

Memorandum of Support for General Assistance Decision

Case Name: _____

Date of GA Decision: _____

Date of Fair Hearing: _____

Facts

1. Beginning on November 11, 1999 and subsequently on _____ 1999, and _____ 2000, _____ (Applicant) applied to the Town of _____ (Town) for General Assistance to pay for his room rent at _____ Street, as well as food and personal care items.
2. The Applicant will be 21 years old on _____.
3. 22 MRSA § 4319 provides that parents are responsible for the care of their children under the age of 25 in proportion to their respective ability.
4. The applicant's parents, Mr. and Mrs. _____ enjoy a clear, substantial and demonstrable ability to financially support their son; specifically: (list some facts associated with the parents'
5. 22 MRSA § § 4318 and 4319(3) provide a municipality with clear authority to recover all assistance granted to a recipient from persons legally responsible for that support. As a matter of standard municipal practice, parents of minor applicants are informed of their potential indebtedness to the municipality for assistance granted their minor dependents. When those parents express a willingness to provide for their minor dependents' needs directly, those minor applicants are denied assistance as the applicant has access to an available resource which can meet all the applicant's needs (*see the statutory definition of "need", 22 MRSA § 4301(10)*).
6. The Applicant's parents have never indicated to the Town an unwillingness to financially support their son. The parents' only claim is that they have no legal obligation to financially support their son because he was "old enough to take care of himself." There is nothing in GA law that absolves parents from their financial obligation to support a child under the age of 25 because they are perceived as old enough to care from themselves by the parents.
7. The Applicant and his parent have provided inconsistent information to the Town with regard to the parents' past and present willingness to provide financial support for their child. On 11/11/99, the Applicant indicated a parental unwillingness. On that same date, the Applicant's mother indicated the parents provided financial support to their son. On

2/12/2000, the applicant indicated his mother provided direct financial support whenever he needed it.

8. On 2/12/2000, the Applicant was formally required to apply in good faith to the County Community Action Agency (CAP) for the various types of assistance offered by that agency. This requirement was placed on the Applicant pursuant to 22 MRSA § 4317.
9. Because the applicant did not contact the CAP, he never fulfilled his “potential resource” requirement, and is therefore also subject to a disqualification on this point of law pursuant to the controlling statute (22 MRSA § 4317).
10. Because of the Town’s consistent refusal to grant General Assistance to the Applicant due to the apparent availability of a more immediate resource, namely the financial resources of a legally liable parent (in addition to other potential CAP resources), the Applicant appealed the municipal decision on 2/16/2000 and as a result this fair hearing is being held on this date at the mutual agreement of Town and Applicant.

Issues

1. Is a municipality under an obligation to provide General Assistance to an applicant who is a minor (*under the age of 25 for purposes of GA law*) whose parents are willing and able to provide the applicant with his or her needs directly?
2. Is it unreasonable for a municipality to presume a parental willingness to directly support a dependent minor when the legally liable parents provide such support as a matter of standard practice and when the Applicant tells the municipality that his parents provide financial assistance when necessary?
3. Did the Town unreasonably or illegally refuse to grant assistance to the Applicant given the demonstrated parental willingness and legal parental obligation to support?
4. Does the Town have a clear and legitimate right to recover all General Assistance granted to their son—as long as he is under the age of 25 and his parents have an ability to pay—pursuant to Maine General Assistance law?

The answer to questions 1-3 is no. The answer to question 4 is yes.

Arguments

1. First Question: 22 MRSA § 4319 provides in part “a parent of a child under 25 years of age ... shall support their children ... in proportion to their respective ability. The answer to the first question above is incontestably “no”—the municipality is under no such obligation given the parents positive financial status.

2. Second and Third Question: The facts of the case suggest that the parents do supply their son with supplementary financial support whenever necessary, as evidenced by past practice and the Applicant's own statements to that effect. A review of the facts of the case show that the Applicant's parents do not accept their financial obligation to support their son until he reaches the age of 25 as required by GA law. Therefore, the Town's decision under appeal should be sustained as both legal and reasonable.
3. Fourth Question: Pursuant to 22 MRSA § 4318:

“A municipality...which has incurred general assistance program costs for the support of any eligible person, may recover the full amount expended for that support either from the person relieved or from any person liable for the recipient's support, their executors or administrators, in a civil action. In no case may a municipality or the State be authorized to recover through a civil action, the full or part of, the amount expended for the support of a previously eligible person, if, as a result of the repayment of that amount, this person would, in all probability, again become eligible for general assistance.

The statute's meaning is clear—the Town does have a clear and legitimate right to recover all General Assistance granted (especially given these parents' financial ability to provide for their son). Therefore, the Town respectfully requests this fair hearing authority to rule with regard to the rights of the municipality to seek recover from the applicant's parents.

In addition, for the foregoing reasons, the Town respectfully requests the Fair Hearing Authority to uphold the Town's original decision in this matter or, in the alternative, rule in accordance with argument #4, immediately above.