General Assistance
Legislative History

Maine's General Assistance (GA) program is as old as the State, even older, having as its foundation the English Poor Law of 1601. Municipalities were charged with the primary responsibility of assisti ng indigent people who had no means of support and no family to help them. That primary responsibility continued until the federal government stepped in the "New Deal" programs in the 1930's and the "Great Society" programs that waged the "War on Poverty" in the 1960's.

As a result of the increased federal and state involvement, the municipal GA program assumed a lesser role in providing assistance to needy citizens. The State's so-called "Pauper Laws" remained on the books in almost the same form as when Maine achieved statehood until the mid-1970's when the Legislature enacted major revisions of GA law (P.L. 1973, ch. 470, ch. 473). The legislation repealed many archaic provisions, such as settlement, poor farms and auctioning poor people. The amended law specifically required municipalities to adopt written rules governing need and the amount of assistance eligible people could receive. The law also changed the formula for State reimbursement to municipalities for their GA costs.

A few years later the Legi slature further refined the GA law. It added definitions of eligibility, GA programs and overseers; required municipalities to adopt a GA ordinance that governs the determination of need according to standards of eligibility; and allowed municipalities to adopt a "work for welfare" program. It also required municipalities to: allow people to apply in writing; furnish assistance within 24 hours; give written notice of the decision; allow dissatisfied applicants to appeal the decision to a fair hearing authority; and required municipalities to file their ordinances with the State Department of Human Services (P.L. 1977, ch. 417).

Even with the revisions, the GA program was administered according to the same premise that applied throughout its history. It was a "last resort" program for people who had no other means of support, and people were eligible for assistance provided that they met all the eligibility conditions. This interpretation changed dramatically in 1982, however, when the Maine Supreme Court handed down three landmark decisions which ruled that "need was the exclusive criterion for eligibility" and no other factors could be considered. The cases were: *Beaulieu v. Lewiston*, 440 A.2d 334 (1982), finding that need was the only eligibility condition and since shelter was a basic necessity the municipality was required by

state law to make mortgage payments when such a payment was actually necessary; *Page v Auburn*, 440 A.2d 363 (1982); finding, again, that need being the only eligibility condition allowed by state law, the municipality was precluded from denying assistance to a woman solely because she had quit her job; and *Blouin v. Rockland,* 441 A.2d 1008 (1982), finding that the underlying purpose of the general assistance program is to insulate the truly needy from financial destitution and the municipality could look no further than the applicant's actual immediate need to determine eligibility. In *Blouin* the Court ordered the city to grant assistance to a man who had been disqualified from receiving unemployment compensation benefits due to fraud.

As a result of these rulings every municipal GA ordinance, which contained standards of eligibility in addition to need, was declared null and void. Since all municipalities required people to fulfill minimum eligibility conditions such as looking for and accepting work, using income for basic necessities, and using available resources to reduce their need for assistance, every local GA ordinance was overturned. Not surprisingly, municipal officers and welfare administrators were upset. As a result, MMA formed a 25-member task force composed of GA administrators, selectpersons and managers to review the court decisions and recommend possible legislation.

The result of those efforts of the municipalities, as influenced by the interests of Pine Tree Legal Assistance and other advocates for people of low-income, was a piece of legislation that forms the basis of the current State GA law (22 M.R.S.A. § 4301 et seq.), although nearly every legislative session since that major revision has seen subsequent revision to the law. The compromise which received a unanimous "Ought to Pass" (P.L. 1983, chap. 577) contained the following major provisions:

- need is the sole eligibility criterion the first time a person applies in any six month period;

- a work requirement was established which required applicants to register for, look for, accept, and not quit work, and perform "workfare" or be disqualified for 60 days;

- use of potential resources was included as a condition of eligibility. Applicants who refused to make a good faith attempt to secure a potential resource could be disqualified until they made a good faith attempt to obtain the resource;

- liens were allowed on real estate to secure the municipality's interest in property for which the municipality had made a mortgage payment;

- residency was amended to clarify that there is no durational residency requirement. It also included provisions relating to municipal responsibility for providing GA to people in institutions (i.e., hospitals, nursing homes, shelters, etc.) and the responsibility for relocating people.

The legislation was far from perfect. By trying to satisfy both MMA's and Pine Tree Legal's concerns, the resulting law was a comprehensive litany of strong eligibility requirements that were modified and sometimes contradicted within the same sections. But despite these shortcomings, it was a vast improvement over the open-ended, "no fault" GA program that resulted from the 1982 Supreme Court decisions. It did reinstate the concept that applicants must be responsible for themselves to the extent possible and that GA, as the "safety net," will be available to those people who are unable to provide basic necessities essential to maintain themselves and their family.

Since the 1983 revision, legislation has been enacted to clarify some of the trouble spots in the law. In 1985, the 112th Legislature not only enacted significant clarifying legislation (P.L. 1985, ch. 489) but it also established a 13-member Special Select Commission to study the General Assistance Program and report the results of that study back to the Legislature in January of 1987. The primary result of that study was 1987 legislation (P.L. 1987, ch. 833) which increased the level of state reimbursement so that all municipalities would be reimbursed at least 50% of their net GA costs, as of July 1, 1989.

The major changes to GA law between 1987 and 1991 were: 1)to limit legal liability for financial support to only parents of minor children and spouses; 2) to allow municipalities to enter into agreements with shelters for the homeless whereby a person in such a shelter can be presumed eligible for GA; 3)to allow municipalities, under certain circumstances, to pro-rate lump sum income received by the applicant; and 4) to clarify that municipalities have a clear right to verify any information necessary to determine eligibility, provided the applicant is made aware of the third party source the municipality intends to contact.

Between 1989 and 1991, the GA Program grew at a rate from 30% to 40% per year; statewide expenditure doubled (from $10 million to $20 million) in a 3-year period. Partially in response to the extraordinary growth of the program, and in light of the State's continuing budget crisis, four emergency GA bills were enacted in 1991 that amended the law in some very significant respects. Most notably, PL. 1991, Ch. 591 (the 1992-93 budget bill) contained some changes to the law which:

- make it clear that recipients must spend their income on basic necessities;

- require municipalities to review household expenditures made by non-initial applicants for the 30-days prior to application and consider income not spent on basic necessities as still available to the household;

- allow municipalities to esta blish use-of-income guidelines for GA recipients which to a certain extent could require recipients to spend their income on specific basic necessities, such as for rent or utility obligations;

- allow municipalities to limit emergency assistance grants when the household created the emergency situation by not spending income towards basic needs;

- added "discharge from employment due to misconduct" to the list of work-related violations which could lead to a disqualification from the program; and

- allow municipalities to place non-foreclosing liens on property when capital improvements are made with GA funds, just as municipalities are currently allowed to place liens when mortgage payments are made through general assistance.

Almost immediately after the passag e of the FY 92-93 budget bill in July of 1991, it became clear that the FY 92 budget was out of balance. The Governor introduced a budget balancing bill in the First Special Session of the 115th Legislature, and that bill — after working through the legislative process — was enacted as PL 1991, chap. 622 and signed into law on December 23, 1991. Again, GA law was significantly amended by establishing an "overall maximum level of assistance" for every household applying for GA in Maine. The creation of this cap on the amount of regular (non-emergency) GA that a household may receive was clearly intended to control spending on both the state and local level. In addition to placing a cap on a household's monthly GA allowance, a number of other changes to welfare law were enacted in December of 1991, including establishing a lien process on Workers' Compensation lump sum benefits, extending the disqualification period from 60 to 90 days for recipients who do not abide by legitimate program rules, opening up and otherwise clarifying the lump sum pro-ration process, and restricting the municipal obligation to pay rent to relatives or roommates of GA recipients.

After the tumultuous changes of 1991, the GA program was given a breather in 1992. The only major change to the law enacted during the 1992 Second Regular Session of the 115th Legislature was the creation of a process whereby both DHS and a municipality can be automatically reimbursed from Supplemental Security Income (SSI) retroactive checks issued to General Assistance recipients.

In 1993, state financing for the GA program came under renewed legislative scrutiny during the lengthy and difficult development of the state's 1994-95

biennial budget. The Governor's proposed budget included the total elimination of the GA program. Ultimately, the GA program was retained but the Legislature enacted a series of changes to the law that had the intended effect of further reducing the financial exposure of the state to the program.

A summary of the changes found in the 1993 budget bill (PL 1993, chap. 410) include:

- amending the reimbursement formula to increase municipal "obligation" levels and therefore reduce the state's overall level of reimbursement;

- re-defining an "initial" applicant as anyone who has never before applied for GA, rather than anyone who has not applied in the last 12 months;

- lengthening periods of disqualification for program violations from 90 days to 120 days;

- establishing municipal authority to retain the actual issuance of non-emergency benefits until after workfare assignments are successfully performed;

- expanding parental financial liability for support to apply to any applicant under the age of 25 (up from 21 years of age);

- further clarifying and tightening the lump sum pro-ration process;

- creating a financial responsibility for siblings to provide for the burial of each other (although this change was repealed in 2007); and

- a series of less substantial changes that should have the effect of tightening up the program.

Despite the many changes in GA law, GA administration is still wrought with proverbial "gray areas." It seems that at least one new question or area of confusion is created for every issue that new laws clearly resolve. Fortunately, however, the last seven years have been tranquil with regard to changes in the GA law. Hopefully this manual will describe the General Assistance Program as it should currently be administered—as a matter of law, administrative practice, and good old common sense.