

The Art of Welfare, 2021

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Agenda



Duty to Provide Assistance & Liability Protections



Application & Aid Process

Duty to Provide Assistance & Liability Protection



Two Categories of Assistance

Categorical Assistance Programs

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

Local 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 burden 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 or burial.



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

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

Burials

RSA 165:3

County nursing home: town of prior admission

Veterans without sufficient estate or who are on assistance

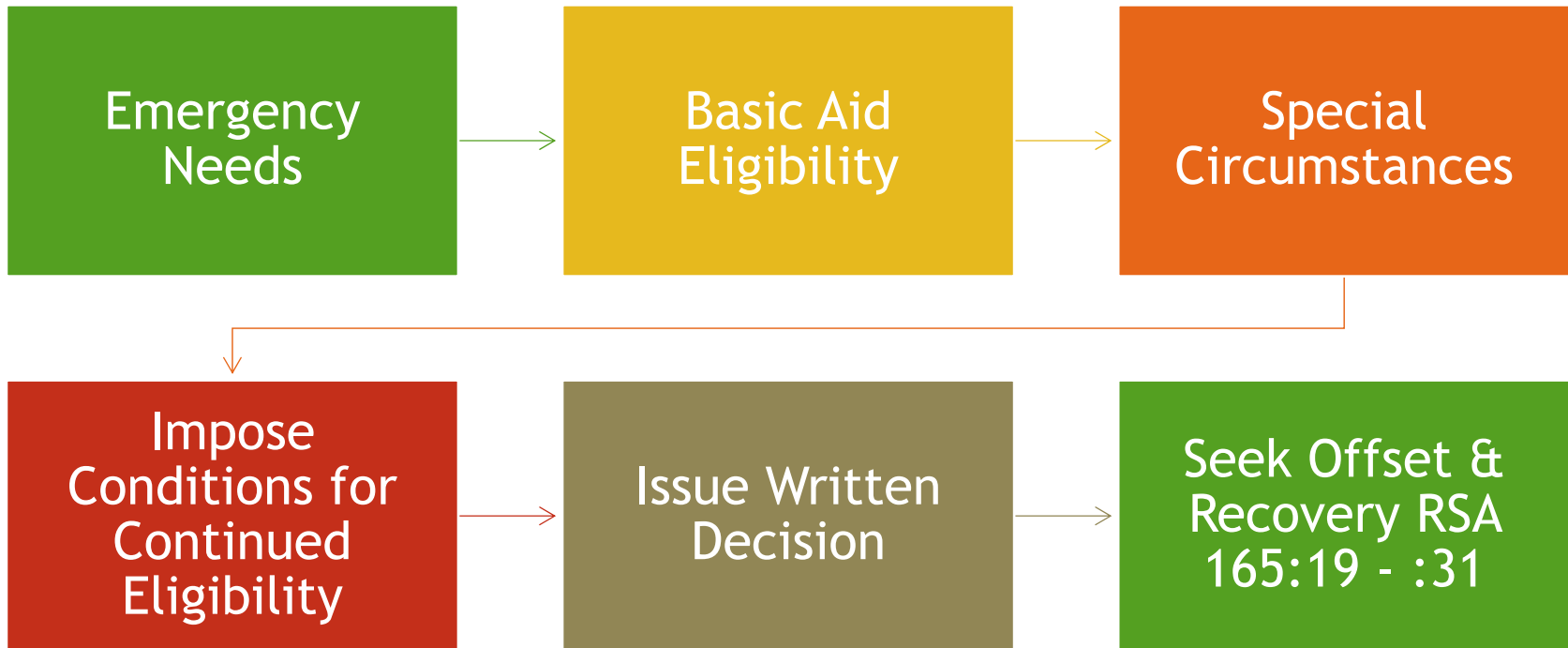
Unassisted persons?

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



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

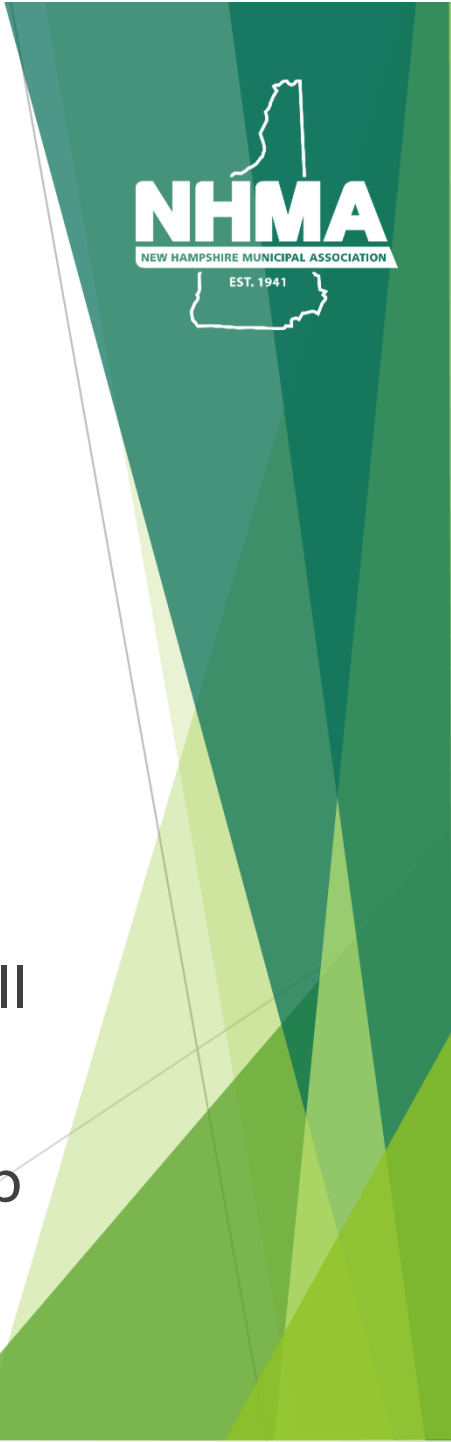
*What about
APTD?*

*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: _____

Coordination and Cooperation among Municipalities

- ▶ Appendix C - Model Local Welfare Guidelines
 - ✓ Dumping is persuading client to establish residence elsewhere
 - ✓ Do not encourage a client who has applied for assistance in your town to seek assistance in another town without a good faith effort to contact the other welfare administrator.
 - ✓ If your town has accepted financial responsibility for a client do not grant assistance that will be used to allow client to establish residence in another town without first offering to pay one month's assistance.
 - ✓ 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



Dumping

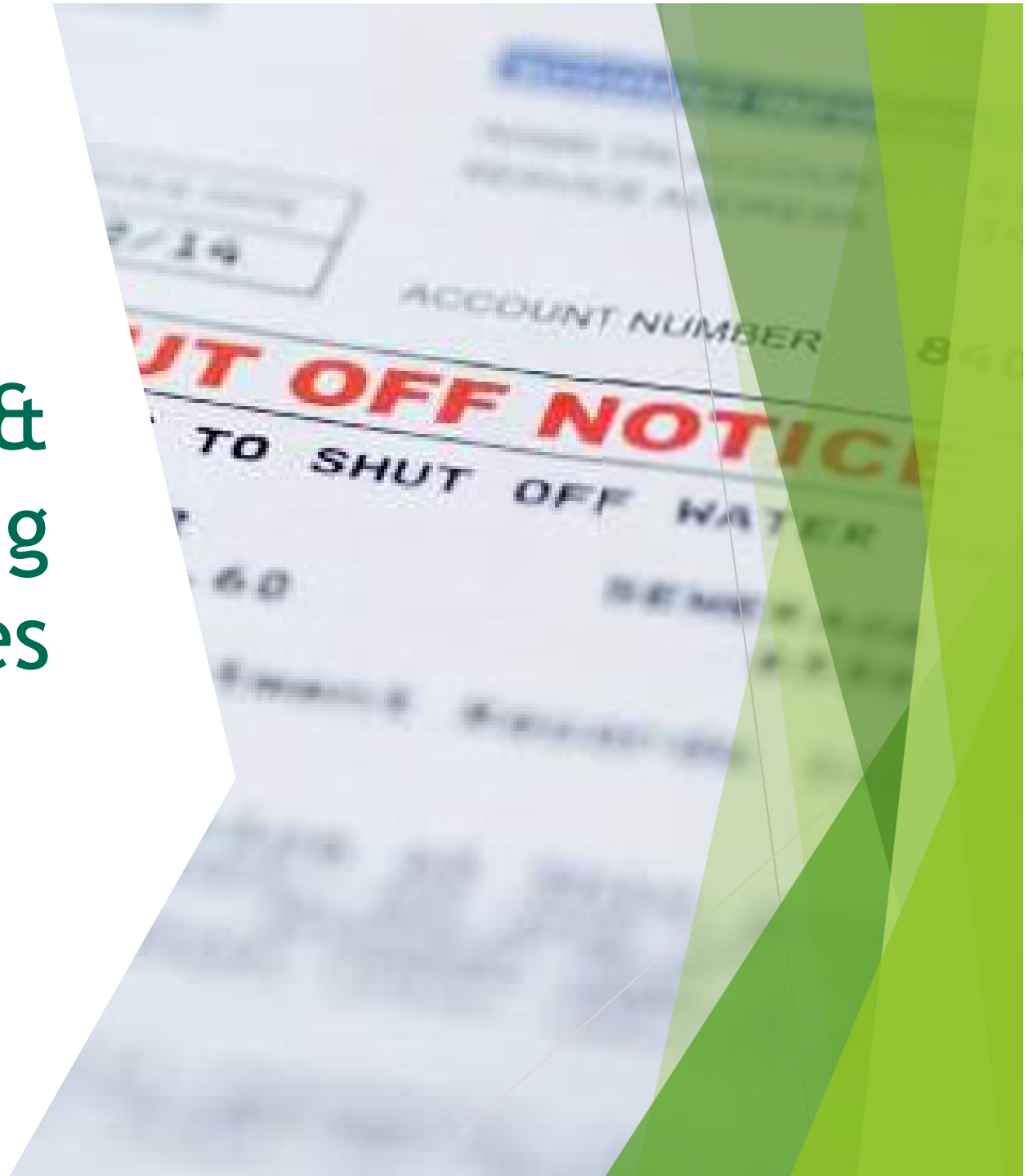
Residence

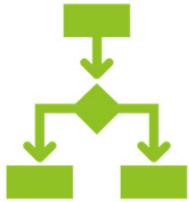


Applying Welfare
Payments to
Landlord's
Delinquent
Accounts - RSA
165:4-a and :4-b



Utilities & Paying Arrearages





**Making the
Decision**



**Timing
→Emergency?**



**Written Notice
of Decision**

Making the Decision

Financial
Disclosures

Impose conditions

Apply for aid

Work search/
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

Work 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.





*THANK YOU for
inviting NHMA
to Your NHLWAA
Workshop!*

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