

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
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 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Sec. 1. 22 MRSA §4301, sub-§6, as enacted by PL 1983, c. 577, §1, is repealed and the following enacted in its place: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

a period not to exceed one month, whereupon at the expiration of that period the person may reapply for assistance and his the person's eligibility may be redetermined.

Sec. 5. 22 MRSA §4309, sub-§§1-A and 1-B are enacted to read:

1-A. Determination of eligibility; applicant's responsibilities. Applicants for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

1-B. Determination of eligibility; overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility. The overseer may seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent. Assistance may be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer can not determine that eligibility exists based on information supplied by the applicant or others.

Sec. 6. 22 MRSA §4309, sub-§2, as enacted by PL 1983, c. 577, §1, is amended to read:

2. Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is notified of any change in the recipient's circumstances which that may affect the amount of assistance to which the recipient is entitled or which that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, no a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

~~The overseer shall seek the facts necessary to establish eligibility first from the applicant. Facts sought from other sources, with the exception of public records, shall be gathered only with the knowledge of the applicant.~~

~~When available information is inconclusive or conflicting regarding a fact which is material and necessary to determine eligibility, the applicant will be advised as to what~~

~~questions remain. To be considered inconclusive or conflicting, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the overseer. Assistance may be denied or terminated if the applicant is unwilling to supply the overseer with necessary verification or permission to make collateral contacts or if the administrator cannot determine that eligibility exists after contact with the applicant or the applicant's collateral contacts.~~

Sec. 7. 22 MRSA §4323, sub-§3, as enacted by PL 1983, c. 577, §1, is amended to read:

3. Departmental assistance. Whenever the department finds that a person in immediate need of general assistance have has not received that assistance as a result of a municipality's failure to comply with the requirements of this chapter, the department shall, within 24 hours of receiving a request to intervene and after notifying the municipality, grant this assistance in accordance with regulations adopted by it. The expense of that assistance granted, including a reasonable proportion of the state's State's administrative cost as that can be attributed to that assistance, shall be billed by the department to the municipality. Should that bill remain unpaid 30 days after presentation to the municipality, the department shall refer the bill to the Treasurer of State for payment from any taxes, revenue, fines or fees due from the State to the municipality.

A municipality may not be held responsible for reimbursing the department for assistance granted under this subsection if the department failed to intervene within 24 hours of receiving the request to intervene or if the department failed to make a good faith effort, prior to the intervention, to notify the municipality of the department's intention to intervene.

See title page for effective date.

CHAPTER 841

H.P. 1386 - L.D. 1916

An Act to Increase Penalties for Violation of the Pesticide Laws

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

Sec. 1. 7 MRSA §602, as amended by PL 1979, c. 731, §19, is further amended to read:

§602. Enforcing official

This subchapter shall be is administered by the Commissioner of Agriculture, Food and Rural Resources Board of Pesticides Control, hereinafter referred to as the "commissioner." "board."