

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



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January 23, 2020

Senator Geoff Gratwick, Chair
Representative Patricia Hymanson, Chair
Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, Maine 04333-0100

Senator Gratwick, Representative Hymanson, and Members of the Joint Standing
Committee on Health and Human Services:

Please find attached a summary of the work of the stakeholder group established by Resolve 2019, Chapter 41, which was tasked with determining more efficient methods of distributing general assistance benefits to individuals, reviewing differential effects of providing general assistance on service center municipalities and other municipalities, devising equitable methods of establishing the municipality of responsibility, and developing services to reduce homelessness and reliance on homeless shelters. As the report states, the Department has not taken any position on the recommendations made by the stakeholder group.

It should be noted that the Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne M. Lambrew".

Jeanne M. Lambrew, Ph.D.
Commissioner

Report to the Legislature pursuant to Public Law 2019, Chapter 515 January 2020

Introduction and Background

The 129th Maine State Legislature passed legislation, LD 459, P.L. Chapter 515: An Act Regarding Presumptive Eligibility and Homelessness under the General Assistance Laws. The new statute directed the Department of Health and Human Services (DHHS) to convene a stakeholder group to determine more efficient methods of distributing general assistance benefits to individuals, review differential effects on service center municipalities and other municipalities of providing general assistance, devise equitable methods of establishing the municipality of responsibility and develop services to reduce homelessness and reliance on homeless shelters. The stakeholder group was directed to examine ways to make General Assistance administration uniform, while reducing dependency on service centers and decreasing the number of clients experiencing homelessness or other emergency situations. The statute also directed the Department to submit a report, no later than January 2, 2020, to the Joint Standing Committee on Health and Human Services with its findings, and any legislative recommendations. The Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

This report summarizes the stakeholder group activities as it was convened to review and conduct analysis of administration, education, and enforcement of the General Assistance program.

The Department convened the following individuals who testified on the bill or otherwise expressed interest in the conversation:

- Frank D'Alessandro, Maine Equal Justice
- Chris Hastedt, Maine Equal Justice
- Joby Thoyalil, Maine Equal Justice
- Kate Dufour, Maine Municipal Association
- Aaron Geyer, City of Portland
- Jay Feyler, Maine Welfare Director's Association and the Town of Union
- Rindy Fogler, Maine Welfare Director's Association and the City of Bangor
- Harrison Deah, City of Westbrook
- Kristin Barth, City of Biddeford
- Mayor Kristen Cloutier, City of Lewiston
- Deborah Lymneos, City of Augusta
- Denise Murray, City of Waterville
- Ellen Moore, Town of Minot
- Allison Gallagher, Maine State Housing Authority
- Lauren Busten, Maine State Housing Authority
- Kate Varney, Family Medicine Institute

DHHS staff assigned to support and convene the stakeholder group include:

- Sara Russell, Maine DHHS, Office for Family Independence, General Assistance Program Manager
- Molly Bogart, Maine DHHS, Director of Government Relations

Stakeholder meetings were held on September 24, October 22, November 19, and December 10, 2019.

The stakeholder group reviewed financial data regarding the expenses and reimbursements for all municipalities who have requested reimbursement from the Department for General Assistance benefits within the last 10 years and compared those to the population in each municipality. The stakeholder group also reviewed the current process for Department audits of the General Assistance program within

municipalities, and discussed opportunities to provide education to address the four areas identified in in PL 2019, Ch. 515, including: determining more efficient methods of distributing General Assistance benefits to individuals, review of differential effects on service center municipalities and other municipalities of providing General Assistance, devising equitable methods of establishing the municipality of responsibility, and developing services to reduce homelessness and reliance on homeless shelters. To facilitate discussion, the Department distributed copies of financial assistance data and statutes as a discussion tool. Stakeholder group members reviewed the spending trends amongst municipalities and discussed the impact of assistance provided in service centers for some of Maine's larger communities, as well as the state overall. The stakeholder group made suggestions for improvement regarding the four areas of concern they had been tasked to review, however stakeholders did not reach consensus regarding any recommendations or conclusions.

Stakeholder Group Discussion

A summary of discussion for each area of review listed in the statute follows. For each area of review, the group discussed current statute, guidance provided by the Department, and the current impact for recipients and administrators of the General Assistance program.

The summary of these discussions reflects statements and recommendations of stakeholder group members only with input from Department representatives. After several formal meetings, a subgroup of stakeholders, including the Maine Municipal Association, representatives of the municipal general assistance administrators, and Maine Equal Justice, continued to meet and prepared a proposal for the Department. This is attached as Appendix A.

I. More Efficient Methods of Distributing General Assistance Benefits to Individuals:

The current methods of distributing assistance were discussed within all four categories of group discussion.

Stakeholders discussed the need for assistance to be appropriately and uniformly administered in accordance with law in all communities around the state. Several group members noted that by improving the other three areas of concern, the efficiency of the administration of the General Assistance program would be improved.

Stakeholders agreed that increasing the Department's capacity to more adequately perform its statutory duty to oversee the administration of the GA Program would be a valuable investment to ensure fair and uniform administration of the Program. Currently, DHHS operates the General Assistance program with one program manager, two field examiners, and a part-time office administrator. Were the responsibility for administering GA to individual clients to be turned over to DHHS, for some or all municipalities, and folded into the responsibilities of the Office for Family Independence, an assessment of resources would be critical before any program changes. To this end, the stakeholders unanimously recommended funding for additional staff for the Department for this purpose (see Appendix A).

The group discussed alternative mechanisms for the administration of the GA program, including educating municipalities about the option in current law to contract with a third party to administer the program. Since that option already exists the group concluded that additional staff to enforce program law would be the most effective mechanism to improve program administration at this time.

The stakeholder group did not provide a final recommendation regarding more efficient methods of distributing General Assistance. The group hopes that by improving other areas of concern, assistance will be provided more efficiently to applicants in need.

II. Differential Effects on Service Center Municipalities

The stakeholder group discussed concerns that municipalities which expend the most General Assistance funds are Maine's service centers, including our larger cities and suburban areas. Top spending municipalities are Portland, Bangor, Westbrook, Augusta, Lewiston and Auburn.

The current rate of Department reimbursement for municipalities expending General Assistance who request reimbursement for expenditures is 70% for all municipalities. This means, 70% of expenditures for General Assistance issued to clients will be reimbursed to the municipality by the state. Prior to 2015, the Department reimbursed municipalities for 50% of general assistance issued. If a municipality exceeded 0.003 of the municipal state valuation, municipalities were eligible to receive reimbursement for 90% of their expenses beyond that valuation threshold. Stakeholders discussed whether the current reimbursement mechanism is appropriate considering the outsized role that services centers play in the provision of General Assistance. The Department noted that partial reimbursement is intended to create some financial liability for municipalities so as not to incent overspending within the General Assistance program.

Legislation passed in 2019 defined "homelessness" and qualified it as an emergency for the purposes of GA. In an "emergency," the municipality is authorized to exceed the maximum level assistance that would otherwise be provided, and instead pay what is needed to relieve the emergency. For example, if a person is homeless and the cost of securing housing is \$700, but the maximum for housing in that municipality is only \$500, the municipality is allowed to provide a voucher for the full \$700 to relieve the emergency.

The stakeholder group recommends reimbursing municipalities for 100% of the assistance provided "over and above" the maximum level of assistance as needed to remedy an emergency. For example, in the case described above, instead of reimbursing the municipality \$490 (70% of \$700), it would instead receive \$550 (70% of the \$500 maximum, and 100% of the \$200 over the maximum). Stakeholders argue that this will help service center municipalities that disproportionality see emergency cases, and that it would assist smaller communities help meet any additional costs associated with the recent changes to the State General Assistance Statute that define homelessness as an emergency.

III. More Efficient Methods of Determining the Municipality of Responsibility

Stakeholder members were charged with determining the best way to handle disputes and complaints regarding the municipality of responsibility for General Assistance. This is a longstanding issue in the General Assistance program and there was considerable discussion about the inequities that it causes.

Some stakeholders felt that reporting violations of neighboring communities would create tension between communities. The group also felt that increasing penalties for violations could negatively impact their own communities and may target a community for which it was not originally intended.

The stakeholder group agreed that modifying the reimbursement rate as recommended in section II would help with the differential impact of General Assistance on service center communities. The cost of this recommendation has not been estimated at this time.

Department representatives recommended that municipalities contact the Department if they are ever aware of any General Assistance office that has failed to uphold General Assistance law.

As noted, stakeholders agreed that increasing the Department's capacity to enforce all aspects of the GA law, including this one, along with current enforcement tools like penalties is the best solution to address this issue at this time.

IV. Department-provided Education

Stakeholders discussed options for having Department required trainings. One stakeholder suggested more visible posters with contact information to report issues to the Department. Representatives from the Department recommended updated applicant rights pamphlets and signage directing applicants to call the Department with any grievances. A stakeholder suggested a video training module be required of all General Assistance administrators. One stakeholder felt that training from the Maine Welfare Director's Association should suffice for the proposed requirement. Stakeholder group members recommend a video module training integrated with a certificate of completion. All stakeholders agreed that everyone in the system would benefit from increased training and education for administrators and municipalities, but that a lack of capacity at DHHS limits the ability to do that within current resources.

In their proposal, representatives of Maine Municipal Association, Maine Equal Justice and general assistance administrators agreed that the Legislature should encourage the Department of Health and Human Services to continue to work with the Maine Welfare Directors' Association, Maine Municipal Association, Maine Equal Justice and other interested parties in the development of educational materials and training programs designed to support state and municipal officials tasked with administering, implementing and enforcing the program. These groups provided proposed bill language concerning education and training (Appendix A).

V. Enforcement of General Assistance Statute

A significant topic of discussion among the group was that GA is not administered uniformly throughout the state. The group agreed that most municipalities work to administer the program with fidelity and in good faith, but nonetheless there are several that either do not administer the program in good faith or lack the capacity to appropriately implement the program. Municipalities shared frustration with the Department about a perceived failure to adequately enforce rules. Several noted that this perception, along with concern about reporting their peers, leads to limited complaints about municipalities by other municipalities and clients.

Concerns about not following statute include refusal to accept an application and/or sending individuals to service centers rather than their home municipalities, variable access to resources, lack of an interpreter available, lack of appropriate response time to emergency situations, lack of adequate knowledge about the program and/or training on obligations of the towns. These fall into two categories: one being municipalities that choose not to implement the program based on a lack of buy-in to the value of GA, and the other being small municipalities for whom the GA administrator is a volunteer or other less formalized position who may only encounter 1-2 clients a year. The Department noted that

legislative changes made in 2019 should help clarify the responsibilities of municipalities to serve individuals in emergency situations and for individuals experiencing homelessness.

VI. Developing Services to Reduce Homelessness

The Department notes that homelessness may be reduced by a recent GA rule change which requires homelessness to be considered an “emergency,” authorizing additional assistance to remedy the emergency. Stakeholders believe that this new provision along with the enhanced reimbursement rate for emergencies recommended above, would have a measurable impact on reducing homelessness.

Conclusion

Although consensus recommendations were not proposed during the formal meetings of the stakeholder group, as noted, representatives of Maine Municipal Association, Maine Equal Justice and the Maine General Assistance Administrators reached a consensus on their proposed changes to the general assistance statutes. These proposals include (1) State reimbursement of municipalities for 100% of the amount provided by the municipality in emergency assistance that exceed the municipality’s maximums, (2) adding an education component to the general assistance statute, and (3) increased sharing of data. The group also recognized that additional staffing resources are and would be needed in the General Assistance program to achieve their goals.

The Administration supports participation in task forces and commissions and, when possible, offers information and technical assistance. For recommendations from task forces and commissions, agencies follow a formal administrative process to evaluate proposals, provide views on legislation, and engage on policies with budget implications. As a result, the Department does not take a position on the recommendations of the stakeholders as described in this report.

To: Senator Gratwick
Representative Hymanson
Members of the Health and Human Services Committee

From: Rindy Fogler, Maine Welfare Directors Association
Kate Dufour, Maine Municipal Association
Frank D'Alessandro, Maine Equal Justice

Date: January 15, 2020

Re: General Assistance Program Working Group (PL 2019, c. 515 (LD 459))

On behalf of our respective organizations, we would like to thank the members of the Health and Human Services Committee for including administrators and advocates in the Municipal General Assistance (GA) Program Working Group and for the opportunity to meet with representatives of the Department of Health and Human Services to discuss and explore avenues for improving the administration and enforcement of this important program.

During and after the working group process, municipal officials and representatives from Maine Equal Justice continued to meet to discuss common goals and areas of consensus. At this point the municipal representatives on the working group and Maine Equal Justice support passage of four recommendations. For your reference, attached as Appendix B are proposed statutory changes to implement the following recommendations.

1. Investment in Technical Assistance/Enforcement Efforts. The Legislature should dedicate additional financial resources to the Department of Health and Human Services, Office of Family Independence's General Assistance division. We believe that in order to ensure the equitable administration of the program statewide, additional financial resources, including but not limited to increased staff, state employee training, improved program oversight, and "in the field" visits, are necessary. This state level investment will help ensure that the department has the resources necessary to provide reliable and consistent technical assistance to GA administrators and expeditiously and fairly enforce all program statutes, rules and regulations.

This recommendation is a priority for municipal officials and advocates, as we have concerns with the consistency of the technical assistance currently provided by the Department. This observation, however, should not be interpreted as a criticism of existing staff, but rather as evidence of the need for increased state financial support to provide additional resources to the Department for this purpose. We strongly believe that improved training, outreach and enforcement activities, including the assessment of penalties when warranted, will only serve to strengthen the efficacy of the program.

2. State Financing of the New Homelessness as an Emergency Requirement. We recommend that municipalities be reimbursed for 100% of the assistance provided "over and above" the statutory maximum that is necessary to remedy an emergency. For example, an administrator takes an emergency application and determines that \$1,500 is needed to cover temporary housing, but the maximum level of assistance allowable under state law is only \$1,000. Under current law, the administrator provides \$1,500 in assistance and only recovers \$1,050 in state reimbursement

(70% of \$1,500). If enhanced reimbursement was available as we recommend, the community would instead receive \$1,200 (70% of \$1,000 plus 100% of \$500) in state reimbursement.

The need for increasing reimbursement under this limited scenario is highlighted by the recent enactment of legislation that clarifies that homelessness is an emergency. While we support this statutory clarification, it does mean that municipalities have and will continue to experience increases in the amount of aid provided to eligible applicants. We believe that homelessness is a statewide crisis and rather than relying on property taxpayers to fund the increase in aid, broad based taxes (e.g., state sales and income) should be used to address this issue. The need for increased state funding is further exacerbated by the fact that the enacted change will have a disparate impact on service center communities, whose property taxpayers already host a variety of tax-exempt social service organizations and fund the provision of services necessary to support daytime populations that far exceed resident populations.

3. Education and Training. The Legislature should encourage the Department of Health and Human Services to continue to work with the Maine Welfare Directors' Association, Maine Municipal Association, Maine Equal Justice and other interested parties in the development of educational materials and training programs designed to support state and municipal officials tasked with administering, implementing and enforcing the program.

4. Data Sharing. The Legislature should instruct the Department of Health and Human Services to make certain data which it already collects publicly available on a regular basis. The department reports monthly on the number of individuals it serves and expenditure data for various programs it administers, but not for general assistance. We believe that increasing transparency in this way would only serve to strengthen the transparency of this program and assist stakeholders in identifying inequities or other systemic issues that should be addressed.

Again, thank you for the opportunity to provide feedback. If you need additional information, please do not hesitate to contact Rindy Fogler (rindy.fogler@bangormaine.gov), Kate Dufour (kdufour@memun.org) or Frank D'Alessandro (frank@mejp.org). We look forward to participating in your discussions on the working group's recommendations.

§4311. State reimbursement to municipalities; reports

1. Departmental reimbursement. When a municipality incurs net general assistance costs in any fiscal year prior to July 1, 2015 in excess of .0003 of that municipality's most recent state valuation relative to the state fiscal year for which reimbursement is being issued, as determined by the State Tax Assessor in the statement filed as provided in Title 36, section 381, the Department of Health and Human Services shall reimburse the municipality for 90% of the amount in excess of these expenditures when the department finds that the municipality has been in compliance with all requirements of this chapter. If a municipality elects to determine need without consideration of funds distributed from any municipally-controlled trust fund that must otherwise be considered for purposes of this chapter, the department shall reimburse the municipality for 66 2/3% of the amount in excess of such expenditures when the department finds that the municipality has otherwise been in compliance with all requirements of this chapter.

The department shall reimburse each municipality and each Indian tribe 70% of the direct costs incurred by that municipality or tribe on or after July 1, 2015 for the general assistance program granted by that municipality or tribe. For the purposes of this subsection, "Indian tribe" has the same meaning as in section 411, subsection 8-A.

1-A. Municipalities reimbursed.

A. When a municipality pays for expenses approved pursuant to section 4313 for hospital inpatient or outpatient care at any hospital on behalf of any person who is otherwise eligible and who would have been entitled to receive payments for hospital care if that care had been rendered prior to May 1, 1984, for services under the Catastrophic Illness Program, section 3185, the department shall reimburse the municipality for 100% of those payments.

B. When a municipality provides payment for emergency general assistance pursuant to this chapter, and those expenses are in excess of the maximum levels of assistance established by that municipality, the department shall reimburse the municipality as follows:

- (1) 70% of the amount of those payments up to the maximum levels of assistance; and
- (2) 100% of the amount of those payments that exceed the maximum levels of assistance.

§4323. DEPARTMENT OF HEALTH AND HUMAN SERVICES; RESPONSIBILITIES

The Department of Health and Human Services shall, in accordance with this section, share responsibility with municipalities for the proper administration of general assistance.

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.

1-A. Education. The department shall ensure that all general assistance overseers have access to training describing the purpose of the program and the laws governing its administration. The department or the Maine Welfare Directors Association may provide this training and shall make the training available in-person, online or through video presentations so that overseers can participate remotely at times convenient to them. The department shall provide to each general assistance administrator/overseer a clear written list of expectations that all cities and towns are expected to meet in the administration of the general assistance program and the department must post it prominently on its website.

2. Violation; penalty. If the department finds any violation of this chapter after review, it shall notify the municipality that it has 30 days in which to correct that violation and specify what action shall be taken in order to achieve compliance. The municipality shall file a plan with the department setting forth how it will attain compliance. The department shall notify the municipality if the plan is acceptable and that it will review the municipality for compliance within 60 days of accepting the plan. Any municipality which fails to file an acceptable plan with the department, or which is in violation of this chapter at the expiration of the 60-day period shall be subject to a civil penalty of not less than \$500. The Department of Health and Human Services shall enforce this section in any court of competent jurisdiction. Every 30-day period that a municipality is in violation of this chapter after review and notification shall constitute a separate offense. In addition to the civil penalty, the department shall withhold reimbursement to any municipality which is in violation of this chapter until it reaches compliance.

3. Departmental assistance. Whenever the department finds that a person in immediate need of general assistance 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 administrative cost 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.

4. Appeal. Any municipality 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.

5. Emergency contact information. The department shall collect from each municipality emergency contact information for use by municipal residents in applying for assistance under this section. The department shall forward the municipal emergency contact information

periodically to the statewide 2-1-1 telephone number designated pursuant to Title 35-A, section 7108.

6. Publication of data. The department shall report on a quarterly basis the amount of general assistance expended by a municipality for each type of assistance provided by the municipality, the amount of assistance expended by the State of Maine, the number of individuals or household served by each municipality, the type of assistance provided by each municipality, and the number of instances in which the Department provided assistance pursuant to §4323 of this Chapter.

FISCAL NOTE

129th MAINE LEGISLATURE

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An Act To Improve the Administration of General Assistance in the State of Maine

Note for Bill as Engrossed with:

Committee: Health and Human Services

Fiscal Note

FY 2019-20FY	2020-21	FY 2021-22	FY 2022-23
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Appropriations/Allocations

Other Special Revenue Funds

Revenue

Other Special Revenue Funds

Fiscal Detail and Note

This bill requires the Department of Health and Human Services to hire additional staff and provide ongoing training to the newly hired and existing state employees charged with supervising the implementation of the general assistance program.

This bill also requires the Department of Health and Human Services to use staff to provide education and training to municipal personnel administering the general assistance program and to develop training materials to be used in those trainings.

This bill also requires the State of Maine to reimburse municipalities for 100% of emergency general assistance awarded by the municipality that exceed the maximum levels of assistance set forth in the municipality's general assistance ordinance.