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Legislative Document

No. 1431

H.P. 1052

House of Representatives, April 7, 2011

An Act To Establish Standards for the Administration of General Assistance Programs

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative STUCKEY of Portland.
Cosponsored by Senator JACKSON of Aroostook and
Representatives: FREDETTE of Newport, MacDONALD of Boothbay, ROTUNDO of
Lewiston, Senators: ALFOND of Cumberland, FARNHAM of Penobscot.

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

2 **Sec. 1. 22 MRSA §4323, sub-§1**, as amended by PL 1985, c. 489, §§11 and 14, is
3 further amended to read:

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

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

11 The department shall report the results of its review in writing to the municipality and,
12 when applicable, to the complainant. The written notice ~~shall~~ **must** set forth the
13 department's findings of whether the municipality is in compliance with this chapter. If
14 the department determines that a municipality is not in compliance with this chapter, the
15 department shall establish a corrective action plan pursuant to section 4329, subsection 3.

16 **Sec. 2. 22 MRSA §4323, sub-§2**, as enacted by PL 1983, c. 577, §1 and amended
17 by PL 2003, c. 689, Pt. B, §6, is repealed.

18 **Sec. 3. 22 MRSA §4327** is enacted to read:

19 **§4327. Municipal certification**

20 The department shall certify that a municipality is qualified to administer a general
21 assistance program in accordance with this section if the department determines that the
22 municipality is operating a general assistance program in accordance with this chapter
23 and the following standards:

24 **1. Electronic records required.** The municipality must maintain an electronic
25 record of all applications for general assistance and the disposition of each, including
26 whether the application was granted or denied in whole or in part; the basis for the
27 decision; and the amount and type of any general assistance provided;

28 **2. Training and certification.** All overseers and any others responsible for taking
29 applications or determining eligibility for general assistance in the municipality must be
30 certified by the department and recertified at least every 2 years as evidenced by the
31 successful completion of a training program established by the department by routine
32 technical rule that provides information related to current laws and rules governing the
33 general assistance program;

34 **3. Verification of information.** The municipality must be able to verify available
35 information needed to determine eligibility for general assistance by electronic data
36 interchange with the department; and

37 **4. Assistance in accessing appropriate resources.** The municipality must assist
38 general assistance applicants and recipients to access other resources available to help

1 them meet their basic necessities. If an applicant or recipient has an illness or disability
2 that may be severe enough to qualify that individual for social security disability
3 insurance benefits or supplemental security income disability benefits, the municipality
4 must: assist that individual to complete or arrange for assistance needed by that
5 individual to complete the required application; ensure that appropriate and
6 comprehensive medical evidence is submitted in support of the application; arrange for
7 any additional medical assessment necessary to establish the individual's disability; and
8 obtain legal representation for the individual to appeal an adverse disability benefits
9 decision when appeal is warranted.

10 **Sec. 4. 22 MRSA §4328** is enacted to read:

11 **§4328. Decertification; alternative administration**

12 **1. Failure to certify; decertification.** If a municipality is not certified to administer
13 a general assistance program under section 4327, or, if certified, has not administered the
14 program in accordance with law and has failed to meet the requirements of a corrective
15 action plan established under section 4329, the department shall administer the general
16 assistance program in that municipality or contract with another municipality or nonprofit
17 organization to administer the program in that municipality.

18 **2. Financial obligation.** A municipality that is not certified to administer a general
19 assistance program under section 4327 remains financially responsible for municipal
20 general assistance provided to any individual for whom it is the municipality of
21 responsibility by an alternative entity pursuant to subsection 1.

22 **3. Reimbursement for administrative cost.** An entity that administers a general
23 assistance program for a municipality pursuant to subsection 1 is entitled to receive an
24 administrative fee for that administration in accordance with rules adopted by the
25 department. Such administrative payments are limited to revenue received in
26 reimbursement for assistance from social security administration interim assistance
27 agreements that is in excess of the amount received by the department from such interim
28 assistance reimbursements in state fiscal year 2009-10.

29 **Sec. 5. 22 MRSA §4329** is enacted to read:

30 **§4329. Improper administration**

31 **1. Complaints of improper administration.** If the department determines that a
32 municipality is not administering its general assistance program in compliance with this
33 chapter or if it receives a number of complaints from individuals in a particular
34 municipality pursuant to section 4323 related to alleged improper administration of a
35 general assistance program that exceeds the average number of complaints made under
36 that section per municipality, taking into account municipal size, the department shall
37 immediately investigate the administration of the general assistance program in that
38 municipality.

39 **2. Department investigation.** The results of the department's investigation pursuant
40 to subsection 1 must be communicated to the municipality and any individual whose

1 complaint gave rise to the investigation. The results of the department's investigation
2 must include specific findings arising from the investigation and the specific reasons
3 underlying the department's determination whether the municipality was operating its
4 general assistance program in accordance with law and the department shall inform the
5 municipality and complainant of the right to a fair hearing to review the decision of the
6 department. A fair hearing under this section must be conducted pursuant to the
7 department's administrative hearing rules with a right of appeal pursuant to the Maine
8 Rules of Civil Procedure, Rule 80C.

9 **3. Corrective action plan.** If the department determines that a municipality has
10 improperly administered its general assistance program, the department shall establish a
11 corrective action plan for that municipality. The corrective action plan must provide that
12 an individual found as a result of the department's review to be improperly denied general
13 assistance in whole or in part must be given notice of the opportunity to reapply for
14 general assistance, including the right to appeal any subsequent denial of general
15 assistance. If the municipality fails to comply with the terms of the corrective action plan
16 as evidenced by additional complaints or determined through department review, it is no
17 longer certified to administer a general assistance program and the department shall
18 designate another entity to administer the general assistance program in that municipality
19 under section 4328.

20 **4. Determination; right to fair hearing.** A determination relative to the
21 decertification of a municipality under this section must be communicated to the
22 municipality and to an individual whose complaint gave rise to the action promptly in
23 accordance with rules established by the department. The determination must include the
24 specific reason or reasons for the action and must inform the municipality and
25 complainant of the right to a fair hearing to review the decision relative to decertification
26 of the municipality. Any final decision reversing a finding by the department that a
27 municipality did not fail to comply with the terms of a corrective action plan must result
28 in decertification of that municipality under this section. A fair hearing under this section
29 must be conducted pursuant to the department's administrative hearing rules with a right
30 of appeal pursuant to the Maine Rules of Civil Procedure, Rule 80C.

31 SUMMARY

32 This bill establishes standards for municipal administration of a general assistance
33 program. It requires the Department of Health and Human Services to certify that a
34 municipality is qualified to administer a general assistance program based on the
35 standards and applicable law. If the department determines that a municipality has
36 improperly administered its general assistance program, the department shall establish a
37 corrective action plan for that municipality. If a municipality is not certified to
38 administer a general assistance program or, if certified, has not administered the program
39 in accordance with law and has failed to meet the requirements of a corrective action
40 plan, the department shall administer the program in that municipality itself or contract
41 with another municipality or nonprofit organization to administer the program in that
42 municipality, with the decertified municipality remaining liable for the cost of the
43 program.

