

**CITY OF PORTSMOUTH  
WELFARE DEPARTMENT**

**WELFARE GUIDELINES**

**Revised 2022**

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## **SECTION 1: DEFINITIONS**

AS USED IN THIS MANUAL THE FOLLOWING TERMS HAVE THE INDICATED MEANINGS:

**ADVERSE ACTION:** A Notice of Decision documenting suspension, denial, or reduction of assistance.

**AGENCY:** Any health, social service or other entity that provides services to an applicant/recipient or any such entity to which the Welfare Official may refer an applicant/recipient 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a desire to receive General Assistance or to have his/her eligibility reviewed and whose application has not been withdrawn.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 on a form provided by the Welfare Official. A new application shall be required every six months, or sooner in the event of significant changes in household circumstances. The application must be filed in person or by an approved proxy.

**ARREARAGES:** Past due amounts on bills for basic needs.

**ASSETS:** All cash, real estate property, personal property, and future assets owned by the applicant. Includes, but is not limited to, cash on hand, checking accounts, bank and credit union accounts, annuities, insurance awards, tax refunds. Tools of a trade, livestock and farm equipment, and necessary and ordinary household goods shall not be considered as available assets.

**AVAILABLE LIQUID ASSETS:** Assets readily convertible to cash. See exclusions enumerated in Section 8 "Determination and Amount of Eligibility" of these Guidelines. Available liquid assets include, but are not limited to: bank accounts, credit union accounts, stocks, bonds, brokerage accounts, securities, tax refunds, tax sheltered funds (IRA 401K, 403B accounts, etc.), retirement funds, pension funds, insurance policies with a loan value. Non-essential personal property shall be considered as available liquid assets when they have been converted into cash.

**BASIC NEEDS:** The essential maintenance and support requirements of a welfare applicant, as determined by the Welfare Official in accordance with the "standard of need" described in Section 8 "Determination and Amount of Eligibility" of these Guidelines

**CASE RECORD:** Official City of Portsmouth Welfare Department files containing forms, documents, correspondence and narrative records pertaining to the application. Case records include determination of eligibility, reasons for decisions and action by the Welfare Official, and types of assistance requested and assistance provided. The case record may be kept electronically. Hard copies of all signed documents should be kept for a period of seven years after the last date of contact.

**CITY:** The City of Portsmouth, New Hampshire.

**CLAIMANT:** A recipient or applicant who has requested a Fair Hearing under Section 12 of these Guidelines either in person or through an authorized representative.

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

**COMPLIANCE:** Fulfillment by a welfare recipient of all official requirements and conditions of assistance, and adhering to these Guidelines.

**DENIAL:** A determination made by the Welfare Official that an applicant does not meet the criteria for assistance.

**ELIGIBILITY:** Determination by the Welfare Official, in accordance with RSA 165 and Section 7 of these Guidelines, of an applicant's inability to meet their basic immediate needs, and therefore, the need for General Assistance.

**FAIR HEARING:** A hearing, in accordance with the standards in Section 12 of these Guidelines, which an applicant may request to contest an adverse action.

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

**HOUSEHOLD:** A household is defined as:

1. The applicant/recipient and all persons residing with him/her, including those in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, other adult with whom the applicant has produced a child, and/or
2. 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 "in loco parentis" is one who intentionally accepts the rights and duties of a natural parent with respect to a child not his/her own and who has lived with the child long enough to form a "psychological family."

**HOUSING:**

- **Emergency Shelter:** A temporary or non-permanent and non-tenancy housing with is temporary housing from a housing provider through which an individual or family may seek emergency housing when no other housing is available.

- **Non-Permanent Non-tenancy Housing:** Applicant (s) pay for room(s) in rooming or boarding houses, hotels, motels, inns or tourist home or other dwelling which rent for recreational or vacation use. Room(s) in a single-family home with no lease which is the primary and usual residence of the owner. Other occupancies noted as non-tenancy under RSA 540:1, IV.
- **Permanent Tenancy Housing:** Applicant(s) rent apartment, home or room or real property for the sole purpose of residential and non-transient purposes. Applicant(s) may or may not have lease or contract.
- **Transitional Housing:** A non-permanent and non-tenancy housing which is usually provided by an assistance program which can require adherence to rules or policies to stay in their housing and programs.
- **Tenant of Tenancy:** Permanent housing where occupants shall be deemed to rent at will or have a contract or lease in which have protections of eviction as noted in RSA 540.

**INTAKE FORM:** A form to be completed by an applicant the time of each office visit, unless it is time for a new Application to be completed, reporting any changes in circumstance and specifying assistance requested.

**LANDLORD:** An applicant's property owner or the property owner's authorized agent of a valid rental property.

**LIABILITY FOR SUPPORT:** Those legally liable relatives deemed under RSA 165:19 to have financial responsibility for anyone applying for General Assistance.

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

**NEED:** The basic maintenance and support requirements of an applicant, as determined by the Welfare Official under the standards described in Section 8 "Determination of Eligibility" 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 an applicant's household.

**RESIDENCE:** Residence or residency shall mean an applicant/recipient's place of abode or domicile. The place of abode or domicile is that place designated by an applicant/recipient as his/her 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 temporary absence from it if there is intent to return to such residency as the principal place of physical presence.

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

**ROOMMATE:** A person(s) who is/are financially responsible for himself/themselves and living with a City Welfare applicant/recipient. The roommate will be assumed to be responsible for a pro-rata share of the basic household expenses, but not for the expenses associated specifically with the applicant (food, prescriptions, etc.).

**SUSPENSION:** Period of ineligibility for assistance due to noncompliance with these Guidelines.

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

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

**VERIFIABLE GOOD CAUSE:** Includes, but is not limited to a verified medical emergency, or other verified unforeseen emergency circumstances which precludes the recipient from fully complying with mandated requirements and/or renders an applicant/recipient unable to provide for his/her basic needs.

**VOUCHER SYSTEM:** The system whereby vouchers are issued by the Welfare Official directly to a recipient's vendors and creditors, rather than cash to the recipient.

**WELFARE OFFICIAL:** The individual, either "Welfare Administrator" or "Welfare Administrative Clerk", appointed by the City for the purpose of administering these Guidelines in accordance with NH RSA 165.

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

## **SECTION 2: CONFIDENTIALITY OF INFORMATION**

Information given by or about an applicant/recipient is confidential and privileged. Such information will not be released or discussed with any individual or agency without written permission of the applicant/recipient except when disclosure is required by law or is for the purposes directly connected with administration of General Assistance.

## **SECTION 3: ROLES OF THE PORTSMOUTH CITY COUNCIL AND THE WELFARE OFFICIAL**

The responsibility for the day-to-day administration of the General Assistance Program is vested in the appointed Welfare Official of the City of Portsmouth. The Welfare Official shall administer the General Assistance program in accordance with

these written Welfare Guidelines. The Portsmouth City Council is responsible for the adoption and amendment of the Welfare Guidelines.

#### **SECTION 4: MAINTENANCE OF RECORDS**

**A: Legal Requirement:** The Welfare Official is required by law to keep complete records concerning the number of persons given assistance and the cost for such support. Separate case records, paper and/or electronic 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 City's funds.
2. To support decisions concerning the applicant/recipient's eligibility (especially important if the Welfare Official should be required to prove in court that assistance was granted equitably).
3. To assure availability of information if the applicant/recipient seeks administrative or judicial review of the decision.
4. To provide the Welfare Official with accurate statistical information.
5. To provide a complete history of an applicant/recipient's needs and assistance that might aid the Welfare Official in referring the applicant to appropriate agencies for services (subject to confidentiality Guidelines).
6. To aid in the determination of residence and to allow a smooth transition of information if the applicant/recipient is transferred to another legally liable unit.

**B. Case Records:** The Welfare Official shall maintain case records containing, at a minimum, the following information:

1. The complete application for assistance, including any authorizations signed by the applicant allowing the Welfare Official to release, obtain or verify all pertinent information in the course of assisting the recipient, to include a signed Authorization to Release Information from the NH Division of Health and Human Services.
2. The results of the investigation and verification of information.
3. Copies of all documents presented by the applicant/recipient to verify assets, income, work search, and applications to other sources of assistance as required by the Welfare Official.
4. Written grounds for approval or denial of an application, contained in a Notice of Decision.

5. A narrative history recording need for assistance, the results of investigations of applicant's circumstances, referrals, changes in status, grounds for release of information.
6. A client account summary which has complete data concerning the type, amount and dates of assistance given.
7. Completed Welfare Work Program documentation, if a recipient must participate (Section 10).

## **SECTION 5: APPLICATION PROCESS**

### **A. Right to Apply**

1. Anyone may apply for General Assistance by appearing in person or through an authorized representative approved by the welfare official and by completing a written or electronic application form. Applications and necessary forms may be obtained from the City Offices at any time during normal business hours. The Welfare Official should determine the process by which eligibility determinations shall be made; either by in-person appointments, via telephone or video, or home visits. If more than one adult resides in a household, each may be required to appear at the Welfare Department office to apply for assistance, unless one is working or otherwise reasonably unavailable. Unrelated adults in the applicant's residential unit may be required to apply separately if they do not meet the definition of household as defined in these guidelines. Each adult in the household may be requested to sign release of information forms.
2. The Welfare Official shall not be required to accept an application for General Assistance from a person who is subject to a suspension pursuant to RSA 165 and Section 11 of these Guidelines; provided that any person who contests a determination of continuing noncompliance with the Guidelines may request a Fair Hearing; and provided further that a recipient who has been suspended for at least six (6) months due to noncompliance may file a new application.
3. An application is considered withdrawn if the applicant withdraws the application prior to the intake interview.
4. If an applicant/client refuses to sign the Notice of Decision, the applicant/client is still responsible to observe and /or fulfill the requirements(s) listed in the Notice of Decision.

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

The Welfare Department shall be open during normal City Hall business hours. The Welfare Official shall establish protocols with appropriate City staff to respond to emergency requests outside of regular business hours.

The Welfare Official shall inform the applicant of those pertinent sections of these Guidelines enumerated below, when appropriate.

1. The requirement that a completed application contains all necessary information including the applicant's signatures agreeing to reimbursement, allowing the Welfare Official to contact all necessary sources for investigation and verification, and verifying that the applicant has been given, read (or had read to him/her) and understood all information. An incomplete application may be grounds for denial of assistance.
2. A description of eligibility requirements, including a general description of the Guidelines and the eligibility standard, as necessary.
3. A referral of an applicant requiring emergency assistance to agencies or resources which have agreed to provide available emergency, temporary assistance which will meet the needs of the applicant until an appointment can be arranged.
4. The requirement to provide the applicant with a scheduled appointment.
5. The responsibility of the Welfare Official to verify all documentation required by the Welfare Official and provided by the applicant, including, but not limited to: identification for all household members, receipts for expenditures, documentation of employment, documentation of application for other programs which would reduce or eliminate the need for General Assistance, documentation of income, loss of employment and any other similar claims affecting eligibility.
6. The possible need to relocate to more affordable housing based on the applicant's present and projected verifiable income. Effort will be made to maintain an applicant/recipient in his/her own housing if the monthly cost falls within the normal housing costs (rent plus utilities) in Portsmouth, unless it is clear that to do so would probably require an unreasonable period of continuing subsidy from the Welfare Department. In determining whether or not continuing subsidy is warranted the department shall consider, among other relevant factors:
  - a. efforts by the applicant/recipient to increase household income or obtain less expensive housing
  - b. the applicant/recipient's prospects of obtaining other forms of rental assistance
  - c. special consideration will be given to helping an applicant/recipient residing in federally subsidized housing or other substantially below market rate housing to retain such housing.
7. The amount of assistance provided will be negotiated with vendors whenever possible. In any case where an applicant for rental assistance has resided in his/her current housing for less than thirty (30) days, the Welfare

Official will require the landlord to provide copies of the applicant's rental screening documentation. The results of this inquiry will be relevant to any rental negotiation process between the City and the landlord. The Department will always attempt to provide what is necessary for the least cost possible. If negotiation is not possible, the least expensive appropriate alternative will be sought.

8. The Department will not pay charges which do not directly represent an actual service, for example, late charges, security deposits, key charges, damages, eviction fees, etc.
9. The Welfare Official may make home visits to verify information when necessary or to interview an applicant who is shut-in, unable to appear in the Department office, and has no agent to act for him/her.
10. Families or individuals currently without housing and/or income may be referred to a shelter.
11. Verification will be conducted in order to further substantiate facts and statements as presented by the applicant/recipient, and that this investigation will be ongoing while the case is open.
12. The applicant/recipient's right to request a Fair Hearing and the process by which to do so.
13. The statutory requirement of placing liens. See Section 13 "Liens" of these Guidelines.
14. The requirement to pursue reimbursement of all assistance in accordance with RSA 165.
15. The applicant/recipient's right to review the Guidelines and the responsibilities as set forth in the Guidelines.
16. To provide the client with a copy of the "Responsibilities of Applicant/Recipient" document which he/she signed as set forth in the "Right to Apply" section of these Guidelines.
17. The fact that the Child Protection Act requires the Welfare Official or any person who suspects that a child under age 18 has been abused or neglected must report that suspicion immediately to NH DHHS Division of Children, Youth and Families per RSA 169-C:29-31.
18. The fact that the Adult Protection Law requires the Welfare Official or any person who has a reason to believe that a vulnerable adult has been subjected to abuse, neglect, exploitation or self-neglect to make a report immediately to the NH DHHS Bureau of Elderly & Adult Services per RSA 161-F:46.

### **C. Responsibilities of Each Applicant and Recipient**

At the time of the initial application, and as long as an applicant is receiving assistance or the case is open, the applicant/recipient shall comply with each of the following responsibilities:

1. To submit an Application For Assistance, with all releases of information signed, or an Intake Form if a recent Application for Assistance is on file, including any supporting documentation, that is complete, accurate and truthful in all respects and to comply with all requirements set forth in each Notice of Decision, for example, applicant/recipient must provide proof of all household income and dated receipts for all household expenses;
2. To provide accurate and complete information without misrepresentation or omission concerning needs and resources. To provide records and other required information and access to such records and information, when requested;
3. To cooperate fully and completely in answering all questions asked by the Welfare Official, including providing information regarding all legally liable relatives (RSA 165:19). Refusing to answer all questions asked by the Welfare Official relevant to the applicant's receipt of assistance may result in a denial of the requested assistance.
4. To report to the Welfare Official, within three (3) working days, any and all changes in circumstances, particularly the receipt of any financial resources from any source;
5. To apply for and accept any benefit or resource (public or private) that reduces or eliminates the need for local General Assistance upon application and within seven (7) days after the date of the interview;
6. To cooperate fully and completely with the Welfare Official in verifying all information that has been provided and is necessary to determine eligibility; and to notify the Welfare Official, within three (3) working days, of any changes which differ from the information provided on the Application For Assistance or on the Intake Form;
7. To keep all appointments as scheduled unless a verifiable emergency prevents keeping the scheduled appointment. In such an event, promptly providing verifiable documentation of the emergency;
8. To provide the City's medical information form completed by a medical doctor or physician's assistant as to the level of work that can be performed by the client if claiming an inability to work due to medical problems;
9. To immediately report the theft and/or loss of any money, voucher or other

valuable property to the appropriate entity and/or law enforcement authority and to the Welfare Official with proof of the report to law enforcement;

10. To provide verifiable documentation of a diligent search for employment (the number of work search contacts to be determined by the Welfare Official). To accept employment when offered, except for documented reasons of good cause, and to maintain such employment once assistance has been granted;
11. To cooperate fully and completely with the Welfare Official in efforts to obtain reimbursement to the City for assistance provided by any means authorized by law, and to notify the Welfare Official of any pending civil judgment(s), lawsuit(s), inheritance(s), financial settlement(s), insurance claim(s), tax refund(s), and any other financial award(s);
12. To make reimbursement of any assistance granted when and if returned to income status and if such reimbursement can be made without financial hardship;
13. To participate fully in the Welfare Work Program, if physically and mentally able.

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. Also, disqualification for General Assistance may occur.

Interviews and/or appointments may be deferred if the applicant/client appears to be under the influence of alcohol, drugs or other substances, or otherwise appears incapable of comprehending/completing the application/interview process.

Any person may be denied or terminated from General Assistance, in accordance with these Guidelines, 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.

#### **D. 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 an emergency, or within five (5) working days after completion of the written application. A written Notice of Decision shall be provided on the same day or next working day following the making of the decision. The Notice of Decision shall state that assistance of a specific kind and amount has been given and the time period of aid, or that the application has been denied, in whole or in part, with reasons for denial. The Notice of Decision shall

contain a first notice of conditions and shall notify the applicant of his/her right to a Fair Hearing if dissatisfied with the Welfare Official's decision.

2. Emergency Assistance. If, at the time of initial contact, the applicant demonstrates and verifies that an emergency need exists because of which the applicant may suffer a loss of a basic necessity of living or imminent threat to life or health (such as loss of shelter, utilities, heat, hot water, or lack of food or prescriptions), then temporary assistance to mitigate such an emergency need shall be provided to prevent the imminent threat to life or health, 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 approval to an applicant pending receipt of required documents. Temporary status shall not extend beyond one week.
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 themselves of other resources in place of assistance.
  - d. The applicant requests that the application be withdrawn (preferably in writing).
  - e. The applicant terminates an interview by leaving the office refusing a written notice.
  - f. The applicant does not contact the Welfare Official after the initial interview after being requested to do so.

## **SECTION 6. VERIFICATION OF INFORMATION**

The Welfare Official will verify all information.

1. Any determination or investigation of need or eligibility shall be conducted in a manner that will not violate privacy or personal dignity of the individual or violate his or her individual rights. Verification may be made through records provided by the applicant (for example, birth and marriage certificates, pay stubs, paychecks, rent receipts, bank books, 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 in writing what records are necessary and that the applicant is required to produce records within seven (7) days. If

such records are not available, the Welfare Officer should ask the applicant to suggest alternative means of verification.

2. 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 may be given an opportunity to explain or clarify the suspicious circumstances.
3. The Welfare Official may seek statements from the applicant's legally liable relatives regarding their ability to help support the applicant.
4. Verification will normally be required of, but not limited to, the following:
  - a. Applicant/recipient's address.
  - b. Names of persons in applicant's household residential unit or family unit.
  - c. Picture identification(s), birth certificate(s), and social security card(s). Immigration and Naturalization Service documentation for applicant(s) and household members, when applicable.
  - d. Marriage certificate(s), divorce decree(s), child support order(s), custody papers, proof of guardianship, and physical custody of children.
  - e. Applicant/recipient's and household/family unit's income and assets.
  - f. Applicant/recipient's and household/family unit's financial obligations.
  - g. The physical and mental condition of household/family unit members, only when relevant to their receipt of assistance, such as ability to work, determination of needs or referrals to other forms of assistance.
  - h. Any special circumstances claimed by applicant.
  - i. Applicant/recipient's employment status and availability for employment.
  - j. Names, addresses, employment and financial status of legally liable relatives.
  - k. Utility costs.
  - l. Housing costs.
  - m. Facts relevant to the applicant/recipient's residence.
  - n. Proof of application and/or benefits received from other sources.
  - o. Any other additional information deemed necessary to be verified by the Welfare Official.
  - p. Proof of any other costs that the applicant deems necessary.
5. Should the applicant/recipient refuse to provide requested information and/or indicate an unwillingness to have the Welfare Official seek further information that is necessary, assistance will be denied for lack of compliance with these Guidelines.

## **SECTION 7: DISBURSEMENTS**

The City provides assistance in the forms of vouchers, checks, or by credit card directly to vendors or creditors up to the dollar amount designated on the voucher, or for the actual amount listed on an itemized bill or cash register tape if less than the voucher amount. Tobacco products, alcoholic beverages, pet food, magazines, plants, cards, and children's toys shall not be purchased with the food or maintenance vouchers. It is the responsibility of the applicant to safeguard from theft, loss or misuse of any voucher he/she receives. No duplicate voucher will be issued if the original is lost, stolen, misplaced, or misused.

## **SECTION 8: DETERMINATION AND AMOUNT OF ELIGIBILITY**

### **A. Legal Standard and Interpretation**

"Whenever a person in any City is poor and unable to support himself (sic), he (sic) shall be relieved and maintained by the Overseers of Public Welfare of such City, whether or not he (sic) has residence there." RSA 165:1.

1. An applicant cannot be denied assistance solely because he/she is not a resident.
2. "Whenever" means at any or whatever times that person is poor and unable to support himself/herself.
  - a. An Application for Assistance may be filed at any time during the City's normal business hours. The Welfare Official will keep appointments and act on Applications in accordance with Section 5.B. of these Guidelines.
  - b. The eligibility of an applicant for General Assistance shall be determined at the time of application if an emergency, or within five (5) ~~working~~ business days.
  - c. Assistance shall begin as soon as the person is determined eligible.
3. "Poor and unable to support" means that an individual lacks income and available liquid assets to adequately provide for the basic maintenance needs for himself/herself or family as determined by the Guidelines.
4. "Relieved" means a person shall be assisted, as the Welfare Official shall determine, to meet those basic needs.
5. "Maintained" means to be continued on assistance as long as eligible.

### **B. Eligibility Formula. An applicant is eligible to receive assistance when:**

1. He/she meets the non-financial eligibility factors, and
2. When the applicant's basic maintenance need exceeds his/her available income plus available liquid assets. If available income and available liquid assets exceed the basic maintenance need, the applicant is not eligible for

General Assistance. If the need exceeds the available income/assets, the amount of assistance shall be the difference between the two amounts, in the absence of circumstances justifying an exception.

### **C. Non-Financial Eligibility Factors**

1. Age. Age is not a factor in determining whether or not a person may receive General Assistance. However, age may make certain persons eligible for other kinds of State or Federal assistance. Minor children are assumed to be the responsibility of their parent(s) or legal guardian(s), unless circumstances warrant otherwise.
2. Residence. Residence and residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his/her principle 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.
3. 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 City may pursue recovery against legally liable persons or governmental units.
4. Eligibility for Other Categorical Assistance. Applicants or recipients, who are eligible for any other form of public assistance, must apply for such assistance immediately, but no later than seven (7) days after being advised to do so by the Welfare Official. Failure to do so may render the applicant or recipient ineligible for assistance.
5. Employment. A person who is gainfully employed, but whose income and assets are not sufficient to meet necessary family 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 Welfare Work Program or who voluntarily leave a job, may be ineligible for continuing General Assistance in accordance with the procedures for suspension outlined in these Guidelines. The Welfare Official shall first determine whether there is good cause for such refusal, taking into account the documented ability and physical and mental capacity of the person, transportation problems, working conditions that might involve risks to health or safety, lack of adequate child care, lack of worker's compensation protection, or any other factors that might make refusing a job reasonable. These employment requirements shall extend to all adult members of the household.
6. Unemployed Recipients: All unemployed recipients and adult members of their households shall, within seven (7) days after having been granted assistance, provide proof that they are utilizing the New Hampshire

Employment Security resources (office and/or on-line) to find work, and must conduct a reasonable verified job search as determined by the Welfare Official. Each recipient must apply for employment to each employer to whom he/she is referred to by the Welfare Official. A work search exclusively conducted electronically (on-line) may be accepted as meeting these requirements.

These work search requirements apply unless the recipient or other adult member of the household is:

- a. Gainfully employed full-time
- b. A dependent 18 years of age or under who is regularly attending school
- c. Unable to work due to the necessity to care for a disabled family/ household member verified by a licensed medical provider's note.
- d. In a multi-adult family/household only one (1) adult will be exempt from the work search due to caregiver responsibilities.
- e. Is solely responsible for the care of a child under the age of one. A recipient responsible for the care of a child aged on to twelve shall not be excused from work search requirements, but shall be deemed to have good cause to refuse a job requiring work during the hours the child is not usually in school, if there is no responsible person to provide care, and it is verified by the Welfare Official that no other care is available.

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

7. Voluntary Quit Law. Applicants subject to the New Hampshire Voluntary Quit Law shall become ineligible for assistance for 90 days from the time of a voluntary quit as provided by law. Applicants must have:
  - a. Received General Assistance from the City within the past 365 days;
  - b. Received prior written notice that a voluntary quit could lead to disqualification;
  - c. No documented mental or physical impairment that causes him/her to be unable to work
  - d. Been employed at a job working at least twenty (20) hours per week;
  - e. Quit said employment without good cause, as defined in the statute, within 60 days of application for assistance
  - f. No minor children in the household supported by the applicant
8. Students: Post-secondary education students must be employed full time in order to be eligible for General Assistance.
9. Property Transfers. No person 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 himself/herself eligible for assistance within three (3) years immediately preceding his/her application.

10. Employment of Household Members. The employment requirements of these Guidelines, or participation in the Welfare Workfare Program, shall be required of all adults aged 18 to 65 years residing in the same household, except those regularly attending high school or employed on a full-time basis, who are related to the recipient, legally liable to contribute to the support of the recipient, and not prevented from maintaining employment and contributing to the support of the person by reason of physical or mental disability or other substantial or justifiable cause. The Welfare Official may waive this requirement where failure of the other household members to comply is not the fault of the applicant and the Welfare Official decides it would be unreasonable for the applicant to establish a separate household
11. Non-Citizens: the welfare officer may, at their sole discretion, provide limited assistance to non-citizens no otherwise eligible for general assistance.
  - a. A non-citizen who is not:
    - i. A qualified alien under 8 USCA 1641,
    - ii. A non-immigrant under the federal Immigration and Nationality Act or,
    - iii. An alien paroled into the United States for less than one year under 8 USCA 1182(d)(5)
    - iv. Would not be eligible for general assistance from the municipality 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 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-applicants for general assistance may be required to provide proof of eligibility 8 USCA 1625.

#### **D. Available Assets**

1. Available Liquid Assets. See definition, Assets.
2. Automobile Ownership. The ownership of one automobile by an applicant or his dependent does not affect eligibility. Auto payments may be considered justifiable expenses when determining eligibility if the applicant can document that no alternative exists for transportation to verified employment and/or to essential medical services. Disabled adults will generally be considered able to access their medical providers by means of public transportation or agency bus service, eliminating the need for a personal vehicle.
3. Insurance. The ownership of life insurance policies does not affect eligibility. However, when such a policy has cash or loan value, the applicant will be required to obtain and/or borrow all available funds, which shall then be considered available assets. However, the cost of the policy will not be considered as a part of the "need."
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 should be considered as available to meet need. Applicants owning real estate property, other than that occupied as a home, 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. The Welfare Official shall not make mortgage payments when the applicant has a co-signer on the note.

#### **E. Standard of Need**

The basic financial requirement for General Assistance is that a person be poor and unable to support himself/herself. A person shall be considered poor when he/she has insufficient available income or assets to purchase either for himself/herself or dependents any of the following services. The payment level for any particular allowable expense shall be based on local market conditions and costs. The payment levels shall be reviewed by the Welfare Official, and if warranted, will be updated to reflect changes in the market.

1. Rental / Housing
  - a. Rental assistance is determined by the client's ability to afford housing based on present and projected verifiable income. The City will not assist applicants to move into housing which they cannot document that they will be able to afford once they are housed.
  - b. Arrearages and security deposits 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 is not responsible for finding housing for applicants, but may reasonably participate in this search in order to assure the least

- costly alternative.
- c. Whenever a relative of an applicant/recipient is also the landlord for the client, that landlord will be presumed able to assist his/her relatives, and must prove an inability to assist before any aid payment for shelter is made.
  - d. Mortgage payment may be considered. A property lien shall be placed by the City if assistance is provided.
  - e. Condominium fees may be considered if failure to pay these will put the applicant at risk of homelessness.
  - f. In cases in which the City has made an appropriate referral for verified available space in emergency temporary shelter (homeless or domestic violence) and the applicant/recipient refuses to accept such a referral and enter the shelter on the day indicated, the City will not be liable for alternative housing, but may consider other forms of assistance to which the applicant/recipient is otherwise eligible. If the applicant does not abide by the rules of the emergency housing/shelter, the Welfare Official may suspend the applicant by refusing to pay for alternative emergency shelter.
  - g. Assistance to applicants whose conduct caused them to be barred from their most recent previous temporary shelter, and who failed in any and all appeal processes available to them, will be limited to transportation to the closest available shelter. The applicant's housing costs shall not borne by the City.
  - h. Whenever an applicant requests rental assistance and the Welfare Official has concerns regarding the health and safety of the applicant's housing, the Welfare Director may request the applicant's premises be inspected by officials from the City's Inspection and/or Fire Departments prior to any rent(s) being paid. Such inspections will be conducted by appointment only, with full knowledge of the applicant and at a time of the applicant's choosing.
  - i. Security deposits may be included in the 'need' formula if the applicant is unable to secure alternative housing or shelter for which no security deposit is required or is unable to secure funds from alternative sources for payment of the deposit. Any security deposit provided by the general assistance program which is returned shall be returned to the municipality, not the recipient.
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. Utilities must be in the applicant/recipient's name in order to render assistance. A disconnect notice must be in effect. Arrearages will not normally be included in "need" except as set forth below:
- 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 of referrals can be utilized.
  - b. Electric Arrearages. In accordance with the rules of the New Hampshire Public Utilities Commission relating to electric utilities, arrearages for

electric service need not be paid if the Welfare Official notifies the electric company that the City guarantees payment of an average of the last twelve months bills as long as the recipient remains eligible for General Assistance.

- c. Restoration of Service. When utility service has been terminated and the Welfare Official has determined that alternative utility service is not available and alternative shelter is not feasible, arrearages will be included in "need" when restoration of service is necessary to ensure the health and safety of the applicant household. The 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.
  - d. Restoration of Electric Service. When electric service has been terminated and restoration is required, arrearages may either be included as set forth in Paragraph c) above, or may be paid in accordance with a reasonable payment plan entered into by the applicant and the electric company.
  - e. Deposits. Utility security deposits will be considered as "need" if and only if the applicant is unable to secure utility service without a deposit. Such deposits shall, however, be the property of the City.
3. Food. The amount included as "need" for food purchases will be in accordance with the most recent standard Supplemental Nutrition Assistance Program (SNAP) (formerly known as food stamps) allotment for household size, as determined under the food stamp program administered by the New Hampshire Department of Health and Human Services. The applicant's food allowance will equal the maximum Food Stamp allotment available for household size, less the dollar amount of food stamps actually received in the month prior to application for General Assistance benefits. An amount in excess of the food stamp allotment may be granted as an allowance if a physician has stated in writing that one or more members of the household needs a special diet, the documented cost of which is greater than can be purchased with the family's allotment of food stamps. Food vouchers may not be used for alcohol, tobacco or pet food.
  4. Household Maintenance Allowance. Intended to provide personal hygiene and household cleaning supplies, the maintenance allowance, also known as "personal goods", will be 20% of the maximum food stamp allotment for household size.
  5. Telephone. If the absence of a telephone would create an unreasonable risk to the recipient's health or safety (verifiable in writing by a physician), or, for other good cause as determined by the Welfare Official, the lowest available basic monthly rate will be allowed. The Welfare Department will not provide telephone equipment.
  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 cost of

public transportation. The possession of one motor vehicle by an applicant/recipient or his/her dependent(s) does not affect eligibility if it is essential for: medical or rehabilitation services, transportation to and from employment, or if it is essential for use necessary to the maintenance of the individual or family. Essential means that there is no other transportation available. The costs and maintenance of a necessary vehicle must be appropriate to the applicant/recipient's current and projected income.

7. Maintenance of Insurance. Life Insurance premium payments shall not be included as "need" in determining eligibility or amount of aid. Payment of premiums for health insurance policies and COBRA health insurance extensions may be determined a valid expense if it is documented that the policies reduce the applicant/recipient's need for medical assistance from the City.
8. Medical Expenses. The Welfare Official shall not include nor provide payment for medical, dental or eye services unless the recipient or applicant can verify that all other potential sources have been investigated and that there is no source of assistance other than local General Assistance. Other sources to be considered shall include state and federal programs; local and area clinics, area service organizations and area hospital programs designed for such needs. An applicant seeking medical service, prescriptions, dental service or eye service must provide written documentation 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 or recipient's well-being will be placed in serious jeopardy. The Welfare Official may accept verbal verification from the provider, but shall seek written confirmation. Whenever possible, the applicant will seek service from a Medicaid provider physician. If advance payment is required for such medical services, the Welfare Official may approve payment of the fee up to the reimbursable amount set for the procedure by the New Hampshire Medicaid Program. The City of Portsmouth Welfare Department does not provide payment for hospitalization or any other medical services incurred without written prior authorization from the welfare official. Nor will the cost of medical services incurred be considered part of the "need." Whenever possible, generic medications should be used unless specified differently by the physician. Dental assistance is limited to emergency extraction of teeth.
9. Legal Expenses. Except for those specifically required by statute, no legal expenses will be included.
10. Home Ownership Expenses. Where the applicant owns a home and is otherwise eligible for assistance, payment for essential repairs to retain heat, electric, water, and/or sanitary facilities may be made as deemed necessary by the Welfare Official to prevent foreclosure, preserve the home, and promote the health and safety of the applicant.

11. Shared Expenses. If the applicant/recipient household shares shelter, or other expenses with a non-applicant/recipient (i.e., is a part of a residential unit), then need should be determined on a pro-rata share, based on the total number of persons in the residential unit (i.e., three persons in residential unit, but only one applies for assistance: Shelter need is one-third of shelter allowance for a household of three persons; if the individual's name appears on the lease).
12. Miscellaneous. The "Standard of Need" shall not include costs to prevent repossession of any kind, "rent-to-own" furniture or appliance payments, moving expenses, storage charges, or other costs and fees unrelated to the applicant's health and safety.

**F. Income**

In determining eligibility and the amount of assistance, the applicant's 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 his/her family or household through wages, salary, commission, or profit, whether self-employed or as an employee, is to be considered as income. Rent income and profits from produce sold are this category. With respect to self-employment, subtracting business expenses from gross income in accordance with standard accounting principles arrives at total profit. When income consists of wages, the amount computed should be that net amount available after deductions for income taxes; social security and other payroll deductions required by state, federal, or local law; court-ordered support payments; garnished wages; child care costs and work-related clothing costs.
2. Income or Support from other Persons. Contributions or gifts from relatives or other household members shall be considered as income only if actually received by or to the benefit of the applicant.
3. Income from Other Assistance or Social Insurance Programs. State categorical assistance benefits, OAA payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources shall be considered as income.
4. Benefits From Other Sources: Certain benefits received by the applicant will not be counted as income, but the receipt of these benefits will reduce the amount of need by the dollar value of the benefit:
  - a. Food Stamps cannot be counted as income pursuant to federal law 7 USC 2017 (b).
  - b. Fuel Assistance cannot be counted as income pursuant to federal law. 42 USC 8624 (f) (1).

5. Court-Ordered Support Payments. Alimony and Child Support shall be considered income only if actually received by the applicant or recipient.
6. Income from Other Sources. Tax refunds, payment from pension and trust funds, tax returns and the like shall be considered income. Any income actually available to the applicant from members of their household shall be considered as income. Persons in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, are legally liable to support the applicant, and therefore may be required to apply jointly with him/her if they are in the same household.
7. In Loco Parentis. Any adult (even an unrelated person or roommate) who resides in the same household "in loco parentis" (in the role of substitute parent) to a minor child is liable for contributing to that child's support, and thus be required to apply jointly with that household.
8. Shared Facilities. For the purposes of determining eligibility under these Guidelines, the income of a member of the household may be considered available to the applicant if he/she lives together with the applicant in a single housekeeping unit and shares the facilities.
9. Earnings of a Child. No inquiry shall be made into the earnings of a child 17 years of age or less unless that child makes a regular and substantial contribution to the family.
10. Deemed Income. The Welfare Official may deem as income all or any portion of any "qualified state assistance reduction" (QSAR). When an applicant receiving benefits through the Division of Human Services is sanctioned by a reduction in benefits for non-compliance, the amount of income considered available would be the amount the applicant was receiving prior to the sanction. The City will waive any or all of a QSAR if necessary to prevent an immediate threat to children in the household.

**G. Residents of Shelters for Battered Women and Children.**

An applicant residing in a shelter for battered women and children who had income and other resources jointly with abusive members of the applicant's household shall be required to cooperate with the normal procedure for the purposes of verification, but may have these resources and income excluded from eligibility determinations unless the sheltered household can safely access joint resources at the time of application. The verification process may be completed through an authorized representative of the shelter of residence. The normal procedure taken in accordance with these Guidelines to recover assistance granted shall not delay assistance.

**H. Burials**

Payment for burial of City indigents is limited to \$1,000.00 and is paid only if relatives, other persons, Department of Health and Human Services, Social Security or other sources will not cover the entire expense. Prior authorization

must be given by the welfare official. City assistance will not be considered if the decedent's family has already contracted for services. City assistance will not be utilized as a portion of payment for a costlier service.

## **SECTION 9. NON-RESIDENTS**

- A. Eligibility.** No persons shall be refused assistance solely on the basis of residence.
- B. Standards.** The application procedure, eligibility standards and standard of need shall be the same for non-residents as for residents.
- C. Verifications.** 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 community of residence.
- D. Temporary or Emergency Aid.** The standards for the fulfilling of immediate or emergency needs of non-residents and for temporary assistance pending final decision shall be the same as for residents.
- E. Determination of Residence.** No determination of residence shall be made unless the applicant requests return home transportation (see Paragraph F below) or unless the Welfare Official has some reason to believe the person of another New Hampshire municipality from which recovery can be made.
  - 1. **Minors.** The residence of a minor shall be presumed to be the residence of his/her custodial parent/guardian.
  - 2. **Adults.** For competent adults, the standard for determining residence shall be the overall intent of the applicant, as set forth in the definition of "residence." The statement of a person over 18 as to his/her residence or intent to establish residence shall be accepted in absence of strongly inconsistent evidence of behavior. The following criteria shall aid the Welfare Official in determining the applicant's residence:
    - a. Does the person have or immediately intend to establish a dwelling place within the municipality?
    - b. Does the person have property, an established dwelling place or employment in any other municipality, to which he/she intends to return?
    - c. Does the person have a present intent to leave the municipality at some specific future time?
    - d. Has the person evidenced his/her domiciliary intent in some manner, such as registering a vehicle, paying residence tax, registering to vote, opening local bank accounts, etc., or does he/she intend to do so in the immediate future?

- F. **Return Home Transportation.** At the request of a non-resident applicant, temporary or otherwise, to which he/she would be otherwise entitled under the standards set forth in these Guidelines, may be used by the Welfare Official to cause the person to be returned to his/her community of residence. The cost of public transportation will be allowed unless alternative arrangements (taxi, care giver, etc.) are made by the welfare official that minimize the cost to the City.
- G. **Recovery.** Any aid given to a non-resident, including the costs of return home transportation, may be recovered from his/her community of residence. If another municipality moves an applicant/recipient into the City, the City will seek reimbursement from the "sending" community in accordance with the New Hampshire Local Welfare Administrators Association's ethics policy.

## **SECTION 10. WELFARE WORK ("WORKFARE") PROGRAM**

Anyone found eligible for and receiving General Assistance may be required to work for the City or other appropriate local human service agencies at any available bona fide jobs that are within his/her capacity as reimbursement for benefits received. Workfare participants are not considered employees of the City, and any work performed by Workfare participants does not give rise to any employee/employer relationship between the Workfare participant and the City.

- A. **Required Hours.** Workfare participants' hours are based on the amount of aid rendered and are calculated at the prevailing area wage. All hours attributable to Workfare participation shall be used to reimburse the City for current assistance given. No recipient shall work more hours than necessary to reimburse aid received. Welfare work under this section shall continue for as long as assistance is required and received.
- B. **Value of Hours Worked:** If, due to lack of available work or other good cause, a Workfare participant does not work a sufficient number of hours to fully compensate the City the amount of his/her aid, the full amount of aid he/she has received less the dollar value of Workfare labor performed shall still be paid.
- C. **Work Search Allowance.** The City shall provide reasonable time during working hours for the Workfare participant to conduct a documented employment search.
- D. **Workfare Schedule.** Refusal to work does not include failure to appear for or to perform under the circumstances listed below. The Workfare participant should, however attempt to schedule appointments so as not to conflict with the assigned Workfare schedule and must notify his/her supervisor in advance of the appointment. The Welfare Official may require Workfare participants to provide documentation of their attendance at a conflicting interview or appointment. The circumstances include when the Workfare participant:
  - 1. Has a conflicting interview for a job opportunity.
  - 2. Has a conflicting interview at a service or welfare agency.

3. Has a medical appointment or illness.
  4. Must care for children under the age of five. A person responsible for a child over five (5), but under twelve (12) years of age, shall be deemed to have good cause to refuse to work during the hours the child is not in school, if there is no responsible person available to provide care, and no other care is available.
  5. As verified in writing by a physician, is unable to work due to mental or physical disability or must remain at home because of illness or disability to another member of the household.
  6. Does not possess the materials or tools required to perform the task and the City fails to provide such materials and tools.
- E. Worker's Compensation.** Workfare participants are included in the definition of public employee for the purposes of the Worker's Compensation Law.
- F. Failure to Comply.** Working hours are subject to approval by the supervisor and the Workfare participant. Failure of the Workfare participant to adhere to agreed working hours and reasonable work standards will prompt review of the recipient's eligibility for General Assistance and may result in suspension or termination of assistance.

## **SECTION 11: RIGHT TO NOTICE OF ADVERSE ACTION**

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

- A. Right to a Written Notice of Decision:** All persons have a constitutional right to be free of unfair, arbitrary or unreasonable action taken by local 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 written notice of every decision regarding assistance. The Welfare Official will make every effort to ensure that the applicant understands the decision.
- B. Sanction for Non-Compliance with the Guidelines**
1. Recipients must comply with these Guidelines and the reasonable request of the Welfare Official, who 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 non-compliance may result in termination or suspension.

2. Conditions. Any person otherwise eligible for assistance shall become ineligible if he/she willfully fails to comply with the requirements of these Guidelines relating to the obligation to:
  - a. Disclose and provide verification of income, resources or other financial material data, including any changes in this information.
  - b. Participate in the Welfare Work Program as assigned by the Welfare Official.
  - c. Comply with the work search requirements imposed by the Welfare Official
  - d. Apply for other public assistance, which would alleviate the need for General Assistance, as requested by the Welfare Official.
  - e. Expend documented income for essential needs such as utilities, rent, etc, as specifically directed by the Welfare Official, excepting instances where the applicant/recipient can document other essential needs for which income has been spent.
  
3. First Notice. No recipient otherwise eligible shall be suspended for non-compliance with conditions unless he/she has been given a written notice of the actions required in order to remain eligible and a seven (7) day period within which to comply. A first notice shall be included in the Notice of Decision and thereafter as the conditions change. Additional notice of actions required should also be given as eligibility is re-determined, but without an additional seven (7) day period unless new actions are required.
  
4. Non-Compliance. If the recipient willfully fails to come into compliance during the seven (7) day period, or willfully falls into non-compliance within thirty (30) days from receipt of a First Notice, the Welfare Official shall give the recipient a suspension notice. If a recipient falls into non-compliance for the first time more than thirty (30) days after receipt of a first notice, the Welfare Official must give the recipient a new first notice with a new seven (7) day period to comply before giving the recipient the suspension notice.
  
5. Sanction Notice. Written notice to a recipient that he/she is suspended from assistance due to failure to comply with the conditions required in a Notice of Decision shall include:
  - a. A list 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.
  - c. Notice of the right to a Fair Hearing on the issue of willful non-compliance and that such request must be made in writing five (5) days of receipt of the suspension notice.
  - d. A statement that assistance may continue 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, the suspension will start after the decision and such aid must be repaid by the recipient.
  - e. A form on which the individual may request a Fair Hearing and the continuance of assistance pending the outcome.

6. Sanction Period.
  - a. The period of ineligibility or suspension shall be seven (7) days or fourteen (14) days if the recipient has had a prior suspension which ended within the past six months. Any subsequent suspension period shall be fourteen (14) days. If upon the expiration of the 7-day or 14-day suspension period the person continues to fail to carry out the specific actions set forth in the notice, the disqualification shall continue until such person complies.
  - b. The Welfare Official shall not be required to accept an application for General Assistance from a person who is subject to disqualification or suspension under this section; provided however, that in the event such disqualification or suspension continues beyond the 7 to 14 day period due to continued non-compliance and there is a dispute over a contention by such person that he/she has satisfactorily complied with the requirements set forth in the notice, such person shall be given an opportunity to request a hearing to determine that issue, but shall not be eligible to a continuation of assistance pending the outcome of the Hearing.
7. Fair Hearing on Continuing Non-Compliance. 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 continued assistance shall be available pending the outcome of the Hearing. The burden of proof lies with the applicant/recipient to show that the City Welfare Department was incorrect in their non-assistance of the recipient's request.
8. Compliance after Sanction. 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 (7) day period for compliance unless new conditions have been imposed.

**C. Action Taken for Reasons Other Than Non-Compliance 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 to the applicant immediately or within five (5) working days from the time application is filled out and submitted.
2. In any case where the Welfare Official decides to terminate or reduce assistance for reasons other than non-compliance with the Guidelines, the official shall send notice at least (7) days in advance of the effective date of the decision to the recipient stating the intended action.
3. The notice required by Paragraph 1 and Paragraph 2 above shall contain:

- a. A clear statement of the reasons for the denial or proposed termination or reduction.
- b. A statement advising the individual of his/her right to a Fair Hearing, and that any request for a Fair Hearing must be made within (5) days.
- c. A form on which the individual may request a Fair Hearing.
- d. A statement advising the individual of the time limits, which must be met in order to receive a Fair Hearing.
- e. A statement that assistance may continue, if there was initial eligibility, until the date of hearing, if requested by the claimant. Aid must be repaid if the claimant fails to prevail at the hearing.

## **SECTION 12: FAIR HEARINGS**

**A. Requests.** A request for a Fair Hearing is a written expression by the applicant or recipient or any person authorized to act for him/her to the effect that he/she wants an opportunity to present his/her case to a higher authority.

**B. The Fair Hearing Officer.** The City may appoint a Fair Hearing Officer from among other regional Welfare Officials or any other qualified individual meeting the standards delineated below. The person serving 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.
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 actions.
5. In the case of a regional Welfare Official assuming the duty of Fair Hearing Officer, the City Welfare Official should make certain this individual has had no prior interaction with the claimant.

**C. Time Limits for Request and Hearing.**

1. When an application is denied or when an applicant desires to challenge a decision made by the Welfare Official relative to the receipt of assistance, a request for a Fair Hearing must be received within five (5) working days of receipt the Notice of Decision at issue.
2. Hearings requested by claimants must be held within seven (7) working days of the receipt of the request. The Welfare Official shall give notice to the claimant setting forth 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.

#### **D. Fair Hearing Procedures**

1. 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.
2. Evidence. No record, paper, or document, which the claimant has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.
3. 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 twenty-four (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.
4. Procedures for Fair Hearings.
  - a. All Fair Hearings shall be conducted in such a manner as to ensure due process of law.
  - b. Fair Hearings shall not be conducted according to strict rules of evidence. However, in order to protect the right of cross-examination, the Fair Hearing Officer shall not rely solely upon any hearsay evidence in making a decision if any party objects to its introduction.
  - c. The burden of proof shall be on the claimant who shall be required to establish his/her case by a preponderance of the evidence.
  - d. The Welfare Official responsible for the decision complained of shall attend the hearing and testify about his/her actions and the reasons therefore.
  - e. Both parties shall be given the opportunity to offer evidence and explain their positions as fully and completely as they wish.
  - f. The claimant or his/her representative and the Welfare Official or his/her representative shall have the opportunity to examine all records and documents used at the hearing. The claimant shall have the right to present his/her own case alone or with the aid of others; to bring witnesses to establish all pertinent facts; to advance any arguments without undue interference; to question or refute testimony or evidence presented; and confront and cross-examine adverse witnesses.
  - g. The decision of the Fair Hearing Officer must be based solely on the record in light of these Guidelines. Evidence, both written and oral, which is admitted at the Fair Hearing, shall be the sole contents of the records. The Fair Hearing Officer shall not review the case record or other materials prior to introduction at the hearing.
  - h. The parties may stipulate to any facts.

- i. Any applicant may withdraw in writing his/her request for a Fair Hearing at any time up to the time of the Hearing. An applicant who fails to appear for any scheduled Fair Hearing shall be deemed to have withdrawn his request for such a Hearing.
- j. An applicant who believes he has good cause to request a continuance or postponement of a scheduled Fair Hearing shall contact the Welfare Official at the earliest possible time prior to the hearing. Upon good cause shown, the Welfare Official may reschedule such Hearing; however, the applicant is entitled to only one (1) such postponement or continuance per Fair Hearing request. Good cause shall include, but not necessarily be limited to, demonstrated medical emergency, or other demonstrated unforeseen circumstances which reasonably prevent the applicant from attending such scheduled Hearing. An applicant shall provide documentation of such circumstances to the satisfaction of the Welfare Official no later than 72 hours after the request for postponement is made. If the applicant does not provide documentation of such circumstances to the Welfare Official within 72 hours, then the request shall be deemed withdrawn by the applicant.

#### **E. Decisions**

1. Fair Hearing decisions shall be rendered within seven (7) business days of the Hearing. Decisions shall be in writing, setting forth the reasons for decisions and the facts on which the Fair Hearing Officer relied in reaching the decision and citations from these Guidelines. A copy of the decision shall be mailed or delivered in to the claimant and to the Welfare Official.
2. Fair Hearing decisions will be rendered on the basis of the Fair Hearing 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 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.

### **SECTION 13: LIENS**

**A. Real Estate.** The law requires the City to place a lien for General Assistance received on any real estate owned by an assisted person in all cases except for just cause. (This does not authorize the placement of a lien on the real estate of legally liable relative). The Welfare Official shall file a Notice of Lien with the County Registry of Deeds, complete with the owner's name and description of the property sufficient to identify it. Interest shall be charged as allowed by state law. 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 children who are under

age 18 or blind or permanently and totally disabled. At such time as the lien may become enforceable, the Welfare Official shall attempt to contact the attorney handling the real estate or estate before enforcing the lien. Upon repayment of a lien, the municipality must file written notice of the discontinuance of the lien with the County Registry of Deeds.

**B. Civil Judgments.**

1. The City shall be entitled to a lien upon property passing under the terms of a will or an interstate succession, a property settlement, or civil judgment or personal injuries (except Worker's Compensation) awarded any person granted assistance by the City for the amount of assistance granted by the City.
2. The City shall be entitled to the lien only if the assistance was granted no more than six (6) years before the receipt of the inheritance or award of the property settlement or civil judgment. When the Welfare Official becomes aware of such a claim against a civil judgment he/she shall contact the attorney representing the recipient.

**SECTION 14: RECOVERY OF ASSISTANCE**

The Welfare Official shall seek to recover money expended to assist former or current recipients.

- A. Recovery from Legally Liable Relatives.** The amount of money spent by the City to assist a recipient who has legally liable relatives (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 those legally liable relatives. Sufficient ability shall be deemed to exist when relatives' weekly 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 recipient 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 legally liable relatives. The Welfare Official shall attempt to give such written notice prior to the giving of aid, but aid for which an applicant is eligible under these Guidelines shall not be delayed due to inability to contact potentially legally liable relatives. Inability to contact potentially legally liable relatives must not be the result of applicants' failure to provide the information.
- B. Recovery from the Municipality of Residence.** The Welfare Official may seek to recover from the municipality of residence the amount of money spent by the City to assist an applicant/recipient who has a residence in another municipality as allowed by state law. Written notice of money spent in support of a recipient must be given to the welfare official of the municipality of residence.

- C. **Recovery from Former/Current Recipient's Income.** A former/current recipient who is returned to an income status after receiving assistance may be required to reimburse the City for the assistance provided, if such reimbursement can be made without financial hardship.
- D. **Recovery From State and Federal Sources.** The amount of money spent by the City to support a recipient who has applied for SSI and has voluntarily signed NH DHHS Form 151 "Authorization For Reimbursement Of Interim Assistance" may be recovered through the SSA and the New Hampshire Department of Health and Human Services. Prescription expenses paid by the City for a recipient who has applied for Medicaid may be recovered through the NH DHHS if and when the recipient 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. A Form 340 "Request for State Reimbursement" may be obtained from the New Hampshire Department of Health and Human Services for this purpose.

## **SECTION 15: APPLICATION OF RENTS PAID BY THE CITY**

### **A. Property Owner**

Whenever the owner of property rented to a person receiving assistance from the City is in arrears in sewer, water, or tax payments to the City, the City 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.

### **B. 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.

### **C. Delinquent Property Tax**

Delinquent Property Tax balances will be first priority, followed by delinquent sewer/water balances.

**D. Procedure**

1. The Welfare Official will issue a voucher on behalf of the tenant to the landlord for allowed amount of rent. The voucher will indicate any amount to be applied to a delinquent balance owed by the landlord, specifying which delinquency.
2. The Welfare Official will issue a duplicate voucher to the appropriate department (i.e. Tax Collector, Water Department), which shall forward the voucher to the Treasurer or Finance Official for payment, the department will issue a receipt of payment to the delinquent landlord.

**SECTION 16: 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.

Adopted This Day, the 19th day of September, 2022, by:

**City of Portsmouth City Council**