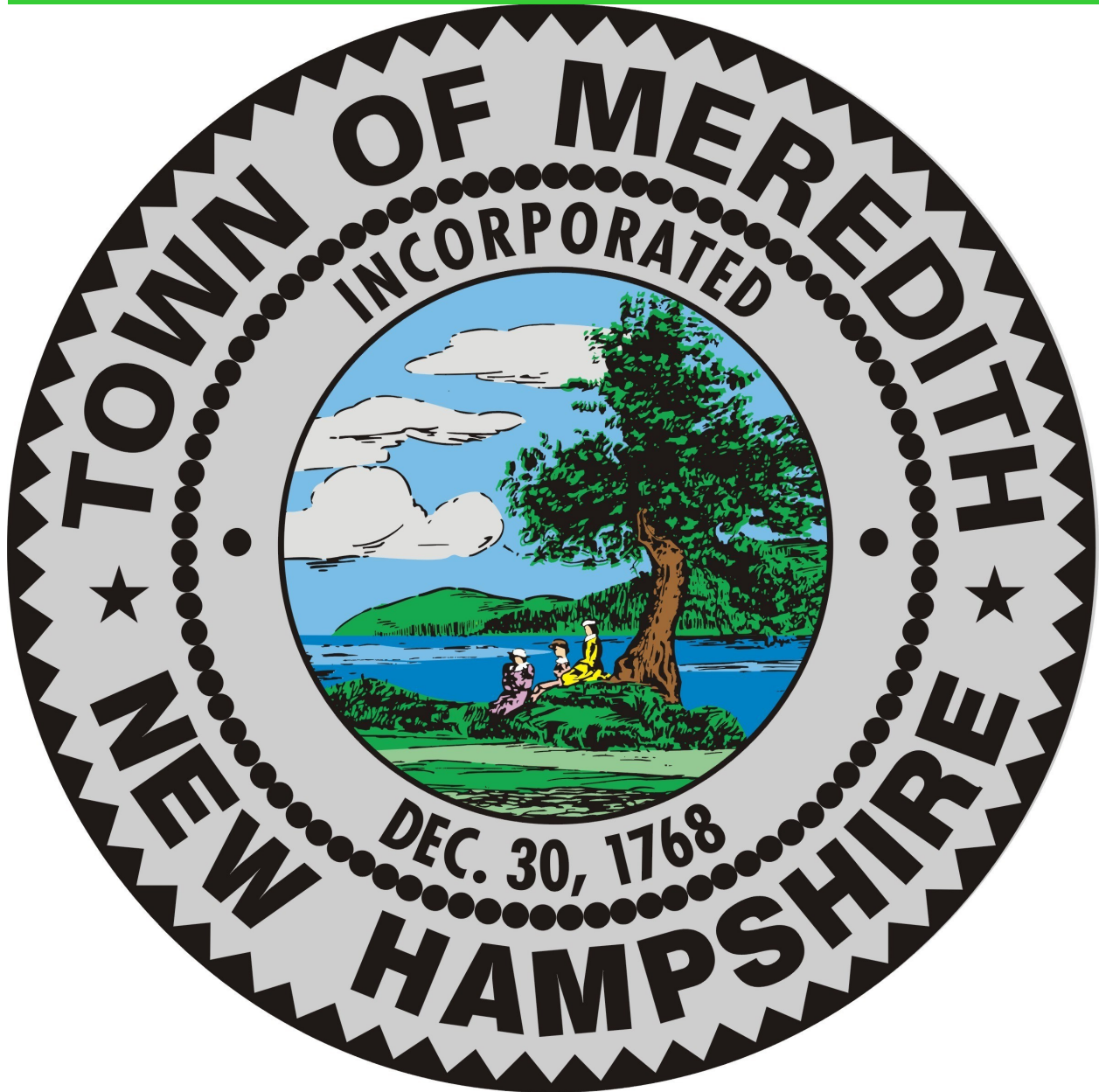


Town of Meredith



General Assistance Guidelines

*The Art of
Welfare Administration*

TOWN OF MEREDITH

41 Main Street, Meredith, New Hampshire 03253-5861

Telephone (603) 279-4538—Fax (603) 677-1090

PROPOSED:

General Assistance Guidelines

May 1, 2008


REVISED: August 1, 2009

REVIEWED: July 1, 2013


APPROVED:


Nathan J. Torf, Chairman


Carla J. Horne


Peter F. Brothers


Louis Kahn


Herbert R. Vadney

BOARD OF SELECTMEN

Table of Contents

Introduction	4
Jurisdiction	5
Definitions	6,7
Severability	8
Confidentiality of Information	8
Roles of Local Governing Body and General Assistant Officials	8
Maintenance of Records	8
Application Process	9
Right to Apply	
General Assistance Officials Responsibilities at Time of Application	
Responsibilities of Each Applicant and Recipient	
Actions on Applications	
Home Visits	
Verification of Information	13
Disbursements	14
Determination of Eligibility and Amount	15
Eligibility Formula	
Legal Standard and Interpretation	
Non-Financial Eligibility Factors	
Available Assets	
Standard of Need	
Income	
Residents of Shelters for Battered Women and Children	
Burials	
Non-Residents	24
Eligibility	
Standards	
Verification	
Temporary or Emergency Aid	
Determination of Residence	
Return Home Transportation	
Recovery	
Municipal Work Programs	25
Burials & Cremations	27
Right to Notice of Adverse Action	28
Action Taken for Reasons Other than Non-Compliance with Guidelines	
Sanction for Non-Compliance with the Guidelines	
Fair Hearings	31
Requests	
Fair Hearing Officer	
Time Limits for Requests and Hearings	
Fair Hearings Procedures	
Decisions	
Liens	33
Recovery of Assistance	34

Introduction

The Town General Assistance Department is one component of a large and complex welfare system which operates at every level of government. Its relationships with other agencies and programs and the scope of its responsibilities are complicated.

Briefly, two basic subsystems of public welfare are in operation in New Hampshire.

1. categorical assistance programs, which are federally funded in part and administered by a central State agency, and
2. general assistance programs, such as that operated by the Town General Assistance Department, which are locally funded and administered.

In general, the Town General Assistance Department provides assistance to needy people who require temporary help whether or not they have a residence as defined under New Hampshire law RSA 165. People are found to be in need when they are poor and unable to support themselves—meaning when they lack the resources to provide themselves with the basic requirements of life in our society, such as food, shelter, heat and electricity.

The Department's responsibilities are of a dual nature. On the one hand, it is responsible to those members of the community who need assistance to see that they receive it. On the other, it is responsible to the citizens who pay for that assistance to ensure that it goes only to those who are truly needy. The Department's responsibility is to expend as much money as is necessary on the one hand and to expend as little as is necessary on the other. In effect, the Department succeeds in fulfilling its ethical and legal obligations to the extent that these two interests are made to coincide.

The Department has an additional responsibility to both general assistance recipients and the community as a whole—to try to overcome the causes of the need for General Assistance to the point that it is no longer required. Requirements for rehabilitation vary and different approaches are dictated in different instances. As a result, the General Assistance Official must maintain flexibility in its handling of all cases. At the same time, the Official must adhere to practices which ensure that all applications for assistance are treated according to the same objective standards and that the legal and constitutional rights of all applicants and recipients are protected. To ensure fairness, all applicants and recipients have the right to appeal any decision of the general assistance official with which they are dissatisfied.

These Guidelines for the Administration of General Assistance by the Town General Assistance Official delineate responsibilities to be met by the Department and by applicants and recipients in the General Assistance process and establish a policy and procedure for hearing appeals of department decisions. They are not to be construed as superseding any laws of the State of New Hampshire or the United States.

The Division of Human Services of the New Hampshire Department of Health and Human Services administers several welfare programs under the authority of the laws of the State. Assistance provided under these categorical assistance programs is known as Public Assistance.

Programs now administered include:

- Temporary Assistance to Needy Families (TANF)
- Old Age Assistance (OAA)
- Aid to the Needy Blind (ANB)
- Aid to the Permanently and Totally Disabled (APTD)
- Medical Assistance (Medicaid)
- The Food Stamp Program
- Programs of social and rehabilitation services which are either provided directly by the Division of Human Services or purchased under the provisions of Title XX of the Social Security Act as amended in 1975.

The County unit of government pays a share of assistance provided to people under some of these programs.

General Assistance may be provided by a city or town until a person receives Public Assistance. Only in extraordinary circumstances will a person receiving Public Assistance also be considered eligible for General Assistance. No person receiving Old Age Assistance or Aid to Permanently and Totally Disabled under RSA 167 or 161 shall at the same time be eligible for General Assistance except for medical and surgical assistance (RSA 167:27).

Any person residing or temporarily present in a municipality may apply to the general assistance official of that municipality for welfare/general assistance.

Minors—the residence of a minor shall be presumed to be the residence of his or her custodial parent or guardian. The minor's intent is not relevant nor does this change if the minor is, himself or herself, the parent of a child. (A "minor" is defined as any person under 18 years of age.) Any minor asking for assistance will be referred to the New Hampshire Department of Children, Youth & Families (DCYF) as the parent or legal guardian is financially and legally responsible for said minor and DCYF has the power to seek support and provide protection to the minor.

Definitions

AGENCY: Any health, social service or other entity that provides services to a client. Any such entity to which a welfare official may refer a client for additional resources and/or assistance.

APPLICANT: A person who expresses a desire to receive general assistance or to have his/her eligibility reviewed and whose application has not been withdrawn. This may be expressed either in person or by an authorized representative of the applicant.

APPLICATION (RE-APPLICATION): Written action by which a person requests assistance from a general assistance official. This application must be made on a form provided by the general assistance official. The application form may be written or completed electronically by means of an interview conducted by a general assistance official and verified by the applicant's signature.

ASSETS: All cash, real property, personal property and future assets owned by the applicant.

AVAILABLE LIQUID ASSETS: Amount of liquid assets after exclusions enumerated on page 17 (available assets). Includes cash on hand, checking accounts, bank deposits, credit union accounts, stocks, bonds, and securities. IRA (Individual Retirement Account), 401k accounts, insurance policies with a loan value, and non-essential personal property shall be considered as available liquid assets when they have been converted into cash.

CASE RECORD: Official files containing forms, correspondence and narrative records pertaining to the application, including determination of eligibility, reasons for decisions and actions by the general assistance official, and kinds of assistance given. The case record may be kept electronically. A hard copy of all signed documents should be kept for seven (7) years.

CLAIMANT: A recipient or applicant who has requested, either in person or through an authorized representative, a fair hearing on page 31 of these guidelines.

CLIENT: An individual who receives services from the welfare department. May be a single person or encompass a family.

ELIGIBILITY: Determination by a general assistance official, in accordance with the guidelines, of an applicant's need for general assistance under the formula provided on page 15.

FAIR HEARING: A hearing which the applicant or recipient may request to contest a denial, termination, reduction of assistance or any notice of decision. The standards for such a hearing are on page 31.

GENERAL ASSISTANCE: Financial assistance provided to applicants in accordance with RSA 165 and these guidelines.

GENERAL ASSISTANCE OFFICIAL: The official of the municipality, or designee, who performs the function of administering general assistance. Such person has the authority to make all decisions regarding the granting of assistance under RSA 165, subject to the overall fiscal responsibility vested in selectmen, board of aldermen, town manager, town council. The term includes "overseers of public general assistance" (RSA 165:1; 41:46) and "administrator of town general assistance" RSA 165:2.

Definitions

HOUSEHOLD: A household is defined as:

- The applicant/recipient and persons residing with the applicant/recipient in the relationship of father, mother, stepfather, stepmother, son, daughter, husband, wife, or domestic partner; and/or
- The applicant/recipient and any adult (including an unrelated person) who resides with the applicant/recipient “in loco parentis” (in the role of a substitute parent) to a minor child (a person under 18 years of age). A person “in loco parentis” is one who intentionally accepts the rights and duties of a natural parent with respect to a child not their own and who has lived with the child long enough to form a “psychological family.”

MINOR: A person under 18 years of age.

NEED: The basic maintenance and support requirements of an applicant, as determined by a general assistance official under the standards on page 19 of these guidelines.

RECIPIENT: A person who is receiving general assistance.

“RELIEVE AND MAINTAIN”: The sustaining of basic needs necessary to the health and welfare of the household.

RESIDENCE: Residence or residency shall mean an applicant’s place of abode or domicile. The place of abode or domicile is that place designated by an applicant as their principal place of physical presence for the indefinite future to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence. RSA 165:1 (I); 21:6-a.

RESIDENTIAL UNIT: All persons physically residing with the applicant, including persons in the applicant’s household and those not within the household.

SHELTER: A temporary housing provider through which an individual or family may seek emergency housing until permanent housing can be found.

UTILITY: Any service such as electric, gas, oil, water or sewer necessary to maintain the health and welfare of the household.

VENDOR/PROVIDER: Any landlord, utility company, store or other business which provides goods or services needed by the applicant/recipient.

VOUCHER SYSTEM: The system whereby a municipality issues vouchers to the recipient’s vendors and providers rather than cash to the recipient. RSA 165:1(III). See page 14.

WORKFARE: Labor performed by general assistance recipients at municipal sites or human service agencies as reimbursement for benefits received. RSA 165:31. Page 25.

Severability

If any provision of these guidelines is held at law to be invalid or inapplicable to any person or circumstances, the remaining provisions will continue in full force and effect.

Confidentiality of Information

Information given by or about an applicant or recipient of general assistance is confidential and privileged, and is not a public record under the provisions of RSA 91-A. Such information will not be published, released, or discussed with any individual or agency without written permission of the applicant or recipient except when disclosure is required by law, or when necessary to carry out the purposes of RSA 165. RSA 165:2-c.

Roles of Local Governing Body and General Assistance Officials

The responsibility of the day-to-day administration of the general assistance program should be vested in the elected or appointed general assistance official. The general assistance official shall administer the general assistance program in accordance with the written guidelines of the municipality. The local governing body (selectmen, or town council) is responsible for the adoption of the guidelines relative to general assistance. RSA 165:1 (II).

Maintenance of Records

Legal Requirement

Each general assistance official is required by law to keep complete paper and/or electronic records concerning the number of applicants given assistance and the cost for such support. Separate case records shall be established for each individual or family applying for general assistance.

The purposes for keeping such records are:

- To provide a valid basis of accounting for expenditure of the municipality's funds;

- To support decisions concerning the applicant's eligibility;

- To assure availability of information if the applicant or recipient seeks administrative or judicial review of the general assistance official's decision;

- To provide the general assistance official with accurate statistical information; and

- To provide a complete history of an applicant's needs and assistance that might aid the welfare official in ongoing case management and in referring the applicant to appropriate agencies.

Maintenance of Records CONTINUED...

Case Records

The general assistance official shall maintain case records containing the following information:

The complete application including any authorizations signed by the applicant allowing the general assistance official to obtain or verify any pertinent information in the course of assisting the recipient, to include a signed Authorization to Release Information from the New Hampshire Division of Health and Human Services.

Written grounds for approval or denial of an application, contained in a notice of decision.

A narrative history recording need for assistance, the results of investigations of applicants' circumstances, referrals, changes in status, etc.

A tally sheet, which has complete data concerning the type, amount and dates of assistance given which may be kept on paper or electronically.

Application Process

Right to Apply

Anyone may apply for general assistance by appearing in person or through an authorized representative and by completing a written or electronic application form. If more than one adult resides in a household, each may be required to appear at the general assistance office to apply for assistance, unless one is working or otherwise reasonably unavailable.

Unrelated adults in the applicant's residential unit may be required to apply separately if they do not meet the definition of household as defined in these guidelines. Each adult in the household may be requested to sign release of information forms.

The general assistance official shall not be required to accept an application for general assistance from a recipient who is subject to a suspension pursuant to page 29 of these guidelines (RSA 165:1-b, VI); provided that any applicant who contests a determination of continuing noncompliance with the guidelines may request a fair hearing as provided on page 29; and provided further that a recipient who has been suspended for at least six months due to noncompliance may file a new application.

Application Process CONTINUED...

General Assistance Official's Responsibilities at Time of Application

When application is made for general assistance, the official shall inform the applicant of:

The requirement of submitting an application. The general assistance official shall provide assistance to the applicant in completing the application, if necessary (e.g., applicant is physically or mentally unable, or has a language barrier);

Eligibility requirements, including a general description of the guideline amounts and the eligibility formula;

The applicant's right to a fair hearing, and the manner in which a review may be obtained;

The applicant's responsibility for reporting all facts necessary to determine eligibility, and for presenting records and documents as requested and as reasonably available to support statements;

The joint responsibility of the general assistance official and applicant for exploring facts concerning eligibility, needs and resources;

The kinds of verifications needed;

The fact that an investigation will be conducted in order to verify facts and statements presented by the applicant;

The applicant's responsibility to notify the general assistance official of any change in circumstances that may affect eligibility;

Other forms of assistance for which the applicant may be eligible;

The availability of the general assistance official to make home visits by mutually-agreed appointment to take applications and to conduct ongoing case management for applicants who cannot leave their homes;

The requirement of placing a lien on any real property owned by the recipient, or any civil judgments or property settlements, for any assistance given, except for good cause;

The fact that reimbursement from the recipient will be sought if he/she becomes able to repay the amount of assistance given; and

The applicant's right to review the guidelines.

Application Process CONTINUED...

Responsibility of Each Applicant and Recipient

At the time of initial application, and at all times thereafter, the applicant/recipient has the following responsibilities:

To provide accurate, complete and current information concerning needs and resources and the whereabouts and circumstances of relatives who may be responsible under RSA 165:19;

To notify the general assistance official promptly when there is a change in needs, resources, address or household size;

To apply for immediately, but no later than 7 days from initial application, and accept any benefits or resources, public or private, that will reduce or eliminate the need for general assistance. RSA 165:1-b, I (d);

To keep all appointments as scheduled;

To provide records and other pertinent information and access to said records and information when requested;

To provide a doctor's statement if claiming an inability to work due to medical problems;

Following a determination of eligibility for assistance, to diligently search for employment and provide verification of work search (the number of work search contacts to be determined by the general assistance official), to accept employment when offered (except for documented reasons of good cause (RSA 165:1-d)), and to maintain such employment. RSA 165:1-b, I (c);

Following a determination of eligibility for assistance, to participate in the workfare program if physically and mentally able. RSA 165:1-b, I (b); and

To reimburse assistance granted if returned to an income status and if such reimbursement can be made without financial hardship. RSA 165:20-b.

An applicant shall be denied assistance if he/she fails to fulfill any of these responsibilities without reasonable justification. A recipient's assistance may be terminated or suspended for failure to fulfill any of these responsibilities without reasonable justification, in accordance with Suspension for Noncompliance with the Guidelines see page 29.

Any recipient may be denied or terminated from general assistance, in accordance with page 28, or may be prosecuted for a criminal offense, if he/she, by means of intentionally false statements or intentional misrepresentation, or by impersonation or other willfully fraudulent act or device, obtains or attempts to obtain any assistance to which he/she is not entitled.

Application Process CONTINUED...

Actions on Applications

Decision. Unless an application is withdrawn, the general assistance official shall make a decision concerning the applicant's eligibility immediately in the case of emergency, or within five working days after submission of the application. A written notice of decision shall be given in hand, delivered or mailed on the same day or next working day following the making of the decision. The notice of decision shall state that assistance of a specific kind and amount has been given and the time period of aid, or that the application has been denied, in whole or in part, with reasons for denial. A decision may also be made to suspend an application subject to receipt of specified information from the applicant. The notice of decision shall contain a first notice of conditions for continued assistance and shall notify the applicant of his/her right to a fair hearing if dissatisfied with the general assistance official's decision. RSA 165:1-b, II, III.

Emergency Assistance. If, at the time of initial contact, the applicant demonstrates and verifies that an immediate need exists, because of which the applicant may suffer a loss of a basic necessity of living or imminent threat to life or health (such as loss of shelter, utilities, heat, or lack of food or prescriptions), then temporary aid to fill such immediate need shall be given immediately, pending a decision on the application. Such emergency assistance shall not obligate the general assistance official to provide further assistance after the application process is completed.

Temporary Assistance. In circumstances where required records are not available, the general assistance official may give temporary approval of an application pending receipt of required documents. Temporary status shall not extend beyond two weeks. The general assistance official shall not insist on documentary verification if such records are totally unavailable.

Withdrawn Applications. An application shall be considered withdrawn if:

The applicant has refused to complete an application or has refused to make a good faith effort to provide required verifications and sufficient information for the completion of an application. If an application is deemed withdrawn for these reasons, the general assistance official shall so notify the applicant in a written notice of decision;

The applicant dies before assistance is rendered;

The applicant avails him/herself of other resources to meet the need in place of assistance;

The applicant requests that the application be withdrawn (preferably in writing); or
The applicant does not contact the general assistance official after the initial interview after being requested to do so.

Verification of Information

Home Visits

A home visit may be made by appointment at the request of any applicant, only when it is impossible for the applicant or their representative to apply in person.

The home visit shall be conducted in such a manner as to preserve, to the greatest extent possible, the privacy and dignity of the applicant. To this end, the person conducting the visit shall not be in uniform or travel in a law enforcement vehicle, shall be polite and courteous, and shall not knowingly discuss or mention the application within the listening area of someone who is not a member of the household.

Any determination or investigation of need or eligibility shall be conducted in a manner that will not violate the privacy or personal dignity of the individual or harass or violate his or her individual rights.

Required Verifications

Verification will normally be required of the following:

- Applicant's address;
- Facts relevant to the applicant's residence;
- Names of persons in applicant's residential unit;
- Applicant's and household's income and assets;
- Applicant's and household's financial obligations;
- The physical and mental condition of household members, only where relevant to their receipt of assistance, such as ability to work, determination of needs, or referrals to other forms of assistance;
- Any special circumstances claimed by applicant;
- Applicant's employment status and availability in the labor market;
- Names, addresses, and employment status of potentially liable relatives;
- Utility costs;
- Housing costs;
- Prescription costs; and
- Any other costs that the applicant wishes to claim as a necessity.

Verification Records

Verification may be made through records provided by the applicant (for example, birth and marriage certificates, pay stubs, pay checks, rent receipts, bankbooks, etc.) as primary sources. The failure of the applicant to bring such records does not affect the general assistance official's responsibility to process the application promptly. The general assistance official shall inform the applicant what records are necessary, and the applicant is required to produce records possessed as soon as possible. However, the general assistance official shall not insist on documentary verification if such records are not available, but should ask the applicant to suggest alternative means of verification.

Verification of Information continued...

Other Sources of Verification

Verification may also be made through other sources, such as relatives, employers, former employers, banks, school personnel, and social or government agencies. The cashier of a national bank or a treasurer of a savings and trust company is authorized by law to furnish information regarding amounts deposited to the credit of an applicant or recipient. RSA 165:4.

Written Consent of Applicant

When information is sought from such other sources, the general assistance official shall explain to the applicant or recipient what information is desired, how it will be used, and the necessity of obtaining it in order to establish eligibility. Before contact is made with any other source, the general assistance official shall obtain written consent of the applicant or recipient, unless the general assistance official has reasonable grounds to suspect fraud. In the case of suspected fraud, the general assistance official shall carefully record his/her reasons and actions, and before any accusation or confrontation is made, the applicant shall be given an opportunity to explain or clarify the suspicious circumstances.

Legally Liable Relatives

The general assistance official may seek statements from the applicant's legally liable relatives regarding their ability to help support the applicant.

Refusal to Verify Information

Should the applicant or recipient refuse comment and/or indicate an unwillingness to have the general assistance official seek further information that is necessary, assistance may be denied for lack of eligibility verification.

Disbursements

The municipality pays in a voucher system. RSA 165:1 (III). Vouchers are payable directly to the vendors (utilities, landlords, stores, etc.) involved.

The amount shown on the voucher is the maximum amount to be used for payment. In accordance with the municipality's accounting practices, a recipient may be required to sign the voucher to insure proper usage. The general assistance official submits the voucher with the required documentation, for payment, to the Disbursement Accountant to issue a check to the vendor. Vouchers altered by the recipient or vendor may not be honored. A vendor is required to sign a W9 with the tax payer ID or social security number.

Determination of Eligibility and Amount

Eligibility Formula

An applicant is eligible to receive assistance when:

He/she meets the non-financial eligibility factors listed in Section C below; and

The applicant's basic maintenance need, as determined below, exceeds his/her available income plus available liquid assets. If available income and available liquid assets exceed the basic maintenance need (as determined by the guideline amounts), the applicant is not eligible for general assistance. If the need exceeds the available income/assets, the amount of assistance granted to the applicant shall be the difference between the two amounts, in the absence of circumstances deemed by the general assistance official to justify an exception.

Legal Standard and Interpretation

"Whenever a person in any Town is poor and unable to support himself he shall be relieved and maintained by the overseers of public welfare of such Town, whether or not he has residence there." RSA 165:1.

An applicant cannot be denied assistance because he/she is not a resident.

"Whenever" means at any or whatever time that person is poor and unable to support him or herself.

The general assistance official, or a person authorized to act on his/her behalf, shall be available during normal business hours.

The eligibility of any applicant for general assistance shall be determined no later than five (5) working days after the application is submitted. If the applicant has an emergency need, then assistance for such emergency need shall be immediately provided in accordance with page 12 (Emergency Assistance).

Assistance shall begin as soon as the applicant is determined to be eligible.

"Poor and unable to support" means that an individual lacks income and available liquid assets to adequately provide for the basic maintenance needs of him/herself or family as determined by the guidelines.

"Relieved" means an applicant shall be assisted to meet those basic needs.

Determination of Eligibility and Amount

Non-Financial Eligibility Factors

Age. General assistance cannot be denied any applicant because of the applicant's age; age is not a factor in determining whether or not an applicant may receive general assistance. Minor children are assumed to be the responsibility of their parent(s) or legal guardian(s), unless circumstances warrant otherwise.

Support Actions. No applicant or recipient shall be compelled, as a condition of eligibility or continued receipt of assistance, to take any legal action against any other person. The municipality may pursue recovery against legally liable persons or governmental units. See Page 34 (Recovery from the Municipality of Residence).

Eligibility for Other Categorical Assistance. Recipients who are, or may be, eligible for any other form of public assistance must apply for such assistance immediately, but no later than seven days after being advised to do so by the general assistance official. Failure to do so may render the recipient ineligible for assistance and subject to action pursuant to Page 28 of these guidelines. No person receiving Old Age Assistance (OAA) or Aid to the Permanently and Totally Disabled (APTD), under RSA 167 or 161, shall at the same time be eligible for general assistance, except for emergency medical assistance as defined on Page 5 of these guidelines. RSA 167:27.

Employment. An applicant who is gainfully employed, but whose income and assets are not sufficient to meet necessary household expenses, may be eligible to receive general assistance. However, recipients who without good cause refuse a job offer or referral to suitable employment, participation in the workfare program, or who voluntarily leave a job without good cause may be ineligible for continuing general assistance in accordance with the procedures for suspension outlined in the guidelines. The general assistance official shall first determine whether there is good cause for such refusal, taking into account the ability and physical and mental capacity of the applicant, transportation problems, working conditions that might involve risks to health or safety, lack of adequate child care, or any other factors that might make refusing a job reasonable. These employment requirements shall extend to all adult members of the household.

Registration with the New Hampshire Department of Employment Security (NHES) and Work Search Requirements. All unemployed recipients and adult members of their households shall, within seven days after having been granted assistance, register with NHES to find work and must conduct a reasonable, verified job search as determined by the general assistance official. Each recipient must apply for employment to each employer to whom he/she is referred by the general assistance official. These work search requirements apply unless the recipient and each other adult member of the household is:

Gainfully employed full-time;

A dependent 18 or under who is regularly attending secondary school;

Unable to work due to illness or mental or physical disability of him/herself or another member of the household, as verified by the general assistance official; or

Determination of Eligibility and Amount

Is solely responsible for the care of a child under the age of five. RSA 165:31,III. A recipient responsible for the care of a child aged five to twelve shall not be excused from work search requirements, but shall be deemed to have good cause to refuse a job requiring work during hours the child is not usually in school, if there is no responsible person available to provide care, and it is verified by the general assistance official that no other care is available.

The general assistance official shall give all necessary and reasonable assistance to ensure compliance with registration and work requirements, including the granting of allowances for transportation and work clothes. Failure of a recipient to comply with these requirements without good cause will be reason for denial of assistance.

Students. Applicants who are college students not available for or refusing to seek full-time employment are not eligible for general assistance.

Non-Citizens. The general assistance officer may, in his/her sole discretion, provide limited assistance to non-citizens not otherwise eligible for general assistance.

A non-citizen who is not:

- A qualified alien under 8 USCA 1641,
- A non-immigrant under the federal Immigration and Nationality Act, or
- An alien paroled into the United States for less than one year under 8 USCA 1182(d)(5) is not eligible for general assistance from the municipality.

Qualified aliens include aliens who are lawfully admitted for permanent residence under the Immigration and Nationality Act (8 USCA 1101 et seq.), aliens who are granted asylum under that act, certain refugees, and certain battered aliens.

A non-citizen who is not eligible for general assistance may be eligible for state assistance with health care items and services that are necessary for the treatment of an emergency medical condition, which is defined as a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the patient's health in serious jeopardy;
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part. 8 USCA 1621(b) and 42 USCA 1396(v)(3).

Non-citizen applicants for general assistance may be required to provide proof of eligibility. 8 USCA 1625.

Determination of Eligibility and Amount

Property Transfers. No applicant who is otherwise eligible shall receive such assistance if he/she has made an assignment, transfer, or conveyance of property for the purpose of rendering him/herself eligible for assistance within three years immediately preceding his/her application. RSA 165:2-b.

Employment of Household Members. The employment requirements of these guidelines, or participation in the workfare program, shall be required for all adults aged 18 to 65 years residing in the same household, except those regularly attending secondary school or employed on a full-time basis, who are:

- Members of the recipient's household;
- Legally liable to contribute to the support of the recipient and/or children of the household;
- and
- Not prevented from maintaining employment and contributing to the support of the household by reason of physical or mental disability or other justifiable cause as verified by the general assistance official.

The general assistance official may waive this requirement where failure of the other household members to comply is not the fault of the recipient and the general assistance official decides it would be unreasonable for the recipient to establish a separate household. RSA 165:32.

Disqualification for Voluntary Termination of Employment. Any applicant eligible for assistance who voluntarily terminated employment shall be ineligible to receive assistance for 90 days from the date of employment termination, provided the applicant:

- Has received local general assistance within the past 365 days; and
- Has been given notice that voluntary termination of employment without good cause could result in disqualification; and
- Has terminated employment of at least 20 hours per week without good cause within 60 days of an application for local general assistance; and
- Is not responsible for supporting minor children in his/her household; and
- Did not have a mental or physical impairment which caused him/her to be unable to work.

Good cause for terminating employment shall include any of the following: discrimination, unreasonable work demands or unsuitable employment, retirement, leaving a job in order to accept a bona-fide job offer, migrant farm labor or seasonal construction, and lack of transportation or child care. An applicant shall be considered to have voluntarily terminated employment if the applicant fails to report for work without good cause. An applicant who is fired or resigns from a job at the request of the employer due to applicant's inability to maintain the employer's normal work productivity standard shall not be considered to have voluntarily terminated employment. RSA 165:1-d.

Determination of Eligibility and Amount

Available Assets

Available Liquid Assets. Cash on hand, bank deposits, credit union accounts, securities and retirement plans (i.e., IRA's, deferred compensation, Keogh's, etc.) are available liquid assets. Insurance policies with a loan value, and non-essential personal property, may be considered as available liquid assets when they have been converted into cash. The welfare official shall allow a reasonable time for such conversion. However, tools of a trade, livestock and farm equipment, and necessary and ordinary household goods are essential items of personal property which shall not be considered as available assets.

Automobile Ownership. The ownership of one automobile by an applicant/recipient or his/her dependent does not affect eligibility if it is essential for transportation to seek or maintain employment, to procure medical services or rehabilitation services, or if its use is essential to the maintenance of the individual or the family.

Insurance. The ownership of insurance policies does not affect eligibility. However, when a policy has cash or loan value, the recipient will be required to obtain and/or borrow all available funds, which shall then be considered available liquid assets.

Real Estate. The type and amount of real estate owned by an applicant does not affect eligibility, although rent or other such income from property shall be considered as available to meet need. Applicants owning real estate property, other than that occupied as their primary residence, shall be expected to make reasonable efforts to dispose of it at fair market value. Applicants shall be informed that a lien covering the amount of any general assistance they receive shall be placed against any real estate they own. RSA 165:28.

Standard of Need

The basic financial requirement for general assistance is that an applicant be poor and unable to support him/herself. An applicant shall be considered poor when he/she has insufficient available income/assets to purchase either for him/herself or dependents any of the following.

Shelter. The amount to be included as "need" for shelter is the actual cost of rent or mortgage necessary to provide shelter in that municipality. Such cost shall be determined in accordance with the subparagraph below.

Shelter Arrearages. Shelter arrearages will be included in the "need" formula if, and only if, such payment is necessary to prevent eviction or foreclosure or to protect the health and safety of the household. However, if the amount of such mortgage or rental arrearage substantially exceeds the cost of alternative, available housing which complies with local health and housing code standards, or if the payment of arrears will not prevent eviction or foreclosure, the general assistance official may instead authorize payment of security deposit, rent, and/or reasonable relocation expenses for such alternative housing if, under the circumstances of the case, it is reasonable to do so and would not cause undue hardship to the applicant household. Alternative housing may include transitional housing as an option.

Determination of Eligibility and Amount

Security Deposits. Security deposits may be included in the ‘need’ formula if, and only if, the applicant is unable to secure alternative shelter for which no security deposit is required or is unable to secure funds, either him/herself or from alternative sources, for payment of the deposit. Any security deposit provided by the general assistance program which is returned under RSA 540-A:7 shall be returned to the municipality, not the recipient.

Relative Landlords. Whenever a relative of an applicant is also the landlord for the applicant, a financial analysis shall be made in accordance with RSA 165:19.

Rental Rates. Median Monthly Gross Rental rates provided by NH Housing Finance Authority range from 1 bedroom unit \$700, 2 bedroom units \$850, and 3 bedroom units at \$950. Manufactured Home Space (lot rent) \$360.

Utilities. When utility costs are not included in the shelter expense, the most recent outstanding monthly utility bill will be included as part of “need” by the general assistance official. Arrearages will not normally be included in “need” except as set forth below.

Arrearages. Arrearages will not be included except when necessary to ensure the health and safety of the applicant household or to prevent termination of utility service where no other resources or referrals can be utilized. In accordance with the rules of the PUC relating to electric utilities, arrearages for electric service need not be paid if the general assistance official notifies the electric company that the municipality guarantees payment of current electric bills as long as the recipient remains eligible for general assistance.

Restoration of Service. When utility service has been terminated and the general assistance official has determined that alternative utility service is not available and alternative shelter is not feasible, arrearages will be included in “need” when restoration of service is necessary to ensure the health and safety of the applicant household. The general assistance official may negotiate with the utility for payment of less than the full amount of the arrears and/or may attempt to arrange a repayment plan to obtain restoration of service.

When electric service has been terminated and restoration is required, arrearages may either be included as set forth in the above paragraph, or may be paid in accordance with a reasonable payment plan entered into by the applicant and the electric company. The general assistance official may hold the recipient accountable for the payment arrangement for as long as the recipient continues to request general assistance on a regular basis. Payment of a payment plan may be a required element of a notice of decision or case plan.

Deposits. Utility security deposits will be considered as “need” if, and only if, the applicant is unable to secure utility service without a deposit. Such deposits shall, however, be the property of the municipality.

Determination of Eligibility and Amount

Food. The amount included as “need” for food purchases will be in accordance with the most recent standard food stamp allotment, as determined under the food stamp program administered by the New Hampshire Department of Health and Human Services. An amount in excess of the standard food allotment may be granted if one or more members of the household needs a special diet, as verified by the general assistance official, the documented cost of which is greater than can be purchased with the family’s allotment of food stamps.

Allotment Chart

People in House	Maximum Monthly Allotment
1	\$155
2	\$284
3	\$408
4	\$518
Each additional person...	\$117

Household Maintenance Allowance. Applicants may include, in calculating “need,” the cost of providing personal and household necessities in an amount not to exceed these guidelines, as determined in accordance with the subparagraph below. Need allowance for diapers shall be calculated based on usage. Intended to provide personal hygiene items.

Family Size	Monthly Allotment
1	\$15.00
2	\$20.00
Plus \$5.00 for each additional person	

Telephone. If the absence of a telephone would create an unreasonable risk to the applicant’s health or safety (as verified by the general assistance official), or for other good cause as determined by the general assistance official, the lowest available basic monthly rate will be budgeted as “need.” While payments will not be made for telephone bills, under exceptional circumstances where no other source of assistance is available payments may be made to maintain basic telephone service.

Transportation. If the general assistance official determines that transportation is necessary (for health reasons, maintain employment, or comply with conditions of assistance) “need” should include the costs of public transportation. If, and only if, the transportation need can’t be reasonably provided by alternative means, such as public transportation or volunteer drivers, a reasonable amount for car payments and gasoline should be included as part of “need” when determining eligibility or amount of aid.

Maintenance of Insurance. In the event that the general assistance official determines that the maintenance of medical insurance is essential, an applicant may include as “need” the reasonable cost of such premiums.

Emergency and Other Expenses. In the event that the applicant has the following current expenses, the actual cost shall be included as emergency and other expenses to determine eligibility and amount of assistance:

Determination of Eligibility and Amount

Medical Expenses. The general assistance official shall not consider including amounts for medical, dental or eye services unless the applicant can verify that all other potential sources have been investigated and that there is no source of assistance other than local general assistance. Other sources to be considered shall include state and federal programs, local and area clinics, area service organizations and area hospital indigent programs designed for such needs. When an applicant requests medical service, prescriptions, dental service or eye service, the general assistance official may require verification from a doctor, dentist or person licensed to practice optometry in the area, indicating that these services are absolutely necessary and cannot be postponed without creating a significant risk that the applicant's well being will be placed in serious jeopardy.

Legal Expenses. Except for those specifically required by statute, no legal expenses will be included.

Clothing. If the applicant has an emergency clothing need which cannot be met in a timely fashion by other community resources (i.e.: Salvation Army, Red Cross, church group), the expense of reasonably meeting that emergency clothing need will be included.

Unusual Needs Not Otherwise Provided For in These Guidelines. If the general assistance official determines that the strict application of the standard of need criteria will result in unnecessary or undue hardship (e.g. needed services are inaccessible to the applicant), such official may make minor adjustments in the criteria, or may make allowances using the emergency need standards on Page 10 of these guidelines. Any such determination, and the reasons therefore, shall be stated in writing in the applicant's case record.

Shared Expenses. If the applicant/recipient household shares shelter, utility, or other expenses with a non-applicant/recipient (i.e.: is part of a residential unit), then need should be determined on a pro rata share, based on the total number of adults in the residential unit (e.g.: three adults in residential unit, but only one applies for assistance—shelter need is 1/3 of shelter allowance for household of three adults).

Payment Levels for Allowable Expenses. When adopting these guidelines, the municipal governing body shall establish payment levels for various allowable expenses which shall be based on actual local market conditions and costs. The payment levels shall be reviewed by the general assistance official annually and modifications presented to the municipal governing body where market conditions have changed. RSA 165:1, II.

Income

In determining eligibility and the amount of assistance, the standard of need shall be compared to the available income/assets. Computation of income and expenses will be by the week or month. The following items will be included in the computation:

Determination of Eligibility and Amount

Earned Income. Income in cash or in-kind earned by the applicant or any member of the household through wages, salary, commissions, or profit, whether self-employed or as an employee, is to be included as income. Rental income and profits from items sold are considered earned income. With respect to self-employment, total profit is arrived at by subtracting business expenses from gross income in accordance with standard accounting principles. When income consists of wages, the amount computed should be that available after income taxes, social security and other payroll deductions required by state, federal, or local law, court ordered support payments and child care costs, and work related clothing costs have been deducted from income. Wages that are trustee, or income similarly unavailable to the applicant or applicant's dependents, should not be included.

Income or Support from Other Persons. Contributions from relatives or other household members shall be considered as income only if actually available and received by the applicant or recipient. The income of non-household members of the applicant's residential unit shall not be counted as income.

Income from Other Assistance or Social Insurance Programs.

State categorical assistance benefits, OASDI payments, Social Security Payments, VA benefits, unemployment insurance benefits, and payment from other government sources shall be considered income.

Food Stamps cannot be counted as income pursuant to federal law. (7 USC 2017 b)

Fuel assistance cannot be counted as income pursuant to federal law. (42 USC 8624 (f)(1))

Court-Ordered Support Payments. Alimony and child support payments shall be considered income only if actually received by the applicant or recipient.

Income from Other Sources. Payment from pension, trust funds, and similar programs shall be considered income.

Earnings of a Child. No inquiry shall be made into the earnings of a child 14 years of age or less unless that child makes a regular and substantial contribution to the family.

Option to Treat a Qualified State Assistance Reduction as Deemed Income. The general assistance official may deem as income all or any portion of any qualified state assistance reduction pursuant to RSA 167:82, VIII. The following criteria shall apply to any action to deem income under this section. RSA 165:1-e.

The authority to deem income under this section shall terminate when the Qualified State Assistance Reduction no longer is in effect.

Applicants for general assistance may be required to cooperate in obtaining information from the Department of Health and Human Services as to the existence and amount of any Qualified State Assistance Reduction.

Determination of Eligibility and Amount

No applicant for general assistance may be considered to be subject to a Qualified State Assistance Reduction unless the existence and amount has been confirmed by the Department of Health and Human Services.

The general assistance official shall provide the applicant with a written decision which sets forth the amount of any deemed income used to determine eligibility for general assistance.

Whenever necessary to prevent an immediate threat to the health and safety of children in the household, the welfare official shall waive that portion, if any, of the Qualified State Assistance Reduction as necessary.

Residents of Shelters for Victims of Domestic Violence and Their Children

An applicant residing in a shelter for victims of domestic violence and their children who has income, and owns resources jointly with the abusive member of the applicant's household, shall be required to cooperate with the normal procedures for purposes of verification. Such resources and income may be excluded from eligibility determinations unless the applicant has safe access to joint resources at the time of application. The verification process may be completed through an authorized representative of the shelter of residence. The normal procedures taken in accordance with these guidelines to recover assistance granted shall not delay such assistance.

Non-Residents

Eligibility

Applicants who are temporarily in a municipality which is not their municipality of residence and who do not intend to make a residence there are nonetheless eligible to receive general assistance, provided they are poor and unable to support themselves. RSA 165:1-c.

No applicant shall be refused assistance solely on the basis of residence. RSA 165:1.

Standards

The application procedure, eligibility standards and standard of need shall be the same for nonresidents as for residents.

Verification

Verification records shall not be considered unavailable, nor the applicant's responsibility for providing such records relaxed, solely because they are located in the applicant's municipality of residence.

Determination of Eligibility and Amount

Temporary or Emergency Aid

The standards for the fulfilling of immediate or emergency needs of nonresidents and for temporary assistance pending final decision shall be the same as for residents.

Determination of Residence

Determination of residence shall be made if the applicant requests return home transportation, or if the general assistance official has reason to believe the applicant is a resident of another New Hampshire municipality from which recovery can be made under RSA 165:20.

Minors. The residence of a minor applicant shall be presumed to be the residence of his/her custodial parent or guardian. Refer minor to DCYF see page 5.

Adults. For competent adults, the standard for determining residence shall be the overall intent of the applicant, as set forth in the Section I definition of “residence.” The statement of an applicant over 18 as to his/her residence or intent to establish residence shall be accepted in the absence of strongly inconsistent evidence or behavior.

Return Home Transportation

At the request of a nonresident applicant, any aid, temporary or otherwise, to which he/she would be otherwise entitled under the standards set forth in these guidelines, may be used by the general assistance official to cause the applicant to be returned to his/her municipality of residence. RSA 165:1-c.

Recovery

Any aid given to a nonresident, including the costs of return home transportation, may be recovered from his/her municipality of residence using the procedures on Page 34.

Municipal Work Programs

Participation

Any recipient of general assistance who is able and not gainfully employed may be required to work for the municipality or an appropriate local human service agency at any available bona fide job that is within his/her capacity (RSA 165:31) for the purpose of reimbursement of benefits received. Participants in the workfare program are not considered employees of the municipality, and any work performed by workfare participants does not give rise to any employee-employer relationship between the recipient/workfare participant and the municipality.

Municipal Work Programs continued...

Reimbursement Rate

The workfare participant shall be allotted the prevailing municipal wage for work performed, but in no case less than the minimum wage. No cash compensation shall be paid for workfare participation; the wage value of all hours worked shall be used to reimburse the municipality for assistance given. No workfare participant shall be required to work more hours than necessary to reimburse aid rendered.

Continuing Financial Liability

If, due to lack of available municipal work or other good cause, a recipient does not work a sufficient number of hours to fully reimburse the municipality for the amount of his/her aid, the amount of aid received less the value of workfare hours completed shall still be owed to the municipality.

Allowance for Work Search

The municipality shall provide reasonable time during working hours for the workfare participant to conduct a documented employment search.

Workfare Program Attendance

With prior notice to the general assistance official, a recipient may be excused from workfare participation if he/she:

Has a conflicting job interview;

Has a conflicting interview at a service or general assistance agency;

Has a medical appointment or illness;

As a parent or person “in loco parentis,” must care for a child under the age of five. A recipient responsible for a child age five but under 12 shall not be required to work during hours the child is not in school, if there is no responsible person available to provide care, and no other care is available;

Is unable to work due to mental or physical disability or must remain at home because of illness or disability to another member of the household, as verified by the general assistance official; or

Does not possess the materials or tools required to perform the task and the municipality fails to provide them. However, the workfare participant should attempt to schedule appointments so as not to conflict with the workfare program and must notify his/her supervisor in advance of the appointment. The general assistance official may require participants to provide documentation of their attendance at a conflicting interview or appointment.

Municipal Work Programs continued...

Workfare Hours

Workfare hours are subject to approval of the supervisor and the general assistance official. Failure of the participant to adhere to the agreed workfare hours (except for the reasons listed on page 26) will prompt review of the recipient's eligibility for general assistance, and may result in a suspension or termination of assistance.

Workers Compensation

The municipality shall provide workers compensation coverage to participants in workfare programs in the same manner such coverage is provided to other municipal employees, unless the local governing body of the municipality has voted to adopt a guideline making the provisions of the workers compensation laws not applicable to workfare program participants. RSA 281-A:2, VII(b).

Burials & Cremations

The general assistance official shall provide for proper burial or cremation, at municipal expense, of persons found in the municipality at time of death, regardless of whether the deceased person ever applied for or received general assistance from any municipality. In such cases, assistance may be applied for on behalf of the deceased person, however the application should be made before any burial or cremation expenses are incurred. The expense may be recovered from the deceased person's municipality of residence, or from a liable relative pursuant to RSA 165:3, II. If relatives, other private persons, the state or other sources are unable to cover the entire burial/cremation expense, the municipality will pay up to \$840.00 for burial/cremation. RSA 165:3 and RSA 165:1-b; see also RSA 165:27 and 165:27-a.

Right to Notice of Adverse Action

Right to a Written Decision

All persons have a constitutional right to be free of unfair, arbitrary or unreasonable action taken by government. This includes applicants for and recipients of general assistance whose aid has been denied, terminated or reduced. Every applicant and recipient shall be given a written notice of every decision regarding assistance. The general assistance official will make every effort to ensure that the applicant understands the decision.

Action Taken for Reasons Other Than Noncompliance with the Guidelines

Whenever a decision is made to deny assistance or to refuse to grant the full amount of assistance requested, a notice of the decision shall be given or mailed to the applicant either the same day or next work day following the making of the decision or within five working days from the time the application is filled out and submitted, whichever occurs first.

In any case where the general assistance official decides to terminate or reduce assistance for reasons other than noncompliance with the guidelines, the official shall send notice at least seven days in advance of the effective date of the decision to the recipient stating the intended action.

The notice required by the paragraphs above shall contain:

A clear statement of the reasons for the denial or proposed termination or reduction.

A statement advising the recipient of his/her right to a fair hearing and that any request for a fair hearing must be made in writing within five working days.

A form on which the recipient may request a fair hearing.

A statement advising the recipient of the time limits which must be met in order to receive a fair hearing.

A statement that assistance may continue, if there was initial eligibility, until the date of hearing, if requested by the claimant. Aid must be repaid if the claimant fails to prevail at the hearing.

Right to Notice of Adverse Action continued...

Suspension for Noncompliance with the Guidelines

NOTE: This procedure has been developed by LGC in an effort to set forth a clear process for suspension of assistance for willful noncompliance with guidelines, under RSA 165:1-b. There are differing opinions as to the intent and interpretation of the statute. There are differing opinions as to the specific procedures required by the statute. The procedures outlined in this section are not specifically mandated by RSA 165:1-b, but are LGC's attempt to create a legally sound compromise. See also Appendix B.

Due Process. Recipients must comply with these guidelines and the reasonable requests of general assistance officials. General assistance officials must enforce the guidelines while ensuring that all recipients and applicants receive due process. Recipients should be given reasonable notice of the conditions and requirements of eligibility and continuing eligibility and notice that noncompliance may result in termination or suspension.

Conditions. Any applicant/recipient otherwise eligible for assistance shall become ineligible under RSA 165:1-b if he/she willfully and without good cause fails to comply with the requirements of these guidelines relating to the obligation to:

Disclose and provide verification of income, resources or other material financial data, see Page 13 of these guidelines, including any changes in this information;

Participate in the work program see Page 25, to the extent assigned by the general assistance official;

Comply with the work search requirements imposed by the general assistance official see Page 11; and

Apply for other public assistance, as required by the general assistance official see Page 11.

First Notice. No recipient otherwise eligible shall be suspended for noncompliance with conditions unless he/she has been given a written notice of the actions required in order to remain eligible and a seven-day period within which to comply. The first notice should be given at the time of the notice of decision and thereafter as conditions change. Additional notice of actions required should also be given, as eligibility is re-determined, but without an additional seven day period unless new actions are required. RSA 165:1-b, II.

Noncompliance. If a recipient willfully and without good cause fails to come into compliance during the seven day period, or willfully falls into noncompliance within 30 days from receipt of a first notice, the welfare official shall give the recipient a suspension notice, as set forth in the next paragraph.

Right to Notice of Adverse Action continued...

If a recipient falls into noncompliance for the first time more than 30 days after receipt of a first notice, the general assistance official shall give the recipient a new first notice with a new seven day period to comply before giving the recipient the suspension notice. RSA 165:1-b, III.

Suspension Notice. Written notice to a recipient that he/she is suspended from assistance due to failure to comply with the conditions required in a first notice shall include:

A list of the guidelines with which the recipient is not in compliance and a description of those actions necessary for compliance;

The period of suspension (See the paragraph below);

Notice of the right to a fair hearing on the issue of willful noncompliance and that such request must be made in writing within five days of receipt of the suspension notice;

A statement that assistance may continue in accordance with the prior eligibility determination until the fair hearing decision is made if the recipient so requests on the request form for the fair hearing, however, if the recipient fails to prevail at the hearing: 1) the suspension will start after the decision, and 2) such aid must be repaid by the recipient; and

A form on which the individual may request a fair hearing and the continuance of assistance pending the outcome.

Suspension Period. The suspension period for failure to comply with these guidelines shall last:

Either seven days, or 14 days if the recipient has had a prior suspension which ended within the past six months, and

Until the recipient complies with the guidelines if the recipient, upon the expiration of the seven or 14-day suspension period, continues to fail to carry out the specific actions set forth in the notice.

Notwithstanding the paragraph above, a recipient who has been suspended for noncompliance for at least six months may file a new application for assistance without coming back into compliance.

Fair Hearing on Continuing Noncompliance. A recipient who has been suspended until he/she complies with the guidelines may request a fair hearing to resolve a dispute over whether or not he/she has satisfactorily complied with the required guidelines, however no assistance shall be available under the paragraph above.

Right to Notice of Adverse Action continued...

Compliance After Suspension. A recipient who has been subject to a suspension and who has come back into compliance shall have his/her assistance resumed, provided he/she is still otherwise eligible. The notice of decision stating that assistance has been resumed should again set forth the actions required to remain eligible for assistance, but need not provide a seven-day period for compliance unless new conditions have been imposed.

Fair Hearings

Requests

A request for a fair hearing is a written expression, by the applicant or recipient, or any person acting for him/her, to the effect that he/she wants an opportunity to present his/her case to a higher authority. When a request for assistance is denied or when an applicant desires to challenge a decision made by the general assistance official relative to the receipt of assistance, the applicant must present a request for a fair hearing to the general assistance official within five (5) working days of receipt of the notice of decision at issue. RSA 165:1-b, III.

Time Limits for Hearings

Hearings requested by claimants must be held within seven (7) working days of the receipt of the request. The general assistance official shall give notice to the claimant setting the time and location of the hearing. This notice must be given to the claimant at least forty-eight (48) hours in advance of the hearing, or mailed to the claimant at least seventy-two (72) hours in advance of the hearing.

The Fair Hearing Officer(s)

The fair hearing officer or officers may be chosen by the (town manager, administrative services director or chairman of the board of selectmen). The person(s) serving as the fair hearing authority must:

- Not have participated in the decision causing dissatisfaction;

- Be impartial;

- Be sufficiently skilled in interviewing to be able to obtain evidence and facts necessary for a fair determination; and

- Be capable of evaluating all evidence fairly and realistically, to explain to the claimant the laws and regulations under which the welfare official operated, and to interpret to the general assistance official any evidence of unsound, unclear or inequitable policies, practices or action.

Fair Hearings

Fair Hearing Procedures

All fair hearings shall be conducted in such a manner as to ensure due process of law. Fair hearings shall not be conducted according to strict rules of evidence. The burden of proof shall be on the claimant, who shall be required to establish his/her case by a preponderance of the evidence.

The general assistance official responsible for the disputed decision shall attend the hearing and testify about his/her actions and the reasons therefore.

Both parties shall be given the opportunity to offer evidence and explain their positions as fully and completely as they wish. The claimant shall have the opportunity to present his/her own case or, at the claimant's option, with the aid of others, and to bring witnesses, to establish all pertinent facts, to advance any arguments without undue interference, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

A claimant or his/her duly authorized representative has the right to examine, prior to a fair hearing, all records, papers and documents from the claimant's case file which either party may wish to introduce at the fair hearing, as well as any available documents not contained in the case file but relevant to the welfare official's action of which the claimant complains. The claimant may introduce any such documents, papers or records into evidence. No record, paper or document, which the claimant has requested to review but has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.

The general assistance official (or a duly authorized representative) shall have the right to examine at the fair hearing all documents on which the claimant plans to rely at the fair hearing and may request a 24-hour continuance if such documents contain evidence not previously provided or disclosed by the claimant. Should the applicant have new documentation relevant to the disputed decision, he/she may reapply for assistance and file a written withdrawal of the fair hearing request.

The decision of the fair hearing officer(s) must be based solely on the record, in light of these guidelines. Evidence, both written and oral, which is admitted at the hearing shall be the sole contents of the record. The fair hearing officer shall not review the case record or other materials prior to introduction at the hearing.

The parties may stipulate to any facts.

All fair hearings may be tape-recorded and retained for six (6) months.

Fair Hearings

Decisions

Fair hearing decisions shall be rendered within seven (7) working days of the hearing. Decisions shall be in writing setting forth the reasons for decision and the facts on which the fair hearing officer relied in reaching the decision. A copy of the decision shall be mailed or delivered to the claimant and to the general assistance official.

Fair hearing decisions will be rendered on the basis of the officer's findings of fact, these guidelines and state and federal law. The fair hearing decision shall set forth appropriate relief.

The decision shall be dated. In the case of a hearing to review a denial of aid, the decision is retroactive to the date of the action being appealed. If a claimant fails to prevail at the hearing, the assistance given pending the hearing shall be a debt owed by the individual to the municipality.

The general assistance official shall keep all fair hearing decisions on file in chronological order.

None of the procedures specified herein shall limit any right of the applicant or recipient to subsequent court action to review or challenge the adverse decision.

Liens

Real Estate

The law requires the municipality to place a lien for general assistance received on any real estate owned by an assisted person in all cases except for just cause. (This section does not authorize the placement of a lien on the real estate of legally liable relatives, as defined by RSA 165:19.) The general assistance official shall file a Notice of Lien with the County Registry of Deeds, complete with the owner's name and a description of the property sufficient to identify it. Interest at the rate of 6% per year shall be charged on the amount of money constituting the lien commencing one year after the date the lien is filed, unless waived by the municipality. The lien remains in effect until enforced or released or until the amount of the lien is repaid to the municipality. The lien shall not be enforced so long as the real estate is occupied as the sole residence of the assisted person, his/her surviving spouse, or his/her surviving children who are under age 18 or blind or permanently and totally disabled. At such time as the lien may become enforceable, the general assistance officer shall attempt to contact the attorney handling the real estate or estate before enforcing the lien. Upon repayment of a lien, the municipality must file written notice of the discharge of the lien with the County Registry of Deeds. RSA 165:28.

Civil Judgments – RSA 165:28-a.

A municipality shall be entitled to a lien upon property passing under the terms of a will or a property settlement, or a civil judgment for personal injuries (except Workers Compensation) awarded any person granted assistance by the municipality for the amount of assistance granted by the municipality.

The municipality shall be entitled to the lien only if the assistance was granted no more than 6 years before the receipt of the inheritance or the award of the property settlement or civil judgment. When the general assistance officer becomes aware of such a claim against a civil judgment, he/she shall contact the attorney representing the recipient.

This lien shall take precedence over all other claims.

Recovery of Assistance

The general assistance official shall seek to recover money expended to assist eligible applicants. There shall be no delay, refusal to assist, reduction or termination of assistance while the general assistance official is pursuing the procedural or statutory avenues to secure reimbursement. Any legal action to recover must be filed in a court within six (6) years after the expenditure. RSA 165:25.

Recovery from Responsible Relatives

The amount of money spent by a municipality to assist a recipient who has a father, mother, stepfather, stepmother, husband, wife or child (who is no longer a minor) of sufficient ability to also support the recipient, may be recovered from the liable relative. Sufficient ability shall be deemed to exist when the relative's weekly income is more than sufficient to provide a reasonable subsistence compatible with decency and health. The general assistance official may determine that "in kind" assistance or the provision of products/services to the client is acceptable as a relative's response to liability for support. Written notice of money spent in support of a recipient must be given to the liable relative. The general assistance official shall make reasonable efforts to give such written notice prior to the giving of aid, but aid to which an applicant is entitled under these guidelines, shall not be delayed due to inability to contact possibly liable relatives. RSA 165:19.

Recovery from the Municipality of Residence

The general assistance official shall seek to recover from the municipality of residence the amount of money spent by the municipality to assist a recipient who has a residence in another municipality. Written notice of money spent in support of a recipient must be given to the official of the municipality of residence. In any civil action for recovery brought under RSA 165:20, the court shall award costs to the prevailing party. RSA 165:19 and 20. (See RSA 165:20-a providing for arbitration of such disputes between communities.) RSA 165:20.

Recovery of Assistance

Recovery from Former Recipient's Income

A former recipient who is returned to an income status after receiving assistance may be required to reimburse the municipality for the assistance provided, if such reimbursement can be made without financial hardship. RSA 165:20-b.

Recovery from State and Federal Sources

The amount of money spent by a municipality to support a recipient who has made initial application for SSI and has signed HHS FORM 151 "AUTHORIZATION FOR REIMBURSEMENT OF INTERIM ASSISTANCE" shall be recovered through the SSA and the New Hampshire Department of Health and Human Services. Prescription expenses paid by the municipality for applicants who have applied for Medicaid shall be recovered through the New Hampshire Department of Health and Human Services if and when the applicant is approved for medical coverage.

Delayed State Claims

For those recipients of general assistance deemed eligible for state assistance, New Hampshire Department of Health and Human Services shall reimburse a municipality the amount of general assistance as a result of delays in processing within the federally mandated time periods. Any claims for reimbursement shall be held until the end of the fiscal year and may be reimbursed on a pro-rated basis dependent upon the total claims filed per year. RSA 165:20-c. A Form 340 "REQUEST FOR STATE REIMBURSEMENT" may be obtained from the New Hampshire Department of Health and Human Services for this purpose.

Application of Rents Paid by the Municipality

Whenever the owner of property rented to a person receiving general assistance from the municipality is in arrears in sewer, water, electricity, or tax payments to the municipality, the municipality may apply the assistance which the property owner would have received in payment of rent on behalf of such assisted person to the property owner's delinquent balances, regardless of whether such delinquent balances are in respect of property occupied by the assisted person. RSA 165:4-a.

Payment Arrears. A payment shall be considered in arrears if more than thirty (30) days have elapsed since the mailing of the bill.

Procedure. The general assistance official will issue a voucher on behalf of the tenant to the landlord for the allowed amount of rent. The voucher will indicate any amount to be applied to a delinquent balance owed by the landlord, specifying which delinquency and referring to the authority of RSA 165:4-a.

The general assistance official will issue a duplicate voucher to the disbursement accountant for payment with directions of where to send the payment. The general assistance official will issue a receipt of payment to the delinquent landlord.
