

# City of Rochester, NH Welfare Department



## GENERAL ASSISTANCE GUIDELINES

### MISSION STATEMENT

Rochester City Welfare's mission is to meet our legal obligations, free of bias, in the most professional, thoughtful and cost effective manner possible. We strive to promote and educate people toward self-sufficiency and financial independence.

Adopted: April 7, 2015

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# General Assistance Guidelines

## Introduction

The local governing body, as defined in RSA 672:6, of every town and city in the state shall adopt written guidelines relative to general assistance. The guidelines shall include, but not be limited to, the following:

- (a) The process for application for general assistance.
- (b) The criteria for determining eligibility.
- (c) The process for appealing a decision relative to the granting of general assistance.
- (d) The process for the application of rents under RSA 165:4-b, if the municipality uses the offset provisions of RSA 165:4-a.
- (e) A statement that qualified state assistance reductions under RSA 167:82, VIII may be deemed as income, if the local governing body has permitted the welfare administrator to treat a qualified state assistance reduction as deemed income under RSA 165:1-e.

## **I. 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a desire to receive general assistance or to have his/her eligibility reviewed and whose application has not been withdrawn.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 welfare official. This application must be made on a form provided by the welfare official. The application form may be written or completed electronically if available, by means of an interview conducted by a welfare 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 in Section IX (D). 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 MANAGEMENT:** A holistic collaborative process of assessment, planning, facilitation and advocacy for options and services to meet an individual's and/or household's short and long term emergency needs through communication and available resources to promote safe cost-effective outcomes.

**CASE RECORD:** Official files including, but not limited to general applications, office forms, correspondence, relevant case notes, determination of eligibility, detailed provided client expectations, reasons for decisions, and description of assistance given. The case record may be maintained electronically if able. A hard copy of all relevant and signed documents should be maintained in accordance with state law.

**CLAIMANT:** A recipient or applicant who has requested, either in person or through an authorized representative, a fair hearing under Section XIV of these guidelines.

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

**ELIGIBILITY:** Determination by a welfare official, in accordance with the guidelines, of an applicant's need for general assistance under the formula provided in Section IX.

**FAIR HEARING:** A hearing which the applicant or recipient may request to contest a denial, termination or reduction of assistance. The standards for such a hearing are in Section XIV.

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

**HOMELESS SHELTER:** A temporary housing provider through which an individual or family may seek emergency housing until permanent housing is obtained.

**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 legal 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."

**INTAKE ASSESSMENT:** The initial in person interview at which time the potential applicant's situation is reviewed and assessed by a welfare official prior to a formal appointment.

**MINOR:** A person under 18 years of age.

**NEED:** The basic maintenance and support requirements of an applicant, as determined by a welfare official under the standards of Section IX (E) 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 intent to return to such residence or residency as the principal place of physical presence. RSA 165:1 (I); 21:6-a. See also section X (A.)

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

**UTILITY:** Any service such as electric, gas, oil, water or sewer necessary to maintain basic 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 Section VIII.

**WELFARE 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 selectpersons, board of alderpersons, city or town manager, or city or town council. The term includes "overseers of public welfare" (RSA 165:1; 41:46) and "administrator of town or city welfare" RSA 165:2.

**WORKFARE:** Labor performed by welfare recipients at municipal sites or human service agencies as reimbursement for benefits received. RSA 165:31.

## **II. 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.

## **III. 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.

## **IV. Roles of Local Governing Body and Welfare Official**

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

# **V. Maintenance of Records**

## **A. Legal Requirement**

Each welfare 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:

1. To provide a valid basis of accounting for expenditure of the municipality's funds;
2. To support decisions concerning the applicant's eligibility;
3. To assure availability of information if the applicant or recipient seeks administrative or judicial review of the welfare official's decision;
4. To provide the welfare official with accurate statistical information; and
5. To provide a complete history of an applicant's needs and assistance that might aid the welfare official with ongoing or potential future case management and in referring the applicant to appropriate agencies and other support entities.

## **B. Case Records**

The welfare official shall maintain case records containing the following information:

1. The complete application including any authorizations signed by the applicant allowing the welfare 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.
2. Written grounds for approval or denial of an application, contained in a notice of decision.
3. A narrative history recording assistance sought the results of investigations of applicants' circumstances, referrals, changes in status and other relevant communications as determined by the welfare official.
4. Record forms, which has complete data regarding the type, amount and dates of assistance given which may be kept on paper or electronically.

# **VI. Application Process**

## **A. Right to Apply**

### **Intake Assessment Process**

Individuals presenting themselves at the City of Rochester Welfare Department will normally utilize an initial intake assessment process, including the completion of an intake assessment form. The welfare official(s) will familiarize themselves with the situation, expedite and prioritize an appointment if necessary and/or refer to other resources to meet their need(s) if reasonably able. A copy of the intake will be provided to the individual indicating the applicant's responsibility to provide specific records and documents needed to verify and determine eligibility at the decision making appointment and other resources to potentially meet their needs.

## **B. Application Process**

1. Anyone may apply for general assistance by appearing in person or through an authorized representative if applying in person is impossible and by completing a written or available electronic application form. If more than one adult resides in a household, each may be required to appear at the welfare office to apply for assistance, unless one is working at a place of employment 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 separate release of information forms.
2. The welfare official shall not be required to accept an application for general assistance from a recipient who is subject to a suspension pursuant to Section XIII(C) 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 in Section XIII(C)(7); and provided further that a recipient who has been suspended for at least one (1) calendar year due to continued noncompliance may submit a new application.

## **C. Welfare Official's Responsibilities at Time of Application**

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

1. The requirement of submitting an application. The welfare official shall provide assistance to the applicant in completing the application, if necessary (e.g., applicant is physically or mentally unable);
2. Eligibility requirements, including a general description of the guideline amounts and the eligibility formula;
3. The applicant's right to a fair hearing, and the manner in which a review may be obtained, if sought.
4. 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;
5. The joint responsibility of the welfare official and applicant for exploring facts concerning eligibility, needs and potential resources;
6. Verifications needed;
7. An investigation will be conducted in order to verify facts and statements presented by the applicant;
8. The applicant's responsibility to notify the welfare official of any change in circumstances that may affect eligibility;
9. Other forms of assistance for which the applicant may be eligible if sought;
10. 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;
11. Reimbursement from the recipient will be sought if he/she becomes able to repay the amount of assistance given.

## **D. Responsibility of Each Applicant and Recipient**

### **Important Notice:**

For safety and health reasons, clients, applicants and anyone accompanying them in the department's waiting room or offices should immediately inform a welfare team member of all: infectious and communicable diseases; infestations; and any other transmittable health hazards. These include, but are not limited to: conjunctivitis, flu, chicken pox, hepatitis, tuberculosis, lice, and bed bugs. Standard precaution practices will be observed whenever possible and available, including the use of masks to minimize airborne transmission.

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

1. 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;
2. To notify the welfare official promptly when there is a change in needs, resources, address or household size;
3. To apply for immediately, but no later than 7 days from completed application, and accept any benefits or resources, public or private, that will reduce or eliminate the need for imminent or potential future general assistance. RSA 165:1-b, I (d);
4. To keep all appointments as scheduled;
5. To provide records and other pertinent information and access to said records and information when requested;
6. To provide a verifiable doctor's statement if claiming an inability to work due to medical problems;
7. Following a determination of eligibility for assistance, to diligently search for employment and provide a verifiable job search as determined by the welfare official, but not to exceed fifteen (15) weekly, 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);
8. Following a determination of eligibility for assistance, to participate in the workfare program (if required) and if physically and mentally able. RSA 165:1-b, I (b); and
9. 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 Section XIII(C).

Any recipient may be denied or terminated from general assistance, in accordance with Section XIII, 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.



## E Actions on Applications

**1. Decision.** Unless an application is withdrawn, the welfare 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 business/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 and reasons for denial.

A decision may also be made to pend an application subject to receipt of specified information from the applicant. The notice of decision shall contain a first notice of conditions for assistance and shall notify the applicant of his/her right to a fair hearing if dissatisfied with the welfare official's decision. RSA 165:1-b, II, III.

**2. 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 and imminent threat to life or health (such as loss of shelter, utilities, heat, or lack of food or life-saving/sustaining prescriptions) and no reasonable alternative can be found, 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 welfare official to provide further assistance after the application process is completed.

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

**4. Withdrawn Applications.** An application shall be considered withdrawn if:

- a. 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 welfare official shall so notify the applicant in a written notice of decision;
- b. The applicant dies before assistance is rendered;
- c. The applicant avails him/herself of other resources to meet the need in place of assistance;
- d. The applicant requests that the application be withdrawn (preferably in writing); or
- e. The applicant does not contact the welfare official after the initial interview after being requested to do so.

## F. Home Visits

A home visit may be made by appointment at the request of any applicant, but only when it is impossible for the applicant or their representative to apply in person. Home visits will be made in pairs. (i.e. no welfare official is to make a home visit alone.)

The home visit shall be conducted in such a manner as to preserve, to the greatest extent possible, the welfare official's health and safety and privacy and dignity of the applicant., 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 without consent from the applicant.

Applicant housing is expected to meet local health and safety codes standards. During the home visit the Welfare Official may report any observable in line of sight possible housing safety code violations by the landlord/owner to appropriate municipal departments/authorities for review.

## **VII. Verification of Information**

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.

### **A. Required Verifications**

Verification will normally be required of the following:

1. Applicant's address;
2. Facts relevant to the applicant's residence, as set forth in sections IX(B) and X;
3. Names of persons in applicant's residential unit;
4. Applicant's and household's income and assets;
5. Applicant's and households financial obligations;
6. The physical and mental condition of household members, only where relevant to their receipt of assistance, such as ability to work at a place of employment, determination of needs, or referrals to other forms of assistance;
7. Any special circumstances claimed by applicant;
8. Applicant's employment status and availability in the labor market;
9. Names, addresses, and employment status of potentially liable relatives;
10. Utility costs;
11. Housing costs;
12. Prescription costs; and
13. Any other costs that the applicant wishes to claim as a necessity.

## **B. Verification Records**

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

## **C. Other Sources of Verification**

Verification may also be made through other sources, such as relatives, landlords, 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.

## **D. Written Consent of Applicant**

When information is sought from such other sources, the welfare 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 welfare official shall obtain written consent of the applicant or recipient, unless the welfare official has reasonable grounds to suspect fraud. In the case of suspected fraud, the welfare 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.

## **E. Legally Liable Relatives**

The relation of any poor person in the line of father, mother, stepfather, stepmother, son, daughter, husband, or wife shall assist or maintain such person when in need of relief. Said person shall be deemed able to assist such person if his /her income is more than sufficient to avoid causing a financial hardship. RSA 195:19.

## **F. Refusal to Verify Information**

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

# **VIII. Disbursements**

The City of Rochester pays through 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 vendor returns the voucher with the required documentation, for payment, to the welfare official. After the initial transaction, if there is any unspent money, the voucher shall be returned to the municipality for payment of the actual amount listed on an itemized bill or register tape. Vouchers altered by the recipient or vendor shall not be honored.

## **A. Revocation of Assistance Granted**

A voucher previously issued, but not yet paid, may be revoked and voided under certain circumstances, including fraud and if a claimant fails to prevail at a fair hearing. If facts are discovered that would negate such issuance, or fraud is determined, the voucher will be cancelled promptly. If fraud is involved, the facts surrounding the matter will be given to the appropriate law enforcement authorities for review and potential action. The revocation of assistance is not meant to replace the suspension process for issues of noncompliance.

# **IX. Determination of Eligibility and Amount**

## **A. Eligibility Formula**

An applicant is eligible to receive assistance when:

1. He/she meets the non-financial eligibility factors listed in Section C below; and
2. The applicant's basic welfare maintenance need, as determined under Section E below, exceeds his/her available income (Section F below) plus available liquid assets (Section D below). 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 welfare official to justify an exception.

## **B. 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.

1. An applicant cannot be denied an application for assistance because he/she is not a resident. See Section X.
2. "Whenever" means at any or whatever time a person is poor and unable to support him or herself, and without reasonable alternative resource options to deem general assistance unnecessary.
  - a. The welfare official, or a person authorized to act on his/her behalf, shall be available during normal business hours.
  - b. The eligibility of any applicant for general assistance shall be determined no later than five (5) business/working days after the application is submitted. If the applicant has an emergency life safety need, then assistance for such emergency need shall be immediately provided in accordance with Section VI (D)(1), (2) provided an application is submitted.
  - c. Assistance shall begin as soon as the applicant is determined to be eligible.
3. "Poor and unable to support" means that an individual lacks income, available liquid assets and resources to adequately provide for the basic welfare maintenance needs of him/herself or family as determined by the city welfare guidelines.
4. "Relieved" means an applicant shall be assisted to meet those basic welfare needs described by city welfare guidelines.

## C. Non-Financial Eligibility Factors

**1. Minors** - Minor applicants shall be referred to Protective Services of the Division of Children, Youth, and Families for support and case management. Minors have the residence of their parent(s) or legal guardian(s). Minors are the financial responsibility of their parent(s) or legal guardian(s). A minor who is married is considered an adult.

**2. 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 Section XVI.

**3. 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 welfare official. Failure to do so may render the recipient ineligible for assistance and subject to action pursuant to Section XIII of these guidelines.

**4. Employment.** An applicant who is gainfully employed, but whose income and assets are not sufficient to meet basic 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 welfare 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, available transportation, working conditions that might involve unreasonable risks to health or safety, availability of safe and reasonable child care, or any other factors that might make refusing a job reasonable considering the financial situation of the household. Employment requirements shall extend to all adult members of the household.

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

- a. Gainfully employed full-time and permanent employment status;
- b. A dependent 18 or under who is regularly attending secondary school;
- c. Unable to work at a place of employment due to illness or mental or physical disability of him/herself or another member of the household, as verified by the welfare official; or
- d. Solely responsible for the care of a child under the age of one. A recipient responsible for the care of a child aged one to twelve shall not be excused from employment search requirements, but shall be deemed to have good cause to refuse a job requiring employment during hours the child is not usually in school, if there is no reasonably responsible person available to provide care, and it is verified by the welfare official that no other care is available.

The welfare official shall give all reasonably necessary assistance to ensure compliance with registration and employment requirements, including the granting of allowances for transportation and clothes for employment as part of an allowable budget expense. The welfare official will discuss job search techniques and strategies for attaining employment. Failure of a recipient to comply with these requirements without good cause will be reason for denial of assistance.

**6. Students.** Applicants who are post secondary school students with unreasonable employment availability limitations or refusing to seek full-time employment are not eligible for general assistance.

**7. Non-Citizens.** The welfare officer may, in his/her sole discretion, provide limited emergency life-safety need assistance to non-citizens not otherwise eligible for general assistance.

a. 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. 8 USCA 1621(a).

b. 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. 8 USCA 1641.

c. 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).

d. A non-citizen may also be eligible for general assistance for treatment of an emergency medical condition, pursuant to Section IX (E)(8)(a) of these guidelines.

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

**8. 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.

**9. 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 permanent employment status basis, who are:

- a. Members of the recipient's household;
- b. Legally liable to contribute to the support of the recipient and/or children of the household; and
- c. 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 welfare official.

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

**10. 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:

- a. Has received local welfare within the past 365 days; and
- b. Has been given notice that voluntary termination of employment without good cause could result in disqualification; and
- c. Has terminated employment of at least 20 hours per week without good cause within 60 days of an application for local welfare; and
- d. Is not responsible for supporting minor children in his/her household, which caused an inability to maintain employment.
- e. Did not have a verifiable mental or physical impairment, which caused an inability to maintain employment.

Good cause for terminating employment shall include any of the following: discrimination, unreasonable work employment 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 employment 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.

## **D. Available Assets**

**1. 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.

**2. 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 frequent medical services or rehabilitation services, or if its use is essential to the maintenance of the individual or the family and if alternative transportation is not available or not cost effective.

**3. Life Insurance.** The ownership of life 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. Payments made for the continuation of life insurance policies may not be considered a needed allowable expense

**4. 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. It is the responsibility of the applicant to inform a non applicant co owner of a real estate lien.

## **E 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 and available resources to purchase or obtain either for him/her or dependents any of the following:

**Permanent Shelter Housing.** The amount to be included as “need” for permanent shelter housing, including tenancy, is the actual cost of rent or mortgage necessary to provide shelter in the City as determined either by the most recent HUD Fair Market Rents, NH Housing Finance Authority Rental Survey, or by minimum, reasonable local market rent factors, as chosen by the welfare official.

1. Such cost shall be determined in accordance with subparagraph 11 below.

a. **Permanent Shelter Housing Arrearages:** Shelter arrearages are not normally included. The welfare official may assist in the least costly manner, or may provide alternate means to accommodate the health and safety of the household unit. The welfare official may, in his/her sole discretion assist with shelter arrearages if, such payment is necessary to prevent eviction or foreclosure and to protect the health and safety of the household and if household can verify ability to afford/maintain housing based on present and/or projected verifiable income. 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 welfare official may instead authorize payment of first month rent, for such alternative housing if, under the circumstances of the case, it is reasonable to do so and would provide for basic health and safety needs for the applicant household. Other alternative housing may include transitional housing or homeless shelters. Preference will be given to seeking local area transitional housing and homeless shelter options. Special consideration will be given to assisting an applicant/client residing in federally subsidized housing or other substantially below market rate housing to retain such housing.

b. Residents seeking rent and/or mortgage assistance within the first three months of occupancy may be expected to verify ability to reasonably financially maintain said expenses at time of move in.



- c. Housing is expected to meet local ordinance and code standards as verified by the local building/code inspector for consideration of financial housing assistance.
- d. **Hotels, Motels and Inns:** Occupants of hotels, motels and inns and classified as such, are not normally considered “tenants” and are exempt from the legal eviction process defined in RSA 540. RSA 540:1-a. Persons residing in housing exempt from the legal eviction process are not normally considered to be residing in permanent housing under these guidelines.
- e. **Single Family Home Boarders:** Occupants of single-family homes in which the occupant has no lease, which is the primary and usual residence of the owner are not normally considered “tenants” and are exempt from the legal eviction process defined in RSA 540. RSA 540:1. RSA 540:1-a. Persons residing in housing exempt from the legal eviction process are not normally considered to be residing in permanent housing under these guidelines.
- f. **First Month Rent:** Assistance with first month’s rent will be considered only in the event of a verifiable emergency need, i.e. inability to financially maintain current housing’s basic expenses, homelessness, uninhabitable housing as determined by the local building/code inspector, or other appropriate local authority, and the verified ability at the time of application to financially maintain such proposed housing is verified. Applicant is expected to seek first month rental assistance prior to moving into proposed housing, including receiving rental keys from the landlord/owner or moving personal belongings into proposed rental housing.
- g. **Security Deposits.** City Welfare will not normally pay charges, which do not directly represent an actual service, for example, late charges, security deposits, key charges, damages and eviction fees. 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.
- h. **Relative Landlords.** Whenever a relative of a client is also the landlord for the client, that landlord will be presumed able to assist, including by waiving rental charges, for his/her relatives pursuant to RSA 165:19, and must prove an inability to assist without causing a financial hardship to him/herself before any aid payment for rent is made.
- I. **Emergency Temporary Shelters.** The welfare official may provide referrals to homeless shelters and/or transitional housing when appropriate or needed to resolve a basic health and safety housing need. Shelter and/or transitional housing recipients are expected to abide by shelter/transitional housing rules and policies. In cases in which an appropriate referral for emergency temporary housing/shelter is provided and the applicant/client refuses to accept such a referral, City Welfare will not be liable for any alternative housing/shelter, but may consider other forms of non-housing assistance to which he/she is otherwise eligible. In cases in which a client is involuntarily exited from an emergency shelter for violation of rules/policies, or voluntarily exits the shelter without a reasonable long term housing option, resulting in the need for further emergency housing assistance, city welfare will seek alternative emergency temporary housing/shelter. However, the city will not be liable for the cost of any alternative housing, The New Hampshire Division for Children, Youth and Families may be contacted to provide support for families involuntarily exited or voluntarily leaving the provided shelter without a reasonable shelter housing option for their children/family. RSA 169-C: 29.

2. **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 welfare official (service must be in client’s name). Arrearages will not normally be included in “need” except as set forth below.

**NOTE:** The New Hampshire Public Utilities Commission (PUC) has established comprehensive rules governing the provision of some utility services. Generally speaking, the PUC governs electric, telephone, water, and sewer; it does not govern any municipal utilities, propane tanks, or fuel oil. With the exception of telephone, the rules are consistent across utilities. These rules and regulations cover the initiation of service, payment arrangements, termination of service, the terms of restoration of service, the requirement of deposits, municipal guarantees and guarantees from other third parties. There are special rules as to winter termination. The welfare official should be familiar with these rules in order to ensure that needs are properly met at the lowest available cost. The PUC has a toll-free consumer assistance number: 800/852-3793.

**a. 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 welfare official notifies the electric company that the municipality guarantees payment of current electric bills as long as the recipient remains eligible for general assistance.

**b. Restoration of Service.** When utility service has been terminated and the welfare official has determined that alternative utility service is not available and safe alternative housing is not available or feasible, arrearages will be included in “need” when restoration of service is necessary to ensure the health and safety of the applicant household. The welfare 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 welfare 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.

3. **Food.** The Federal Supplemental Nutrition Assistance Program (SNAP) amount included as “need” for food purchases will be in accordance with the most recent standard allotment, as determined under the Federal Supplemental Nutrition Assistance 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 requires a special diet, as verified by the welfare official, the documented cost of which is greater than can be purchased with the family’s allotment for food. Food vouchers may not be used for alcohol, tobacco or pet food. Referrals to food pantries and food kitchens/meal centers may be given to meet applicant’s basic emergency food and personal hygiene needs.
4. **Household Maintenance Allowance.** Applicants may include, in calculating “need” for an allowable budget, the cost of providing basic personal and household necessities determined by the welfare official and used consistently for individuals and families. Need allowance for diapers shall be calculated based on usage.
5. **Telephone.** If the absence of a telephone would create an unreasonable risk to the applicant’s health or safety as verified by the welfare official, or for other good cause as determined by the welfare official, the lowest available basic monthly rate will be budgeted as “need.”

- 6. Transportation.** If the welfare official determines that transportation is necessary (e.g., for health or medical reasons, to maintain employment, or to comply with conditions of assistance) “need” should include the costs of public transportation, where available. If, and only if, the transportation need cannot be reasonably provided by cost effective 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.
- 7. Maintenance of Medical Insurance.** In the event that the welfare official determines that the self-maintenance of medical insurance is essential, an applicant may include as “need” the reasonable cost of such premiums, especially in the event that insurance payments are less than the cost of prescriptions.
- 8. 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:
- a. Medical Expenses.** The welfare 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 welfare. 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 non-hospital related medical service, life-saving/sustaining prescriptions, including dental service to treat infection or eye service, the local welfare 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 health will be placed in serious jeopardy. This office will consider only those medications that are considered life-saving/sustaining and the NH Division of Health and Human Services Medicaid program would consider reimbursable.  
**(1) Prescriptions** – Generic medications must be used unless specified otherwise by a licensed medical provider. The City of Rochester Welfare Department will not normally authorize assistance for medications which would not meet the criteria of treating a diagnosed life threatening medical condition.
  - b. Legal Expenses.** Except for those specifically required by statute, no legal expenses, including fines/citations will be included.
  - c. 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 in an allowable budget.
  - d. Miscellaneous.** Normally, cost to prevent repossession of any kind, vehicle payments, vehicle registration or licensing costs, moving expenses, and any other non-essential expenses as determined by the welfare official shall not be considered allowable expenses. Storage charges and household items are not a basic need and are normally not considered an allowable expense. Decisions regarding storage charges and household items are made on a case by case basis.
- 9. Unusual Needs Not Otherwise Provided For in These Guidelines.** If the welfare 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 stated in Section VI(D)(2) of these guidelines. Any such determination and the reasons therefore, shall be stated in writing in the applicant’s case record.

10. **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 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).
11. **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 welfare official annually and modifications presented to the municipal governing body where market conditions have changed. RSA 165:1, II.

## **F. 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:

1. **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 employment related clothing costs have been deducted from income. Wages that are trusteed, or income similarly unavailable to the applicant or applicant's dependents, should not be included.
2. **Income or Support from Other Persons.** Contributions from relatives or other household members shall be considered as income only if 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. (Expenses shared with non-household members may affect the level of need, however. See Section IX (E) (10) regarding determination of need in cases of non-household residential units.)
3. **Income from Other Assistance or Social Insurance Programs.**
  - a. State categorical assistance benefits, OASDI payments, Social Security Payments, VA benefits, unemployment insurance benefits, and payment from other government sources shall be considered income.
  - b. Federal Supplemental Nutrition Assistance Program allotments 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))**
4. **Court-Ordered Support Payments.** Alimony and child support payments shall be considered income only if received by the applicant or recipient.
5. **Income from Other Sources.** Payment from pension, trust funds, and similar programs shall be considered income.

**6. 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.

**7. Option to Treat a Qualified State Assistance Reduction as Deemed Income.** The welfare 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.

- a. The authority to deem income under this section shall terminate when the Qualified State Assistance Reduction no longer is in effect.
- b. 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. 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.
- c. The welfare 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.
- d. 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.

## **G. 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.

## **X. Non-Residents**

### **A. 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. The applicant's residence, prior to the temporary relocation, may be contacted if it is learned the temporary relocation was caused, in part, by the municipal welfare departments unavailability or unwillingness to assist with the emergency situation. The applicant may be assisted with a referral to the former municipality if time, available transportation, and type of emergency, makes it reasonable to do so.

## **B. Standards**

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

## **C. 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.

## **D. 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, as set forth in Section VI (D)(2) and X (A.).

## **E. Determination of Residence**

Determination of residence shall be made if the applicant requests return home transportation (See paragraph F below), or if the welfare 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.

**1. Minors.** The residence of a minor applicant shall be presumed to be the residence of his/her custodial parent or guardian.

**2. 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.

## **F. Return Home Transportation Request**

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 at the welfare official's discretion to cause the applicant to be returned to his/her municipality of residence. RSA 165:1-c.

## **G. 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 of Section XVI (B).

# **XI. Municipal Work Programs**

## **A. 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.

## **B. 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.

## **C. 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.

## **D. Allowance for Employment Search**

The municipality shall provide reasonable time during working hours for the workfare participant to conduct a documented and verifiable employment search, as determined by the welfare official, but not to exceed fifteen (15) weekly.

## **E Workfare Program Attendance**

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

1. Has a conflicting job interview;
2. Has a conflicting interview at a service or welfare agency;
3. Has a medical appointment or illness;
4. 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 participate in workfare during hours the child is not in school, if there is no responsible person available to provide care, and no other care is available;

5. Is unable to participate in workfare due to mental or physical disability, as verified by the welfare official;
6. Must remain at home because of illness or disability to another member of the household, as verified by the welfare official; or
7. 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 welfare official may require participants to provide documentation of their attendance at a conflicting interview or appointment.

## **F. Workfare Hours**

Workfare hours are subject to approval of the supervisor and the welfare official. Failure of the participant to adhere to the agreed workfare hours (except for the reasons listed above) will prompt review of the recipient's eligibility for general assistance, and may result in a suspension or termination of assistance. See Section XIII (C)(2)(b).

## **G. 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. RSA 281-A: 2, VII (b).

# **XII. Burials & Cremations**

The welfare official shall provide for burial or cremation of eligible persons found in the City of Rochester at time of death. In such cases where the deceased, at the time of death, had a residence in another city, town or state, the next of kin or other responsible party will be referred to contact the appropriate agency. 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 the welfare official verifies relatives, other private persons, the state or other sources are unable to cover the entire burial/cremation expense, the municipality will pay up to \$650.00 for burial/cremation. The City will not pay burial and/or cremation benefits in the instance of passé funeral charges. The request should be made prior to the burial and/or cremation, in a timely manner, immediately following the time of death. The total burial/funeral expense is not to exceed \$2,000.00. RSA 165:3 and RSA 165:1-b; see also RSA 165:27 and 165:27-a.

Special religious rites, beyond the maximum amount the municipality will pay, will not be paid for at public expense.

**Unclaimed Body.** If a dead body is unidentified or unclaimed for a period of not less than 48 hours following completion of the death investigation, the medical examiner shall release the body to the overseer of public welfare in the town or, in the case of an unincorporated place, to a county commissioner, who shall decently bury or cremate the body, or, with the consent of the commissioners or the overseer, it may be sent to the medical department of a medical school or university, to be used for the advancement of the science of anatomy and surgery, as provided for by law **611-B: 25**. The welfare official shall coordinate burial/cremation arrangements with a funeral and/or cremation service establishment.



# **XIII. Right to Notice of Adverse Action**

## **A. 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 (See Section VI (D) for notice where application is granted.) The welfare official will make every effort to ensure that the applicant understands the decision.

## **B. Action Taken for Reasons Other Than Noncompliance with the Guidelines**

1. 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 business/work day following the making of the decision or within five business/working days from the time the application is completed and submitted, whichever occurs first.
2. In any case where the welfare 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.
3. The notice required by paragraphs 1 and 2 above shall contain:
  - a. A clear statement of the reasons for the denial or proposed termination or reduction.
  - b. 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 business/working days.
  - c. A form on which the recipient may request a fair hearing, if such a hearing is sought.
  - d. A statement advising the recipient of the time limits which must be met in order to receive a fair hearing.
  - e. In accordance with XIV fair hearing guidelines, a statement that assistance may continue, if there was initial eligibility, until the date of hearing, if requested by the claimant and aid could be revoked or must be repaid if the claimant fails to prevail at the hearing.

## **C. Suspension for Noncompliance with the Guidelines**

**1. Due Process.** Recipients must comply with these guidelines and the reasonable requests of welfare officials. Welfare 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.

**2. 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:

- a. Disclose and provide verification of income, resources or other material financial data, as set out in Sections VI(C) and VII of these guidelines, including any changes in this information;
- b. Participate in the workfare program under Section VI(C), to the extent assigned by the welfare official;
- c. Comply with the employment search requirements imposed by the welfare official under Section VI(C): as determined by the welfare official; and
- d. Within 7 days, apply for other public assistance, as required by the welfare official under Section VI(C).

**3. 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.

**4. Noncompliance.**

- a. 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 paragraph 5.
- b. If a recipient falls into noncompliance for the first time more than 30 days after receipt of a first notice, the welfare 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.

**5. 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. The section(s) of the guidelines with which the recipient is not in compliance and a description of those actions necessary for compliance;
- b. The period of suspension (See paragraph 6 below);
- c. 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;
- d. 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

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

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

- a. Either seven days, or 14 days if the recipient has had a prior suspension which ended within the past six months, and
- b. 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.
- c. Notwithstanding paragraph C(6)(b) above, a recipient who has been suspended for continued noncompliance for at least one (1) calendar year may file a new application for assistance without coming back into compliance.

**7. 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 paragraph C (5)(d) above.

**8. 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.

**9. Misrepresentation.** Misrepresentation of information by a client is grounds for denial and suspension of City Welfare assistance and may result in prosecution for the crimes, including Unsworn Falsification RSA 641:3, Theft by Deception 637:4 and /or Identity Fraud RSA 638:27.

The welfare official is not required to accept applications for assistance during a period of suspension.

## **XIV. Fair Hearings**

### **A. 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 welfare official relative to the receipt of assistance, the applicant must present a request for a fair hearing to the welfare official within five (5) business/working days of receipt of the notice of decision at issue. RSA 165:1-b, III.

### **B. Time Limits for Hearings**

Hearings requested by claimants must be held within seven (7) business/working days of the receipt of the request. The welfare 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.

## C. Requests for Postponements

A claimant who has verifiable good cause to request a postponement of a scheduled Fair Hearing shall contact the welfare official at the earliest possible time prior to the Fair Hearing. Upon receiving documentation deemed by the welfare official to be verifiable good cause, the Fair Hearing will be rescheduled at the earliest available date. A claimant shall provide documentation of such verifiable emergency circumstances to the welfare official within three (3) business/working days of the date that the request for postponement has been made. Claimants are entitled to only one (1) such postponement per Fair Hearing request.

1. **Verifiable Good Cause:** The claimant shall include, but not be limited to, a verified medical emergency, or other verified unforeseen emergency circumstances, which precludes the claimant from attending the Fair Hearing.
2. **Requests for Postponement Prior To Three (3) Days of The Fair Hearing Date:** If a claimant requests a postponement earlier than three (3) business/working days of the Fair Hearing date, and documentation deemed by the welfare official to be verifiable good cause is not provided to the welfare official within the three (3) business/working days, the scheduled Fair Hearing date will be honored. If the claimant provides documentation deemed by the welfare official to be verifiable good cause within the three (3) business/working days, the Fair Hearing will be rescheduled at the earliest available date.
3. **Requests for Postponement Within Three (3) Days of The Fair Hearing Date:** If a claimant makes a request for postponement within three (3) business/working days of a Fair Hearing date, the scheduled Fair Hearing will be held in abeyance pending receipt of documentation deemed to be verifiable good cause by the welfare official. The documentation must be provided to the welfare official within three (3) business/working days of the date of the request for postponement. If the claimant provides documentation deemed by the welfare official to be verifiable good cause within the three (3) business/working days, the Fair Hearing will be rescheduled at the earliest available date. If the claimant does not provide documentation deemed by the welfare official to be verifiable good cause within the three (3) business/working days, the Fair Hearing will not be rescheduled and the request for the Fair Hearing shall be deemed to be withdrawn by the claimant. The notice of adverse action at issue will be upheld.

## D. The Fair Hearing Officer(s)

The fair hearing officer or officers may be chosen by the city manager. The person(s) serving as the fair hearing authority must:

1. Not have participated in the decision causing dissatisfaction;
2. Be impartial;
3. Be sufficiently skilled in interviewing to be able to obtain evidence and facts necessary for a fair determination; and
4. 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 welfare official any evidence of unsound, unclear or inequitable policies, practices or action.

## **E. Fair Hearing Procedures**

1. 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.
2. The welfare official responsible for the disputed decision shall attend the hearing and testify about his/her actions and the reasons therefore.
3. 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.
4. 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.
5. The welfare 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.
6. The decision of the fair hearing officer(s) must be based solely on the record, 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.
7. The parties may stipulate to any facts.
8. All fair hearings may be electronically recorded and retained for six (6) months.

## **F. Decisions**

1. Fair hearing decisions shall be rendered within seven (7) business/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 welfare official.
2. 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.

3. 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.
4. The welfare official shall keep all fair hearing decisions on file in chronological order.
5. 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.

## **XV. Liens**

### **A. Real Estate**

The law requires the municipality to place a lien for welfare aid 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 city council 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 welfare officer shall attempt to contact the attorney managing 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.

### **B. Civil Judgments – RSA 165:28-a.**

1. A municipality shall be entitled to a lien upon property passing under the terms of a will or by intestate succession, 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.
2. 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 welfare officer becomes aware of such a claim against a civil judgment, he/she shall contact the attorney representing the recipient.
3. This lien shall take precedence over all other claims.

## **XVI. Recovery of Assistance**

The welfare 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 welfare 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.

## **A. 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 income is more than sufficient to provide a reasonable subsistence compatible with decency and health. The welfare 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 welfare 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.

## **B. Recovery from the Municipality of Residence**

The welfare 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 welfare 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.

## **C. 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.

## **D. 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.

## **E 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.

## **XVII. 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, 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.

### **A. Payment Arrears**

A payment shall be considered in arrears if more than thirty (30) days have elapsed since the mailing of the bill, or in the case of real estate taxes, if interest has begun to accrue pursuant to RSA 76:13. RSA 165:4-a.

### **B. Order of Priority**

Delinquent balances will be offset in order of the following priority: 1) taxes, 2)water 3)sewer

### **C. Procedure**

1. The welfare 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.
2. The welfare official will issue a duplicate voucher to the appropriate department (i.e.: tax collector, sewer department, water precinct, municipal electric facility), which shall forward the voucher to the treasurer or finance director for payment. Upon receipt of payment, the department will issue a receipt of payment to the delinquent landlord.

## **XVIII. DEPARTMENT THREAT POLICY**

To assure safety and healthy working conditions, applicants/clients who make threatening statements and/or actions against welfare staff personnel may be prohibited from returning to the Welfare Department office. In such cases, applicants/clients may be required to conduct the application process with appropriate safety measures to ensure the safety of welfare personnel. Threats shall be reported to appropriate authorities.

## **XIX. CHILD PROTECTION ACT**

**169-C: 29 Persons Required to Report.** – Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, child care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.



# **ADOPTED ETHICS RESOLUTION OF RESPONSIBILITY FOR PERSONS WHO CHANGE THEIR RESIDENCE WHILE, OR AS A RESULT OF, APPLYING FOR LOCAL WELFARE**

## **(New Hampshire Local Welfare Administrators Association)**

**I.** “Dumping” is hereby declared to be an unethical practice. For purpose of this resolution, dumping Consists of attempting to end, or avoid acquiring, a local welfare financial responsibility by encouraging persuading or pressuring a client:

- A. not to establish, or to discontinue, a residence in the town which he/she has applied for assistance, or
- B. to establish a residence in another town without the verified financial ability to maintain household expenses.

**II.** In order to avoid “dumping” the following standards should be observed:

A welfare administrator should not encourage, direct, or knowingly allow a client who has applied for assistance In his/her town to apply for assistance in another town without making a good faith effort to contact the welfare administrator in that other town to explain why the person is moving to the other town. This applies whether or not the welfare administrator has accepted initial financial responsibility for the person (i.e. treat him/her as a resident) unless:

- A. he/she has an established place of abode (specific address, place to sleep) in another town which he/she intends to return to (even for just one night – i.e., hasn’t moved out of yet),or
- B. he/she has no established place of abode anywhere, (i.e., any prior specific address was in some other town and has been abandoned) and has a specific intent to go somewhere else rather than staying in the town for any time.

(Even when an applicant falls into A. or B. above, some temporary, non-resident assistance may be necessary, depending on the circumstances, in order to meet a basic health and safety need.)

**III.** Where a town has accepted initial financial responsibility under paragraph II above, the welfare administrator should not grant any assistance which he/she knows will be used so as to help establish the recipient’s residence in another town, unless:

- A. a good faith effort is made to explore local resources, after which it is discovered that none within reason is available, or
- B. unless the client has indicated an intent to move to another town for some non-welfare-related reason.

In either case the welfare administrator who has accepted initial financial responsibility should contact the official of the other town and offer to pay up to one month’s assistance following the move if necessary. Towns must avoid “special” treatment. If a town never pays security deposits, the town must not pay security deposits in special instances to establish a client’s residence elsewhere. The sending town should pay actual allowable shelter costs as determined by the receiving municipality’s guidelines.

#### **IV. Residency**

According to RSA 126-A: 43-h, persons receiving emergency housing (shelter) shall continue to maintain their legal residence as it existed at the time of entering the emergency housing facility. When a person leaves the originating shelter of their own free will, the liability no longer remains the responsibility of the original town. A person does not gain or lose residency while in a shelter, hospital or treatment center.

Persons who are sanctioned by local welfare, and arrive in another community, are not the liability of the community where the sanction originated. However, arrangements may be made between the two communities to have the sanction resolved.