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

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

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

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

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

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

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 B, §6, is repealed.

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

§ 4327. Municipal certification

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

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

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

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

4. Assistance in accessing appropriate resources. The municipality must assist general assistance applicants and recipients to access other resources available to help them meet their basic necessities. If an applicant or recipient has an illness or disability that may be severe enough to qualify that individual for social security disability insurance benefits or supplemental security income disability benefits, the municipality must: assist that individual to complete or arrange for assistance needed by that individual to complete the required application; ensure that appropriate and comprehensive medical evidence is submitted in support of the application; arrange for any additional medical assessment necessary to establish the individual's disability; and obtain legal representation for the individual to appeal an adverse disability benefits decision when appeal is warranted.

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

§ 4328. Decertification; alternative administration

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

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

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

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

§ 4329. Improper administration

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

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

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

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

SUMMARY

This bill establishes standards for municipal administration of a general assistance program. It requires the Department of Health and Human Services to certify that a municipality is qualified to

administer a general assistance program based on the standards and applicable law. If the department determines that a municipality has improperly administered its general assistance program, the department shall establish a corrective action plan for that municipality. If a municipality is not certified to administer a general assistance program or, if certified, has not administered the program in accordance with law and has failed to meet the requirements of a corrective action plan, the department shall administer the program in that municipality itself or contract with another municipality or nonprofit organization to administer the program in that municipality, with the decertified municipality remaining liable for the cost of the program.