

# CHAPTER 193



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**Chapter 193, WELFARE GUIDELINES**

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[HISTORY: Adopted by the Board of Selectmen, 4-3-1986, amended 3-6-1997. Town Council Amended 3-3-2011; Amended 1-26-2012; Amended 10-24-2013; Amended 6-26-2014]

**§ 193-1. DEFINITIONS**

**AGENCY:** Any private or public health, social service or other entity that provides services to a client. The Welfare Official may refer a client for additional resources and/or assistance to any such entity.

**APPELLANT:** A recipient or applicant who has requested, either in person or through an authorized representative, a Fair Hearing under Section 193-6 of these guidelines.

**APPLICANT:** A person who, in person or by an authorized representative, applies to receive General Assistance or to have his/her eligibility reviewed and whose application has not been withdrawn.

**APPLICATION (RE-APPLICATION):** A process where a completed application, on a form provided by the Welfare Official, is submitted by a person or their authorized representative, who requests assistance, completes an interview and has their signed application verified with the Welfare Official.

**ASSETS:** All cash, real property, stocks, bonds, retirement funds, securities, personal property and future assets owned by the applicant/recipient.

**AVAILABLE LIQUID ASSETS:** Cash on hand, bank deposits, credit union, checking, savings and debit accounts, stocks, bonds, and securities. IRAs (individual retirement accounts), 401Ks accounts and insurance policies with loan value and non-essential personal property shall be considered as liquid assets when they have been converted into cash.

**CASE RECORD:** Official files, electronic or paper, containing forms, correspondence and narrative records pertaining to the application, including determination eligibility, reasons for decisions and actions by the Welfare Official, and expenditures of assistance given.

**CLIENT:** An individual, family or household who receives services such as referrals or assistance but does not always necessarily receive General Assistance Expenditures from the Welfare Department.

**ELIGIBILITY:** Determination by the Welfare Official, in accordance with Welfare Guidelines, an applicant's need for General Assistance under the formula provided in Section 193-10.

**FAIR HEARING:** A hearing which an applicant or recipient may request to contest a denial, termination or reduction of assistance. The standards for such a hearing are in Section 193-6.

**FIRST NOTICE:** Notice given to applicants and recipients which contains requirements and laws that the applicants or recipients must comply with to receive General Assistance.

**FIRST NOTICE WITH CONDITIONS:** In addition to the First Notice requirements and laws, this notice is provided to applicants with conditions recipients need to meet in order to continue assistance if eligible.

**GENERAL ASSISTANCE:** Assistance, which may or may not include financial assistance, provided to recipients in accordance with RSA 165 and these Welfare Guidelines. Under no circumstances shall financial assistance be provided directly to a recipient or household in the form of cash payments.

**HOUSEHOLD:**

**A.** The applicant/recipient and persons residing with the applicant/recipient in the relationship of father, mother, stepfather, stepmother, son, daughter, husband, wife (legally married or defined as such Cohabitation Statues 457:39) or domestic partner; and/or

**B.** 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.

**“IN LOCO PARENTIS”:** A person who intentionally accepts the rights and duties of a natural parent with respect to a child(ren) not their own and who lived as least the last 30 days in household with the child(ren) to form a “psychological family”.

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

**NEED:** The basic maintenance and support requirements of an applicant and household members, as determined by a Welfare Official under the standards of Section 193-10 (E) of these Guidelines. This does not always mean that an assistance payment of a need is allowed under General Assistance and these Guidelines.

**NOTICE OF DECISION:** A written decision or any conditions of assistance is rendered by the Welfare Official to the applicant or recipient approving, denying or pending assistance.

**RECIPIENT:** A person who is receiving financial assistance under General Assistance of these Welfare Guidelines as required in RSA 165.

**“RELIEVE AND MAINTAIN”:** The provision of basic needs necessary to the health and welfare of a household as provided under these Welfare Guidelines.

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

**RESIDENTIAL UNIT:** A place of abode or domicile where individuals physically reside together and share expenses of the residence such as rent, utilities and expenses of the residence. Within this unit could be a household or individual resident applying for General Assistance.

**RSA:** Revised Statutes Annotated. This is New Hampshire State Law noted throughout the Guidelines.

**SHELTER:** A physical abode that provides permanent or temporary housing in which an individual or household may or may not pay rent or mortgage. It can also be emergency housing like a shelter program until permanent or other housing can be found.

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

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

**VOUCHER SYSTEM:** The system whereby a municipality issues vouchers to the recipient's vendors and providers. The vendors must turn in the vouchers with verification of expense for check payment to them (RSA 165:1(III)).

**WELFARE ADMINISTRATOR:** The Welfare Official appointee by the Town Manager who performs overall administrative duties as well as the day-to-day administration of the General Assistance Program subject to the overall fiscal responsibility vested in the Town Manager by the Town Council.

**WELFARE OFFICIAL:** The person(s) appointed by the Town Manager, who performs the function of administering General Assistance. Such official has the authority to make all decisions regarding the granting of assistance under RSA 165 during normal work hours. The term includes "overseers of public welfare" (RSA 165:1; RSA 41:46) and "administrator of town or city welfare" RSA 165:2.

**WELFARE WORK PROGRAM or WORKFARE:** Labor performed by welfare recipients at municipal sites as reimbursement for benefits received as provided in RSA 165:31.

**WITHDRAWN APPLICATION:** A voluntary written or verbal request by the applicant to stop the process of eligibility determination of General Assistance.

## **§ 193-2. PURPOSE**

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A General Assistance Program is administered as required in RSA 165 to meet the Town's legal obligation. These guidelines are designed:

- A. To assist the Welfare Official in administration of this General Assistance Program.
- B. To outline guidance in the rights and responsibilities of the applicant/recipient.

## **§ 193-3. CONFIDENTIALITY OF INFORMATION**

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

**§ 193-4. ROLES OF TOWN COUNCIL, TOWN MANAGER, WELFARE ADMINISTRATOR & WELFARE OFFICIALS.**

**A. Adoption of Required Guidelines**

The Town Council shall adopt the Welfare Guidelines regarding General Assistance in accordance with RSA 165:1 (II). The Town Council shall review and revise these guidelines at least every five (5) years per the Town Charter Chapter 5-6(C) and as appropriate and necessary when there are changes in the NH State Law or conditions of the Town.

**B. Appointment of the Welfare Administrator and Welfare Officials**

The Town Manager shall appoint a Welfare Administrator and Welfare Officials in accordance with Town Charter Chapter 7-7(B). The Welfare Administrator will be responsible for administration and supervision of back up Welfare Officials in accordance with the provisions of the NH State Law and the Town Charter.

**C. Authority and Responsibility of the Welfare Officials**

The Welfare Administrator and duly appointed Welfare Officials shall administer the General Assistance Program in accordance with NH State Law and the adopted Welfare Guidelines of the Town of Merrimack, NH in the Town Charter Chapter 193.

**§ 193-5. RIGHT TO NOTICE OF ADVERSE ACTION**

**A. Right to a Written Decision**

All persons have a constitutional right to be free of unfair, arbitrary or unreasonable action taken by government. This includes applicants for and recipients of General Assistance whose Assistance has been denied, terminated or reduced. Every applicant and recipient shall be given a written notice of every decision regarding assistance (See Section 193-7(E)). The Welfare Official will make every reasonable effort to ensure that the applicant understands the decision.

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

1. Whenever a decision is made to deny assistance or to refuse to grant the full amount of assistance requested for reasons other than noncompliance with these Guidelines or State Law, a Notice of Decision shall be given or mailed to address on record in the Welfare Office to the applicant either the same day or next work day following the rendering of the decision or within five working days from the time the application was submitted, whichever occurs first. A copy of the Notice of Decision shall be placed in the case file.

2. The Notice of Decision shall contain:

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

b. A statement advising the recipient of his/her right to a Fair Hearing and that any request for a Fair Hearing must be submitted in writing within five working days of the date of the Notice of Decision.

- c. A form on which the recipient may request a Fair Hearing.
- d. A statement that assistance may continue (only if there was initial assistance was being given prior to this new request and only in that previous amount) until the date of hearing, if requested by the appellant. Continued assistance must be repaid if the appellant fails to prevail at the hearing.

3. In any case where the Welfare Official intends to terminate or reduce assistance for reasons other than noncompliance with the guidelines, the Official shall mail written notice of the intended action to the recipient to the address of record in the Welfare Office at least seven days in advance of the effective date of the Notice of Decision stating the intended action.

### C. Suspension for Noncompliance with the Guidelines

**1. Due Process.** Recipients must comply with these Guidelines, State Law and the reasonable requests of the Welfare Official. The Welfare Official must enforce the guidelines while ensuring that all recipients and applicants receive due process. Recipients shall be given reasonable notice of the conditions and requirements of eligibility and continuing eligibility and notice that noncompliance may result in reduction, suspension or termination.

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

- a. Disclose and provide verification of income, resources or other material financial data, as set out in Section 193-6(C) & (D) and 193-9 of these Guidelines, including any changes in this information;
- b. Participate in the work program under Section 193-7(C) & (D), as assigned by the Welfare Official;
- c. Comply with the work search requirements imposed by the Welfare Official under Section 193-7(C) & (D); and
- d. Apply for other public assistance as required by the Welfare Official under Section 193-7(C) & (D).

**3. First Notice.** No recipient otherwise eligible shall be suspended for noncompliance with conditions and requirements under these Guidelines or State Law unless he/she has been given a written notice of the actions required in order to become or remain eligible and a seven-day period within which to comply. The First Notice shall be given at the time of the Notice of Decision and with every Notice of Decision thereafter as conditions change. Additional notice of actions or Conditions or Assistance required shall also be given, as eligibility is re-determined, but without an additional seven day period unless new actions are required (RSA 165:1-b, II).

**4. Noncompliance After First Notice or Conditions of Assistance.**

If a recipient willfully fails to come into compliance during the seven (7) day period, or falls into noncompliance during the duration of assistance, the Welfare Official shall give the recipient an Ineligibility or Suspension Notice notifying the recipient of their ineligibility or suspension, as set forth in Section 193-5(C)(5) below.

**5. Ineligibility or Suspension Notice.** Written notice to a recipient that he/she is suspended from assistance due to failure to comply with the conditions required in a First Notice or Conditions of Assistance 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 (See Section 193-5(C)(6) below);
- c. Notice of the right to a Fair Hearing and that such request must be made in writing within five days of receipt of the ineligibility or suspension notice;
- d. A form on which the individual may request a Fair Hearing as well as request the continuance of currently-received assistance pending the outcome; and
- e. A statement that assistance may continue in accordance with the prior eligibility determination until the Fair Hearing decision is made if the recipient so requests on the request form for the Fair Hearing. If the recipient fails to prevail at the hearing the suspension will start after the Fair Hearing Decision and such assistance must be repaid by the recipient from the date of the Notice of Decision.

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

- a. Either seven (7) days, or fourteen (14) days if the recipient has had a prior suspension which ended within the past six (6) months, plus
- b. For any period of time following this initial seven (7) or fourteen (14) day period that the recipient continues to fail to comply with the Guidelines, and
- c. Notwithstanding Section 193-5(C)(6)(b) above, a recipient who has been suspended for noncompliance for at least six months may file a new application for assistance without coming back into compliance.

**7. Fair Hearing on Continuing Noncompliance.** A recipient who has been determined ineligible or 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 under Section 193-5(C)(5)(e).

**8. Compliance after Suspension.** A recipient who has been subject to a suspension and who has come back into compliance shall have his/her assistance resumed, provided he/she is still otherwise eligible. If more than thirty (30) days have lapsed since the last appointment to determine eligibility of assistance, the Welfare Official shall require a new appointment and

new or updated application with required verification to be completed by the recipient so that the Welfare Official can determine if the recipients are still eligible. The Notice of Decision stating that assistance has been resumed shall 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.

## **§ 193-6. FAIR HEARINGS**

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### **A. Request**

A request for a Fair Hearing before a Fair Hearing Officer, by the applicant or recipient, or any authorized person acting for him/her "Appellant", must be in writing.

### **B. Time Limit to File Request**

When a request for assistance is denied or when an applicant desires to challenge a decision made by the Welfare Official relative to the receipt of assistance, the applicant must present a request for a Fair Hearing to the Welfare Official within five (5) working days of receipt of the Notice of Decision at issue, unless otherwise provided in these Guidelines.

### **C. Time Limits for Hearings**

Hearings requested by appellants will be held within seven (7) working days of the receipt of the request. The Welfare Official shall give notice to the appellant setting the time and location of the hearing and that the hearing will be recorded. This notice must be given to the appellant at least forty-eight (48) hours in advance of the hearing, or mailed to the appellant at least seventy-two (72) hours in advance of the hearing.

The hearing may only be postponed and rescheduled one time.

### **D. The Fair Hearing Officer(s)**

The Fair Hearing Officer or Officers shall be chosen by the Town Manager. The Fair Hearing Officer(s) and date of appointment shall be recorded on Fair Hearing Officer Appointment Sheet. The person(s) serving as the Fair Hearing authority must:

1. Not have participated in the decision causing the Appellant's 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, and
5. Be capable to explain to the appellant the laws and regulations under which the Welfare Official operated, and to explain to the Welfare Official the Fair Hearing Officer's interpretation of any evidence of unsound, unclear or inequitable policies, practices or action.

## **E. Fair Hearing Procedures.**

1. All Fair Hearings shall be conducted in such a manner as to ensure due process of law and shall be audio or video recorded and placed in the appellant's case file.
2. The burden of proof shall be on the appellant, who shall be required to establish his/her case by a preponderance of the evidence.
3. The Fair Hearing officer shall not review the case record or other materials prior to introduction at the hearing.
4. The parties may stipulate to any facts.
5. An appellant or his/her duly authorized representative has the right to examine, prior to a Fair Hearing, all records, papers and documents from the appellant'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 appellant complains. The appellant may introduce any such documents, papers or records into evidence. No record, paper or document, which the appellant has requested to review but has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.
6. The Welfare Official responsible for the disputed decision shall attend the hearing and testify about his/her actions and the reasons therefore.
7. Fair Hearings shall not be conducted according to strict rules of legal procedure and evidence. Both parties shall be given the opportunity to offer evidence and explain their positions as fully and completely as they wish.
8. The appellant shall have the opportunity to present his/her own case or, at the appellant's option, with the assistance of others, and to bring witnesses, to establish all pertinent facts, to advance any arguments without undue interference, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. However, in order to protect the right of cross-examination, the fair hearing official shall not rely upon any hearsay evidence in making his/her decision if any party objects to its introduction.
9. The Welfare Official (or a duly authorized representative) shall have the right to examine at the Fair Hearing all documents on which the appellant 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 appellant. 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.
10. The decision of the Fair Hearing officer(s) shall be based solely on the record, in light of these guidelines. Evidence, both written and oral, which is admitted at the hearing, shall be the sole contents of the record.

## **F. Decisions**

1. Decisions shall be in writing, set forth the reasons for decision and enumerate the facts on which the Fair Hearing Officer relied in reaching the decision.
2. Fair Hearing decisions shall be dated and rendered within seven (7) working days of the hearing.
3. A copy of the decision shall be mailed to the appellant to the address on record in the Welfare Office and to the Welfare Official. If appropriate relief is decided, the Fair Hearing decision shall set forth the scope of the relief in the decision.
4. Fair Hearing decisions shall be rendered on the basis of the Officer's Findings of Fact based on the time of the decision, these guidelines and state and federal law.
5. In the case of a hearing to review a denial of assistance, the decision is retroactive to the date of the action being appealed. If a appellant fails to prevail at the hearing, any continued assistance given pending the hearing shall be a debt owed by the individual to the Town of Merrimack.
6. 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.
7. The Welfare Administrator shall keep all Fair Hearing decisions on file in chronological order.

## **§ 193-7. APPLICATION PROCESS**

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

1. Any person or their authorized representative may apply for General Assistance by appearing in person and by completing and signing an application form. If more than one adult resides in a household, each may be required to appear at the welfare office to apply for assistance, unless one is working 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 shall be required to sign release of information forms.
2. The Welfare Official shall not be required to accept an application for General Assistance from a recipient who is subject to a current Suspension for Non compliance per Section 193-5 (C) of these guidelines (RSA 165:1-b,VI); provided that any applicant who contests a determination of continuing noncompliance with the guidelines may request a Fair Hearing as provided in Section 193-5 (C)(7); 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. The Welfare Official shall provide assistance to the applicant in completing the application, if necessary (e.g., applicant is physically or mentally unable, or has a language barrier, etc.).

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

When application is made for General Assistance, the Welfare Administrator shall inform the applicant of:

1. The applicant's right to review the guidelines and receive a copy of the guidelines free of charge;
2. The requirement of submitting an application;
3. Eligibility requirements, including a general description of the guideline amounts and the eligibility formula;
4. The applicant's right to a Fair Hearing, and the manner in which a review may be obtained;
5. The applicant's responsibility for reporting all facts necessary to determine eligibility, and for presenting records and documents as requested and as reasonably available to support the application;
6. The joint responsibility of the Welfare Official and applicant for exploring facts concerning eligibility, needs and resources;
7. The forms of verifications required;
8. The requirement that an investigation shall be conducted in order to verify facts and statements presented by the applicant;
9. The applicant's responsibility to notify the Welfare Office within seventy-two (72) hours of any change in circumstances that may affect eligibility;
10. Other forms of public or private assistance for which the applicant may be eligible;
11. The requirement that the Town of Merrimack place a lien on any real property owned by the recipient, or any civil judgments or property settlements or property passing under the terms of a will or by intestate succession, for any assistance given, except for good cause;
12. The requirement that responsible relatives according to RSA 165:19 may be contacted to determine recovery or the ability to provide assistance;
13. The requirement that reimbursement from the recipient shall be sought if he/she becomes able to repay the amount of assistance given;
14. The applicant's responsibility not to voluntarily terminate employment without good cause, as required by RSA 165:1-d: and,
15. Any other responsibility the applicant has or will have, as provided in Section 193-7 (C) & (D).

### **C. Responsibility of Each Applicant**

At the time of initial application, and at all times thereafter, the applicant and each household member age eighteen (18) years or older have the following responsibilities:

1. To provide accurate, complete and current information concerning needs and resources and the whereabouts and circumstances of relatives who may be responsible under RSA 165:19;
2. To notify the Welfare Office within seventy-two (72) hours when there is a change in needs, resources, address or household size;
3. To apply for immediately but no later than 7 days from initial application, and accept any benefits or resources, public or private, that will reduce or eliminate the need for General Assistance (RSA 165:1-b, I (d));
4. To keep all appointments as scheduled;
5. To provide records and other pertinent information and access to said records and information when requested;
6. To provide a doctor's statement if claiming an inability to work due to medical problems;
7. Following a determination of eligibility for assistance, to diligently search for employment and provide verification of work search (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 (RSA 165:1-d)), and to maintain such employment (RSA 165:1-b, I (c));
8. Following a determination of eligibility for assistance, to participate in the work program if physically and mentally able; and
9. To reimburse the Town of Merrimack for any assistance provided if recipient returns to an income status and if such reimbursement can be made without financial hardship (RSA 165:20-b).

An applicant shall be denied assistance if he/she or any household member above age 18 fails to fulfill any of these responsibilities without reasonable justification.

Any applicant may be denied General Assistance, in accordance with Section 193-5, and/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. Responsibility of Each Recipient**

At all times the recipient and each household member above the age eighteen (18) years or older have the following responsibilities:

1. To provide accurate, complete and current information concerning needs and resources and the whereabouts and circumstances of relatives who may be responsible under RSA 165:19;
2. To notify the Welfare Office within seventy-two (72) hours when there is a change in needs, resources, address or household size;
3. To apply immediately to other assistance, but no later than 7 days from date that the Welfare Official requires assistance application and accept any benefits or resources, public or private, that will reduce or eliminate the need for General Assistance (RSA 165:1-b, I (d));
4. To keep all appointments as scheduled;
5. To provide records and other pertinent information and access to said records and information when requested;
6. To provide a doctor's statement if claiming an inability to work due to medical problems;
7. To diligently search for employment and provide verification of work search (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 (RSA 165:1-d)), and to maintain such employment (RSA 165:1-b, I (c));
8. To participate in the work program if physically and mentally able (RSA 165:1-b, I (b)); and
9. To reimburse the Town of Merrimack for any assistance provided if the recipient returns to an income status and if such reimbursement can be made without financial hardship (RSA 165:20-b).

A recipient's assistance may be terminated or suspended for failure to fulfill any of these responsibilities without reasonable justification, in accordance with Section 193-5.

Any recipient may be denied or terminated from General Assistance, in accordance with Section 193-5 and/, or may be prosecuted for a criminal offense, if he/she, by means of intentionally false statements or intentional misrepresentation, or by impersonation or other willfully fraudulent act or device, obtains or attempts to obtain any assistance to which he/she is not entitled.

#### **E. Actions on Applications**

**1. Decision.** Unless an application is withdrawn, the Welfare Official shall make a decision concerning the applicant's eligibility immediately in the case of emergency, or within five working days after submission of the application. A written Notice of Decision shall be given in hand, delivered or mailed to the address on record in the Welfare Office on the same day or next working day following the rendering 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 assistance, 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 for continued

assistance and shall notify the applicant of his/her right to a Fair Hearing if dissatisfied with the Welfare Official's decision (RSA 165:1-b, II, III).

**2. Pending Decision.** If an application is received, but additional information is required from the Applicant, a Notice of Decision pending the receipt of such information may be given. The Notice of Decision must specify the information required from the applicant and the date required.

**3. Emergency Assistance.** If, at the time of initial contact, the applicant demonstrates and verifies that the applicant may suffer the loss of a needed basic need if assistance is withheld until a decision is made within the usual limit specified in these guidelines (ex. loss of shelter, loss of needed heat, or lack of food or medically necessary prescriptions), then temporary assistance to fill such immediate need shall be given immediately, pending a decision on the application. Such emergency assistance shall not obligate the Welfare Official to provide further assistance after the application process is completed, and may be required to be paid back by the recipient to the Town of Merrimack if the application is subsequently denied.

**4. Temporary Assistance.** In circumstances where required records are not available, the Welfare Official may give temporary approval of an application pending receipt of required documents. Temporary status shall not extend beyond two weeks. The Welfare Official shall not insist on documentary verification if after investigation such records are totally unavailable and the required information can be otherwise established by the applicant.

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

- a. The applicant has refused to complete and sign 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 notify the applicant in a written Notice of Decision;
- b. The applicant dies before assistance is rendered;
- c. The applicant avails him/herself of other resources to meet the need in place of assistance;
- d. The applicant requests that the application be withdrawn (preferably in writing); or,
- e. The applicant does not contact the Welfare Official within seven (7) days after the initial interview after being requested to do so.

## **F. Home Visits**

A home visit by the Welfare Official shall only be made if it is impossible for the applicant or their representative to complete an application to the Welfare Office by appointment, by mail or by fax. All home visits shall be by appointment only, and shall take place between the hours of 8:30 AM and 4:30 PM on weekdays. The Welfare Official reserves the right to be accompanied by another authorized Town Employee for any home visit if the Welfare Official deems safety or the knowledge of any Town Employee would be needed or helpful to the application of assistance.

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

## **§ 193-8. NON-RESIDENTS**

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### **A. Eligibility**

Applicants who are temporarily in Town of Merrimack and Merrimack is not their residence and who do not intend to make their residence in Merrimack are nonetheless eligible to receive General Assistance, provided they are poor and unable to support themselves (RSA 165:1-c). No applicant shall be refused assistance solely on the basis of residence (RSA 165:1).

### **B. Standards**

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

### **C. Verification**

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

### **D. Temporary or Emergency Assistance**

The standards for the fulfilling of immediate or emergency needs of nonresidents and for temporary assistance pending final decision shall be the same as for residents, as set forth in Section 193-7(E).

### **E. Determination of Residence**

Determination of residence shall be made if the Welfare Official has reason to believe the applicant is a resident of another New Hampshire municipality from which recovery can be made under RSA 165:20 or if the applicant requests return home transportation (See Section 193-8(F) below).

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

**2. Adults.** For competent adults, the standard for determining residence shall be the overall intent of the applicant, as set forth in the Section 193-1 definition of "residence." The following criteria shall assist the Welfare Official in determining the applicant's residence:

- a. Does the applicant have, or immediately intend to establish a dwelling with the Town of Merrimack?
- b. Does the applicant 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 Town of Merrimack 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?

None of above factors is conclusive. The statement of an applicant over 18 as to his/her residence or intent to establish residence shall be accepted in the absence of strongly inconsistent evidence or behavior.

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

At the request of a nonresident applicant, any assistance, 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 return the applicant to his/her municipality of residence (RSA 165:1-c).

#### **G. Recovery**

Any assistance given to a nonresident, including the costs of return home transportation, may be recovered from his/her municipality of residence using the procedures of Section 193-17 (B).

### **§ 193-9. VERIFICATION OF INFORMATION**

Any determination or investigation of need or eligibility that is necessary to determine eligibility or investigation of fraud within the scope of these Guidelines shall be conducted in a professional and reasonable manner.

#### **A. Written Consent of Applicant**

1. Before contact is made with any other source, the Welfare Official shall obtain written consent of the applicant or recipient.
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.
3. In the case of suspected fraud, the Welfare Official shall carefully record his/her reasons and actions.

#### **B. Required Verifications**

Verification will normally be required of the following:

1. Applicant's address;
2. Facts relevant to the applicant's residence, as set forth in Sections 193-10 (B) and 193-8;
3. Names of persons in applicant's residential unit;
4. Applicant's and household's income and assets;
5. Applicant's and household's financial obligations;
6. The physical and mental condition of household members, only where relevant to their receipt of assistance, such as ability to work, determination of needs, or referrals to other forms of assistance;
7. Any special circumstances claimed by applicant;
8. Applicant's employment status and availability in the labor market;
9. Names, addresses, and employment status of potentially liable relatives;
10. Utility costs;
11. Housing costs;
12. Prescription costs; and
13. Any other costs that the applicant would like the Welfare Official to consider as a basic need under the standards of Section 193-10 of these guidelines.

### **C. Verification Records**

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

### **D. Other Sources of Verification**

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

### **E. Legally Liable Relatives**

The Welfare Official may seek statements and/or financial affidavits from the applicant's legally liable relatives regarding their ability to help support the applicant (RSA 165:19).

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

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

### **§ 193-10. DETERMINATION OF ELIGIBILITY AND AMOUNT**

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#### **A. Eligibility Formula**

An applicant is eligible to receive assistance when:

1. He/she meets the non-financial eligibility factors listed in Section 193-10(C) below; and
2. The applicant's basic maintenance need, as determined under Section 193-10(E), exceeds his/her available income (Section 193-10(F)) plus available liquid assets (Section 193-10(D)). If available income and available liquid assets exceed the basic maintenance need, as determined by the guideline amounts, the applicant is not eligible for General Assistance. If the need exceeds the available income/assets, the amount of assistance granted to the applicant shall be the difference between the two amounts, in the absence of circumstances deemed by the Welfare Official to justify an exception.

#### **B. Legal Standard and Interpretation**

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

1. An applicant cannot be denied assistance because he/she is not a resident. See Section 193-8.
2. “Whenever” means at any or whatever time that person is poor and unable to support him or herself.
  - a. The Welfare Administrator, or any duly appointed Welfare Officials, shall be available during normal business hours.
  - b. The eligibility of any applicant for General Assistance shall be determined no later than five (5) working days after the application is submitted. If the applicant has an emergency need, then assistance for such emergency need shall be immediately provided in accordance with Section 193-7(E)(1), (3).
  - c. Assistance shall begin as soon as the applicant is determined to be eligible.

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

4. “Relieved” means an applicant shall be assisted to meet those basic needs.

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

**1. Age.** General Assistance shall not be denied any applicant because of the applicant’s age; age is not a factor in determining whether or not an applicant may receive General Assistance. However, age does make certain applicants eligible for other state or federal assistance. For example, over 65: Old Age Assistance (OAA), Social Security or under 18 years: Temporary Assistance Needy Families (TANF), foster care, etc. Income from those types of assistance does affect eligibility under the guidelines. Minor children are deemed to be the responsibility of their parent(s) or legal guardian(s), unless circumstances warrant otherwise.

**2. Support Actions.** No applicant or recipient shall be compelled, as a condition of eligibility or continued receipt of assistance, to take any legal action against any other person. The Town of Merrimack may pursue recovery against legally liable persons or governmental units. See Section 193-17.

**3. Eligibility for Other Categorical Assistance.** Recipients who are, or may be, eligible for any other form of public assistance shall apply or make appropriate appointments for such assistance immediately, but no later than seven days after being advised to do so by the Welfare Official. Failure to do so may render the recipient ineligible for assistance under these Guidelines and subject to action per Section 193-5 of these guidelines.

#### **4. Employment.**

An applicant who is gainfully employed, but whose income and assets are not sufficient to meet necessary household expenses, may be eligible to receive General Assistance.

Recipients, who without good cause, refuse a job offer or referral to suitable employment or participation in the work program, or who voluntarily leave a job without good cause, may be ineligible for General Assistance.

The Welfare Official shall first determine whether there is good cause for such employment refusal, taking into account the ability and physical and mental capacity of the applicant, transportation problems, working conditions that might involve risks to health or safety, lack of adequate child care, or any other factors that might make refusing a job reasonable. These employment requirements shall extend to all adult members of the household.

A recipient or other adult household member who, without good cause, voluntarily leaves a job may be ineligible for General Assistance in accordance with RSA 165:1-d. (Also see Section 193-10(C)(9) of these Guidelines.)

**5. Registration with the New Hampshire Department of Employment Security (NHES) and Work Search Requirements.** All unemployed recipients and adult members of their households shall, within seven (7) days after having been granted assistance, register with

NHES to find work. In addition to any other referrals or applications required by NHES, each recipient and adult members shall conduct a reasonable, verified job search as determined by the Welfare Official. Each recipient and adult members shall apply for employment to each employer to whom he/she is referred by the Welfare Official.

These work search requirements apply to each recipient and each other adult member of the household unless such person is:

- a. Already working and being compensated or receiving net income for full time work;
- b. A dependent eighteen (18) years or under who is regularly attending secondary school;
- c. Unable to work due to illness or mental or physical disability of him/herself or another member of the household, as verified by the Welfare Official; or
- d. Is solely responsible for the care of a child under the age of five (RSA 165:31, III). A recipient responsible for the care of a child aged five to twelve shall not be excused from work search requirements, but shall be deemed to have good cause to refuse a job requiring work during hours the child is not usually in school, if there is no responsible person available to provide care, and it is verified by the Welfare Official that no other care is available.

The Welfare Official shall give all necessary and reasonable assistance to ensure compliance with registration and work requirements, including the granting of allowances for transportation and work clothes.

Failure of a recipient to comply with these requirements without good cause shall be reason for denial of, or cessation of, assistance.

**6. Adult Students.** General Assistance Applicants or recipients and adult members of household who are not available for or refusing to seek or accept full-time employment due to post secondary education (after twelfth (12) grade) are not eligible for General Assistance.

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

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

- a. Members of the recipient's household;
- b. Related to the recipient or are legally liable to contribute to the support of the recipient and/or children of the household; and

c. Not otherwise prevented from maintaining employment and contributing to the support of the household by reasons such as physical or mental disability, sole child care responsibility for a child under five (5) or other justifiable cause as verified by the Welfare Official.

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

**9. Disqualification for Voluntary Termination of Employment (RSA 165:1-d).**

An applicant shall be considered to have voluntarily terminated employment if the applicant quits, or fails to report for work without good cause. An applicant who is fired or resigns from a job at the request of the employer due to applicant's inability to maintain the employer's normal work productivity standard shall not be considered to have voluntarily terminated employment.

Any applicant eligible for assistance that voluntarily terminated employment shall be ineligible to receive assistance for 90 days from the date of employment termination provided the applicant:

- a. Has received local welfare within the past 365 days and has been given notice that voluntary termination of employment without good cause could result in disqualification.
- b. There are no children under 18 years old in the applicant's household which the applicant is legally responsible for supporting.
- c. Did not have a mental or physical impairment which caused him/her to be unable to work.
- d. Terminated employment which consisted of at least twenty (20) hours per week within the last sixty (60) days prior to an application for local welfare; and
- e. Did not have Good Cause for terminating the employment.

Good cause for terminating employment shall include any of the following:

- (1) discrimination,
- (2) unreasonable work demands or conditions,
- (3) retirement,
- (4) employment which becomes unsuitable following the applicant's acceptance,
- (5) leaving a job in order to accept a bona-fide job offer as described in RSA 165:1-d, II(e),
- (6) migrant farm labor, seasonal construction, or similar seasonal/moving work,
- (7) lack of transportation, household emergency, or other circumstance beyond the control of the applicant,
- (8) and other good cause.

The applicant would be responsible for demonstrating Good Cause.

**D. Available Assets**

## **1. Available Liquid Assets.**

**a.** Available liquid assets are cash on hand, bank deposits, credit union, checking, savings and debit accounts, securities and retirement plans (i.e., IRAs, deferred compensation, Keogh's, etc). Insurance policies with a loan value, 401K availability and non-essential personal property, may be considered as available liquid assets when they have been converted into cash. The Welfare Official shall allow a reasonable time for such conversion.

**b.** Available liquid assets may not be tools of a trade, livestock and farm equipment, and necessary and ordinary household goods are essential items of personal property.

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

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

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

## **E. Standard of Need**

“The basic financial requirement for General Assistance is that an applicant be poor and unable to support him/herself.” (RSA 165:1-a). An applicant shall be considered poor when he/she has insufficient available income/assets to purchase either for him/herself or dependents any of the following.

**1. Shelter.** The amount to be included as “need” for shelter is the actual cost of rent or mortgage, provided such is reasonable, but in no case more than is determined necessary to provide housing by New Hampshire Housing Finance Authority (NHHFA) “Fair Market Rents” for Hillsborough County. The Welfare Administrator will review these rent levels annually and will update and modify the levels when NHHFA determine market conditions have changed.

**a. Shelter Arrearages.** No shelter arrearages will be included in the “need” formula, however, arrearages may be considered in emergency situations where: negotiations fail and eviction or foreclosure is imminent; no other assistance is available; or no other affordable or alternative shelter exists. Also if the amount of such mortgage or rental arrearage exceeds the cost of alternative, available housing which complies

with local health and housing code standards, or if the payment of arrears will not prevent eviction or foreclosure, the Welfare Official may instead authorize payment of a new first month rent. Reasonable relocation expenses may be considered as “need” for such alternative housing evictions or foreclosures. Alternative housing may include transitional housing as an option.

**b. Security Deposits.** Security deposits may be included in the ‘need’ formula if, and only if, the applicant is unable to secure alternative shelter for which no security deposit is required or is unable to secure funds, either him/herself or from alternative sources, for payment of the deposit. Payments for Security Deposits will only be made if the applicant/recipient is unable to secure a Security Deposit under the Guaranteed Security Deposit Program. If a security deposit is paid by The Town of Merrimack under this General Assistance Program it shall be returned to the Town of Merrimack and not the recipient (RSA 540-A:7).

**c. Relative Landlords.** Whenever a relative of an applicant is also the landlord for the applicant, the responsible relative shall complete a financial affidavit providing information of income, assets and expenses. The Welfare Official shall complete a financial analysis to determine whether the relative is unable to assist the applicant/recipient before any shelter assistance is paid in accordance with RSA 165:19.

**d. Property Taxes and Home Insurance.** These expenses will be considered “need” if charges are part of a monthly mortgage bill and are required by the mortgage company to keep from foreclosure and if principle, interest and escrows do not exceed the NHHFA “Fair Market Rents” for Hillsborough County. Otherwise, property taxes and homeowners insurance will be considered in “need” when payment is due. Property taxes needed to prevent tax deeding may be considered “need” and the Welfare Official can pay the amount to prevent tax deeding as “other” expense to the Tax Collector.

**e. Condo Fees, Home Equity Loans and 2nd or 3rd mortgages.** These expenses may only be considered “need” if the combined total costs including their primary principal, interest and escrows does not exceed the NHHFA “Fair Market Rents” for the Hillsborough County.

**f. Other Home Ownership Expenses.** When an applicant/recipient owns their home, other home expenses such as sewer, water and essential repairs deemed necessary by the Welfare Official to protect the health and safety of the applicant/recipient’s household may be included as “need”. Payment for repairs shall not be paid under General Assistance.

**g. Emergency Shelter.** If the applicant/recipient is without housing and is unable to afford shelter, the applicant/recipient must accept the least costly alternative for emergency housing assistance that is deemed suitable by the Welfare Official for his/her household. It is not the Welfare Official’s responsibility to locate housing acceptable to the household. If the applicant/recipient refuses an appropriate referral for emergency or temporary shelter or if the applicant/recipient does not abide by the rules of the emergency or temporary shelter, the Welfare Official may suspend the

applicant by refusing to pay for alternative emergency shelter or housing. The applicant/recipient may not be suspended for other forms of assistance to which he/she is eligible for.

**2. Utilities.** When utility costs are not included in the shelter expense, the most recent outstanding monthly utility bill excluding arrearages and other charges will be included as part of “need” by the Welfare Official. Utility accounts shall be in the applicant’s name in order to provide payment. The Welfare Official may consider extenuating circumstances when the bill is not in the applicant’s name and it affects the health and safety of the household members.

**NOTE:** Cable, Satellite Services and Internet Services are not allowed as “need”. No assistance for such services shall be provided and applicants are required to make Extended Payment Arrangements with these types of companies if they want to keep these services.

**NOTE:** The New Hampshire Public Utilities Commission (PUC) has established comprehensive rules governing the provision of some utility services. Generally speaking, the PUC governs electric, telephone, water, and sewer; it does not govern any municipal utilities, propane tanks, or fuel oil. With the exception of telephone, the rules are consistent across utilities. These rules and regulations cover the initiation of service, payment arrangements, termination of service, the terms of restoration of service, the requirement of deposits, municipal guarantees and guarantees from other third parties. There are special rules as to winter termination. The Welfare Official shall be familiar with these rules in order to ensure that needs are properly met at the lowest available cost. The PUC has a toll-free consumer assistance number: 1-800-852-3793.

**a. Arrearages.**

(1) Arrearages will not be included in “need” except when necessary to ensure the health and safety of the applicant household or to prevent termination of utility service when no other resources or referrals can be utilized.

(2) In accordance with the rules of the PUC relating to electric utilities and natural gas, arrearages for electric service and natural gas need not be paid if the Welfare Official notifies the electric company or natural gas company that the Town of Merrimack guarantees payment of current electric or gas bills as long as the recipient remains eligible for General Assistance.

**b. Restoration of Service.**

(1) 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.

(2) When electric service has been terminated and restoration is required, arrearages may either be included as set forth in the above paragraph, or may be paid in accordance with a reasonable payment plan entered into by the applicant and the

electric company. The Welfare Official may hold the recipient accountable for the payment arrangement as noted on the Notice of Decision or verbally as noted in the case plan.

**c. Deposits.** Utility security deposits will be considered as “need” if, and only if, the applicant is unable to secure funds for the payment of the deposit and is unable to secure utility service without a deposit. If the applicants/recipients do not have the resources to make a deposit, the Welfare Official can make payment under General Assistance as “other expense” and such deposits shall, however, be the property of the Town of Merrimack.

**3. Food.** The amount included as “need” for food purchases will be in accordance with the most recent standard Supplemental Nutrition Assistance Program (SNAP) allotment, as determined under the SNAP Program administered by the New Hampshire Department of Health and Human Services. An amount in excess of the standard food allotment may be granted if one or more members of the household need a special diet, as verified by the Welfare Official, the documented cost of which is greater than can be purchased with the family’s allotment of SNAP. No amount for need shall be included for alcohol, tobacco or pet food.

**4. Household Maintenance Allowance.** The amount included as “need” for the purchase of personal and household necessities will be the amount that the Welfare Official will set as an allowance amount based on household size is set as:

a. Single person household: \$11.00 per week or \$47.30 a month.

b. Additional persons in household: \$4.00 per week or \$17.20 per month.

The Welfare Official may determine that an additional “need” allowance for a basic need is required due to health and sanitary needs that can be documented by receipts of expense.

**5. Telephone.** The lowest available basic monthly rate for one telephone per household will be included as “need” if there is a verified telephone expense for one of the household members. Basic monthly rate shall be for telephone voice only and not include any other extra charges.

Payments under General Assistance will not be made for telephone bills, unless there is verified exceptional circumstances that the applicant/recipient’s health or safety are at risk and no other source of assistance is available, in such case, a payment may be made to maintain basic voice telephone service.

**6. Transportation.** Expenses for one vehicle per household may be allowed as in “need” when determining eligibility or amount of assistance under General Assistance. Payments, however, for these expenses under General Assistance will not be made.

a. **Vehicle Payment.** One reasonable vehicle monthly payment per household shall be included as part of “need” when determining eligibility or amount of assistance for General Assistance. Vehicle registration will be required to show ownership of vehicle and loan or lease agreement will be required to show payment amount.

**b. Vehicle Gasoline.** Gasoline for one vehicle per household shall be included as part of “need”. Ten gallons per week times the NH state average of regular gasoline as determined by American Automobile Association shall be included as part of “need” when determining eligibility or amount of assistance for General Assistance.

If the Welfare Official determines that work or verified medical needs require more than 10 gallons per week, the “need” allowance for gasoline can be increased by the Welfare Official with documented receipts of actual gasoline expenses.

The gasoline allowance will be updated on an annual basis by the Welfare Administrator.

A voucher of assistance may be issued by the Welfare Official for minimum gallons required to return home, apply for assistance or other necessary trip determined by the Welfare Official.

**c. Other Vehicle Expenses.** Vehicle inspection and registration and repair determined by the Welfare Official as necessary and reasonable and documented by receipt will be included as a one time “need” expense when determining eligibility or amount of assistance for General Assistance.

## **7. Maintenance of Medical Insurance.**

a. Medical premium payments shall not be included in “need” when determining eligibility or amount of assistance.

b. In the event that the Welfare Official determines that the maintenance of medical insurance is essential, an applicant may include as “need” the reasonable cost of such premiums.

**8. Medical Expenses.** The Welfare Official shall not consider including amounts for medical, dental or eye services “in need” unless the applicant can verify that all other potential sources have been investigated and that there is no source of assistance other than local welfare. Other sources to be considered shall include state and federal programs, local and area clinics, area service organizations and area hospital indigent programs designed for such needs.

When an applicant requests assistance of medical service, prescriptions, dental service or eye service and all other potential sources and assistance have been exhausted or not available, the applicant/recipient will 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/recipient’s well being will be placed in serious jeopardy. Generic medications will be used unless a Medical Doctor provides otherwise.

**9. Legal Expenses.** Except for those specifically required by statute, no legal expenses will be included ‘in need’.

**10. Clothing.** There is no allowance given for “need” of clothing. If the applicant has an emergency clothing need which cannot be met in a timely fashion by other community resources (i.e.: Salvation Army, Red Cross, church group), the expense of reasonably meeting that emergency clothing need will be included.

**11. Emergency Needs Not Otherwise Provided For in These Guidelines.** If the Welfare Official determines that the strict application of the standard of need criteria will result in unnecessary or undue hardship (e.g. needed services are inaccessible to the applicant), such Welfare Official may make minor adjustments in the criteria, or may make allowances using the emergency need standards stated in Section 193-7(E)(3) of these guidelines. Any such determination and the reasons therefore, shall be stated in writing in the applicant/recipient’s case record.

Credit card payments, rent-to-own and repayment of personal loans are examples of non-basic needs.

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

## **F. Income**

Income/available liquid assets shall be compared to the standard of need, as determined under Section 193-10(E) in determining the eligibility and amount of assistance. Computation of income and expenses will be by the week or month. The following items will be included in the computation:

**1. Earned Income.** Income in cash or in-kind earned by the applicant or any member of the household through:

**a.** Wages and other earnings (including but not limited to bonuses, salary, tips, commissions, or profit), whether self-employed or as an employee, is to be included as income. When income consists of wages and earnings, the amount computed shall be that available after required medical and dental insurance deductions, income taxes, social security and other payroll deductions required by state, federal, or local law, court ordered support payments and child care costs, and work related clothing costs have been deducted. Health Saving Account deductions will be excluded on initial application from earning but future contributions must be stopped while receiving assistance after the initial assistance. Flexible Spending Accounts will be excluded from income until it is legally able to be stopped after initial assistance.

**b.** Self-employment, total profit is arrived at by subtracting business expenses from gross income in accordance with standard accounting principles

**2.** Rental income and profits from items sold are considered earned income.

**3.** Income that is trustee, or income similarly unavailable to the applicant or applicant’s dependents, shall not be included.

**4. Income or Support from Other Persons.** Contributions from relatives or non applicant household members shall be considered as income only if actually available and received by the applicant or recipient.

**5. Income from Other Assistance or Social Insurance Programs.**

**a.** State categorical cash assistance benefits (Ex. Temporary Assistance of Needy Families (TANF), Old Age Assistance (OAA), Family Assistance Program (FAP) & Aid to the Permanently and Totally Disabled (APTD)), Social Security Old Age, Survivor and Disability Insurance (OASDI) payments, Social Security Income (SSI) Payments, Veteran Administration (VA) benefits, unemployment insurance benefits, and payment from other government sources shall be considered income.

**b.** Supplemental Nutrition Assistance Program Benefits (SNAP) cannot be counted as income per federal law. (7 USC 2017(b))

**c.** Fuel assistance cannot be counted as income per federal law. (42 USC 8624(f)(1))

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

**7. Income from Other Sources.** Payments from other sources such as Workers Compensation, Work or Re-vocational Training Stipends, student loans (received as cash) pension, trust funds, and similar programs shall be considered income.

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

**9. Qualified State Assistance Reduction (QSAR) as Deemed Income.** The Welfare Official may deem as income all or any portion of any qualified state assistance reduction (RSA 167:82, VIII). The following criteria shall apply to any action to deem income under this section (RSA 165:1-e).

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

**b.** Applicants for General Assistance may be required to cooperate in obtaining information from the Department of Health and Human Services as to the existence and amount of any Qualified State Assistance Reduction. No applicant for General Assistance may be considered to be subject to a Qualified State Assistance Reduction unless the existence and amount has been confirmed by the Department of Health and Human Services.

**c.** The Welfare Official shall provide the applicant with a written decision which sets forth the amount of any deemed income used to determine eligibility for General Assistance.

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

### **G. Residents of Shelters for Victims of Domestic Violence**

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

## **§ 193-11.DISBURSEMENTS**

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The Town of Merrimack Welfare Department uses a voucher system (RSA 165:1(III)). Vouchers are payable directly to the vendors (utilities, landlords, stores, etc.) involved.

### **A. Voucher Use.**

When a voucher is issued to provide payment, a recipient shall be required to sign the voucher and may be required to show identification to insure proper usage. The amount shown on the voucher is the maximum amount to be used for payment.

In order for the vendor to be paid, the vendor must return the signed voucher with the itemized bill or register tape to the Welfare Office. If there is any unspent money, the voucher shall be returned to the Town of Merrimack for payment of the actual amount listed on an itemized bill or register tape.

Vouchers shall be used by the void date. If the recipient uses the voucher after the void date such an act will be considered misuse of that voucher by the recipient and the vendor will not be paid.

### **B. Prohibited Purchases.**

Tobacco products, prepared taxable foods, alcoholic beverages, pet food or products, magazines, plants and toys cannot be purchased with the food or maintenance vouchers. If the recipient purchases any of these items such an act is considered misuse of that voucher by the recipient and the vendor will not be paid for the prohibited items.

### **C. Voucher Alteration, Theft, Loss or Misuse.**

It is the responsibility of the recipient to safeguard from theft, loss or misuse of any voucher he/she receives. Vouchers altered or misused by the recipient or vendor will not be paid. It shall be considered misuse of that voucher if a recipient causes, permits or neglects to prevent the theft, alteration, misuse, or transfer of a voucher,. A misuse of voucher shall be considered a violation of Welfare Guidelines for which benefits may be denied or suspended.

No replacement vouchers shall be issued if the original is lost, stolen, misplaced, or misused unless authorized by the Welfare Official.

#### **D. Rent Requirements for Voucher Payment.**

Rent vouchers may only be made payable to the owner of the property when the Landlord or Agent of the Property has completed a Rental Verification Form including a Tax Identification Number. The Rental Verification Form is considered a legal document upon which the Welfare Official relies in determining eligibility. Forms which misrepresent or inaccurately report information for the purposes of obtaining assistance which otherwise may not be issued shall be grounds for stopping payment. Legal action may also be taken (RSA 641:3.11 (a-c)).

Where applicants are under eviction, the Welfare Official shall verify if the landlord's acceptance of a voucher for payment will stop the eviction proceedings. The Welfare Official may void the voucher or deny assistance of rent if the landlord's failure to waive the eviction proceedings may result in the applicant being evicted from the rental unit that the voucher or assistance would paid rent for.

The Welfare Official shall not pay charges that do not directly represent an actual service or item (such as late charges, security deposits, storage charges, key charges, damages, etc) except when there is no other alternative or as provided by law.

#### **E. Vendor Payment Requirements and Conditions.**

No check payment for a voucher shall be issued to a vendor until the vendor provides a Federal Tax Identification Number by a Rental Verification Form (if required) and any other documentation required by the Town's Finance Department and Federal Law. If the vendor fails to provide required information and the applicant has made reasonable efforts to obtain the information from the vendor, an applicant or recipient will still be considered eligible and a voucher can be issued to cover assistance and be paid to the vendor when the vendor complies.

No check payment for a voucher shall be issued to a vendor if the voucher was used after the void date.

Vendors allowing the purchase of prohibited foods and miscellaneous items that are listed on the voucher will not be reimbursed for those prohibited items. All vendors receiving food, maintenance, prescription or diaper vouchers shall attach the cash register tape or other verification to the voucher in order to be reimbursed.

Only the amount actually used that does not exceed the amount on the voucher shall be paid to the vendor.

Each voucher authorization requires approval by the Welfare Official. All voucher authorizations are one time only. The amount of assistance provided shall be negotiated whenever possible. The Welfare Official shall always attempt to provide what is necessary for the least cost possible. If negotiation is not possible, the least expensive appropriate alternative shall be sought.

#### **F. No Contractual Agreement with Landlord/Property Owner.**

The Town of Merrimack shall not enter into any contractual agreement with a landlord/property owner to provide housing assistance to applicants/ recipients. The landlords/property owners shall have no legal recourse against the Town, if the Welfare Official determines that the applicant/recipients are not eligible or no longer eligible for benefits under the Welfare Guidelines.

If the applicant continues to reside at the premises after General Assistance has been terminated or suspended, any and all rents due to the landlord/property owner, including any past and/or future rents will be the contractual obligations and responsibilities solely of the tenant.

### **§ 193-12. DECEASED IN TOWN OF MERRIMACK**

If eligible for assistance, payment for burial or cremation of persons found in the Town of Merrimack at time of death (RSA 165:3 (I) or in a county nursing home and whom was a resident of the Town of Merrimack prior to entering the county nursing home (RSA 165:3 (II)), is limited to \$1,000 (RSA 165:27-a).

An application shall be made before any burial or cremation expenses are incurred. In such cases, assistance may be applied for on behalf of the deceased person.

Total costs for burial or cremation cannot exceed \$1,000 of expenses (RSA 165:27-a) and the Town of Merrimack will assist with payment only if relatives, other private persons, estate of deceased and/ or the Department of Health and Human Services, Social Security, Veterans Benefits or other sources are unable to cover the entire maximum amount of \$1,000 for burial or cremation.

The expense may be recovered from the deceased person's municipality of residence (RSA 165:20 & 165-20(a)), or from a liable relative (RSA 165:19).

If determined eligible for assistance, the burial or cremation remains may be buried in the plots owned by the Town of Merrimack at The Last Rest Cemetery. Veterans may be eligible for burials at Veteran Cemeteries.

### **§ 193-13. APPLICATIONS OF RENTS PAID BY THE TOWN OF MERRIMACK**

Whenever the owner of property rented to a person receiving General Assistance from the Town of Merrimack is in arrears in sewer or tax payments to the Town of Merrimack or if the Welfare Administrator is informed by the Merrimack Water Village District that the property owner is in arrears for water, the Town of Merrimack 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 relate to property currently occupied by the assisted person (RSA 165:4-a).

#### **A. Payment Arrears**

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

## **B. Order of Priority**

Delinquent balances will be offset in order of the following priority: 1) property taxes to the Town of Merrimack; 2) sewer to the Town of Merrimack; and may offset 3) water to the Merrimack Water Village District.

## **C. Procedure**

1. The Welfare Official will issue a voucher on behalf of the tenant to the landlord for the allowed amount of rent. The voucher will indicate any amount to be applied to a delinquent balance owed by the landlord, specifying which delinquency and referring to the authority of RSA 165:4-a.
2. The Welfare Administrator will issue a duplicate voucher to the appropriate department (i.e.: tax collector, sewer department, water district), which will forward the voucher to the treasurer or finance director for payment. Upon receipt of payment, the Welfare Administrator will issue a receipt of payment to the delinquent landlord.

## **§ 193-14. MAINTENANCE OF RECORDS**

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### **A. Legal Requirement**

1. The Welfare Administrator shall be responsible for establishing and accurately maintaining a complete paper and/or electronic record concerning the number of applicants given assistance and the cost for such support.
2. Separate case records shall be established and maintained for each individual or household applying for, or receiving General Assistance.
3. These records are required:
  - a. To provide a complete history of an applicant's needs and assistance that might aid the Welfare Official in ongoing case management and in referring the applicant to appropriate agencies;
  - b. To support decisions concerning the applicant's eligibility;
  - c. To provide the availability of information if the applicant or recipient seeks administrative or judicial review of the Welfare Official's decision;
  - d. To provide the Welfare Administrator with accurate statistical information; and
  - e. To provide a valid basis of accounting for the expenditure of the Town of Merrimack's funds (RSA 165:2-c), which requires that an itemized account of all General Assistance expenditures (without recipient names) furnished to any taxpayer requesting it.

### **B. Case Records**

The Welfare Official shall be responsible for assuring that case records in paper and/or electronic format, contain at a minimum the following information:

1. The complete application including any authorizations signed by the applicant allowing the Welfare Official to obtain or verify any pertinent information in the course of assisting the recipient, to include a signed Authorization to Release Information from the New Hampshire Division of Health and Human Services. Signature pages shall be kept as hard copies or scanned into electronic form.
2. Written Notice of Decisions which shall provide grounds for approval or denial of an application.
3. A narrative history recording:
  - a. the need for assistance,
  - b. the results of investigations of applicants' circumstances,
  - c. referrals,
  - d. changes in status, etc.
4. A record of expenditures paid under General Assistance, which has complete data concerning the type, amount and dates of assistance given which may be kept on paper or electronically.

## **§ 193-15. TOWN OF MERRIMACK WORK PROGRAM**

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### **A. Participation**

1. Any adult household recipients of General Assistance will be required to work under the Town of Merrimack operated work program at any available job assignment that is within his/her capacity (RSA 165:31) for the purpose of reimbursement of benefits received.
2. Recipients will be required to complete an application, providing references and authorizing a criminal background check that may be done by the Town of Merrimack.
3. Refusal or failing to participate in the application process or work program will prompt the review of recipient's eligibility for General Assistance, and may result in a suspension or termination of assistance. (See Section 193-5(C)(2)(b)) .
4. Job assignments under the work program are of limited duration. Participants in the work program are not considered employees of the Town of Merrimack, and any work performed by work program participants does not give rise to any employee-employer relationship between the recipient/work program participant and the Town of Merrimack or to any benefits.

### **B. Reimbursement Rate**

The work program participant shall be allotted the prevailing municipal wage for work performed, but in no case less than the minimum wage. No cash compensation shall be paid for work

program participation. The wage value of all hours worked shall be used to reimburse the Town of Merrimack for assistance given.

### **C. Continuing Financial Liability**

1. If, due to lack of available municipal work or other good cause, a recipient does not work a sufficient number of hours to fully reimburse the Town of Merrimack for the amount of his/her assistance, the amount of assistance received less the value of work program hours completed shall still be owed to The Town of Merrimack.
2. No work program participant shall be required to work more hours than are necessary to reimburse assistance rendered.

### **D. Allowance for Work Search**

The Town shall provide reasonable time during normal assigned hours for a participant to conduct a adequate job search to secure work in the labor market.

### **E. Work program Hours**

1. Work program hours are subject to approval of the Welfare Official, Work Program Supervisor and the participant. Failure of the participant to adhere to the agreed work program hours (except for the reasons listed in Subsection F) will prompt review of the recipient's eligibility for General Assistance, and may result in a suspension or termination of assistance. (See Section 193-5(C)(2)(b)) .
2. The work program participant shall schedule appointments so as not to conflict with the work program and must notify his/her Work Program Supervisor in advance of the appointment. The Welfare Official or Work Program Supervisor may require participants to provide documentation of their attendance at an interview or appointment, scheduled during assignment hours.

### **F. Work program Attendance**

With prior notice to the Welfare Administrator or Work Program Supervisor, a recipient may be excused from work program participation if he/she:

1. Has a conflicting job interview;
2. Has a conflicting interview at a service or welfare agency;
3. Has a medical appointment or illness. The Welfare Administrator or Work Program Supervisor may require documentation from a physician for extended illness of three (3) consecutive scheduled work days or more;
4. As a parent or person "in loco parentis," must care for a child under the age of five (5). A recipient responsible for a child age five (5) but under twelve (12) shall not be required to work during hours that the child is not in school, if there is no responsible person available to provide care, and no other care is available;

5. Is unable to work due to mental or physical disability, as verified by the Welfare Official;
6. Must remain at home because of illness or disability to another member of the household, as verified by the Welfare Official;
7. Does not possess the materials or tools required to perform the task and the Town of Merrimack fails to provide them;
8. Works a full time job; or
9. Does not meet the job criteria required for a work program assignment.

## **G. Workers Compensation**

The Town of Merrimack shall provide workers compensation coverage to participants in work program programs in conformity with the NH Workers Compensation Laws. However, no monetary compensation from Workman's Compensation shall be paid since work program participants do not receive monetary assistance from work program participation (RSA 281-A:2, VII(b)).

## **§ 193-16. LIENS**

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### **A. Real Estate (RSA 165:28)**

The law requires the Town to place a lien for welfare assistance received on any real estate owned by an assisted person in all cases except for just cause.

1. The Town Manager shall file with the assistance of the Welfare Administrator a Notice of Lien with the County Registry of Deeds, complete with the owner's name, map /parcel and a description of the property sufficient to identify the property where the recipient(s) owns real property in their name.
2. Interest at the rate of six percent (6%) per year shall accrue on the amount of money constituting the lien commencing one year after the date the lien is filed, unless waived by the Town Council.
3. The lien remains in effect until enforced or released or until the amount of the lien is repaid to the Town of Merrimack. Upon full repayment of a lien, the Town Manager with the assistance of the Welfare Administrator shall file written notice of the discharge of the lien with the County Registry of Deeds.
4. The lien shall not be enforced so long as the real estate is occupied as the sole residence of the assisted recipient, his/her surviving spouse or his/her surviving children who are under age eighteen (18) years or blind or permanently and totally disabled. At such time as the lien may become enforceable, the Welfare Administrator shall contact the attorney handling the real estate or estate before enforcing the lien to let them know that the Town is requiring repayment of lien, interest and any associated costs.

5. The register of deeds shall keep a suitable record or such notices without charging any fee therefore, and he shall enter an acknowledgment of satisfaction of the lien upon written request of the Town without fee.

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

1. The Town of Merrimack shall be entitled to a lien upon property passing under the terms of a will or by intestate succession, a property settlement, or a civil judgment for personal injuries (except Workers Compensation) awarded any person granted assistance by the Town of Merrimack for the amount of assistance granted to the recipient.

2. The Town of Merrimack 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 the award of the property settlement or civil judgment. When the Welfare Official becomes aware of such a claim against an inheritance, award or civil judgment, he/she shall send a letter to the attorney or agent representing the recipient notifying him/her of the Town's lien on such.

3. This lien shall take precedence over all other claims.

#### **§ 193-17. RECOVERY OF ASSISTANCE**

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

#### **A. Recovery from Responsible Relatives (RSA 165:19)**

1. The amount of money spent by a Town of Merrimack to assist a recipient who has a father, mother, stepfather, stepmother, husband, wife or child (who is no longer a minor) of sufficient ability to also support the recipient, may be recovered from the liable relative.

2. Sufficient ability shall be deemed to exist when the relative's weekly income is more than sufficient to provide a reasonable subsistence compatible with decency and health.

3. The Welfare Official may determine that "in kind" assistance or the provision of products/services to the applicant/ recipient is acceptable as a relative's response to liability for support.

4. The Welfare Official shall make reasonable efforts to give to the liable relative written notice of money spent in support of a recipient prior to the giving of assistance, but assistance to which an applicant is entitled under these guidelines, shall not be delayed due to inability to contact possibly liable relatives.

#### **B. Recovery from the Municipality of Residence (RSA 165:20)**

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

#### **C. Recovery from Former Recipient's Income (RSA 165:20-b)**

A former recipient who is returned to an income status after receiving assistance may be required to reimburse the Town for the assistance provided, if such reimbursement can be made without financial hardship.

#### **D. Recovery from State and Federal Sources**

1. The amount of money spent by a Town of Merrimack to support a recipient who has made initial application for Social Security Income (SSI) and has signed New Hampshire Department of Health and Human Services (NHDHHS) FORM 151 "AUTHORIZATION FOR REIMBURSEMENT OF INTERIM ASSISTANCE", shall be recovered through the Social Security Administration (SSA) and the New Hampshire Department of Health and Human Services (NHDHHS).
2. Prescription expenses paid by the Town of Merrimack for applicants who have applied for Medicaid can be recovered through the New Hampshire Department of Health and Human Services if, and when, the applicant is approved for medical coverage.

#### **E. Delayed State Claims**

1. For those recipients of General Assistance deemed eligible for state assistance (Aid to the Permanently and Totally Disabled (APTD) and Temporary Assistance to Needy Families (TANF) or Family Assistance Program (FAP)), New Hampshire Department of Health and Human Services (NHDHHS) shall reimburse a Town of Merrimack the amount of General Assistance as a result of delays in processing within the federally mandated time periods (APTD 90 days & TANF or FAP 60 days).
2. Any claims for reimbursement shall be held until the end of the fiscal year and may be reimbursed on a pro-rata basis dependent upon the total claims filed per year (RSA 165:20-c). A Form 340 "REQUEST FOR STATE REIMBURSEMENT" may be obtained from the NHDHHS for this purpose.

#### **§ 193-18. SEVERABILITY**

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