; 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. 22 MRSA §§3741-C to 3741-H are enacted to read:

§3741-C. Education, training or employment participation requirements

Beginning October 1, 1990, all recipients of federal Aid to Families with Dependent Children are required to participate in an education, training or employment program in accordance with the mandatory participation provisions of the federal Family Support Act of 1988, Public Law 100-485, except that:

1. **General requirement.** A recipient of federal Aid to Families with Dependent Children is not required to participate in an education, training or employment activity as a condition of eligibility for federal Aid to Families with Dependent Children, if that person is the parent or other relative of a child under 3 years of age who is personally providing care for that child;

2. **Families eligible for federal Aid to Families with Dependent Children by reason of unemployment.** If a family is eligible for federal Aid to Families with Dependent Children by reason of the unemployment of the parent who is the principal wage earner:

A. One parent is eligible to be excused from mandatory participation based on the age of the child, in accordance with subsection 1; and

B. A parent who is under 25 years of age and has not completed high school or an equivalent course of education shall be given the choice of participating in educational activities directed at the attainment of a high school diploma, or its equivalent, in lieu of other required activities; and

3. **Custodial parents under 20 years of age.** When an appropriate program is available in the part of the State involved and resources permit, a custodial parent who has not attained 20 years of age and who has not successfully completed a high school education, or its equivalent, is required by the department to participate in an educational activity, except that:

A. A person personally providing care for a child under 6 years of age, is not required to participate for more than 20 hours a week;

B. The department must establish criteria under which custodial parents who have not attained 18 years of age are exempt from the school attendance requirement;

C. If appropriate, custodial parents who are 17 or 18 years of age may be required to seek and accept employment; and

D. A person eligible under this subsection may not be required to seek or accept employment in lieu of participating in a training or work activity.

§3741-D. Eligibility for federal Aid to Families with Dependent Children based on unemployment

To determine eligibility for federal Aid to Families with Dependent Children based on the unemployment of the principal wage earner, the department shall consider a qualifying quarter of work to include a calendar quarter in which the individual attended, full time, an elementary school, secondary school or vocational-technical training course designed to prepare the individual for gainful employment, or in which the individual participated in a training program under the federal Job Training Partnership Act, 29 United States Code, Section 1501.

§3741-E. Voluntary participants given priority

1. First priority given to targeted recipients who volunteer. Recipients of federal Aid to Families with Dependent Children who are within one of the federal Job Opportunity and Basic Skills training program, or JOBS, target populations or are eligible on the basis of unemployed parent status and who volunteer to participate in the Additional Support for People in Retraining and Education program must be given first consideration for services. The federal JOBS target populations are individuals who:

A. Have received federal Aid to Families with Dependent Children for any 36 of the preceding 60 months;

B. Are custodial parents under 24 years of age who:

(1) Have not completed a high school education and are not enrolled in high school at the time of application; or

(2) Had little or no work experience in the preceding year; or

C. Are members of families in which the youngest child because of age is within 2 years of being ineligible for federal Aid to Families with Dependent Children.

2. Mandatory participation to meet federal mandates. Recipients of federal Aid to Families with Dependent Children who do not volunteer and are either in the JOBS target populations or eligible on the basis of

unemployed parent status may be required to participate in the Additional Support for People in Retraining and Education program only in order to meet the federal participation requirements necessary to receive enhanced federal matching funds under the federal Family Support Act of 1988, Public Law 100-485, or its successor.

3. Voluntary participation when federal mandates are exceeded. Recipients of federal Aid to Families with Dependent Children who are not members of the JOBS target populations and volunteer to participate in the Additional Support for People in Retraining and Education program must be given priority for program services in any month, on a prorated basis, in which the department has exceeded by 5% the federal participation requirements necessary to receive enhanced federal matching funds in that fiscal year under the federal Family Support Act of 1988, Public Law 100-485, or its successor.

§3741-F. Transitional support services

The department shall establish a program to provide transitional child care and transportation services when the services are necessary for an individual's employment, when a family has ceased to receive federal Aid to Families with Dependent Children as a result of increased hours of, or increased income from, employment or by reason of the exhaustion of the earned income disregard used in determining benefit amounts in the federal Aid to Families with Dependent Children program.

1. Transitional child care. The transitional child care program must:

A. Provide for the actual cost of child care, less participant contribution, up to the maximum allowable rate established in section 3741-H for a period of 12 months in accordance with the federal Family Support Act of 1988, Public Law 100-485;

B. Give the participant the child care transitional benefit as a direct payment; and

C. Require contribution by the participant toward the cost of that care. Families with household income that equals or is less than 125% of the federal poverty level shall be responsible for contributing \$1.00 per child per week toward that family's child care expense. Families with household income in excess of 125% of the federal poverty level shall be responsible for contributing 2% of the household income toward the cost of that family's child care expense. The family's contribution may be waived, except for a nominal amount, when additional child care assistance is necessary to assist the family in maintaining employment during the transitional period authorized by this section.

2. Transportation. The department shall provide transitional transportation assistance for employment-related transportation for a period of 3 months following

the last month in which the family received a federal Aid to Families with Dependent Children cash payment. A family is not eligible for this payment if the family income exceeds 200% of the federal poverty level. Full reimbursement for all employment-related transportation must be provided to families with household income equal to or less than 125% of the federal poverty level. The department shall establish a declining scale of reimbursement for families with income between 125% and 200% of the federal poverty level.

§3741-G. Extended medical assistance

The department shall administer a program of extended eligibility for medical assistance in accordance with the federal Family Support Act of 1988, Public Law 100-485, subject to the following.

1. Extension of medical assistance. The department shall provide for the extension of medical assistance without requiring any reapplication for benefits.

2. Premiums; copayments; deductibles. In accordance with federal law, the department may require participants whose net family income exceeds 133% of the federal poverty level and is less than 185% of the federal poverty level to pay a premium not to exceed 3% of their net family income, less the child care deduction.

3. Scope of services. The department shall provide the same scope of medical assistance to the individual as provided when the family was receiving federal Aid to Families with Dependent Children cash assistance.

§3741-H. Child care during participation in employment, education and training

The department shall provide child care in accordance with the federal Family Support Act of 1988, Public Law 100-485, when the child care is necessary to permit a federal Aid to Families with Dependent Children eligible family member to accept employment, remain employed or participate in an education or training program.

1. Method of providing child care. The federal Aid to Families with Dependent Children recipient may choose one of the following methods for receiving child care under this section:

A. Receiving direct prospective payment for the cost of care;

B. Directing that the department make payment, on the recipient's behalf, directly to a child care provider; or

C. Accepting other care available at no cost to the family.

2. Child care rate. The department shall provide a family's actual cost for child care up to the maximum rate authorized by federal law. In determining the

maximum rate, the State shall use a method that results in an amount that equals, or most closely approaches, the actual market rate in different regions of the State for various types of child care services received by families in the State participating in the Additional Support for People in Retraining and Education program.

Sec. 2. 22 MRSA §3760-C is enacted to read:

§3760-C. Households headed by minor parents

An otherwise eligible minor parent is not required as a condition of eligibility for federal Aid to Families with Dependent Children to reside with a parent or other legal guardian.

Sec. 3. 22 MRSA §3781, sub-§1, as amended by PL 1989, c. 501, Pt. Y, §2, is further amended to read:

1. Administration. The Additional Support for People in Retraining and Education ~~Program shall be~~ program is administered by the Department of Human Services. The Department of Human Services shall, consistent with the goals of the Additional Support for People in Retraining and Education ~~Program~~ program, contract with the Department of Labor to implement this program. The department may also contract with other public agencies, as well as private agencies and individuals, to implement this program in selected areas of the State. The department may not contract for the delivery of the program in its entirety in any area of the State that was not under contract on March 1, 1990. Contracts entered into under this subsection may not exceed one year in duration.

If the department contracts for the provision of program services under this subsection, it shall monitor each contract agency at least annually to ensure compliance with sections 3786 and 3788 and to ensure compliance with the contracts entered into by the parties. The department shall adopt rules in accordance with the Maine Administrative Procedure Act by which satisfactory performance is measured. The rules must identify the circumstances under which sanctions, including contract suspension, reduction or termination are applied.

Sec. 4. 22 MRSA §3783, as enacted by PL 1987, c. 856, §§7 and 10, is repealed.

Sec. 5. 22 MRSA §3784, sub-§7, as amended by PL 1989, c. 501, Pt. P, §27 and as repealed and replaced by PL 1989, c. 501, Pt. Y, §4, is repealed and the following enacted in its place:

7. Sunset. This section is repealed on April 1, 1990.

Sec. 6. 22 MRSA §3785, sub-§4, as enacted by PL 1987, c. 856, §§7 and 10, is amended to read:

4. Lack of supportive services. Lack, or breakdown, of necessary supportive services such as child care

or transportation with no appropriate alternatives available at no cost to the participant;

Sec. 7. 22 MRSA §3785, sub-§8, as enacted by PL 1987, c. 856, §§7 and 10, is amended to read:

8. Crises or special circumstances. Any crises or special circumstances ~~which that~~ arise ~~that cause~~ causing a registrant to be absent from or discontinue any department activity about which the department has been advised and has determined to constitute good cause; ~~or~~

Sec. 8. 22 MRSA §3785, sub-§9, as enacted by PL 1987, c. 856, §§7 and 10, is repealed.

Sec. 9. 22 MRSA §3785, sub-§§10 to 12 are enacted to read:

10. Caretakers of children under 6 years of age. Assignment by the department to an activity that would require the registrant to work more than 20 hours per week, if the registrant is a parent or relative personally providing care for a child under 6 years of age;

11. Net loss of cash income. Employment resulting in the family of the participant experiencing a net loss of cash income; or

12. Other good cause. Any other reason resulting in failure to participate that is beyond the control of the participant or that a reasonable person would determine to be good cause.

Sec. 10. 22 MRSA §3788, sub-§§5 and 6, as enacted by PL 1989, c. 501, Pt. Y, §5, are amended to read:

5. Provision of support services. Beginning January 1, 1990, payment for support services ~~shall~~ must be furnished promptly in accordance with rules adopted by the department to, or on behalf of, eligible individuals as agreed to in the employability plan. The rules ~~shall~~ must provide for an expedited procedure for payment for support services when those services are immediately necessary to enable the participant to participate in an approved education, training or employment plan.

The support services required to participate in the employability plan must be specified in an individual opportunity service contract and each participant must receive the support services prescribed in that contract, which may include respite care.

6. Education and training service. The Additional Support for People in Retraining and Education program must make available a broad range of education and training services in accordance with section 3781, subsection 2. These services and activities must include all of those services and activities offered by the Additional Support for People in Retraining and Education program on October 1, 1989. When a particular approved education or training service is available at comparable quality and cost, including the cost of support services, and the implementation of the employability plan would not be

unreasonably delayed, the program participant may choose to enroll for that service with the provider of that person's preference. If this decision is not mutually agreed to by the participant and the case manager, the decision ~~shall~~ must be reviewed by the case manager's supervisor.

Sec. 11. 22 MRSA §3788, sub-§8 is enacted to read:

8. Annual report. Beginning in 1991, the department shall submit a report annually on March 15th to the joint standing committee of the Legislature having jurisdiction over human resources. The report must include the number of Additional Support for People in Retraining and Education program participants who are receiving pretraining and job search services and must specify the specific services provided and the agencies providing those services. A copy of the report must be submitted to the Office of the Executive Director of the Legislative Council.

Sec. 12. 22 MRSA §3789 is enacted to read:

§3789. Self-initiated training

1. Participation requirement satisfied. If a federal Aid to Families with Dependent Children recipient is attending, in good standing, in an institution of higher education, or a school or course of vocational or technical training consistent with the individual's employment goals, and is making satisfactory progress in that institution, school or course at the time the recipient would otherwise commence participation in the program, such attendance constitutes satisfactory participation in Additional Support for People in Retraining and Education.

2. Education, training and support services. The department rules pertaining to education, training and support services for Additional Support for People in Retraining and Education participants apply equally to persons who are in self-initiated training at the time that person would otherwise commence participation in Additional Support for People in Retraining and Education.

Sec. 13. 22 MRSA §3789-A is enacted to read:

§3789-A. Decision-making authority reserved to department

If federal law requires the Department of Human Services to make a case decision, the authority to make that final decision is reserved to the department.

Sec. 14. PL 1987, c. 856, §10 is repealed.

Sec. 15. Retroactivity. The Maine Revised Statutes, Title 22, sections 3741-F and 3741-G in section 1 of this Act are effective retroactively to April 1, 1990. Section 4 of this Act is effective retroactively to April 1, 1990. Section 5 of this Act is effective retroactively to March 31, 1990.

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

Effective April 17, 1990.

CHAPTER 840

S.P. 712 - L.D. 1889

An Act to Clarify and Improve the General Assistance Laws

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

Sec. 1. 22 MRSA §4301, sub-§6, as enacted by PL 1983, c. 577, §1, is repealed and the following enacted in its place:

6. Household. "Household" means an individual or a group of individuals who share a dwelling unit or other basic necessities. When an applicant shares a basic necessity, such as housing, with one or more individuals, eligible applicants shall receive assistance for their pro rata share of the cost of the basic necessity according to the maximum levels of assistance or the cost of obtaining an alternative. Nothing in this subsection overrides the provisions of section 4309, subsection 3. The income of household members not legally liable for supporting the household must be considered as available to the applicant only when there is a pooling of income.

Sec. 2. 22 MRSA §4301, sub-§7, as amended by PL 1985, c. 489, §§1 and 14, is further 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, 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~~ This prospective calculation shall not disqualify an applicant who has exhausted his income to purchase basic necessities, provided that ~~his~~ that income does not exceed the income standards established by the municipality. Notwithstanding this prospective calculation, if an applicant or recipient receives a lump sum payment after an initial application, that payment must be prorated over future months. The period of proration must be determined by disregarding the first \$1,000 plus any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities and dividing the remainder of the lump sum payment by the maximum monthly amount of assistance that the household may receive. The prorated sum for each month must be considered available to the household for 6 months or during the period of proration, whichever is less, except that an applicant may not be considered ineligible to receive emergency assistance under section 4308, subsection 2, or under section 4310 during the period of proration. The lump sum provisions of this subsection apply only to applicants or recipients who have received prior notice of the provisions. They do not apply to applicants or recipients whose actual weekly income is less than 40 times the federal minimum hourly wage prescribed by 29 United States Code, Section 206(a)(1).

Sec. 3. 22 MRSA §4301, sub-§8-A is enacted to read:

8-A. Lump sum payment. "Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses.

Sec. 4. 22 MRSA §4309, sub-§1, as enacted by PL 1983, c. 577, §1, is amended to read:

1. Eligibility of applicant; duration of eligibility. The overseer shall ~~make a determination of~~ determine eligibility each time a person applies or reapplies for general assistance pursuant to this chapter and the ordinance adopted by the municipality in accordance with section 4305. The period of eligibility shall must be for