LEWISTON CITY COUNCIL WORKSHOP AGENDA

CITY COUNCIL CHAMBERS, CITY HALL

TUESDAY, NOVEMBER 24, 2015

6:00 p.m. Workshop

Pledge of Allegiance to the Flag.
Moment of Silence.

1. Discussion of a General Assistance Ordinance Amendment - Eligibility

ES-1. Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

ES-2. Executive Session pursuant to MRSA Title 1, section 405(6) (e) to consult with the City Attorney regarding a personnel matter.

ES-3. Executive Session pursuant to MRSA Title 1, section 405(6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

ES-4. Executive Session to discuss Disposition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

The City of Lewiston is an EOE. For more information, please visit our website @ www.lewistonmaine.gov and click on the Non-Discrimination Policy.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, November 24, 2015
6:00 PM WORKSHOP
CITY COUNCIL CHAMBERS, LEWISTON CITY HALL

1. General Assistance Ordinance Amendment -- Eligibility

   For some time, there has been considerable uncertainty about General Assistance expenditures which are/are not eligible for state reimbursement, especially in regard to asylum applicants. This has included a disagreement between the Governor and Attorney General and a law suit filed by several municipalities. After the suit was settled, the City adopted the position that, while it would continue to provide assistance to asylum applicants already in the program, no new applications from such individuals would be granted after July 1, 2015. Subsequently, the State legislature amended state law (copy attached) to require, as of July 1, that a person who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief would be eligible for General Assistance for a period not to exceed 24 months. This law is now in effect. Recently, Councilor Libby asked us to review whether our General Assistance ordinance should be amended to reflect state law. Our current ordinance has a very broad definition of who is eligible that now basically covers anyone who is in need. Additionally, it does not include the 24 month limitation. As a result, our ordinance actually provides greater coverage than required by state law. We have discussed this with our attorney who agrees that the ordinance should be amended to reflect both state law and our actual current practice which reflects state law. A draft ordinance amendment is attached.

2. Executive Session – Property Acquisition

3. Executive Session – Personnel/Labor Negotiations/Consultation with Attorney

4. Executive Session – Economic Development

5. Executive Session – Land Disposition

LAW WITHOUT GOVERNOR'S SIGNATURE (Originals not returned by Governor) JULY 7, 2015

CHAPTER 324 PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND FIFTEEN

S.P. 137 - L.D. 369

An Act To Clarify the Immigration Status of Noncitizens Eligible for General Assistance

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

Sec. 1. 22 MRSA §4301, sub-§3, as amended by PL 2013, c. 368, Pt. OO, §4, is further amended to read:

3. Eligible person. "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance. "Eligible person" does not include a person who is a fugitive from justice as defined in Title 15, section 201, subsection 4. Beginning July 1, 2015, in accordance with 8 United States Code, Section 1621(d), "eligible person" means a person who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief, except that assistance for such a person may not exceed 24 months.

Chapter 46

GENERAL ASSISTANCE*

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***Cross references:** Administration, ch. 2.

ARTICLE I. IN GENERAL

Sec. 46-1. Introductory provisions.

(a) The city shall administer a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided in this chapter and in 22 M.R.S.A. § 4301 et seq.

(b) Every effort will be made to recognize the dignity of the applicant for general assistance and to encourage self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance will promote strengthening the family, especially with regard to the care and protection of children.

(c) The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on gender, age, race, religion, disability or political affiliation. The applicant or recipient will be informed of his rights and responsibilities under the general assistance program.

(d) The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the applicant will receive a written decision whether or not assistance is granted, and that will state the specific reasons for the decision. The administrator will also give the applicant written notice that the applicant may appeal to the municipal fair hearing authority, if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted, except when the administrator issues nonemergency assistance conditionally on the successful completion of a workfare assignment.

(e) The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.

(f) The administrator will post a notice stating the days and hours the administrator will be available. A copy of this chapter and the Maine General Assistance Law, 22 M.R.S.A. § 4301 et seq., will be readily available to any member of the public upon request.

(g) The general assistance administrator will refer to and abide by any other city ordinance to define a condition, area or situation. The administrator will not pay rent to a building owner or landlord when that building, or any unit in that building, has been placarded, condemned, unlicensed, or is known to be in violation of any other municipal ordinance.

(Ord. No. 92-6, § 13-1, 3-5-92; Ord. No. 94-2, § 13-1, 5-5-94; 12-9, 8-16-12)

Cross references: Municipal work program, § 46-67.

Sec. 46-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who has submitted, either directly or through an authorized

representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application form means a standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic necessities means food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the city. The term "basic necessities" does not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full.

Case record means an official file containing application forms, correspondence, narrative records and all other communications pertaining to an applicant or recipient, written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Caseworker. The term "overseer" shall be that official so designated by the municipal officers, and the term shall incorporate those personnel within the division of general assistance who act as agents of the overseer.

Categorical assistance means all state and federal income maintenance programs.

Claimant means a person who has requested a fair hearing.

Disabled person means a person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

Dwelling unit means a building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit.

Eligible ~~person~~Person means a ~~person~~Resident who is otherwise qualified to receive general assistance from the municipality, according to the ~~standards~~requirements of ~~eligibility set forth in~~ this chapter~~.~~ and 22 M.R.S. § 4301(3). For purposes of this chapter, the term "Eligible ~~person~~Person" shall include all U.S. citizens and permanent residents aliens who otherwise meet the qualifications of this chapter, and nonresident aliens who:

(a) have been lawfully admitted or paroled into the United States and who are not unlawfully present under U.S. immigration and nationality law; or

(b) are seeking benefits under United States immigration and nationality law, as evidenced by: a receipt notice or other documentation of a pending application for benefits or relief, a sworn statement from the Applicant's attorney identifying the requested relief and confirming that the applicant has a

meritorious basis for requesting the relief, or a sworn statement from the applicant identifying the requested relief and confirming that he or she is taking all reasonable steps necessary to obtain the relief; or

(c) are unaccompanied minors;

(d) are the parent, guardian, or sibling of a U.S. citizen minor child;

(e) are living in the United States with the knowledge and permission of the Department of Homeland Security (DHS) and DHS does not contemplate enforcing the applicant's departure.

The term "Eligible Person" does not include a person who is a fugitive from justice as defined in ~~Title~~ 15~~, section~~ M.R.S. § 201~~, subsection~~ (4~~.~~). For purposes of this chapter, U.S. citizens, lawful permanent residents, and aliens who have been lawfully admitted or paroled into the United States and who are not unlawfully present, are not subject to the 24 month limitation stated in 22 M.R.S. § 4301(3). For purposes of this chapter, assistance to applicants who are Eligible Persons under subpart (b) of this definition, may not exceed 24 months.

Emergency means any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person.

General assistance administrator means a municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. The administrator may be an overseer or an authorized agent such as a town manager, welfare director, or caseworker.

General assistance program means a service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance.

Household means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is a pooling of income.

Income means any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, 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, household income from any other source, including relatives or unrelated household members and any benefits received pursuant to Title 36, chapter 907 and Title 36, section 5219-II, unless used for basic necessities as defined in section 4301, subsection 1.

The following items shall not be considered as income or assets which must be liquidated for the purposes of deriving income.

(1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

(2) 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

(3) Earned 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 application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality.

Notwithstanding this prospective calculation, if any applicant or recipient receives a lump sum payment prior or subsequent to applying for assistance, that payment must be prorated over future months.

Just cause means a valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility.

Lump sum payment means a one-time or typically nonrecurring sum of money issued to an applicant or recipient. "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.

Maximum levels of assistance means the amount of assistance as established in article IV or the actual cost of any basic necessity, whichever is less.

Misconduct shall have the same meaning as misconduct defined in 26 MRSA§1043 (23). Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interests may also be found guilty of misconduct.

Municipality means any city, town or plantation administering a general assistance program.

Municipality of responsibility means the municipality which is liable for the support of an

~~eligible person~~Eligible Person at the time of application.

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

Net general assistance costs means those direct costs incurred by a municipality in providing assistance to ~~eligible persons~~Eligible Persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program.

Period of eligibility means the time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance, provided, however, that in no event shall this period extend beyond one month.

Pooling of income means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling income.

Real estate means any land, buildings, homes, mobile homes, and any other things affixed to the land.

Recipient means a person who has applied for and is currently receiving general assistance.

Resident means a person who is physically present in Lewiston with the intention of remaining in Lewiston in order to maintain or establish a home and who has no other residence. A person who applies for assistance in Lewiston who is not a resident of Lewiston or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he is eligible, until he establishes a new residence in another municipality. See section 46-40.

Resources means and includes any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: available and potential.

(1) *Available resources.* Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when:

a. The applicant voluntarily agrees to utilize such services;

b. The municipality has established a contractual relationship with the private organization to provide services or commodities when requested;

c. The municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality; and

d. The service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist.

Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights. (Fjeld v. Lewiston, Andro. Sup. Ct. CV 87-4; Bolduc v. Lewiston, Andro. Sup. Ct. CV 87-248)

(2) *Potential resources.* Potential resources are programs, services, nonliquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released. Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual. Potential resources include TANF, food supplement, fuel assistance (HEAP), subsidized housing, and similar programs.

(Ord. No. 92-6, § 13-20, 3-5-92; Ord. No. 94-2, § 13-20, 5-5-94; 12-9, 8-16-12; Ord. No. 13-11, 7-1-13)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(1), (2), (3), (4), (5), (6), (7), (8), (8-A), (9), (10), (11), (13), 4307, 4308, 4309(1), 4310, 4311, 4316-A(5), 4317, 26 M.R.S.A. § 1043(23).

Sec. 46-3. Confidentiality of information.

(a) *Confidentiality.* Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released. (Janak v. D.H.S., Aroostook Cty #CV-89-116).

(b) *Release of information.* Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a legal representative or other third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his records. Whenever the administrator releases any information, he will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

(c) *Information from other sources; penalty.*

(1) Information furnished to the municipality by the department of human services or any other agency or institution pursuant to 22 M.R.S.A. § 4314 is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning birth, marriage and death.

(2) Any person who refuses to provide necessary information to the administrator in

order to verify an applicant's eligibility must state in writing the reason for the refusal. Any person who refuses to provide information, without just cause, may be subject to a civil penalty in accordance with the city's policy manual as approved by the city council. Any person, including the applicant, who knowingly and willfully gives false information to the administrator is committing a class E crime.

(d) *Misuse of information.* Misuse of any information relating to an applicant or recipient is a punishable offense.

(Ord. No. 92-6, § 13-30, 3-5-92; Ord. No. 94-2, § 13-30, 5-5-94; Ord. No. 08-06f, 8-14-08)

State law references: Similar provisions, 22 M.R.S.A. §§ 42(2), 2706, 4306, 4314, 4315.

Sec. 46-4. Maintenance of records.

(a) *Purpose.* The general assistance administrator will keep complete and accurate general assistance records. These records are necessary to:

(1) Provide a valid basis of accounting for municipal expenditures;

(2) Document and support decisions concerning an applicant or recipient; and

(3) Assure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

(b) *Case records.* The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assistance provided, narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's unmet need, written decisions, any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include a narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid and suspension or termination of eligibility.

Case records will not include information or material that is irrelevant to an applicant's or recipient's application or to the general assistance administrator's decisions.

(Ord. No. 92-6, § 13-31, 3-5-92; Ord. No. 94-2, § 13-31, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4306.

Secs. 46-5--46-30. Reserved.

ARTICLE II. APPLICATION PROCEDURE

Sec. 46-31. Right to apply.

(a) *Who may apply.* ~~Anyone~~Any Eligible Person may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative

must apply in person, except in special emergency situations as provided in section 46-39 or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance. The administrator may require a duly authorized representative to present a signed statement documenting that he is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility.

(b) *Telephone applications.* When a person has an emergency but is unable to apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and the person cannot send an authorized representative, the administrator will accept an application over the telephone. The telephone application process will include the administrator receiving written verification via mail or visiting the applicant's home with the applicant's permission.

(c) *Written application upon each request.* Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies.

(d) *Applications accepted; posted notice.* Applications will be processed during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance, and will include the information on the emergency contact available to take emergency applications at all other times. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator; however, in an emergency, the administrator will be available to accept applications for assistance whenever necessary.

(Ord. No. 92-6, § 13-40, 3-5-92; Ord. No. 94-2, § 13-40, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4304, 4305, 4308, 4309.

Sec. 46-32. Application interview.

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

(Ord. No. 92-6, § 13-41, 3-5-92; Ord. No. 94-2, § 13-41, 5-5-94)

Sec. 46-33. Contents of application.

At a minimum, the application will contain the following information:

(1) Applicant's name, address, date of birth, Social Security Number, and phone number;

(2) Names, dates of birth, and Social Security Numbers of other household members for whom the applicant is seeking assistance;

(3) Total number of individuals in the building or apartment where the applicant is residing;

(4) Employment and employability information;

(5) All household income, resources, assets, and property;

(6) Expenses;

(7) Types of assistance being requested;

(8) Penalty for false representation;

(9) Applicant's permission to verify information;

(10) Signature of applicant and date.

(Ord. No. 92-6, § 13-42, 3-5-92; Ord. No. 94-2, § 13-42, 5-5-94)

Sec. 46-34. General assistance administrator's responsibilities at time of application.

(a) *Generally.* The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and reimbursement obligations.

(b) *Application requirements.* The administrator will fill out the application as described in section 46-33, with information and documentation provided by the applicant. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

(c) *Eligibility requirements.* The administrator will inform the applicant of the eligibility requirements of the program, including the income standard of need; the applicant's ongoing use-of-income, work related, and resource related responsibilities, as described in section 46-35; the financial reduction in assistance that is the consequence of spending household income on nonnecessities; and the disqualification penalties associated with committing fraud, failing to perform work related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

(d) *Applicant rights.* The administrator will inform all applicants of their rights to, review this chapter and the state general assistance law, apply for assistance, receive a written decision concerning eligibility within 24 hours of applying for assistance, confidentiality, contact the department of health and human services, and challenge the administrator's decision by requesting a fair hearing.

(e) *Reimbursement, recovery.* The administrator will inform the applicant that he must reimburse the municipality for the amount of general assistance he has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see article VI, relative to recovery of expenses). Whenever applicable, the administrator will explain the various

liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the workers' compensation lump sum payment lien or the SSI interim assistance agreement lien, as these liens are described in article VI.

(Ord. No. 92-6, § 13-43, 3-5-92; Ord. No. 94-2, § 13-43, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4318, 4319.

Sec. 46-35. Responsibilities of applicant at time of application.

(a) The applicant has the responsibility at the time of each application to provide accurate, complete and current information and verifiable documentation concerning the applicant's income, resources, assets, household employment, how the applicant has spent his income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect the applicant's eligibility.

(b) In addition, the applicant must accurately report and provide verifiable documentation that shows that the applicant:

(1) Has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;

(2) Has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

(3) Has made use of all available and potential resources when directed in writing to such a program by the administrator, including but not limited to other government benefit programs or the assistance of liable relatives of sufficient means; and

(4) Has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance.

(Ord. No. 92-6, § 13-44, 3-5-92; Ord. No. 94-2, § 13-44, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4309, 4316-A, 4317.

Sec. 46-36. Action on applications.

(a) *Written decision.* The general assistance administrator will give a written decision to the applicant concerning his eligibility within 24 hours after he submits a written application and will furnish assistance to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 46-67) to issue assistance conditionally on the successful completion of a workfare assignment. A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

(b) *Content of decision.* The written decision on the application will contain the following information:

(1) The type and amount of aid the applicant is being granted or the applicant's ineligibility;

(2) The period of eligibility if the applicant is eligible for assistance;

(3) The specific reasons for the decision;

(4) The applicant's right to a fair hearing; and

(5) The applicant's right to notify the department of health and human services if he believes the municipality has acted illegally.

(Ord. No. 92-6, § 13-45, 3-5-92; Ord. No. 94-2, § 13-45, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4305, 4321.

Sec. 46-37. Withdrawal of an application.

An application is considered withdrawn if:

(1) The applicant requests, in writing, that his application be withdrawn; or

(2) The applicant refuses to complete or sign the application, or any other form needed by the general assistance administrator.

(Ord. No. 92-6, § 13-46, 3-5-92; Ord. No. 94-2, § 13-46, 5-5-94)

Sec. 46-38. Temporary refusal to accept application.

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

(1) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be requested to leave. If the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his conduct is under control;

(2) When a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he has been duly authorized to act as a representative for the applicant.

(Ord. No. 92-6, § 13-47, 3-5-92; Ord. No. 94-2, § 13-47, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4308.

Sec. 46-39. Emergencies.

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household. Although applicants may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and

have not had sufficient income and resources to avert the emergency. The following exceptions and conditions apply when determining eligibility for emergency assistance.

(1) *Disqualification.* A person who is currently disqualified from receiving general assistance due to a violation of sections 46-66, 46-67, 46-68 and 46-94 is ineligible to receive emergency assistance. Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: (i) a dependent minor child; (ii) an elderly, ill or disabled person; or (iii) a person whose presence is required to provide care for any child under the age of six years or any ill or disabled member of the household. If one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

(2) *Assistance prior to verification.* Whenever an applicant informs the administrator that he needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

a. After interviewing the applicant, the administrator has determined that he will probably be eligible for assistance after a verification of information is completed; and

b. The applicant submits documentation, when possible, to verify his need.

The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility has been confirmed.

(3) *Telephone applications.* If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the administrator will accept an application over the telephone.

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his home, or by mail, and the administrator cannot determine his eligibility through any other means.

(4) *Limitation on emergency assistance.* Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation.

According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

a. The applicable time period shall be the 30 days preceding the application

for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

b. The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his basic necessities for the applicable time period, including evidence of all income and resources for the applicable time period.

c. The administrator shall compute all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this chapter for the specific basic necessities or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.

d. From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

e. The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (4)d, above, even when such a grant will not totally alleviate the emergency situation.

f. The administrator may waive this limitation on emergency assistance in life threatening situations or for first time applicants, that is, persons who have never before applied for general assistance.

g. Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. Upon subsequent applications, that household's eligibility is subject to all the standards established by this chapter.

(Ord. No. 92-6, § 13-48, 3-5-92; Ord. No. 94-2, § 13-48, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(4), 4308, 4308(2)(A), 4308(3), 4309(3), 4310.

Sec. 46-40. Residence.

(a) *Eligibility.* The administrator shall provide general assistance to all ~~eligible persons~~Eligible Persons applying for assistance who are residents of this municipality. A "resident" is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household. The municipality also recognizes its responsibility to provide assistance to ~~eligible persons~~Eligible Persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his eligibility and, if eligible, will grant assistance until he establishes a residence in another municipality.

(b) *Moving, relocating.* The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after the applicant moves, provided the recipient remains eligible.

(c) *Institutions.* If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitative center, nursing home, or hospital) and requests assistance while at the institution, he will be the responsibility of this municipality for up to six months after he enters the institution. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution.

(d) *Temporary housing.* Hotels, motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: Municipalities which illegally deny housing assistance, and as a result of the denial the applicant stays in temporary lodging, are responsible for the applicant for up to six months and may be subject to other penalties.]

(e) *Disputes.* When the administrator believes that an applicant is a resident of another municipality, but that municipality disputes its responsibility, the administrator will notify the department of human services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his eligibility and, if eligible, will grant assistance until the department has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the department will recover the amount due from the other municipality.

(Ord. No. 92-6, § 13-49, 3-5-92; Ord. No. 94-2, § 13-49, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4307, 4307(4), (5), (6).

Secs. 46-41--46-60. Reserved.

ARTICLE III. ELIGIBILITY FACTORS

Sec. 46-61. Generally.

~~A person will be eligible for~~An Eligible Person may receive general assistance if he is in need and has complied with the eligibility requirements set forth in this article.

(Ord. No. 92-6, art. V, 3-5-92; Ord. No. 94-2, art. V, 5-5-94)

Sec. 46-62. Initial application; repeat applicants.

(a) *Initial application.*

(1) For initial applicants, except as provided below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct. See section 46-66. An initial applicant is a person who has never before applied for general assistance in any Maine municipality.

(2) *Need* means that the applicant's income, including pro-rated income where applicable, property, credit, assets or other resources are less than the overall maximum levels of assistance established in accordance with section 46-98 or the actual 30-day costs, whichever is less, and he doesn't have adequate income or other resources available to provide basic necessities.

(b) *Subsequent applicants.* Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need, have used their income and resources to secure basic necessities, and meet all other eligibility requirements.

(Ord. No. 92-6, § 13-50, 3-5-92; Ord. No. 94-2, § 13-50, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4308(1), 4316-A(1A).

Sec. 46-63. Eligibility for categorical assistance.

(a) Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of food stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. section 2017(b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or resources; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his total fuel costs (42 U.S.C. section 624(f); Dept. of Health and Welfare v. Block, 784 F.2d 895). The computation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under types of income at section 46-96.

(b) Applicants or recipients must apply for other program benefits within seven days after

being advised in writing to do so by the general assistance administrator. Persons who, without just cause, fail to make a good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit.

(Ord. No. 92-6, § 13-51, 3-5-92; Ord. No. 94-2, § 13-51, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4317.

Sec. 46-64. Personal property.

(a) *Liquid assets.* No person owning assets easily convertible into cash, including, but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security, will be eligible for general assistance unless and until he uses these assets to meet his basic needs and thereby exhausts them.

(b) *Tangible assets.* No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are nonessential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application and when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

(c) *Automobile ownership.* Ownership of one automobile per household will not make a person ineligible for assistance, if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant and his family. Recipients of general assistance who own an automobile with a market value greater than $8,000.00 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than $8,000.00. Any income received by the applicant by virtue of such a trade-down must be used for his basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification. The municipality will neither pay, nor consider as necessary expenses, any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with section 46-98, regarding work related expenses.

(d) *Insurance.* Insurance that is available to an applicant on a noncontributory basis, or that is required as a condition of employment, will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for four weeks or more after an application for assistance.

(e) *Transfer of property.* Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the

applicant transferred his assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

(Ord. No. 92-6, § 13-52, 3-5-92; Ord. No. 94-2, § 13-52, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. § 4317.

Sec. 46-65. Ownership of real estate.

(a) If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

(1) Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or

(2) Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.

(b) If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient. See section 46-97.

(Ord. No. 92-6, § 13-53, 3-5-92; Ord. No. 94-2, § 13-53, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4320.

Sec. 46-66. Work requirement.

All general assistance recipients are required to work, look for work, and fulfill the work requirements, unless they are exempt as provided in this section.

(1) *Employment, rehabilitation.* All unemployed applicants and members of their households who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided in this article (see exemptions). Applicants must demonstrate to the administrator that they are available for work and are actively seeking full time employment.

a. *Suitable job* means any job (at a rate of at least the state's minimum wage) which the applicant is mentally and physically able to perform.

b. *Available for work* means that applicants must make themselves available for work during the normal business hours prevailing in the area and show that no circumstance exists which would prevent them from complying with the work requirement.

(2) *Verification.* Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. If

employment is pursued online, an actual application must be completed, and a receipt for the completed application must be provided *Pursuit of employment* means actually submitting a written application or applying for a job in person when reasonable, or submitting an online application. For the duration of any repeat applicant's period of unemployment or partial employment, each recipient will be responsible for providing documentation of their pursuit of employment according to the conditions set forth by the administrator. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

(3) *Disqualification.* After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

a. Refuse to register for employment with the state job service;

b. Refuse to search diligently for employment when the search is reasonable and appropriate. Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified;

c. Refuse to accept a suitable job offer;

d. Refuse to participate in an assigned training, education or rehabilitative program that would assist the applicant in securing employment;

e. Fail to be available for work;

f. Refuse to participate, or participate in a substandard manner, in the municipal work program. See section 46-67.

(4) *Disqualification for quitting job, discharge for misconduct.* No applicant, whether an initial or repeat applicant, who has quit his full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment.

(5) *Just cause.* Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. Just cause will be considered to exist when there is reasonable and verifiable evidence that:

a. The applicant has a physical or mental illness or disability, which prevents him from working;

b. Employment pays below minimum wage;

c. The applicant was subject to sexual harassment;

d. The applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

e. The applicant has no means of transportation to or from work or a training or rehabilitation program;

f. The applicant is unable to arrange for necessary child care or care of ill or disabled family members;

g. Any reason found to be good cause by the state department of labor or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause.

(6) *Applicant's burden of establishing just cause.* If the administrator finds that the applicant has violated a work related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause.

(7) *Eligibility regained.* Persons who are disqualified for 120 days because they violated the work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement they violated. Persons who have been disqualified for 120 days for failing or refusing to participate in the municipal workfare program or for performing their workfare assignment in a substandard manner shall be limited to a single opportunity to regain eligibility. If a workfare participant fails to regain eligibility, without just cause, after being offered a distinct and separate opportunity to do so, the administrator shall enforce the 120-day disqualification for the term of its initial duration. If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial period of disqualification for failing to comply with the municipal work program, that participant shall be ineligible for a new 120-day period beginning with a new disqualification date, but with no opportunity to requalify.

(8) *Dependents.* Failure of an otherwise ~~eligible person~~Eligible Person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

a. A dependent minor child;

b. An elderly, ill, or disabled person; and

c. A person whose presence is required in order to provide care for any child under six years of age or for any ill or disabled member of the household.

If one or more members of a household are disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

(9) *Exemptions.*

a. The work requirements of this section do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the family residing in the household is also exempt from the requirements of this section.

b. The requirements of this section will not be imposed so as to interfere with

an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved or determined by the department of labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program under the control of the department of human services or department of labor.

(Ord. No. 92-6, § 13-54, 3-5-92; Ord. No. 94-2, § 13-54, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. § 4301(8), 4309(3), 4316-A(1A), (4).

Sec. 46-67. Municipal work program.

(a) *Participation.* Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a nonprofit organization, as a condition of receiving assistance. The work requirement provisions found in section 46-66 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

(b) *Consent.* Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

(c) *Limitations.* The work requirement is subject to the following limitations:

(1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives 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 the rate of at least the prevailing minimum wage under state or federal law.

(2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

(3) In no case shall ~~eligible persons~~Eligible Persons performing work under this section replace regular municipal employees.

(4) In no case will work performed under this section interfere with an ~~eligible person's~~Eligible Person's:

a. Existing employment;

b. Ability to follow up on a bona fide job offer;

c. Attendance at an interview for possible employment;

d. Classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or

e. Classroom or on-site participation in a training program which is approved or determined by the department of labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree granting program operated under the control of the department of human services or the department of labor.

(5) In no case may an ~~eligible person~~Eligible Person be required to work more than 40 hours per week. An ~~eligible person~~Eligible Person who has full- or part-time employment shall be exempt from the work requirement, to the extent that the work requirement in combination with his regular employment would result in the person working more than 40 hours per week.

(6) In no case will an ~~eligible person~~Eligible Person be required to perform work beyond his capabilities. However, when an illness or disability is claimed, an ~~eligible person~~Eligible Person may be required, as a condition of receiving assistance, to present a medical statement detailing the extent of the disability or illness. If the administrator requires a medical statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam; however, in such a case, the administrator will choose the medical provider. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention.

(7) In no case may an ~~eligible person~~Eligible Person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this section prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the ~~eligible person~~Eligible Person that he is willing to perform workfare in order to continue to be eligible for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following workfare first policy.

(d) *Workfare first policy.* Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

(1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

(2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:

a. A specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

b. The period of eligibility for which the general assistance grant is being issued, in days or weeks but not to exceed 30 days;

c. The rate, at a dollar-per-hour basis, but not less than the prevailing minimum wage, upon which the duration of the workfare assignment is calculated;

d. The actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

e. The specifics of the workfare assignments, including the general nature of the type of work being assigned, locations of work sites, dates and times of assigned workfare, workfare supervisors' names and contact telephone numbers; and

f. Any other pertinent information related to the workfare assignments the recipient will be expected to perform.

(3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his workfare related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

(4) In addition to any disqualification penalty that may apply, the consequences of refusing to perform or failing to completely perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards for that job, without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided to the workfare participant in accordance with section 46-99.

(5) If some of the workfare first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination and the reasons therefore will be issued to the workfare participant in accordance with section 46-99.

(6) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.

(e) *Work-related expenses.* A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person. The municipality will provide any special clothes or equipment the recipient needs to perform his work assignment, if they are not available through other sources.

(f) *Disqualification.* Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for 120 days. As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient that he is

disqualified for 120 days unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

(g) *Eligibility regained.* Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions:

(1) Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see section 46-66).

If during the 120-day disqualification period the recipient makes a timely and reasonable request to perform the work assignment which he, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain his eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked to regain their eligibility during a 120-day disqualification period and who agree to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

(2) If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but with no opportunity to requalify.

(3) Any recipient who intentionally causes damage to property or harms other employees by his actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

(4) For the purposes of regaining eligibility under section 46-66 and this section by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § 1043 et seq., or a service performed for an employer who withholds from the employee a social security tax pursuant to federal law.

(h) *Reports.* The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the department of human services.

(Ord. No. 92-6, § 13-55, 3-5-92; Ord. No. 94-2, § 13-55, 5-5-94)

Cross references: Nonemergency assistance issued conditionally upon successful completion of workfare assignment, § 46-1(d).

State law references: Similar provisions, 22 M.R.S.A. §§ 4309, 4316(5), 4316-A(1), (2), (3).

Sec. 46-68. Use of resources.

(a) *Required.* Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his need for general assistance (see definition of resources, section 46-2). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource.

(b) *Minors.* A minor under the age of 18 years who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

(1) The minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement;

(2) The minor has no living parent or the whereabouts of the parents are unknown;

(3) No parent will permit the minor to live in the parent's home;

(4) The minor has lived apart from both parents for at least one year before the birth of any dependent child;

(5) The department of human services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his child or children lived with a parent; or

(6) The department of human services determines, in accordance with its regulations, that there is good cause to waive this limitation on eligibility.

Any person under the age of 25 years who is applying independently from his parents for general assistance will be informed that until he reaches the age of 25, the applicant's parents are still legally liable for his support, and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his parents are financially capable of repaying the municipality. With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his parents (City of Bangor v. DHS, Penob. Cty #CV-90-28). If the applicant's parents declare a willingness to provide the applicant with his basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his needs are being provided by a legally liable relative.

(c) *Mental or physical disability.* Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been

recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant provided they would not constitute a financial burden or create a physical risk to the individual.

(d) *Written notice; disqualification.* The administrator will give each applicant written notice that he is required to utilize any and all potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written seven-day notice, will be ineligible for further assistance until he has made a good faith effort to utilize the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

(e) *Forfeiture of benefits.* Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. An applicant who is found to be ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to Title 26, section 1051, subsection 1 is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor.

(Ord. No. 92-6, § 13-56, 3-5-92; Ord. No. 94-2, § 13-56, 5-5-94; Ord. No. 13-11, 7-1-13)

State law references: Similar provisions, 19 M.R.S.A. §§ 441--443, 22 M.R.S.A. §§ 4309(4), 4317, 4319.

Sec. 46-69. Period of disqualification.

(a) *Notice; hearing.* No one will have his assistance terminated, reduced or suspended prior to being given written notice and an opportunity for a fair hearing. Each person will be notified in writing of the reasons for his ineligibility, and any person disqualified for not complying with this chapter will be notified in writing of the period of disqualification.

(b) *Work requirement.* People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility; see section 46-66). Recipients who do not comply with the work requirement and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.

(c) *Fraud.* People who commit fraud are disqualified from receiving assistance for a period of 120 days (see section 46-94, fraud). The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the

expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification, unless subsequently modified by the fair hearing authority.

(Ord. No. 92-6, § 13-57, 3-5-92; Ord. No. 94-2, § 13-57, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4321, 4322.

Secs. 46-70--46-90. Reserved.

ARTICLE IV. DETERMINATION OF ELIGIBILITY

Sec. 46-91. Recognition of dignity and rights.

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his individual rights.

(Ord. No. 92-6, § 13-60, 3-5-92; Ord. No. 94-2, § 13-60, 5-5-94)

Sec. 46-92. Determination; redetermination.

(a) The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly, but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

(b) The administrator may redetermine a person's eligibility at any time during the period he is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority.

(Ord. No. 92-6, § 13-61, 3-5-92; Ord. No. 94-2, § 13-61, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4309.

Sec. 46-93. Verification.

(a) *Applicant's responsibility.* Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his need, income, use of income, expenses,

and any changes in information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. The recipient is responsible for notifying the administrator of any changes in his household or income that may affect his eligibility. When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge and consent of the applicant.

(b) *Decision.* If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24-hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare first policy (see section 46-67). If all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24-hour period, and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance for that reason.

(c) *Denial of assistance.* The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished.

(d) *Right to verify.* It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: The department of human services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers and landlords, physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information.

(e) *Penalty for refusing to release information.* Any person who refuses to provide necessary information to the administrator, after it has been requested, must state in writing the reasons for the refusal within three days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than $25.00 nor more than $100.00, which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a class E crime.

(Ord. No. 92-6, § 13-62, 3-5-92; Ord. No. 94-2, § 13-62, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4309(1-B), 4314, 4315.

Sec. 46-94. Fraud.

(a) *Generally.* It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance. A "material fact" is any information which has direct bearing on the person's eligibility. "False representation" shall consist of any individual knowingly and willfully:

(1) Making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;

(2) Concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or

(3) Using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

(b) *Period of ineligibility.* When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself eligible for general assistance, the administrator shall notify the applicant in writing that he has been disqualified from receiving assistance for up to 120 days. For the purpose of this section, a "material misrepresentation" is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his right to appeal the administrator's decision to the fair hearing authority within five working days of receipt. Unless modified by the fair hearing authority, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later.

(c) *Right to a fair hearing.* Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with article V of this chapter. No recipient shall have his assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the superior court pursuant to rule 80-B.

(d) *Reimbursement.* If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he was not entitled.

(e) *Dependents.* In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household. If one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

(Ord. No. 92-6, § 13-63, 3-5-92; Ord. No. 94-2, § 13-63, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4315.

Sec. 46-95. Period of eligibility.

The administrator will grant assistance to all ~~eligible persons~~Eligible Persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month. Upon any application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

(Ord. No. 92-6, § 13-64, 3-5-92; Ord. No. 94-2, § 13-64, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4309.

Sec. 46-96. Determination of need.

The period of time used to calculate need will be the next 30-day period from the date of application. The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in the general assistance policy, whichever is less. Applicants will not be considered eligible if their income and other resources exceed this calculation, except in an emergency. See section 46-39.

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the general assistance policy. The difference between the applicant's income/resources and the overall maximum levels of assistance established by this chapter is the applicant's deficit. Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in the general assistance policy shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency.

(1) *Income for basic necessities.* Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to the application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility. Applicants who have sufficient income to provide their basic necessities, but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum levels of assistance.

(2) *Use-of-income requirements.* Anyone applying for general assistance must document his use of income to the administrator. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Any repeat applicants must verify that such an expenditure of income was for basic necessities.

a. Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; nonprescription drugs up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons; the costs of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing; and the costs of any other commodity or service determined essential by the administrator.

b. Cable television, cigarettes, alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc., are not considered basic necessities and will not be included in the budget computation.

c. The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his income for basic necessities or fails to reasonably document his use of income. Those additional requirements will be applied in the following manner:

1. The administrator may require the applicant to use some or all of his income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities.

2. The administrator will notify applicants in writing of the specific use-of-income requirements placed on them.

3. If upon subsequent application it cannot be determined how the applicant's income was spent, or if it is determined that some or all of applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income.

4. If the applicant does not spend his income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

(3) *Computation of income and expenses.* In determining eligibilty, the administrator will subtract the applicant's net income from the overall maximum level of

assistance found at the beginning of section 46-98. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see section 46-39).

The municipality will provide assistance in an amount up to the deficit to the extent the applicant is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 46-98 for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's unmet need, as provided in subsection (4) of this section.

(4) *Consolidation of deficit.* As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this chapter or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

a. The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;

b. The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and

c. The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient misspending his income or resources in violation of the use-of-income requirements of this chapter.

(Ord. No. 92-6, § 13-65, 3-5-92; Ord. No. 94-2, § 13-65, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(7), (10), 4305(3-A), (3-B), 4308(2), 4315-A.

Sec. 46-97. Income.

(a) *Income standards.* Applicants whose income exceeds the overall maximum level of assistance provided in the general assistance policy shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time they apply.

(b) *Calculation of income.* To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in the general assistance policy, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded. See section 46-39. To calculate weekly income and

expenses, the administrator will divide the applicant's monthly income and expenses by 4.3.

(c) *Types of income.* Income which will be considered in determining an applicant's need includes:

(1) *Earned income.* Income in cash or in-kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income. Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted.

(2) *Income from other assistance or social services programs.* State/federal categorical assistance benefits, SSI payments, social security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits food stamps and fuel assistance payments made by the home energy assistance program (HEAP) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP benefit has sufficiently credited their account or otherwise obliviated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP as if that applicant paid for his total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward nonheating purposes solely on the basis of the recipient's receipt of HEAP.

(3) *Court-ordered support payments.* Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the state department of human services' support enforcement location unit.

(4) *Income from other sources.* Payments from pensions and trust funds will be

considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives.

(5) *Earnings of a son or daughter.* Earned income received by sons and daughters below the age of 18 years who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

(6) *Income from household members.* Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another. (Boisvert v. Lewiston, CV#80-436, Androscoggin County Superior Court)

(7) *Pooling or nonpooling of income.* When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income. One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of nonpooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his pro rata share of household costs. If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his income and his pro rata share of actual household expenses.

(8) *Lump sum income.* A lump sum payment received by an applicant or recipient, prior to or subsequent to applying for assistance shall be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant or recipient can document was spent on basic necessities, as described below. The lump sum payment must be prorated over future months according to the following criteria:

The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or

purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the verified actual monthly amounts for all of the household's basic necessities. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

(Ord. No. 92-6, § 13-66, 3-5-92; Ord. No. 94-2, § 13-66, 5-5-94; 12-9, 8-16-12; Ord. No. 13-11, 7-1-13)

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(7), (8-A), (12-A), 4308.

Sec. 46-98. Basic necessities; maximum levels of assistance.

(a) *Overall maximum levels of assistance.* Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his income from the overall maximum level of assistance, established in Title 22, section 4305, subsection 3-C, as set in the general assistance policy for the applicable household size. The difference yielded by this calculation shall be the applicant's deficit. Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 46-39.

(b) *Maximum levels of assistance for specific basic necessities.* The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance as set forth in the general assistance policy. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs (Glidden v. Town of Fairfield, et al, CV79-17, Somerset County Superior Court). In all cases, either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need. The applicant's need for common living expenses for food, rent, fuel, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person, or which has been incurred in another person's name.

(1) *Food.* The administrator will provide food assistance to ~~eligible persons~~Eligible Persons up to the allowed maximum amounts as established by the city council in the general assistance policy, such amounts being as designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size, and distributed by the state department of human services on or about October of each year. In determining need for food, the administrator will not consider the value of food stamps an applicant receives as income (7 USC sec. 2017(b); Dupler, et al v. City of Portland, et al, CV-74-134 SD). The municipality will authorize vouchers to be used solely for approved food products.

(2) *Housing.* The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels established by the city council in the general assistance policy, and in accordance with the housing assistance limits provided in Title 22, section 4308, subsection 1-A; and in accordance with the housing exceptions provided in Title 22, section 4308, subsection 1-B. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed. Single individuals will be required to live in rooms, boardinghouses or shelters when such housing is available. Persons will be required to find rooms or apartments that have utilities furnished, unless they are residing in subsidized housing. Persons will be required to apply for, and accept, subsidized housing. The municipality will not pay security deposits or back bills, except in an emergency as provided in section 46-39.

(3) *Rental payments to relatives.* The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relatives rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relatives' children.

(4) *Rental payments to private homes.*

a. When applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum.

b. Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with most superior legal or equitable interest in the property.

c. When the municipality issues in aggregate more than $600.00 in rental payments to any landlord in any calendar year, a 1099 form declaring the

total amount of rental payments during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation. See section 6041(a) of the Internal Revenue Code.

d. Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the department of human services, division of health engineering, pursuant to 10-144A Code of Maine Regulations, chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his tenants.

(5) *Mortgage payments.*

a. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

1. The marketability of the shelter's equity;

2. The amount of equity;

3. The availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;

4. The extent to which liquidation may aid the applicant's financial rehabilitation;

5. A comparison between the amount of mortgage obligations and of anticipated rental charges the applicant would be responsible for if he were to be dislocated to rental housing;

6. The imminence of the applicant's dislocation from owned housing because of his inability to meet the mortgage payments;

7. The likelihood that the provision of housing assistance will prevent such dislocation; and

8. The applicant's age, health and social situation.

b. These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. If after reviewing the above criteria the administrator determines that the payment of the mortgage is not necessary to meet the applicant's immediate shelter needs, the administrator may elect not to make any mortgage payment unless the applicant has been served a notice of foreclosure, although mortgage payments, up to the ordinance maximum for housing, will be budgeted as an expense.

c. If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels established by the city council in the general assistance policy, whichever is less. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he is responsible for finding alternative housing within his ability to pay and will be obligated to make all reasonable efforts to secure such housing.

(6) *Liens.*

a. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. No lien may be enforced against a recipient, except upon his death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.

b. If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment, it must file a notice of the lien with the county register of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same ~~eligible person~~Eligible Person, plus interest and costs. Not less than ten days prior to filing the lien notice in the registry, the municipal officers must send a different notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original notice of proposed filing sent to the recipient.

c. The municipality will charge interest on the amount of money secured by the lien. The city council will establish the interest rate, not to exceed the maximum rate of interest allowed by the state treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

(7) *Property taxes.* If an applicant requests assistance with his property taxes, the administrator will inform the applicant that there are two procedures on the local

level to request that relief: the poverty abatement process and general assistance. If the applicant chooses to seek property tax assistance through general assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

a. The property tax in question is for the applicant's place of residence;

b. There is a tax lien on the property which is due to mature within 60 days of the date of application;

c. As a matter of policy or practice it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and

d. The applicant, with sufficient notice, applies for property tax relief through the state resident property tax program, when available.

(8) *Housing maximums.* The maximum levels of housing assistance contained in this chapter have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values as those values are prepared and distributed by the state department of human services on or about November 1 of each year, those levels are hereby incorporated by reference. If and when the maximum levels of housing contained in this chapter are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the department of human services, general assistance unit, and the maximum levels of housing assistance will be incorporated into this chapter pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305. The maximum amounts allowed for housing are as established by the city council in the general assistance policy.

(9) *Utilities.*

a. Expenses for lights, cooking and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

b. Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 46-39. Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds. Applicants have the

burden of providing evidence of their income and use of income for the applicable time period. See section 46-39. The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicants' responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

c. In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant:

1. The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for nonelectrically heated dwelling units.

2. The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.

3. The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

d. Pursuant to the use-of-income requirements in section 46-96, whenever the administrator budgets for SPAs or BPAs under this section, the recipient will be required to pay the SPA or BPA himself to the extent of the income capacity of the household.

(10) *Nonelectric utilities.* The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.

(11) *Fuel.*

a. Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May), provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

b. Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills, except in an emergency as provided in section 46-39. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicant's

control, and process the emergency request accordingly, pursuant to section 46-39. Running out of fuel will not necessarily be considered an emergency unless the applicants have just cause for failing to give the administrator timely notice of their need for fuel.

c. When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.

d. When fuel such as wood, coal and/or natural gas is used to heat, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than seven tons of coal per year, eight cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

(12) *Personal/household supplies.* Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums. Personal and household supplies include hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and lightbulbs.

(13) *Other basic necessities.* Expenses falling under this subsection may be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

a. *Clothing.* The municipality may assist a household with the purchase of adequate clothing, although, in most instances, clothing will be a postponable item. Exceptions to this would be, for example, if fire or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. Clothing will be budgeted at a fee as determined by the city council in the general assistance policy when the general assistance administrator finds it necessary to authorize clothing.

b. *Medical.* The municipality will pay for essential medical expenses, other than hospital bills (see hospital bills), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. The municipality will grant assistance for medical service only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his need to seek general assistance for medical expenses. The municipality will grant assistance for nonemergency medical services only if a physician verifies that the services are essential. All medical costs authorized by the municipality will be at Medicaid rates. The administrator may require a

second medical opinion from a physician designated by the municipality at the municipality's expense to verify the necessity of the service. In order for telephone service to be considered an allowable expense, the applicant must provide a written statement from a physician certifying that the telephone is absolutely essential to the applicant's health and safety. Only the basic rate will be considered.

c. *Hospital bills.*

1. In the event of an emergency admission to the hospital, the hospital must notify the administrator within five business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

2. Any person who cannot pay his hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's charity care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's charity care program.

3. Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 46-96 of this chapter.

d. *Dental.* The municipality will not furnish dental services, except in cases of emergency. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

e. *Eye care.* In order to be eligible to receive general assistance for eyeglasses, an applicant must have his medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to ~~eligible persons~~Eligible Persons only after the applicant has exhausted all other available resources.

f. *Work-related expenses.* In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include child care costs, work clothes, supplies and transportation (if it is not available by the local bus service or car pooling) at the actual costs, not to exceed the ordinance maximum as established by the city council in the general assistance policy. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

g. *Burial, cremations.*

1. Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of ~~eligible persons.~~Eligible Persons. The administrator will provide for burial and cremation services to ~~eligible persons~~Eligible Persons up to the allowed maximum amounts as established by the city council in the general assistance policy.

2. Funeral directors must give timely notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of 3 business days following the funeral director's receipt of the body, whichever is earlier. This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact with the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

3. Application for assistance shall be created on behalf of the deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.

4. With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 46-40.

5. Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible

for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

6. The financial responsibility of certain family members. Grandparents, parents, children and grandchildren of the deceased, who live in the state or own property in the state, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator, with any reasonable requested information regarding their income, assets, and basic living expenses. If any responsible family members refuse to provide the requested information or refuse to allow the municipality to investigate their resources, the municipality will not grant the requested burial or cremation assistance. If the administrator makes a finding that one or more legally liable relatives has a financial capacity to pay for the burial or cremation, the municipality will not grant the requested burial or cremation assistance.

7. Eight days to determine eligibility. The administrator may take up to eight days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation.

8. The municipal obligation to pay when legally liable relatives or others can contribute. The figures provided in the general assistance policy are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source.

h. *Burial expenses.* The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremation. Burial services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, preparation of the body, a minimum casket, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a cement liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least

expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery, or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

i. *Cremation expenses.* In the absence of any objection by any family members of the deceased, the administrator will issue general assistance for cremation services. Cremation services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, an appropriate container for cremation, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery, or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

j. *Capital improvements.* The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been preapproved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible, for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

1. The failure to do so would place the applicant(s) in emergency circumstances;

2. There are no other resources available to effect the capital repair; and

3. There is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (b)(2) of this section.

(Ord. No. 92-6, § 13-67, 3-5-92; Ord. No. 94-2, § 13-67, 5-5-94; Ord. No. 99-8, 4-15-99; Ord. No. 12-06, 7-5-12; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(6), (7-A), 4305, 4308(2), 4309, 4313(2), 4319(2), 4320, 36 M.R.S.A. § 841(2).

Sec. 46-99. Notice of decision; disbursements.

(a) *Written decision.* The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application. See section 46-36.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicant's right to a fair hearing in the written notice of decision.

(b) *Contents.* After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 46-36, the notice will state that applicants:

(1) Have the right to a fair hearing and the method by which they may obtain a fair hearing;

(2) Have the right to contact the department of human services if they believe the municipality has violated the law. The decision will state the method for notifying the department.

(c) *Disbursement of general assistance.* Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash.

(Ord. No. 92-6, § 13-68, 3-5-92; Ord. No. 94-2, § 13-68, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4305(3), (6).

Secs. 46-100--46-120. Reserved.

ARTICLE V. FAIR HEARING

Sec. 46-121. Right to fair hearing.

Within five working days of receiving a written notice of denial, reduction or termination of assistance, or within ten working days after any other act or failure to act, the applicant or his authorized representative has the right to request a fair hearing. The right to review a decision by the general assistance administrator is a basic right of the applicant to a fully evidentiary hearing and is not limited solely to a review of the decision. (Carson v. Oakland, 442 A.2d 170 (Me. 1982); Thibodeau v. Lewiston, Androscoggin Superior Court, 1979, CV78-388)

(Ord. No. 92-6, § 13-70, 3-5-92; Ord. No. 94-2, § 13-70, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-122. Method of obtaining.

Upon receiving notification of the decision of the general assistance administrator, all

claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

(1) *Written request.* To obtain a fair hearing, the claimant must make a written request within five working days of receiving the administrator's decision to deny, reduce or terminate assistance, or within ten working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

a. The decision on which review is sought;

b. The reasons for the claimant's dissatisfaction and why the claimant believes he is eligible to receive assistance; and

c. The relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn by the claimant.

(2) *Scheduling the fair hearing.* Upon receipt of the completed written request, the fair hearing authority must meet and hold the hearing within five working days. The administrator will notify the claimant in writing when and where the hearing will be held. In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

a. Be his own spokesperson at the fair hearing or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;

b. Confront and cross examine any witnesses presented at the hearing against the claimant;

c. Present witnesses on his own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given notice early enough to allow preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of the claimant's case.

(Ord. No. 92-6, § 13-71, 3-5-92; Ord. No. 94-2, § 13-71, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-123. The fair hearing authority.

(a) The municipal officers will appoint a fair hearing authority, which will review decisions of the general assistance administrator when requested by any claimant. The authority is charged with the responsibility of ensuring that general assistance is administered in accordance with state law and local ordinance.

(b) The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691. In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:

(1) Not have participated in the decision which is the subject of the appeal;

(2) Be impartial;

(3) Be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;

(4) Be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear or inadequate policies, practices or actions.

(Ord. No. 92-6, § 13-72, 3-5-92; Ord. No. 94-2, § 13-72, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-124. The fair hearing procedure.

When a claimant requesting a fair hearing is notified of the date, time and place for the hearing in writing, he will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his case. The claimant shall be permitted to review his file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

(1) Be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his agents, counsel and witnesses;

(2) Be opened with a presentation of the issue by the fair hearing authority;

(3) Be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

(4) Allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;

(5) Give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal, question witnesses presented at the hearing, and examine all evidence presented at the hearing;

(6) Result in a decision, based exclusively on evidence or testimony presented at the hearing;

(7) Be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing

authority must be made available to the claimant or his representative. The claimant will be responsible for preparing a written transcript if he wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

(Ord. No. 92-6, § 13-73, 3-5-92; Ord. No. 94-2, § 13-73, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-125. The fair hearing decision.

(a) The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within five working days after completion of the hearing. Written notice of the decision will contain the following:

(1) A statement of the issue;

(2) Relevant facts brought out at the hearing;

(3) Pertinent provisions in the law or general assistance ordinance related to the decision;

(4) The decisions and reasons for it.

(b) A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

(c) The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he has a further legal right to appeal the decision, pursuant to the Maine Rules of Civil Procedure, rule 80B. To take advantage of this right, the claimant must file a petition for review with the superior court within 30 days of receipt of the fair hearing decision.

(d) When the decision by the fair hearing authority or court authorizes assistance to the claimant, that assistance will be provided within 24 hours.

(Ord. No. 92-6, § 13-74, 3-5-92; Ord. No. 94-2, § 13-74, 5-5-94)

Secs. 46-126--46-145. Reserved.

ARTICLE VI. RECOVERY OF EXPENSES

Sec. 46-146. Recipients.

(a) *Generally.* The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or from his executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the

person would again become eligible for general assistance.

(b) *Recipients anticipating workers' compensation benefits.* The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the workers' compensation act or similar law of any other state. After issuing a general assistance payment on behalf of a recipient who has applied for or is receiving workers' compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the office of secretary of state, uniform commercial code division. The notice of lien shall be filed un a UCC-1 form. The municipality shall also send a photocopy of that filing to the recipient's workers' compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the workers' compensation board. The lien shall be enforced at the time any lump sum workers' compensation benefit is issued.

(c) *Recipients of SSI.* All applicants who receive general assistance while receipt of their supplemental security income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an interim assistance agreement form distributed by the department of human services that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317 and who refuses to sign the interim agreement SSI authorization form will be found ineligible to receive general assistance until he provides the required signature.

(Ord. No. 92-6, § 13-80, 3-5-92; Ord. No. 92-14, § 1, 7-23-92; Ord. No. 94-2, § 13-80, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4318, 39 M.R.S.A. § 106.

Sec. 46-147. Relatives.

The spouse of an applicant and the parents of any applicant under the age of 25 years are liable for the support of the applicant. In addition, children, grandchildren, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility.

(Ord. No. 92-6, § 13-81, 3-5-92; Ord. No. 94-2, § 13-81, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. § 4319.

LEWISTON CITY COUNCIL
MEETING OF NOVEMBER 24, 2015

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** ES-1

SUBJECT:

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB\kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL
MEETING OF NOVEMBER 24, 2015

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** ES-2

SUBJECT:

Executive Session pursuant to MRSA Title 1, section 405(6)(E) to consult with the City Attorney regarding a personnel matter.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Entering into executive session is permitted and defined under Maine State Statutes.

EABlkmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M

To enter into an Executive Session to consult with the City Attorney regarding a personnel matter pursuant to 1 MRSA Section. 405 (6) (E).

LEWISTON CITY COUNCIL

MEETING OF NOVEMBER 24, 2015

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** ES-3

SUBJECT:

Executive Session pursuant to MRSA Title 1, section 405 (6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

State statutes define the purposes for entering into an executive session.

EABlkmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL
MEETING OF NOVEMBER 24, 2015

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** ES-4

SUBJECT:

Executive Session to discuss Disposition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

<AB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Disposition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.