

Chapter 1

General Assistance

Introduction

GENERAL ASSISTANCE

What is it?

General Assistance (GA) is “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” (22 M.R.S.A. § 4301(5)). The key terms in this definition are: immediate, unable and basic necessities.

GA is intended to provide *immediate* aid, thus assistance must be granted or denied within 24 hours of an application. It is for people who are *unable*—not unwilling—to maintain themselves or their families. Finally, GA is intended to help people with *basic necessities*: food, shelter, utilities, fuel, clothing, and certain other items, when they are essential.

What it is not.

GA 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” (§ 4301(5)). Despite the stated intent that GA not be an ongoing source of income to an applicant, there is *no limitation on the number of times a person may apply for and receive GA*.

One of the most common misconceptions about GA is that it is only an emergency program and people can’t receive assistance after a certain period. Contrary to this perception, it should be noted that the state law also reads:

“This definition shall not in any way lessen the responsibility of each municipality to provide assistance to a person who has need and is found to be otherwise eligible to receive assistance”

*In other words, there is **no limit** on the number of times people may apply for and receive general assistance if they are eligible.*

Finally, because GA is not a “categorical” welfare program, it is not limited to providing assistance to only specific groups or categories of people as is TANF,¹ to families with dependent children, or SSI for disabled people.

¹ Previously AFDC.

*Theoretically GA is available to **anyone**² in the state at any particular time who meets the eligibility criteria. GA is the program of last resort—it is the “safety net” intended to help those people who have no other resources. GA is the only comprehensive program to help people who are not eligible for any other assistance program.*

What is Required?

Ordinance, Notice of Hearing & Hearing. Each municipality is *legally required to administer a GA program* in accordance with the state law and an ordinance adopted by the municipal officers (§ 4305). **Prior to adopting the ordinance**, the municipal officers must hold a public hearing. Notice of the hearing should be posted publicly *at least seven days* before the hearing. Notice should be posted in the same places where the town meeting warrant is posted or other places where people commonly look for public notices. The notice must give the *date, place and time of the hearing and must contain the full text of the ordinance or indicate where copies are available for people to review (see Appendix 2 for sample notice).*

At the hearing the municipal officers should explain the purpose of the ordinance, give a brief summary of its provisions, and then open the public hearing for comments from the citizens. After people have had a reasonable period to discuss the proposed ordinance, the hearing should be closed and the municipal officers should proceed with their discussion.

After the municipal officers have considered the ordinance and any changes, one of the officers should make a motion that is seconded by another and voted upon by the majority. There must be a record of the vote. It is suggested that the clerk be present to record the minutes, the motion and the votes. After the ordinance has been adopted, the municipal officers must send a copy of it, plus samples of any GA forms the municipality uses, to:

Department of Human Services, General Assistance Unit
State House Station #11, Augusta, Maine 04333

Any amendments made in the future must be adopted in the same manner as an entire ordinance, and the amended parts of the ordinance must be sent to the Department of Human Services (DHS). ***Don't forget to adopt (by October 1st of each year or as soon as possible thereafter) the new Appendixes A-C*** containing the yearly

² With the passage of the Personal Responsibility and Work Opportunity Authorization Act of 1996 (Welfare Reform) some limitations apply to 'illegal' immigrants. Should this issue arise, please call DHS or MMA for more information.

GA maximums, which MMA sends to all municipalities. DHS must also receive confirmation that the municipality has adopted the appropriate maximums each year.

(For further information see Chapter 11, Q & A, “Miscellaneous”).

GA Program Public Notice. Each municipality *must post a public notice informing the citizens* that the municipality has a GA program that is administered in accordance with a local ordinance. The notice must also state when and where people may apply for assistance and where they may review the ordinance and the state’s General Assistance statutes, as those statutes are made available to each municipality by the DHS for the purpose of citizen review. The notice must also inform people of the *municipality’s obligation to issue a written decision regarding eligibility within 24 hours of receiving an application for assistance*, and the name of the municipal official applicants should contact for assistance in emergencies.

Depending on the size of the municipality, the administrator may want to post the Police Department’s telephone number and inform people to contact the police if it is an emergency and assistance is needed at a time when the GA office is closed. The police, in turn, could contact the GA administrator. Finally, the posted notice must contain the **DHS toll-free telephone number 1-800-442-6003**. The law does not specify where or in how many places notice should be posted, but DHS regulation requires that the notice be posted so that it is visible 24 hours a day. Therefore, at a minimum, the notice should be posted on a window or glass doorway facing out at the municipal building where GA applications are taken. The same notice can also be placed on billboards or other locations where people commonly look for public notices (*see Appendix 2 for sample notice*).

Standards. The purpose of the GA ordinance is to establish procedures for administering the program and standards of eligibility. *At a minimum, the ordinance must state:* how eligibility is determined and the type and amount of assistance applicants are eligible for; that **no one** may be denied the opportunity to apply; and that a **written** notice of the administrator’s decision will be given within **24 hours** of the submission of an application whether assistance is granted or denied, and that applicants have the right to appeal the administrator’s decision

The ordinance describes what type of assistance a person may receive and the maximum amount the municipality will grant. Since December 23, 1991, with the enactment of § 4305(3-B), GA law refers to—and GA ordinances contain—two types of “maximum levels of assistance”: an overall maximum level of assistance which is

determined by law, and maximum levels of assistance for the specific basic necessities, which are determined by local ordinance.

The overall maximum level of assistance is a predetermined number of dollars that represents the maximum GA grant (except in certain emergency circumstances) that can be issued to a household with zero income. That predetermined number is 110% of the federal Department of Housing and Urban Development (HUD) Fair Market Rent standards as published annually in the federal register. As will be discussed in detail under the chapter covering the determination of eligibility (*see Chapter 2*), these overall maximum levels of assistance are used to determine an applicant's gross eligibility for GA. *The gap between the applicable overall maximum level of assistance and the applicant's income is referred to as the applicant's "deficit."*

The other type of **"maximum level of assistance"** referred to in the law are the various maximum levels that the municipal ordinance creates for any specific basic necessity, such as food, housing, electricity, etc. These maximum levels must be reasonable and sufficient to maintain health and decency (§ 4305(3-A)).

As another test of GA eligibility, in addition to determining the applicant's "deficit," the maximum levels for the specific basic needs are also used as guides to determine a person's need and how much the applicant is eligible to receive. A detailed discussion of this test of eligibility is found at page 2-12. The specific "basic need" maximum levels are also used as caps on the amount of GA issued for any particular basic need.

For example, if an applicant was eligible for \$520 worth of assistance, but the applicable maximum for rent was \$430, the administrator would typically issue only \$430 over a 30-day period for rent, and the applicant's remaining \$90 worth of assistance would be reserved for other basic needs, up to the particular maximum level of those other necessities.

There are two important aspects about maximum levels to keep in mind. First, the *levels must be reasonable and reflect the cost of living in the area*. For instance, if rents start at \$50 a week in your area, but the ordinance only allows \$30, that would be unreasonable. Secondly, if the maximum levels are reasonable, they will be valid provided that the *ordinance has provisions that permit the administrator to exceed the maximums in emergency cases*. For instance, if a family of five was about to be evicted in the middle of winter, the municipality might have to exceed its maximum levels, either for alternative housing or to pay the back rent, because to be without shelter in the winter would be an emergency.

Maximum Levels of Assistance & DHS Regulation. Of all the statutorily defined basic necessities, there are two for which the maximum levels established by the local ordinance are potentially controlled by DHS regulation: the standards of assistance for *food and housing*.

The DHS rules establish as a rebuttable presumption that the U.S.D.A. Thrifty Food Plan and the H.U.D. Fair Market Rental Statistics represent adequate levels of food and rental/ mortgage assistance. The concept of a rebuttable presumption means that a municipality may adopt levels of food or housing assistance which differ from these levels of adequacy published by the federal government; but in order to do so the municipality must conduct a local fair market survey that demonstrates that the locally-developed standards are adequate.

It would be extremely difficult to develop a credible local fair market study that justified levels of food assistance which were lower than the Thrifty Food Plan. Rental rates, on the other hand, are tied to vacancy rates and the overall economy in such a way that it is entirely possible that local rental rates differ significantly from the HUD statistics. Fortunately, local fair market rental surveys are relatively easy to conduct and develop, and any municipality, which feels the rental rates published by HUD are unreasonable should seriously consider employing the “rebuttable presumption” option by generating a study of actual, local rental rates. This matter is discussed in further detail under “

Who Administers GA?

State law requires every municipality to have a GA program (§ 4305). The people responsible for administering the program are the overseers. The overseers can be the board of selectpersons, or the municipal officers may appoint someone to administer the GA program (§ 4301(12)). If no one is appointed to serve as the overseer, the board of selectpersons must assume the responsibility.

People appointed by the board of selectpersons to administer the program must be both sworn and bonded prior to assuming their duties. For the purpose of these bonding requirements, there is no need under Maine law for the designated GA administrator to be bonded as a separate municipal official as the municipal treasurer is bonded pursuant to 30-A M.R.S.A. § 5601 or as the municipality may require the clerk to be bonded pursuant to 30-A M.R.S.A. § 2651. The bonding of the GA administrator may be accomplished as part of a blanket fidelity bond covering a number of municipal officials.

Who may Apply for GA?

Perhaps this is the easiest thing to know about GA, because *anyone may apply*. People who are rich or poor, old or young, long-time residents or newcomers may all apply. Whether they are eligible is a different matter, but no administrator should make a snap judgment, assume that people won't be eligible and refuse to let a person fill out an application. The most dangerous mistake an administrator can make is to prejudge people and refuse to allow them to fill out an application because the administrator "knows" that the prospective applicants couldn't possibly be eligible. People wishing to apply have the right to request assistance in writing each time they apply (§ 4305).

NOTE: Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) also known as "Welfare Reform," in August of 1996, some limitations may apply to "illegal" immigrants. As of the date of this writing, formal guidance (relative to local public entities—municipalities) has yet to be generated by both federal and state agencies involved in the administration of relevant provisions of PRWORA. For the time being, municipalities are prompted to call DHS or MMA with questions concerning illegal aliens and GA.

When and Where may People Apply?

Regular Hours. Each municipality must establish a GA office or designate a place where people may go to apply for assistance. The specific periods of time when people may apply are, for the most part, left to the discretion of each municipality; however, the hours must be regular and reasonable (§ 4504). Reasonable means the administrator must be available a sufficient number of hours to process applications. If very few people apply, two hours a day one day a week may be sufficient; if more people apply, the hours must be adjusted accordingly.

The administrator must post public notice of the day(s) and hours the administrator will be available to accept applications. If the administrator does not establish specific hours, he or she must accept applications *anytime* a person wants to apply. If the municipality has established specific hours, for instance 6 p.m. to 8 p.m. on Mondays and Wednesdays, people may apply only during those hours on those days. If an applicant wanted to apply on Tuesday, he could be told to apply during the posted hours on Wednesday because people can be required to apply only during the designated hours—**except in emergencies.**

In an emergency people may apply for assistance anytime. It is the administrator's responsibility, not the applicant's, to determine if the request is an emergency. The administrator or designated person must be available 24 hours a day, seven days a week, to accept applications for emergency assistance (§ 4304).

Telephone Applications. In emergencies the administrator must take applications over the telephone if the person cannot apply in person. Reasons why a person may need to apply by telephone include: illness or disability which prevents people from applying in person, lack of transportation, lack of child care, or an inability to send an authorized representative to apply in person (§ 4304). In the event an exception is made to the general rule of requiring an “in person” application, the applicant should be instructed that he or she will be required to stop by the municipal office as soon as possible thereafter (or at least by the time of next application) in order to sign an application. It is not unreasonable for the municipality to require that an applicant provide his or her signature on an application. It is also not unreasonable to generally require an “in person” application, conducting telephone applications only in exceptional cases. (*See page 5-3 for further discussion*).

District Offices. State law allows two or more municipalities to join together to establish a district GA office. This is permitted when the number of applicants in the participating communities is too few to justify an office in each municipality. In order to establish a district office, the legislative body of each participating municipality must vote its approval, and the financial and administrative operation of the district office would be subject to the terms of an interlocal agreement established by the participating towns pursuant to 30-A M.R.S.A. § § 2201 et seq.

The office must be located in a place that is accessible to any applicant in the district without having to pay telephone toll charges. If the district office is established, it must be open at least 35 hours a week and a person must be designated to take applications at all other times in the event of an emergency. Notice of when and where the administrator is available must be posted in each participating municipality (§ 4304).