

The Art of Welfare, 2023

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Today's Presenters



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NHMA's Legal Advisory Service



Open 8:30 a.m. - 4:30 p.m.

- Email: legalinquiries@nhmunicipal.org
- Phone: 603-224-7447

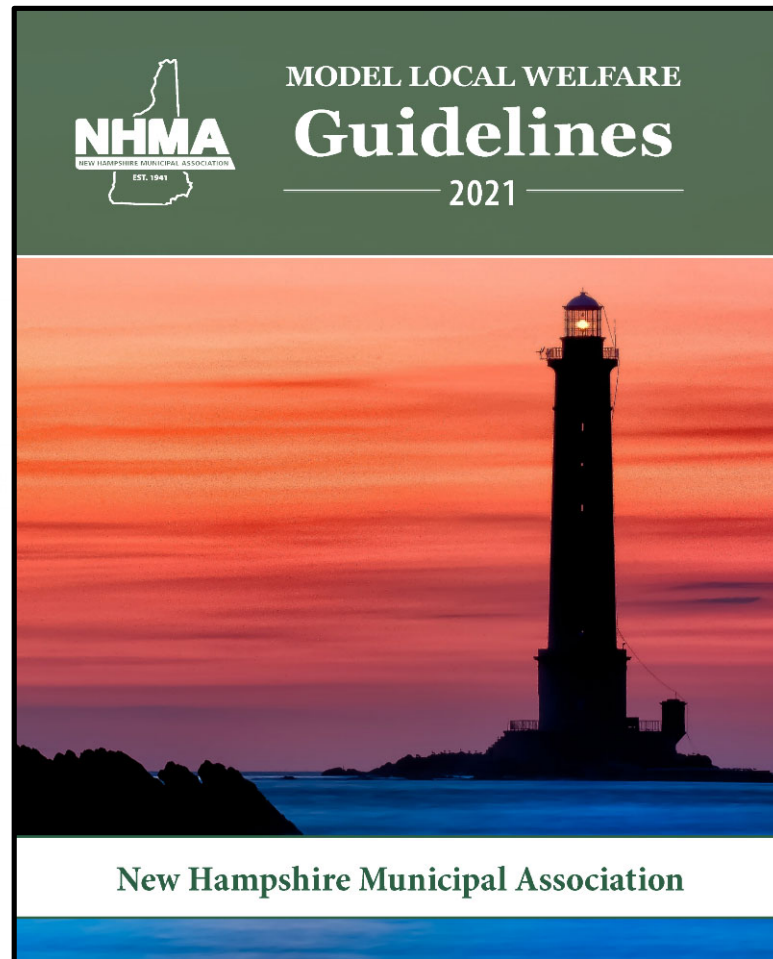
Provide general legal advice

- Not comprehensive legal review of documents,
- Not drafting individualized ordinances or charters,
- Not reviewing specific applications before local boards,
- Not settle intra-municipal disputes.

Goal: Response w/in 48 hours.

Model Welfare Guidelines 2021

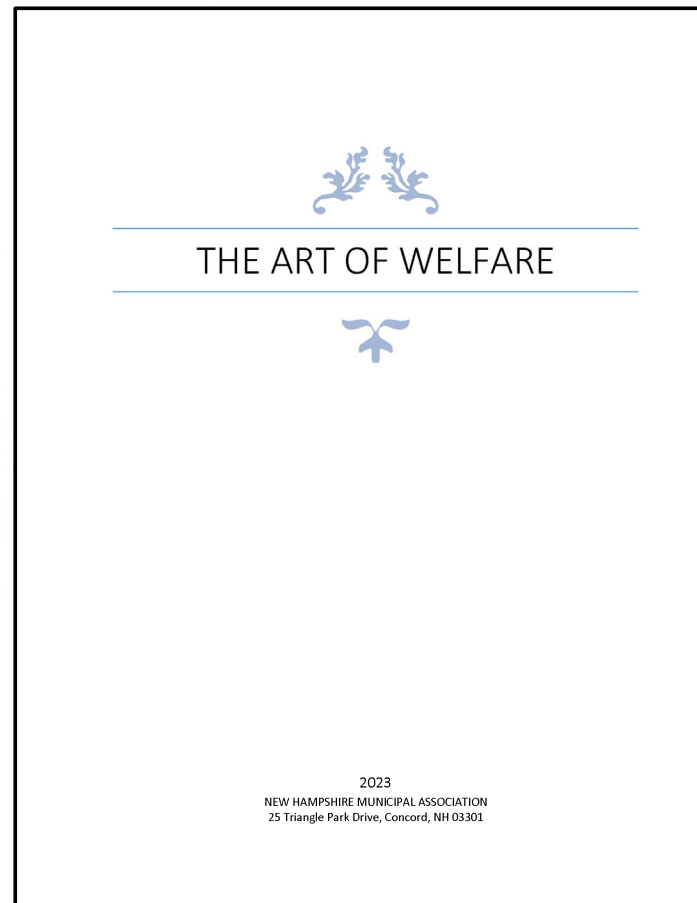
- ▶ 34 pages of general guidance on how to draft Local Welfare Guidelines
- ▶ Four Appendices
- ▶ 22 separate welfare administration forms



The *Art* of Welfare



- ▶ 56 Pages providing general guidance on welfare administration
- ▶ Model Fair Hearing Rules of Procedure
- ▶ Fair Hearings Information for the Applicant



Agenda



Duty to Provide Assistance & Liability Protections



Application & Aid Process



NH Local Welfare Trends - Focus on Homelessness

Duty to Provide Assistance & Liability Protection



Overseer / Administrator of Welfare



- ▶ Towns may elect an Overseer of Welfare under RSA 41:2
- ▶ Select Board may handle duties themselves or delegate to a Town Manager or appointed Welfare Administrator
- ▶ Duties include:
 1. Keep records of the assisted persons by the town
 2. Make an annual report of the number people receiving assistance and the cost
 3. Assist applicants in applying, verifying and recertifying

Two Categories of Assistance

Categorial Assistance Programs

- Often, federally funded
 - But sometimes state funded
- Always centrally administered

Local/General Assistance

- Locally funded and administered
- One of N.H.'s oldest statutes, originating in England's Poor Laws of 1601.
- Existed throughout N.H.'s existence, including during the Great Depression, and always upheld as lawful.

Access to Local Assistance



Welfare administrator available, or there is access to the welfare program, including applications, during business hours, five days per week



Conduct home visit when it is impossible for applicant or representative to apply in person



In an emergency situation, a person should be able to receive aid for which he or she is eligible within 72 hours of making an application.



If you can provide emergency aid in less than 72 hours, you should do so.

Ultimate Duty Found in RSA 165:1 & 165:1-a

RSA 165:1, I “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-a “Any person in a town or city who is poor and unable to support himself shall be known as a town or city assisted person, and shall be relieved and maintained at the expense of the town or city of residence.”

Local Duty

RSA chapter 165 places responsibility of local welfare squarely on local community.

Importantly, that chapter contains no limitation on the amount or duration of welfare.

Realistically, a good budget-setting process will estimate the amount to-be-expended in the next year, but that's not a fixed rule. The amount may be more or less, depending on need.

Local Duty Cont.



- ▶ “Financial need and an inability to support one's self are the sole criteria for eligibility.” *Baker-Chaput v. Cammett*, 406 F. Supp. 1134 (D.N.H. 1976) (citing *Town of Poplin v. Town of Hawke*, 8 N.H. 305 (1836); *Glidden v. Town of Unity*, 30 N.H. 104, 122 (1855)).
- ▶ “The standardless administration of general assistance places the hungry and the poor at the administrator's whim” . . . therefore, written guidelines for administration are required. *Baker-Chaput v. Cammett*.
- ▶ RSA 165:1, II reiterates requirement for guidelines adopted by governing body.

Guidelines Minimum Required Contents, RSA 165:1, II

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.

Duty to Report Abuse & Neglect



The welfare official has a duty to report suspected abuse or neglect of a child or an adult to DHHS



This obligation for reporting abuse or neglect of a child is found in RSA 169-C:29-:31.



The obligation for reporting abuse or neglect of an adult is found RSA 161-F:46.

Veteran in a qualifying conflict is entitled to:

Be supported, along with spouse & children at their home or other place.

Be provided a decent burial if veteran was assisted at time of death or left an insufficient estate to pay for burial.



Questions on veterans' issues? Contact NH Office of Veterans Services: 1-800-622-9230

Relief for Veterans,
RSA 165:5, 165:16

Burials/ Cremations

RSA 165:3

County nursing home: town of
prior admission

Veterans without sufficient
estate or who are on assistance

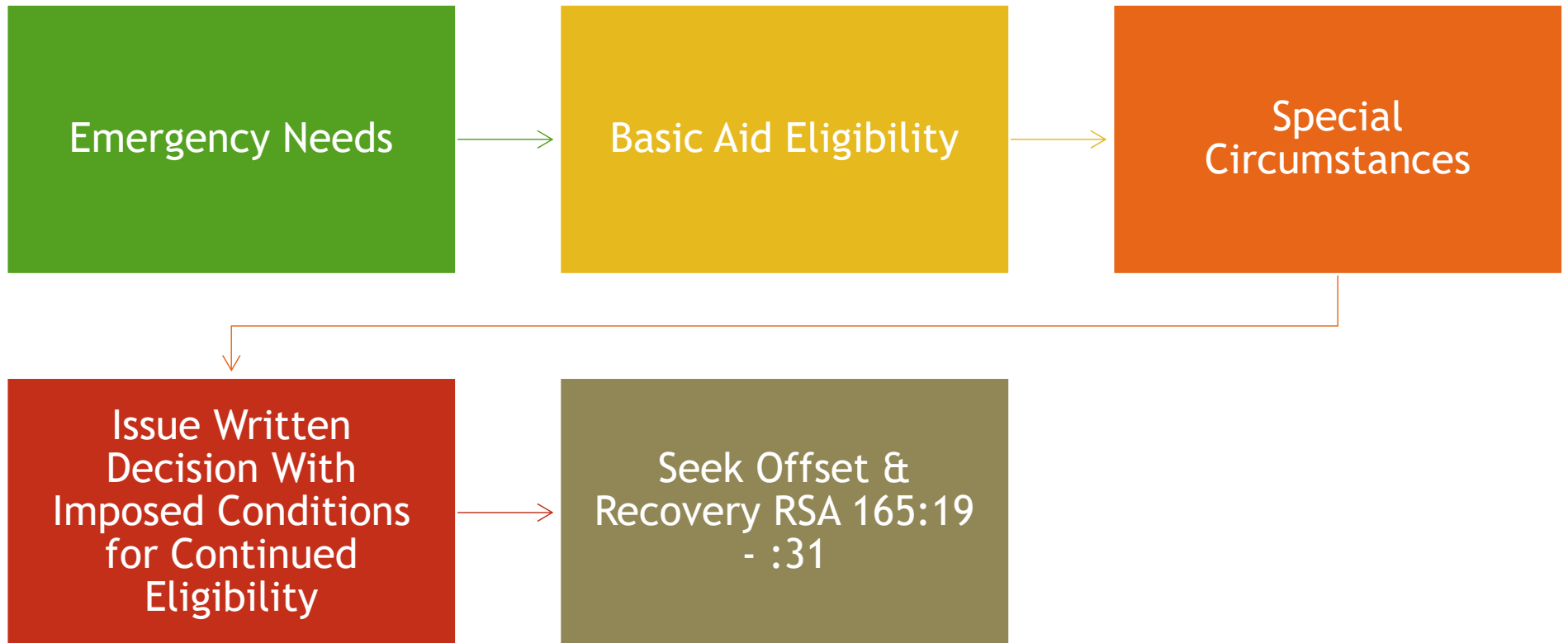
Unassisted Persons

Liability Protections

- ▶ RSA 31:104
 - ▶ Protects select board members and overseers of public welfare from civil damages for any vote, resolution, or decision made by said person acting in his or her official capacity in good faith and within the scope of his or her authority.
- ▶ RSA 31:105
 - ▶ Governing body may indemnify any municipal official or employee from personal financial loss and expense including reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason of negligence or other act resulting in accidental injury to a person or accidental damage to or destruction of property if the indemnified person at the time of the accident resulting in the injury, damage, or destruction was acting in the scope of employment or office.
- ▶ RSA 31:106
 - ▶ Governing body may indemnify any municipal official or employee from personal financial loss and expense including reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason of any act or omission constituting a violation of the civil rights of ... any [] person under any federal law if such act or omission was not committed with malice, and if the indemnified person at the time of such act or omission was acting within the scope of employment or office.



Application and Aid Process



Basic Process

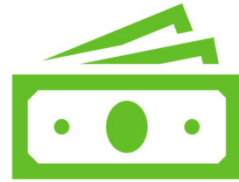
Application Process



- ▶ Information to provide to applicant
- ▶ RSA 165:1 (II) (a)
- ▶ Responsibility of applicant
- ▶ Continuity



NEED



less INCOME/
AVAILABLE ASSETS



equals AMOUNT of
Assistance.

Basic Formula

Determining Eligibility

Be Flexible

Get Releases

Necessary Information

Accurate Records - RSA 41:46

Interim Verification

NH GAP (General Assistance Program)

A professional software package, known as NH GAP (General Assistance Program) has been available since 11/01/14. NH GAP provides more effective, efficient and uniform local welfare administration, including standard decision print outs, case notes, statistics, shared applicant contacts with other NH GAP users and much more. Information for NH GAP, including pricing based on municipal populations, can be obtained from Stonehill Municipal Solutions at GAPSupport@shms.us. Website: <http://www.shms.us/software.html>





Social Security



Veterans
Benefits



Gifts, Lottery
Winnings, etc.



Unemployment
Benefits



Child Support

Income that can be counted



Supplemental
Nutrition
Assistance
Program



Income that should not be counted

*What about
APTD?*

*What about
OAA?*



Level & Form of Assistance

- Mathematical
- No limits
- Use vouchers, RSA 165:1, III
- Set conditions, RSA 165:1-b

PAYMENT VOUCHER

Dated: _____

and by: _____



Slide 27

PM3

RSA 165:1,III Actually written, "Whenever a town provides assistance under this section, no such assistance shall be provided directly to a person or household in the form of cash payments." It is important that municipalities don't think that they have to restrict payments to vendors by just using vouchers and eliminate the use of payment that would help them work with vendors.

Pat Murphy, 4/10/2023

NH LOCAL WELFARE ADMINISTRATORS ASSOCIATION ETHICS RESOLUTION

- ✓ A welfare official should not attempt to end, or avoid acquiring, local welfare financial responsibility by encouraging, persuading or pressuring a person:
 - A. not to apply for assistance, or to discontinue residence in the municipality in which they currently reside, or
 - B. to establish a residence in another municipalityDo not encourage a client who has applied for assistance in your town to seek assistance in another town without a good faith effort to communicate with the other welfare administrator.
- ✓ A welfare official should make a good faith effort to contact the welfare official of another municipality when a person is being directed to them and explain why the person may be inquiring and/or applying to their municipality
- ✓ According to RSA 126-A:30, 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.



Residence



Temporary
absence, RSA
165:1-c



Communicate
with welfare
administrator



Inter-Municipal
Cooperation

Residence

Senate Bill 110 Amending 165:1-c Nonresidents. (Adopted by both Houses on 6/8/23)

I. Any person, poor and unable to support himself, who is temporarily in a town or city which is not his residence, and who does not intend to make it his residence, shall be provided such temporary assistance as is reasonable and necessary by such town or city. Such town or city may, if requested, cause such person to be returned to his residence.

II. In addition to emergency housing governed by RSA 126-A:30, a person does not change his or her residency status while in a hospital, a correctional facility, a treatment program center, or a hotel or motel paid for by a municipality or other service provider, except as provided in this section.

III. A person who leaves emergency housing of their own free will and remains in a situation of homelessness or is removed from emergency housing for non-compliance or policy violations of emergency housing or local welfare regulations, shall not be considered to have changed his or her residency status for 30 days.

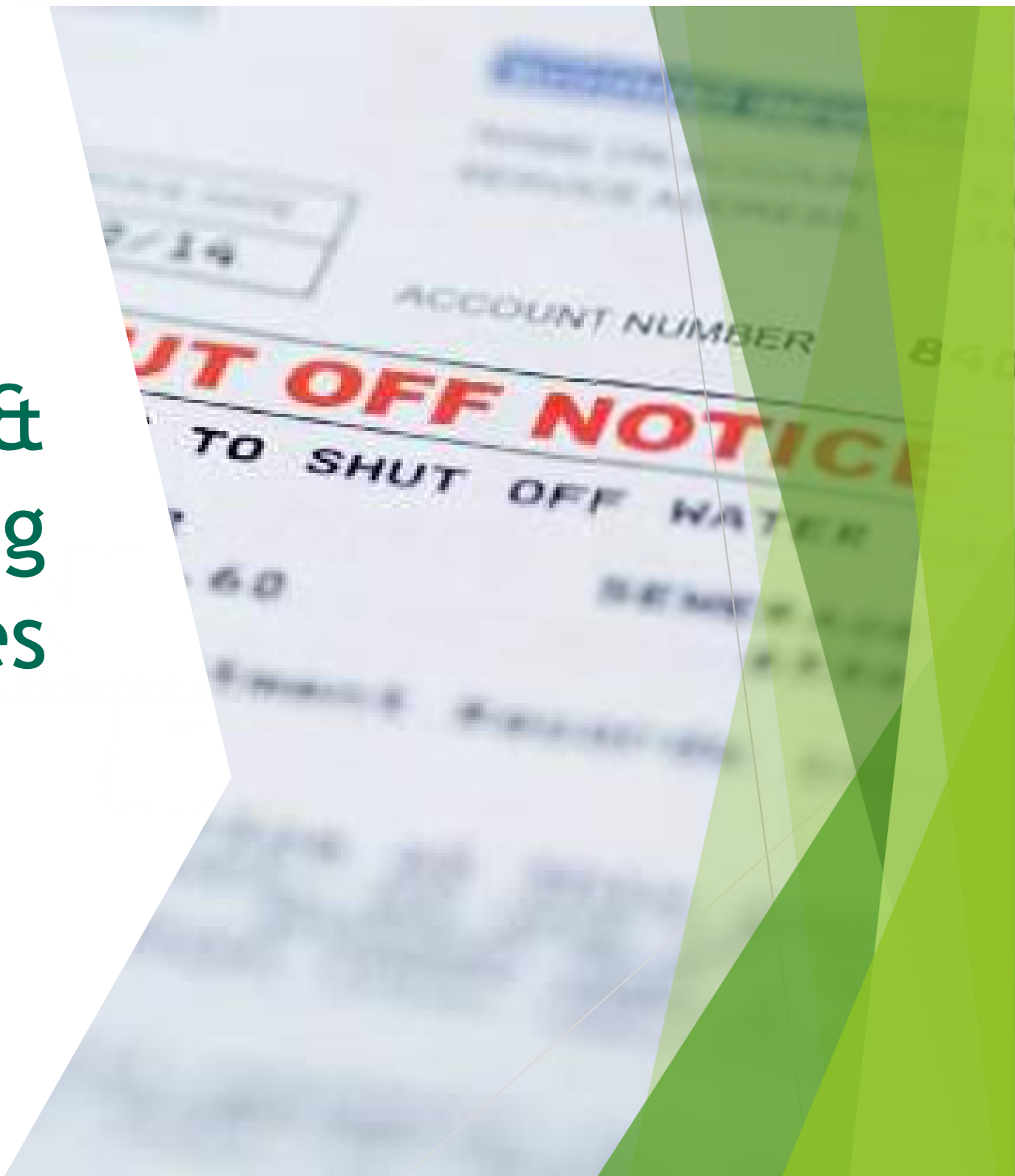
IV. A person assisted by a municipality, or other assistance providers, with emergency housing assistance in a hotel or motel in another municipality, who then self pays for a consecutive 30 days without municipal or other provider assistance shall, for local welfare purposes, transition residency to the new municipality.

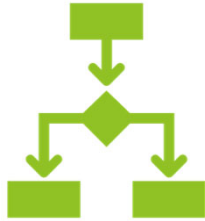
V. Temporary urgent assistance may need to be provided to meet basic needs of transient individuals or residents of other municipalities. Municipalities shall communicate and coordinate assistance options with each other, including reimbursements from municipalities of origin pursuant to RSA 165:2-a.



Applying Welfare Payments to Landlord's Delinquent Accounts - RSA 165:4-a and :4-b

Utilities & Paying Arrearages





**Making the
Decision**



**Timing
→Emergency?**



**Written Notice
of Decision**

Making the Decision

Financial
Disclosures

Impose conditions

Apply for aid

Employment
search/
Workfare
program

Disqualification, RSA 165:1-b

1

- Notice of conditions

2

- 7-day notice

3

- Suspension Notice

Other reasons for disqualification:

- ▶ Voluntary quit without good cause, RSA 165:1-d
 - ▶ QSAR, RSA 165:1-e
 - ▶ Transfers of property, RSA 165:2-b



Fair Hearings

What

Why

When

How



Recovery of Assistance

Liens on Real Estate - RSA 165:28

Legally Liable Relatives - RSA 165:19

Repayment by Assisted Person - RSA 165:20-b

Recovery from Town of Assistance - RSA 165:20 & RSA 165:20-a

Judgements & Settlements - RSA 165:28-a & RSA 281-A:52

Workfare Program as Offset - RSA 165:31

Reimbursement from SSI Recovery by Client

- ▶ Seek permission to be reimbursed by Social Security Administration from SSI awarded to client, see form in packet.
- ▶ Fill out the necessary forms (151 and 148) and have them notarized and mailed back to NHDHHS Office of Business Operations, Bureau of Finance.
- ▶ When client qualifies for SSI the State will process payment for the town from the retroactive check received from SSA
- ▶ Town will receive reimbursement of interim local assistance less an 8% processing fee.

Art of Welfare 2023





NH Local Welfare Trends - Focus on Homelessness

Municipal Websites & Welfare Information



“There is no legal obligation for municipal welfare to have a website. However, if a municipality has a website/homepage on the municipal website, they should be included as a municipal department or service.”

The NHLWAA Training Committee Recommends:



Municipal Local Welfare Website Basic Information

- ▶ General information about what local welfare is
- ▶ Days/ Hours of operation
- ▶ Contact Information, including outside of municipal welfare office hours, but still during “normal business hours” (such as - Monday-Friday, 9am to 5pm)
- ▶ Brief general overview of assessment/application process

Other Suggested Welfare Website Content

Consider having:

- ▶ Mission statement
- ▶ Area Resources, including phone numbers and links, including 211, food pantries/center and other services. This is good for the inquiry and a reasonable cost-effective diversion practice
- ▶ Application and supporting forms; especially if welfare is not full-time.
- ▶ Guidelines



What Not to Have

Municipal welfare practice has not attempted to market its services, such as Community Actions; nevertheless, *we should not*:

- ▶ Blatantly discourage people from inquiring or applying. Be factual, without deliberate attempts to discourage, including unreasonably long worded expectations and statements indicating “applications will not be considered unless...” Be professional with no or minimal use of bolded words, red font or explanation points. (e.g.: “If you are missing any needed paperwork your application will **NOT BE APPROVED!!**” or **WE WILL PLACE A LEIN ON OUR HOME!!**)
- ▶ Use self-qualifiers/disqualifiers, i.e., no website worksheets indicating if income is more than expenses a person does not qualify. This is not how local welfare works. The “Art of Welfare” is not based on numbers alone
- ▶ Give the impression local welfare is only a referral service. Municipal welfare refers whenever reasonably possible; however, we are a legally obligated assistance provider
- ▶ Do not have people apply for assistance through the Police Department



Focus on Homelessness: Definitions



From the NH Supreme Court:

Webster's Third New International Dictionary defines "homeless" as "having no home or permanent place of residence." Webster's Third New International Dictionary 1083 (unabridged ed. 2002). "Residence" is defined, in pertinent part, as "the act or fact of abiding or dwelling in a place for some time: an act of making one's home in a place." *Id.* at 1931. "Home" is defined, in pertinent part, as "the house and grounds with their appurtenances habitually occupied by a family: one's principal place of residence." *Id.* at 1082.

State v. Boisvert, 168 N.H. 182, 185 (2015)

HUD Definitions of Homelessness



- ▶ https://files.hudexchange.info/resources/documents/HomelessDefinition_RecordkeepingRequirementsandCriteria.pdf

NH Statutory Duty to Assist the Homeless



- ▶ **165:1-a Assisted Person Defined; Local Responsibility.**
 - Any person in a town or city who is poor and unable to support himself shall be known as a town or city assisted person, and shall be relieved and maintained at the expense of the town or city of residence.
- ▶ **165:1-c Nonresidents.** - Any person, poor and unable to support himself, who is temporarily in a town or city which is not his residence, and who does not intend to make it his residence, shall be provided such temporary assistance as is reasonable and necessary by such town or city. Such town or city may, if requested, cause such person to be returned to his residence. **(but see slide on SB 110)**

The Homeless can seek car registration



261:52-c Registration or Re-Registration by Residents Without a Permanent Street Address. -

I. A resident who is homeless without a permanent street address at the time of registration or re-registration may register a vehicle by certifying to the department in writing that he or she is currently resident in the town or city and by providing a letter signed by an authorized representative of a social service organization or agency qualified under section 501(c)(3) of the Internal Revenue Code stating that the person is authorized to use the mailing address of the organization or agency for purposes of contact by the department.

II. A certification of current residency and a current letter authorizing the use of the mailing address of a qualified social service agency or organization shall be submitted to the department in connection with every registration made under this section. The director shall provide the form on which the certification is made.

III. Residency for the purposes of this section shall be defined as the expressed intention to continue to reside in the municipality.

Navigation Emergency Shelter Situations



- ▶ When shelter placement is considered, be mindful of employment location, distance from children’s school and ongoing medical appointments
- ▶ McKinney-Vento Act - federal law that requires local school district to provide education to homeless student, and/or pay for cost of transportation to prior school district
- ▶ Shelters do not constitute residency for local welfare purposes
- ▶ Refusing the “prospect of shelter” is a refusal, however, do not mislead an applicant that a shelter has accepted them when the shelter has not. “Would you like us to explore homeless shelter options for you?” is different than “You can go to Bridge Over Troubled Water Shelter today” if it has not been confirmed
- ▶ Share basic information about the shelters you refer to. This can minimize anxiety and conflict. “It is a house in a residential area. Families have their own rooms, there is a shared kitchen, showers, laundry facilities, and it has case management services to help you get out of the shelter.”

Working with Shelters



- ▶ Many shelters will have a per night or per week fee to be charged to the referring municipality
- ▶ Consider adding a local emergency shelter(s) to annual budget for support of area non-profits that serve your community
- ▶ Municipal funding of emergency housing shelters helps build and maintain referral relationships with them.
- ▶ Clear written decisions regarding shelter referral entries, including expectations of shelter program compliance. “Comply with shelter rules and policies, including case management expectations.”

Working with Motels

- ▶ Motels are a form of emergency housing when necessary. When the municipality of origin initiated the assistance, the assisted is still a resident of the municipality of origin
- ▶ The assisted person can be required to self-pay an amount to be determined based on an allowable budget. Time self-payment close to when cash resources are received to maximize successful payment
- ▶ Paying for one (1) week motel assistance is normally less costly than paying one night at a time.
- ▶ The assisted can be expected to accept a homeless shelter even before the paid week is complete. Motels may not reimbursement amount paid, however, getting someone into a shelter is a longer-term savings
- ▶ Similar to homeless shelters, set clear expectations, including amount and when to self-pay, allowed persons in room, and “comply with motel rules.”



Homelessness: Resources



Homeless Assistance & Prevention Services

- ▶ *The Bureau of Housing Supports assists with connecting individuals and families who are currently homeless or are at risk of becoming homeless with emergency sheltering and ongoing housing support and services.*
- ▶ Contact: [NH 2-1-1](tel:2032347111)
- ▶ **Bureau of Housing Supports**
Address: 105 Pleasant Street, Concord, NH 03301
Email Address: dhhs.bhhs@dhhs.nh.gov
Office Phone: [603-271-9196](tel:6032719196)



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