

Town of Durham

REGULATIONS FOR GENERAL ASSISTANCE

The Town of Durham shall provide emergency assistance to individuals and families who lack adequate resources. The Welfare Office acts to facilitate services by directing those in need of assistance to relief agencies at the county, state and federal levels as well as to non-profit organizations who provide assistance to the needy. We strive to promote self-reliance and independence to all we serve so they may be productive members of this community.

The Town of Durham's Welfare Office is located in the Business Office in Town Hall. The Business Manager is designated as the Welfare Officer by action of the Town Council. He/she is responsible for carrying out the General Assistance Program for the Town. The Welfare Officer is granted the general power to make all decisions regarding the granting of assistance under NH RSA Chapter 165 and these Regulations, subject to the overall fiscal responsibility vested in the Town Administrator and Town Council.

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I. DEFINITIONS:

As used in these Regulations, the following terms have the indicated meaning:

APPLICANT: A person who expresses a desire to receive General Assistance from the Town of Durham or to have his/her eligibility reviewed and whose application has not been terminated. This desire may be expressed either directly or through a person having knowledge of his/her circumstances (Moultonborough v. Tuftonborough, 43 N.H. 55 1861)

APPLICATION (RE-APPLICATION): Action by which a person requests assistance from the Town, or the action by which a person's representative indicates to the Welfare Office that an applicant may be found to be without sufficient assets or resources, and for the time being is unable to support himself/herself or to supply immediate needs. The completion of a written application form, supplied by the Welfare Office, triggers the applicant's right to a Notice of Decision as described under [Section VI D 1](#) of these Regulations.

APPLICATION FORM: Written confirmation that a person has made a request for general assistance. This application shall be made on a form supplied by the Welfare Office. A Welfare Official may assist in completing the form or if the applicant so chooses, he/she may designate a representative to assist in completing the form.

ARREARAGES: Past due amounts on bills for basic needs or debts that remain after part of an overdue debt has been paid.

ASSETS: All cash, real property, personal property and future interests owned by the applicant; including annuities, insurance awards, expectancies and retroactive government and insurance payments, etc.

AVAILABLE LIQUID ASSETS: Amount of liquid assets after exclusions enumerated in [SECTION IX D 1](#). Includes cash on hand, checking accounts, bank deposits, credit union accounts, stocks, bonds, securities and income tax refunds. IRA (Individual Retirement Account), 401K accounts and insurance policies with a loan value and non-essential personal property shall be considered as available liquid assets when they have been converted into cash.

BUSINESS DAY: Monday through Friday excluding all legal holidays as adopted from year to year by the Durham Town Council.

CASE RECORD: Official files containing forms, correspondence and narrative records pertaining to the application. The record includes documentation to reflect the determination of eligibility, reasons for decisions and action by the Welfare Officer and types of assistance provided. Case records are confidential and not subject to disclosure under NH RSA 91-A.

CLAIMANT: A recipient or applicant who has requested, either in person or through an authorized representative, a Fair Hearing under [Section XIV](#) of these Regulations.

CLIENT: A person utilizing the services of a social agency.

COMPLIANCE: Conformity in fulfilling official requirements.

ELIGIBILITY: Determination by the Welfare Officer, with the assistance of these Regulations, of a person's inability to support himself/herself, and therefore, the need for General Assistance from the Town of Durham under the formula appearing in [Section IX-E](#) of these Regulations.

FAIR HEARING: A hearing, in accordance with the standards in [Section XIV](#), which the applicant may request to contest a denial, termination or reduction of assistance.

FAMILY UNIT: Includes the applicant/recipient and persons residing with him/her in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, and/or any adult (including an unrelated person) who resides with the applicant/recipient "in loco parentis" (in the role of substitute parent) to a minor child. A person "in loco parentis" is one who intentionally accepts the rights and duties of a natural parent with respect to a child not his/her own and who has lived with the child long enough to form a psychological family. The term "Family Unit" is used to signify those persons financially responsible for one another by law as opposed to a "Household" whose residents share living quarters, but are not financially liable for each other unless they request to be treated as such. However, when two unrelated, unmarried adults live together with a child or children and are not married, these Regulations considers them a "family unit" with the adults also being

financially responsible for each other unless they can document exceptional circumstances.

GENERAL ASSISTANCE: The term used for local welfare programs administered and funded by each city and town in New Hampshire.

HOUSEHOLD: The total number of persons (related or unrelated) living together who share in or benefit from shelter/food expenses. The individuals share living quarters, but are not financially liable for each other unless they request to be treated as such. Shared expenses, such as rent, utilities, etc., are divided pro rata for the purposes of calculating the applicant's need, based on the total number of persons in the household. However, the total shelter cost shall approximate the shelter Guideline amounts for the household size. (For example, three unrelated adults share an apartment, one applies for assistance, rental assistance is determined as one-third of the total shelter cost for three people and the total shelter cost for all three shall approximate the Guideline amounts for a household of three.)

LIABILITY FOR SUPPORT: Those persons deemed by New Hampshire Law to have financial responsibility for anyone applying for General Assistance, for example, adult children for parents, parents for adult children and husbands and wives for each other.

LIQUID ASSETS: Cash on hand, checking accounts, bank deposits, credit union accounts, stocks, bonds, securities and income tax refunds. IRA (Individual Retirement Account), 401K accounts and insurance policies with a loan value and non-essential personal property shall be considered as liquid assets when they have been converted into cash.

MINOR: A person who has not attained the age of 18 years. Note that a minor's residence is always that of the custodial parent.

NEED: The basic maintenance and support requirements of a person, as determined by the Welfare Officer under the standards of [Section IX E](#) of these Regulations.

NON-RESIDENT: A person temporarily in Durham while his/her residence is elsewhere. Non-residency does not preclude General Assistance. However, assistance shall be of a temporary and reasonable nature given his/her temporary status. If the person is a NH resident, the city or town welfare office where the person resides

shall be contacted in order to advise it that assistance is being requested in order to avoid duplication of services (except in emergencies) and to alert it that a request for reimbursement for assistance provided shall be forthcoming.

NOTICE OF DECISION: Written grounds for approval or denial of an application detailing the amount and type of assistance issued, the type of assistance pending further verification. Additionally, it contains the date of applicant's next appointment, and a list of all the information to be provided by the applicant at the next appointment.

NOTICE OF LIABILITY FOR SUPPORT: The process by which liable relatives are made aware of their statutory financial responsibility.

REAL PROPERTY: Land, structures and attached fixtures.

RECIPIENT: A person who is receiving General Assistance from the Town of Durham.

REIMBURSEMENT: The requirement of every assisted person to reimburse the Town for assistance rendered if he/she becomes financially able to do so within six years of receiving the assistance. Reimbursement may also be sought from a liable relative, a father, mother, stepfather, stepmother, husband, wife, or child who is no longer a minor, of sufficient ability to also support the assisted person. In the event the assisted person is a resident of another community in NH, reimbursement may be sought from that community for the assistance rendered.

RESIDENCE: Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that place designated by a person as his/her principal place of physical presence for the indefinite future to the exclusion of all others. Such residence or residency shall not be interrupted or lost by temporary absence from it, if there is intent to return to such residency as the principal place of physical presence.

RESIDENT: A person who has a residence within the Town of Durham.

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

ROOMMATES: Persons who are financially responsible for themselves and living with one or more recipients of General Assistance. Persons living together as if married are expected to be responsible for each other to the extent that they are able.

SUSPENSION: Cessation of benefits due to non-compliance.

VOUCHER SYSTEM: The system whereby the Welfare Officer issues vouchers (authorizations for payment) directly to the recipient's vendors and creditors rather than cash to the recipient (NH RSA 165:1 III). See [Section VIII](#).

WELFARE OFFICER: The Business Manager for the Town of Durham is designated the Welfare Officer and is charged with overseeing General Assistance in accordance with these Regulations as well as other municipal, state and federal regulations. The Welfare Officer has the authority to make all decisions regarding the granting of assistance under RSA 165, subject to the overall fiscal responsibility vested in the Town Council and Town Administrator. The Welfare Officer may delegate certain duties, responsibilities and authority to others as needed in order to properly administer these Regulations. The term Welfare Officer includes "overseers of public welfare" (NH RSA 165:1) and "Administrator of town or city welfare" (NH RSA 165:2).

WELFARE OFFICIAL: Either the Welfare Officer or his/her designee performing the essential duties associated with administering General Assistance for the Town of Durham.

WORK PROGRAM: The requirement of welfare recipients who are physically and mentally able to work to provide services to the Town in return for assistance received at any job suitable to the person's capacity. This program is instituted at the discretion of the Welfare Officer.

II. SEVERABILITY

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

III. CONFIDENTIALITY OF INFORMATION

Information given by or about an applicant or recipient of General Assistance is confidential and privileged, and is not a public record under the provisions of NH RSA 91-A. Such information shall not be published, released to or discussed with any individual or agency without written permission of the applicant except when disclosure is required by law, or when necessary to carry out the purpose of NH RSA 165 relative to Aid to Assisted Persons.

IV. ROLES OF TOWN COUNCIL AND WELFARE OFFICER

The responsibility for the day-to-day administration of General Assistance shall be vested in the Welfare Officer. He/She shall administer the General Assistance Program in accordance with these written Regulations for General Assistance. The Town Council is responsible for adoption of Guidelines relative to General Assistance per NH RSA 165:1 II. These Regulations for General Assistance are intended to promulgate the Town's Welfare program.

V. MAINTENANCE OF RECORDS**A. OVERVIEW:**

The Welfare Officer is required by law to keep complete records of General Assistance. In addition to general statistical records concerning the number of persons given assistance and the cost for such support, a separate case record shall be established for each individual or family applying for General Assistance from the Town of Durham. The Welfare Officer shall make a return of the number of persons supported and relieved, with the cost of such support and relief, to the Department of Health and Human Services, on or before July 1 in each year, on blanks furnished by said department (NH RSA 41:46).

B. PURPOSE:

The purposes for keeping complete records of General Assistance are:

1. to provide a valid basis of accounting for the expenditure of Town funds; and,
2. to support decisions concerning the applicant's eligibility, especially important if the Welfare Officer should be required to prove in court that assistance was granted equitably; and,
3. to assure availability of information if the applicant or recipient seeks administrative or judicial review of the Welfare Officer's decision; and,
4. to provide social welfare agencies with accurate statistical information, including the number of persons assisted and the amount of money spent for their support, in order that taxpayers and officials may be aware of the scope of the General Assistance Program. NH RSA 165:2-c requires that an itemized account of all General Assistance furnished (without recipients' names) be released to any citizen requesting it; and,
5. to provide a complete history of an applicant's assistance that might aid a welfare agency in the effort to rehabilitate the applicant, subject to the Regulations on the confidentiality of such information.

C. CONTENT:

The Welfare Officer shall maintain case records containing at least the following information:

1. the completed application for assistance; and,
2. written grounds for approval or denial of an application, contained in a Notice of Decision; and,
3. a narrative history recording need for relief, the results of home visits, if any, collateral information, referrals, changes in status, etc.; and,
4. a complete tally of the type, amount and dates of assistance rendered; and,
5. a signed authorization by the applicant allowing a Welfare Official to release, obtain or verify any pertinent information in the course of assisting the recipient, and a completed Welfare Work Program contract, if applicable.

VI. APPLICATION PROCESS**A. RIGHT TO APPLY:**

1. Anyone may apply for General Assistance by appearing in person or through an authorized representative and by completing an approved written application form. Clients are seen by appointment, except in emergencies. 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 unavailable for good reason. Each adult in the household shall sign a "Release of Information" found on the Application form.
2. The Welfare Officer shall not be required to accept an application for General Assistance from a person who is subject to a suspension pursuant to NH RSA 165:1b VI, provided that any person who contests a determination of continuing noncompliance with the Regulations may request a Fair Hearing; and provided further that a recipient who has been suspended for at least six (6) months due to noncompliance may file a new application.

B. WELFARE OFFICER'S RESPONSIBILITIES:

When application is made for General Assistance, the Welfare Official shall inform the applicant of those pertinent sections enumerated below, when appropriate.

1. The requirement that a completed application contains all necessary information including: the applicant's signature agreeing to the reimbursement, the signature allowing a Welfare Official to contact all necessary agencies for investigation and verification, and that they have been given, read and understand all information (or the application has been read to them and they understand it). An uncompleted application may be grounds for denial of assistance.
2. Eligibility requirements, including a general description of the Guideline's amounts and the eligibility formula.
3. Screening applicants based on emergency priorities, such as: no food, no place to stay, no heat (during heating months),

no electricity, and no ability to purchase necessary medical care. Screening means that applicants who are not in an emergency situation (whose difficulties, if not addressed today, would not jeopardize the health or safety of any family member) as determined by written application or oral interview or both, would:

- a) be asked to return another day; and/or,
 - b) be referred to an agency or resource capable of providing the assistance needed; and/or,
 - c) be given an appointment date and time to return for an interview.
4. Having to refer applicants requiring emergency assistance to agencies or resources that have agreed to provide emergency, temporary assistance which shall meet the needs of the applicant until an appointment can be arranged.
 5. The requirement of a recipient to keep appointments to receive assistance and that failure to keep appointments, with or without verifiable good cause could result in a delay in receiving assistance or loss thereof. Loss of assistance can occur when the applicant fails to make contact with the Welfare Official for more than one week without verifiable good cause after having been requested to do so.
 6. The responsibility of the applicant to provide documentation of all claims, such as identification for all household members, receipts for expenditures, documentation of employment, documentation of application for other programs which would reduce or eliminate the need for General Assistance, documentation of income, loss of employment and any other similar claims materially affecting eligibility.
 7. The requirement that applicants shall apply for or take advantage of other resources, which could reduce the need for or eliminate General Assistance from the Town of Durham.
 8. The need to relocate to more affordable housing based on the client's anticipated income if deemed necessary by the Welfare Officer. Every effort shall be made to maintain clients

in their own housing unless it is clear that to do so would probably require a continuing subsidy from the Town.

9. A Welfare Official may make home visits to verify information at his/her discretion and in the least intrusive manner.
10. The necessity of referral to a shelter for families or individuals currently without housing and/or income.
11. The joint responsibility of both the Welfare Official and applicant in exploring the facts concerning eligibility, needs and resources.
12. The applicant's responsibility for accurately and truthfully reporting all facts necessary in determining eligibility.
13. The fact that investigations shall be conducted in order to further substantiate facts and statements as presented by the client and that such investigation may take place prior to, during and subsequent to the applicant's receipt of General Assistance.
14. The applicant's responsibility for notifying the Welfare Official of any change in circumstances, which would affect eligibility.
15. The applicant's right to a Fair Hearing, and the manner in which the review may be obtained.
16. The applicant's responsibilities as set forth in [Section VI-C](#) below.
17. The requirement of working in the Welfare Work Program, if work is available and the client is physically and mentally capable of performing the essential functions of the job.
18. The statutory requirement of placing a lien on any real property owned by the recipient, or any settlements, for any assistance given, except for verifiable good cause. The applicant shall be made aware of the lien in that it shall be noted on the Notice of Decision which the applicant signs. Such document shall be recorded at the Strafford County Registry of Deeds per NH RSA 165:28. However, neither the absence of signature of the applicant on the Notice of Decision nor the failure to record such lien document shall

diminish the validity of the lien. The Welfare Officer also has the right to place liens on civil judgments per NH RSA 165:28-a.

19. The requirement for reimbursement of all assistance when the recipient returns to an income status that is more than what is required to provide a reasonable subsistence compatible with decency and health.
20. The applicant's right to review the Regulations, and the responsibilities as set forth in the Regulations.

C. RESPONSIBILITIES OF APPLICANTS/RECIPIENTS:

At the time of the initial application and at all times thereafter, applicants/recipients 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 for their support and subsequently liable to the Town for restitution under NH RSA 165:19.
2. To provide identification and documentation of income and resources on all household members applying for assistance, including medical records if disability is claimed and any other pertinent information when requested.
3. To apply for and/or take advantage of any benefits and resources, public or private, that shall reduce or eliminate the need for General Assistance within one week of being requested to do so.
4. To notify the Welfare Official within 72 hours when a change in needs or resources may affect eligibility for continuing assistance.
5. To keep all appointments as scheduled.
6. To notify the Welfare Official within 72 hours of a change of address and any changes in the members of the household or family unit.

7. To diligently search for employment and provide verification of work search, following the determination of eligibility for assistance.
8. To be available for full-time work.
9. To accept employment when offered.
10. To provide a doctor's statement, if reasonably available, as to the level of work the recipient can perform if the recipient claims an inability to work due to medical problems.
11. To participate in the Welfare Work Program if appropriate once assistance has been granted.

An applicant shall be denied assistance or have his/her assistance suspended or terminated if he/she fails to fulfill any of these responsibilities without reasonable and verifiable justification.

Disqualification for General Assistance may occur as set forth in NH RSA 165:1-b.

Any person may be denied or terminated from General Assistance, in accordance with the Town of Durham's Regulations for General Assistance or may be prosecuted for a criminal offense if he/she, by means of intentionally false statements, omissions, intentional misrepresentation, by impersonation, or other willfully fraudulent act or device, obtains or attempts to obtain any assistance to which he/she is not entitled.

Any person denied assistance or having their assistance terminated may re-apply for assistance after seven days.

NOTE: Recipients who claim their money or vouchers were stolen, are required to report the theft to the police in the jurisdiction where the incident occurred and provide proof that the incident has been reported before any relief may be granted.

D. ACTIONS ON APPLICATIONS:**1. Decision.**

Unless an application is withdrawn, the Welfare Officer shall make a decision concerning the applicant's eligibility as soon as practical, but not more than five (5) business days after completion of the written application. A written Notice of Decision shall be delivered or mailed on the same day or next business day following the decision. The Notice of Decision shall state that assistance of a specific kind and amount has been given and the time period of aid, or that the application has been denied, in whole or in part, with reasons for denial. The Notice of Decision shall contain a First Notice of conditions and shall notify the applicant of his/her right to a Fair Hearing if dissatisfied with the Welfare Officer's decision.

2. Emergency Assistance.

At the time of initial contact, if the applicant demonstrates and verifies that an immediate need exists in which the applicant may suffer a loss of a basic necessity of living or imminent threat to life or health (such as loss of shelter, heat sources in winter, lack of food or prescriptions), then temporary aid to fill such immediate need shall be given immediately if possible, but no longer than 72 hours from the time of demonstration of emergency need. Such emergency assistance shall not obligate the Town to provide further assistance after the application process is completed.

3. Temporary Assistance.

In circumstances where required records are not available, the Welfare Official may give temporary approval to an applicant pending receipt of required documents. Temporary assistance shall not extend beyond one week.

4. Withdrawn Applications.

An application shall be considered withdrawn if:

- a) the applicant has failed to complete an application or has refused to make a good-faith effort to provide required

verifications and sufficient information for the completion of an application. If an application is deemed withdrawn for these reasons, the Welfare Officer shall so notify the applicant in a written Notice of Decision; or,

- b) the applicant dies before assistance is rendered; or,
- c) the applicant avails himself/herself of other resources in place of assistance from the Town of Durham; or,
- d) the applicant requests that the application be withdrawn (preferably in writing); or,
- e) the applicant fails to contact the Welfare Official after the initial interview after a request by the Welfare Official to do so.

E. HOME VISITS:

1. A home visit may be made to any applicant/recipient when it is determined necessary for the Welfare Officer to understand all the services needed to help the applicant, or whenever there is a reasonable basis for such home visit.
2. The home visit shall be conducted in such a manner as to preserve, to the greatest extent possible, the privacy and dignity of the applicants/recipients. The Welfare Official conducting the visit 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 or family unit.
3. All home visits shall be pre-arranged, and shall take place between the hours of 8 am and 6 pm on weekdays, unless the applicant is unavailable and requests otherwise.
4. During the home visit the Welfare Officer may discuss any noticeable applicable housing code violations with the applicant and shall report all violations to proper authorities. The Welfare Official shall follow up on all reported violations and shall insure that reprisal actions taken by the landlord are also reported to proper authorities.

5. A home visit may, with the consent of the applicant/recipient, be used as an alternative form of verification when other forms are unavailable.
6. Refusal to grant a home visit, without reasonable justification, shall be grounds for suspension or denial of benefits for a period of seven days.
 - a) The suspension or denial of benefits for not allowing a home visit without reasonable justification is subject to the Fair Hearing procedures outlined in [Section XIV](#).
 - b) If the claimant requests a Fair Hearing under these circumstances, there shall be no option to continue benefits during the suspension or denial period. If however, the Hearings Officer rules that the suspension or denial of benefits for refusing to grant a home visit was not reasonable, the claimant shall be entitled to receive the benefits withheld as a result of the suspension or denial.

VII. VERIFICATION OF INFORMATION

Any investigation of need or eligibility shall be conducted in a professional manner with the intent to verify eligibility while avoiding violating the privacy and personal dignity of the client.

A. VERIFICATION SHALL NORMALLY BE REQUIRED OF THE FOLLOWING:

1. Applicant's address.
2. Names of members of applicant's household residential unit or family unit.
3. Picture identification(s), birth certificate(s), and social security card(s). Immigration and Naturalization Service documentation for applicant(s) and household members, where applicable.
4. Proof of physical custody of children.
5. Applicant's and household's/family unit's income and assets.
6. Applicant's and household's/family unit's financial obligations.
7. The physical and mental condition of household/family unit members, only when relevant to the receipt of assistance, such as ability to work, determination of needs or referrals to other forms of assistance.
8. Any special circumstances claimed by applicant.
9. Applicant's employment status and availability in the labor market.
10. Facts relevant to the applicant's residence as set forth in [Section X](#).
11. Names, addresses, and employment status of individuals potentially liable to the Town of Durham for reimbursement of benefits provided (NH RSA 165:19).

B. VERIFICATION SOURCES:

1. Verification may be made through records provided by the applicant (for example, birth and marriage certificates, divorce decrees and temporary court orders, pay stubs, paychecks, 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 Officer shall inform the applicant of what records are necessary and the applicant is required to produce records within seven (7) days.
2. Verification may also be made through other sources, such as relatives, 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 a recipient (RSA 165:4).
3. When information is sought from such other sources, the Welfare Official shall explain to the applicant or recipient what information is desired, how it is to be used and the necessity of obtaining it in order to establish eligibility. Before contact is made with any other source, the Welfare Official shall obtain written consent of the applicant or recipient, unless the Welfare Official has reasonable grounds to suspect fraud. In the case of suspected fraud, the Welfare Official shall carefully record his/her reasons and actions. The applicant/recipient shall be given an opportunity to explain or clarify the suspicious circumstances.

C. DENIAL OF BENEFITS FOR UNWILLINGNESS TO COOPERATE:

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

VIII. DISBURSEMENTS:**A. VOUCHER SYSTEM:**

The Town of Durham pays vouchers directly to vendors or creditors up to the dollar amount designated on the voucher, or for the actual amount listed on an itemized bill or register tape if less than the voucher amount. The Town of Durham shall not pay any amount in excess of the amount listed on the voucher. A recipient shall not change the amount listed on the voucher and shall sign the voucher to insure proper usage. It is the responsibility of the applicant to safeguard the voucher(s) from theft, loss or misuse. No replacement voucher shall be issued if the original is lost, stolen, misplaced, or misused unless authorized by the Welfare Officer.

1. All assistance rendered shall be in the form of vouchers or checks directly payable to the vendor providing the service, and in accordance with the general regulations below:
2. Rent may only be made payable to the owner of the property unless the Welfare Official is in receipt of a notarized Agent Authorization Form generated by the Welfare Office.

B. PROHIBITED PURCHASES:

The following food and miscellaneous items may not be purchased using vouchers: alcoholic beverages and mixers; expensive luxury foods such as lobster, shrimp, crabmeat; expensive cuts of meat; gourmet food; cases of soda; expensive bakery and deli items; pet food and pet products; batteries and film; greeting cards, magazines and tabloids; hairspray, mousse and gel; perfume, after shave and cologne; VCR/cassette tapes; tobacco products; lighter fluid and lighters; wrapping paper; toys. All other items, including paper products are allowed. A maintenance voucher may be used for other than food items. All stores receiving food, maintenance or diaper vouchers shall attach the cash register tape to the voucher in order to be reimbursed. Only the amount used shall be reimbursed.

1. All authorizations are one time only, each authorization requiring individual approval.

2. The vendor has 60 days in which to return the voucher for payment. None shall be honored after that time.
3. No assistance shall be rendered for periods prior to the date of application with the exception of obtaining for the client that which is necessary and cannot be obtained without assistance. Application for rental assistance is generally considered to be for the full week when the applicant applies.
4. The amount of assistance provided shall be negotiated with vendors whenever possible. The Welfare Officer 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.
5. The Town of Durham shall not pay charges that do not directly represent an actual service or item except when there is no other alternative or as provided by law. Examples include late charges, security deposits, storage charges, key charges, damages, etc.

IX. DETERMINATION OF ELIGIBILITY AND AMOUNT

A. ELIGIBILITY FORMULA:

An applicant is eligible to receive assistance when:

1. the applicant meets the non-financial eligibility factors listed in [Section C](#) below; and,
2. the applicant's basic maintenance need* listed in [Section IX E](#) below, exceed available income ([Section IX F](#)) plus available liquid assets ([Section IX D 1](#)). If available income and available liquid assets exceed the basic maintenance need (as determined by the Guideline amounts), the person is not eligible for General Assistance. If the need exceeds the available income/assets, the amount of assistance shall be the difference between the two amounts, in the absence of circumstances justifying an exception.

The Town of Durham is authorized pursuant to NH RSA 165:1-e, to deem as income all or any portion of any qualified state assistance reduction resulting from the failure of an applicant for General Assistance to comply with State assistance requirements. The amount of the reduction shall be calculated as if it were income actually received in determination of eligibility, unless, in order to prevent an immediate threat to the health and safety of children in the household, all or a portion of the reduction shall be waived.

***NOTE:** Applicants shall first and foremost utilize resources for basic needs: rent, food (minus Food Stamp allotment), cleaning and hygiene items, utilities and prescriptions. Applicants shall provide dated and signed receipts. Credit card payments, rent-to-own furniture, cable services, Internet service and repayment of personal loans are examples of non-basic needs.

B. LEGAL STANDARD AND INTERPRETATION:

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

1. A person cannot be denied assistance solely because he/she is not a resident ([Section X](#)).
2. "Whenever" means at any or whatever times that person is poor and unable to support himself/herself.
 - a) The Welfare Official shall be available during normal working hours.
 - b) The eligibility of an applicant for General Assistance shall be determined at the time of application if an emergency, or within seven (7) calendar days.
 - c) Assistance shall begin as soon as the person is determined eligible.
3. "Poor and unable to support" means that an individual lacks income and available liquid assets to adequately provide for the basic maintenance needs for himself/herself or family as determined by the Regulations.
4. "Relieved" means a person shall be assisted, as the Welfare Official shall determine, to meet those basic needs.
5. "Maintained" means to be continued on assistance as long as eligible.

C. NON-FINANCIAL ELIGIBILITY FACTORS:

1. Age is not a factor in determining whether or not a person may receive General Assistance. However, age may make certain persons eligible for other kinds of state or federal assistance. Income from other sources may or may not affect eligibility under these Regulations.
2. Minor applicants shall be referred to Protective Services of the Division of Children, Youth, and Families for case management. Minors have the residence of their parent(s) or legal guardian(s). Minors are the financial responsibility of their parent(s) or legal guardian(s).
3. 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 Durham may

pursue recovery against legally liable persons or governmental units (See [Section XVI](#)).

4. Applicants or recipients, who are eligible for any other form of public assistance, shall apply for such assistance immediately, but no later than seven (7) calendar days after being advised to do so by the Welfare Official. Failure to do so may render the applicant or recipient ineligible for assistance. Until another form of public assistance is received, anyone otherwise eligible is entitled to receive General Assistance. Only in extraordinary circumstances shall a person receiving other public assistance also be considered as potentially eligible for General Assistance.
5. A person who is gainfully employed, but whose income and assets are not sufficient to meet necessary family expenses, may be eligible to receive General Assistance. However, recipients who, without verifiable good cause, refuse a job offer or referral to suitable employment, or participation in the Welfare Work Program (NH RSA 165:31), or who voluntarily leave a job (NH RSA 165:1-d) may be ineligible for continuing General Assistance in accordance with the procedures for suspension outlined in the Regulations ([Section XIII B](#)). The Welfare Official shall first determine whether there is verifiable good cause for such refusal, taking into account the ability and physical and mental capacity of the person, transportation problems, working conditions that might involve risks to health or safety, lack of adequate child care, lack of workers compensation protection, or any other factors that might make refusing a job reasonable. In the absence of such reasonable grounds for job refusal, denial or suspension of General Assistance shall be imposed for seven (7) calendar days. These employment requirements shall extend to all adult members of the household or family unit.
6. Recipients shall provide proof, when required, that they are utilizing the New Hampshire Department of Employment Security's Job and Information Resource Center. All unemployed recipients and adult members of their household, within seven (7) calendar days after having been granted assistance, shall provide proof that they are utilizing the Job Information Resource (entered to find work and conducted a reasonable verified job search as determined by the Welfare Official). Each recipient shall apply for employment at each

employer referred to by the Welfare Official. These work search requirements apply unless the recipient or other adult member of the household is:

- a) gainfully employed full-time; or,
- b) a dependent 18 years of age or under who is regularly attending primary or secondary school; or,
- c) unable to work due to illness or to a mental or physical disability of himself/herself or another member of the household/family unit verified by a doctor's note, if readily available; or,
- d) is solely responsible for the care of a child aged three (3) or under. A person responsible for the care of a child aged six (6) through twelve (12) shall not be excused from work search requirements, but shall be deemed to have verifiable good cause to refuse a job requiring work during hours the child is not actually in school, if there is no responsible person available to provide care and no other care is available. A person shall be asked to demonstrate contacts made to locate childcare.

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

8. Applicants/ Recipients subject to the New Hampshire Voluntary Quit Law shall become ineligible for assistance as provided by law (NH RSA 165:1-d).
9. Students shall be employed full time or be available for and seeking full time employment in order to be eligible for General Assistance.
10. All adults aged 18 to 65, who live in the same household/family unit as the recipient and who are related to the recipient or legally liable to contribute to the recipient's support are obligated to comply with the employment requirements of these Regulations or participation in the

Welfare Work Program unless they are either regularly attending school or are prevented from maintaining employment and contributing to the support of the person by reason of physical or mental disability which is verifiable.

The Welfare Official may waive this requirement where failure of the other household or family unit 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. The Welfare Official may suspend the assistance to non-compliant recipients.

D. AVAILABLE ASSETS:

1. Available Liquid Assets consists of Cash on hand, bank deposits, credit union accounts, securities, insurance policies with loan value and nonessential personal property may be considered as available liquid assets when they have been converted to cash. The Welfare Official shall allow a reasonable time for such conversion. However, tools of a trade, livestock and farm equipment, and necessary and ordinary household goods are essential items of personal property, which shall not be considered as available assets.
2. The ownership of one automobile by an applicant/recipient or dependent does not affect eligibility if it is essential for: medical or rehabilitation services, transportation to and from employment, or for use necessary to the maintenance of the individual or family.
 - a) Essential means that there is no other transportation available.
 - b) Car payments shall not be considered justifiable expenses when determining eligibility unless the purchase and maintenance of a vehicle appropriate to the applicant or recipient's income is justified.
 - c) A new or luxury vehicle shall be considered a liquid asset and converted to cash prior to eligibility for anything other than extreme emergencies.
3. The ownership of insurance policies does not affect eligibility. However, when a policy has cash or loan value, the applicant

- shall be required to obtain or borrow all available funds, which shall then be considered available assets. Premium payment shall not be included as "need" in determining eligibility or amount of aid.
4. The type and amount of real estate owned by an applicant does not affect eligibility, although rent or other such income from property should be considered as available to meet need.
 - a) Applicants owning real estate property, other than that occupied as a home shall be expected to make reasonable efforts to dispose of it at fair market value.
 - b) Applicants shall be informed that a lien covering the amount of any General Assistance they receive shall be placed against any real property they own. (NH RSA 165:28).
 - c) The Welfare Officer shall not make mortgage payments when the applicant has a co-signer on the note except to avoid eviction.
 5. Items such as motorcycles, dirt bikes, boats, personal watercraft, ATV's, RV'S, camping trailers and snow mobiles shall be considered liquid assets and converted to cash prior to eligibility for anything other than extreme emergencies.
 6. No person who is otherwise eligible shall receive assistance if he/she has made an assignment, transfer or conveyance of property or assets for the purpose of rendering himself/herself eligible for assistance within three (3) years immediately preceding his/her application (NH RSA 165:2-b).

E. STANDARD OF NEED:

The basic financial requirement for General Assistance is that a person be poor and unable to support himself/herself. A person shall be considered poor when he/she has insufficient available income/assets to purchase either for himself/herself or dependents any of the following:

1. shelter costs. The amount to be included as "need" for shelter is the cost of rent or mortgage necessary to actually provide

shelter. Such cost shall be determined in accordance with [Section IX E 10](#) below.

- a) Shelter arrearages may be included in the "need" formula only if such payment is necessary to prevent eviction or foreclosure or to protect the health and safety of the household/family unit. However, if the amount of such mortgage or rental arrearage substantially exceeds the cost of alternative, available housing which complies with local health and housing code standards, or the payment of arrears shall not prevent eviction or foreclosure, the Welfare Official may instead authorize payment of rent, and/or reasonable relocation expenses for such alternative housing if, under the circumstances of the case, it is reasonable to do so.
 - b) Whenever a relative of an applicant is also the landlord for the applicant, that landlord shall be presumed able to assist his/her relatives pursuant to NH RSA 165:19, and shall prove an inability to assist before any aid payment for shelter is made.
 - c) In cases in which the Town of Durham has made an appropriate referral, for emergency, temporary shelter and the applicant refuses to accept such a referral, the Town may suspend the applicant by refusing to pay for alternative emergency shelter, but may not suspend the applicant by denying other forms of assistance to which he/she is otherwise entitled.
2. utility costs when not included in the shelter expense. The most recent typical monthly utility bill shall be included as part of "need" by the Welfare Official. Utilities shall be in the client's name in order to render assistance. Arrearages shall not normally be included in "need" except as set forth below:
- a) when necessary to ensure the health and safety of the applicant household or to prevent termination of utility service; or,
 - b) 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 may be included in "need" when restoration of

service is necessary to ensure the health and safety of the applicant household/family unit. 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; or,

- c) when electric service has been terminated and restoration is required, arrearages may either be included as set forth in sub-paragraph c) above, or may be paid in accordance with a reasonable payment plan entered into by the applicant and the electric company, if the Welfare Official notifies the electric company that the municipality agrees to pay current bill.

Note: Arrearages for electric service need not be paid if the Welfare Official notifies the electric company that the municipality guarantees payment of current bill, in accordance with the rules of the New Hampshire Public Utilities Commission relating to electric utilities.

3. food costs. The amount included as "need" for food purchases shall be in accordance with the most recent standard food stamp allotment, as determined under the food stamp program administered by the New Hampshire Department of Health and Human Services per NH RSA 161:12 (XIII). More than the food stamp allotment may be granted if a physician has stated in writing that one or more members of the household needs a special diet, the cost of which is greater than can be purchased with the family's allotment of food stamps; and,
4. personal maintenance costs where need is demonstrated under extenuating circumstances to provide maintenance necessities for personal or household supplies in amounts as follows:
 - a) single person household, \$10.00 per week; and,
 - b) an additional \$5.00 each per week for each additional household member; and,
 - c) dependant children still in diapers, additional \$5.00 per week in addition to the allotment in b) above.

5. telephone costs if the absence of a telephone would create an unreasonable risk to the recipient's health or safety (verifiable in writing by a physician) or for other verifiable good cause as determined by the Welfare Officer. The lowest available basic monthly rate shall be budgeted as "need"; and,
6. transportation costs, if determined necessary by the Welfare Official for health or medical reasons, to maintain employment, or to comply with conditions of assistance. Need should include the costs of public transportation; and,
7. medical insurance premiums, if determined by the Welfare Officer that the maintenance of medical insurance is essential; and,
8. certain emergency expenses. In the event that the applicant has the following current allowed expenses, the actual cost shall be included as emergency expenses to determine eligibility and amount of assistance:
 - a) medical, dental and eye care services where the applicant/recipient 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 programs designed for such needs. When a person applies for medical service, prescriptions, dental service or eye service to the local Welfare Official, he/she shall provide written documentation from a doctor, dentist or person licensed to practice optometry in the area, indicating that these services are absolutely necessary and cannot be postponed without creating a significant risk that the applicant or recipient's well-being shall be placed in serious jeopardy. The Welfare Official may accept oral verification from the provider, but shall seek written confirmation. Whenever possible, the applicant shall seek service from a Medicaid provider physician. If advance payment is required for such medical services, the Welfare Official may approve payment of the fee up to the reimbursable amount set for the procedure by the New Hampshire Medicaid Program. Whenever possible, generic

medications should be used unless specified differently by the physician; and,

- b) b) legal expenses specifically required by statute; and,
- c) moving expenses in accordance with [Section IX E 1a](#) above and for the expense of returning a person to his/her residence at his/her request pursuant to NH RSA 165:1-c, unless alternative arrangements are made by the Welfare Official at no cost to the Town of Durham; and,
- d) emergency clothing needs which cannot be met in a timely fashion by other community resources (i.e., Salvation Army, Red Cross, church groups); and,
- e) e) costs associated with the prevention of any automobile repossession, payments, or any registration or licensing costs only if reasonably justifiable as a need for the client's household; and,
- f) payment for property taxes, fire insurance, sewer and water bills and essential repairs as deemed necessary by the Welfare Officer to prevent foreclosure, preserve the home, and promote the health and safety of the applicant. A lien shall be placed on the property according to NH RSA 165:28.

If the Welfare Officer determines that the applicant's needs have substantially changed, or that strict application of the Standard of Need criteria would result in unnecessary or undue hardship (e.g., needed services are inaccessible to the person), such Official may make minor adjustments in the criteria, or may make allowances using the emergency need standards stated in [Section VI D 2](#) and [Section XIX](#) of these Regulations. Any such determination, and the reasons therefore, shall be stated in writing in the applicant's case record.

If the applicant(s)/recipient(s) household/family unit shares shelter, utility, or other expenses with a non-applicant/recipient (i.e., is part of a residential unit), then "need" should be determined on a pro-rata share, based on the total number of persons in the residential unit and that all pro-rata expenses have been verified to be current (e.g., three persons in a

residential unit, but only one applies for assistance. Shelter need is 1/3 of shelter allowance for a household of 3 persons).

The maximum payment level for any particular allowable expense shall be based on actual local market conditions and costs. The payment levels shall be reviewed by the Welfare Officer, and if needed, updated to current market conditions.

F. INCOME:

In determining eligibility and the amount of assistance, the applicant(s)' standard of need, as determined under [Section IX E](#) above, shall be compared to the available income/assets. Computation of income and expenses shall be by the week or month. The following items shall be considered in the computation of income:

1. earned income including cash, tips, or in-kind compensation earned by the applicant(s) or any household member through wages, salary, commissions, or profit, whether self-employed or as an employee. Rental income and profits from produce or products sold are included in this category. When income consists of wages, the amount computed should be that available after income taxes, social security and other payroll deductions required by state, federal, or local law, child care costs, court ordered support payments and work-related clothing costs have been deducted from income. Wages that are in trust, or income similarly unavailable to the applicant or applicant's dependents should not be included; and,
2. contributions from relatives or other household members only if actually available and received. The income of non-household members of the applicant's residential unit shall not be counted as income. (Expenses shared with non-household members may affect the level of need, however. See [Section IX E 10](#) re: determination of need in cases of non-household residential units); and,
3. income from other assistance or social insurance programs including, but not limited to, State categorical assistance benefits, OAA payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources; provided, however, Food Stamps and Fuel Assistance shall not be counted as income.

See, respectively Federal Law, 7 U.S.C. 2017 (b) and 42 U.S.C. 8624 (f) (1); and,

4. alimony and Child Support only if actually received by the applicant/recipient; and,
5. payments from pension and trust funds. Any income actually available to the applicant(s) or members of his/her household shall be considered as income. Persons in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, are legally liable to support the applicant (NH RSA 165:19), and therefore may be required to apply jointly with him/her if they are in the same household/family unit. Any adult (even an unrelated person or roommate) who resides in the same household "in loco parentis" (in the role of substitute parent) to a minor child is liable for contributing to that child's support (NH RSA 165:32), and thus is required to apply jointly with that household. For purposes of determining eligibility under these Regulations, the income of a member of the household may be considered available to the applicant/recipient if he/she lives together with the applicant/recipient in a single housekeeping unit and shares the facilities. However, no inquiry shall be made into the earnings of a child 14 years of age or under unless that child makes a regular and substantial contribution to the family; and'
6. any portion of any qualified reduction of state assistance pursuant to NH RSA 167:82 VIII, as set forth in NH RSA 165:1-e. When an applicant/recipient receiving benefits through the State of NH Division of Human Services is sanctioned with a reduction in State benefits for non-compliance, the level of income from State benefits shall be considered as though no reduction occurred.

G. RESIDENTS OF SHELTERS FOR BATTERED WOMEN AND CHILDREN:

An applicant/recipient residing in a shelter for battered women and children who had income and other resources, jointly with abusive members of the applicant's/recipient's household or family unit shall be required to cooperate with the normal procedure for the purposes of verification, but may have these resources and income excluded from eligibility determinations

unless an agreement exists with a member of the abusive household/family unit to give the shelter household/family unit 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 procedure taken in accordance with these Regulations to recover assistance granted shall not delay assistance.

X. NON-RESIDENTS.**A. ELIGIBILITY:**

No persons shall be refused assistance solely on the basis of residence (NH RSA 165:1).

B. STANDARDS:

The application procedure, eligibility standards and standard of need shall be the same for non-residents 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)' community of residence.

D. TEMPORARY OR EMERGENCY AID:

The standards for the fulfilling of immediate or emergency needs of non-residents and for temporary assistance pending final decision shall be the same as for residents.

E. DETERMINATION OF RESIDENCE:

1. No determination of residence shall be made unless the applicant(s) request(s) return home transportation (See [Section X F](#) below), or unless the Welfare Official has some reason to believe the person is a resident of another New Hampshire municipality from which recovery can be made under NH RSA 165:20.
2. The residence of a minor shall be presumed to be the residence of his/her custodial parent/guardian.
3. For competent adults, the standard for determining residence shall be the overall intent of the applicant(s), as set forth in [Section I definition of "Residence."](#) The following criteria shall aid the Welfare Official in determining the applicant's residence status:

- a) Does the person have or immediately intend to establish a dwelling place within the municipality?
- b) Does the person have property, an established dwelling place or employment in any other municipality, to which he/she intends to return?
- c) 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 the above factors is conclusive. A statement by a person 18 or over as to his/her place of residence or intent to establish residence shall be accepted in absence of otherwise strongly inconsistent evidence or behavior.

F. RETURN HOME TRANSPORTATION:

At the request of a non-resident applicant(s), temporary or otherwise, for assistance to which he/she would be otherwise entitled under the standards set forth in these Regulations, the Welfare Official may have the person returned to his/her community of residence per NH RSA 165:1-c.

G. RECOVERY:

Any aid given to a non-resident, including the costs of return home transportation, may be recovered from his/her community of residence in NH (NH RSA 165:20).

XI. WELFARE WORK PROGRAM**A. LAWS GOVERNING:**

According to New Hampshire NH RSA 165:31, anyone found eligible for work while receiving General Assistance may be required to work for the municipality or other appropriate local human service agencies at any available bona fide jobs that are within his/her capacity as reimbursement for benefits received. Participants in the Welfare Work Program are not considered employees of the Town of Durham, and any work performed by Welfare Work Program participants does not give rise to any employee/employer relationship between the recipient/welfare worker and the Town of Durham.

B. HOURS BASED ON ASSISTANCE PROVIDED:

Required recipient/welfare workers hours are based on the amount of aid rendered and are calculated at the prevailing wage. All hours attributable to Welfare Work participation shall be used to reimburse the Town of Durham for assistance given. No recipient shall work more hours than necessary to reimburse the Town of Durham for aid rendered.

C. INSUFFICIENT WORK:

If, due to lack of available work or other verifiable good cause, a recipient does not work a sufficient number of hours to fully compensate the Town of Durham for the amount of his/her aid, the full amount of aid for which he/she is eligible under these standards shall still be paid less any credit for any work performed.

D. TIME OFF ALLOWED TO SEEK AND SECURE WORK:

The Town shall provide reasonable time during working hours for the recipient to seek and secure work in the labor market.

E. EXCUSED ABSENCES FROM WORK PROGRAM:

Refusal to work does not include failure to appear for or to perform under the circumstances listed below. The recipient should, however attempt to schedule appointments so as not to

conflict with the Welfare Work Program and shall notify his/her Welfare Official in advance of the appointment. The Welfare Official may require recipients to provide documentation of the attendance at a conflicting interview or appointment. The circumstances include when the recipient:

1. has a conflicting interview for a job possibility; or,
2. has a conflicting interview at a service or welfare agency; or,
3. has a medical appointment or illness; or,
4. cares for children under the age of six (6). A person responsible for a child over six (6), but under twelve (12) years of age, shall be deemed to have verifiable good cause to refuse to work during the hours the child is not in school, if there is no responsible person available to provide care, and no other care is available; or,
5. is unable to work due to a mental or physical disability; or,
6. remains at home because of illness or disability to another member of the household (verified in writing by a physician when such verification is reasonably attainable); or,
7. does not possess the materials or tools required to perform the task and the Town of Durham fails to provide for them.

F. HOURS OF WORK REQUIREMENTS:

Working hours are subject to approval by the Work Program site supervisor and the recipient. Failure to adhere to agreed upon working hours shall prompt review of the recipient's eligibility for General Assistance and/or possible suspension.

G. PARTICIPANTS COVERED BY WORKER'S COMPENSATION:

The Town of Durham shall provide worker's compensation coverage to participants in the Welfare Work Program in the same manner as such coverage is provided to Town employees.

XII. BURIALS

A. TOWN SHALL PROVIDE BURIALS FOR INDIGENTS:

The Welfare Official shall provide for proper burial, at the Town's expense, for any indigent person found in the community at the time of death. The expense may be recovered from:

1. the decedent's municipality of residence if a non-resident; or,
2. a liable relative; or,
3. social Security death benefits; or,
4. NH Department of Health and Human Services; or,
5. other sources as may be discovered.

B. ASSISTED RESIDENTS WHO DIE IN COUNTY NURSING HOMES:

If an assisted resident of Durham dies in a county nursing home, the Welfare Official shall provide for proper burial, at the Town of Durham's expense (RSA 165:3)

C. LIMITATION OF EXPENDITURE FOR BURIALS:

The Town of Durham shall pay up to \$750.00 for burial service.

XIII. NOTICE OF ADVERSE ACTION

All persons have a constitutional right to be free of unfair, arbitrary or unreasonable action taken by local government. This includes applicants for and recipients of General Assistance whose aid has been denied, terminated or reduced. Every applicant and recipient shall be given written notice of every decision in an effort to ensure that the applicant understands the decision.

A. NOTICE FOR DENIAL OF BENEFITS.

Whenever a decision is made to deny assistance, a written notice of the decision shall be given to the applicant immediately or within one (1) business day from the time the decision is made. The notice shall contain:

1. a clear statement of the reason(s) for the denial of assistance; and,
2. a statement advising the individual of his/her right to a Fair Hearing, and that any request for a Fair Hearing shall be made in writing within five (5) business days of the individual's receipt of the notice of adverse action; and,
3. a statement advising the individual of the time limits which shall be met in order to receive a Fair Hearing.

B. NOTICE FOR GRANTING LESS THAN FULL AMOUNT OF ASSISTANCE REQUESTED.

Whenever a decision is made to grant assistance in an amount less than requested, a written notice of the decision shall be given to the applicant immediately or within one (1) business day from the time the decision is made. The notice shall contain:

1. a clear statement of the reason(s) for the reduced level of assistance granted; and,
2. a statement advising the individual of his/her right to a Fair Hearing, and that any request for a Fair Hearing shall be made in writing within five (5) business days of the individual's receipt of the notice of adverse action; and,

3. a statement advising the individual of the time limits which shall be met in order to receive a Fair Hearing.

C. NOTICE FOR REDUCTION OR TERMINATION OF BENEFITS.

Whenever a decision is made to reduce the assistance provided or to terminate benefits, a written notice of the decision shall be given to the applicant immediately or within one (1) business day from the time the decision is made. The notice shall contain:

1. a clear statement of the reason(s) for the reduction or termination of assistance; and,
2. a statement advising the individual of his/her right to a Fair Hearing, and that any request for a Fair Hearing shall be made in writing within five (5) business days of the individual's receipt of the notice of adverse action; and,
3. a statement advising the individual of the time limits which shall be met in order to receive a Fair Hearing.
4. a statement that assistance may continue until the date of the hearing, if requested by the claimant(s) and that any continued aid shall be repaid if the claimant(s) fails to prevail at the hearing.

D. SUSPENSION OF BENEFITS FOR NON-COMPLIANCE WITH THESE REGULATIONS.

1. Recipients shall comply with these Regulations and reasonable requests of the Welfare Official. Welfare Officials shall enforce the Regulations 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 non-compliance may result in termination or suspension.
 - a) Any person otherwise eligible for assistance shall become ineligible under NH RSA 165:1 b I, if he/she willfully fails to comply with the requirements of these Regulations relating to the obligation to:

- (1) disclose and provide verification of income, resources or other financial material data, including any changes in this information; or,
 - (2) participate in the Welfare Work Program as assigned by the Welfare Official; or,
 - (3) comply with the work search requirements imposed by the Welfare Official; or
 - (4) apply for other public assistance, which would alleviate the need for General Assistance, as requested by the Welfare Official; or,
 - (5) keep all appointments absent good, verifiable justification for failing to appear when directed.
2. No recipient otherwise eligible for assistance shall be suspended for non-compliance with these Regulations unless he/she has been given written notice of the actions required in order to remain eligible and a seven (7) calendar day period within which to comply. The first notice shall be given at the time of the Notice of Decision and thereafter as the conditions change. Additional notice of actions required should also be given as eligibility is predetermined but without an additional seven (7) calendar day period unless new actions are required.
3. If a recipient willfully fails to come into compliance during the seven (7) calendar day period, or willfully falls into noncompliance, the Welfare Officer shall give the recipient a suspension notice.
4. Written notice to a recipient that he/she is suspended from assistance due to failure to comply with the conditions required in a Notice of Decision (first notice) shall include:
- a) the requirement(s) with which the recipient is not in compliance and a description of those actions necessary for compliance; and,
 - b) the period of suspension (see [Section XIII D 5](#) below); and,

- c) notice of the right to a Fair Hearing on the issue of willful non-compliance and that such request shall be made in writing to the Welfare Official within five (5) business days of receipt of the suspension notice; and,
 - d) a statement that assistance may continue until the Fair Hearing decision is made, if the recipient so requests. However, if the recipient fails to prevail at the hearing, the suspension shall start after the decision is rendered and the recipient shall repay such continued aid.
5. The suspension period for failure to comply with the Regulations' requirements shall last:
- a) 7 days, or if the recipient has had a prior suspension which ended within the past six (6) months 14 days, or;
 - b) until the recipient complies with the Regulations if the recipient, upon the expiration of the 7 or 14-day suspension period, continues to fail to carry out the specific actions set forth in this notice; however,
 - c) notwithstanding paragraph b, above, a recipient who has been suspended for non-compliance for at least six (6) months may file a new application for assistance without coming back into compliance.

E. FAILURE TO RETURN TO COMPLIANCE WITH THESE REGULATIONS ONCE SUSPENDED.

1. A recipient who has been suspended until he/she complies with the Regulations may request a Fair Hearing to resolve a dispute over whether or not he/she has satisfactorily complied with these Regulations. The burden of proof lies with the claimant to show that the Welfare Official was incorrect in his/her assessment as to the claimant's compliance with these Regulations.
2. Under this section, claimants are ineligible to receive continued assistance until their Fair Hearing date (NH RSA 165:1-b VI).
3. A recipient who has been subject to a suspension and who has come back into compliance shall have his/her assistance

resumed, provided he/she is still otherwise eligible. The Notice of Decision stating that assistance has been resumed should again set forth the actions required to remain eligible for assistance, but need not provide a seven (7) calendar day period for compliance unless new conditions have been imposed.

XIV. FAIR HEARINGS.**A. REQUEST:**

A request for a Fair Hearing is a written expression by the applicant(s) or recipient(s) or any person acting on his/her behalf that he/she wants an opportunity to present his/her case to a higher authority.

B. THE FAIR HEARING OFFICER:

The Town Administrator shall assign the Fair Hearing Officer. The Fair Hearing Officer presiding over the Fair Hearing request shall:

1. not have participated in the decision causing dissatisfaction; and,
2. be impartial; and,
3. be sufficiently skilled in interviewing to be able to obtain evidence and facts necessary for a fair determination; and,
4. be capable of evaluating all evidence fairly and realistically, to explain to the claimant the laws and regulations under which the Welfare Official operated and to interpret to Welfare Officials any evidence of unsound, unclear or inequitable policies, practices, or actions.

NOTE: The Welfare Officer shall make every effort to engage other experienced welfare administrators or qualified welfare professionals from New Hampshire to preside over Fair Hearing cases in Durham. They bring valuable experience in dealing with welfare matters to the Fair Hearing process. These welfare professionals are cognizant of the statutes regulating welfare and capable of making judicious, impartial decisions. Using these qualified individuals as Hearings Officers serves the purpose of finding qualified individuals who meet all the criteria contained in [XIV B](#) above in the time frame established for Fair Hearings in the next section.

C. TIME LIMITS FOR REQUEST AND HEARING:

1. When a recipient desires to challenge a decision made by the Welfare Official relative to the application for or receipt of assistance, a request for a Fair Hearing shall be received within five (5) business days of receipt of the Notice of Decision at issue.
2. Hearings requested by claimants shall be held within seven (7) calendar days of the receipt of the request. At least forty-eight (48) hours in advance, the Welfare Official shall give written notice in person to the claimant setting forth the time and location of the hearing. If written notice in person is not possible, the Welfare Official shall mail the notice to the claimant's last known address at least seventy-two (72) hours prior to the hearing.

D. FAIR HEARING PROCEDURES:

1. Prior to a Fair Hearing, a claimant or his/her duly authorized representative has the right to examine all records, papers and documents from the claimant's case file as well as available documents not contained in the case file, that are relevant to the actions of the Welfare Official that is the basis for the claimant's request for a Fair Hearing.

The claimant may introduce any such documents, papers or records into evidence. No record, paper or document, which the claimant has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.

2. The Welfare Official, or a duly authorized representative, shall have the right to examine at the Fair Hearing all documents on which the claimant plans to rely at the Fair Hearing and may request a twenty-four (24) hour continuance if such documents contain evidence not previously provided or disclosed by the claimant.
3. The following procedures shall govern Fair Hearings:
 - a) all Fair Hearings shall be conducted in such a manner as to ensure due process of law; and,

- b) they shall not be conducted according to strict rules of evidence. However, the Fair Hearing Official shall not rely solely upon any hearsay evidence in making a decision if any party objects to its introduction; and,
- c) the burden of proof shall be on the claimant who shall be required to establish his/her case by a preponderance of the evidence; and,
- d) the Welfare Officer shall attend the hearing and testify about his/her actions and the reasons therefore; and,
- e) the parties or their representatives shall be given the opportunity to offer oral or written evidence, cross examine any person who testifies and make arguments in furtherance of their case; and,
- f) the parties may stipulate to any facts; and,
- g) any claimant may withdraw in writing his/her request for a Fair Hearing at any time up to the time of the hearing. A claimant who fails to appear for any scheduled Fair Hearing shall be deemed to have withdrawn his request for such a hearing; and,
- h) a claimant who believes he has verifiable good cause to request a continuance or postponement of a scheduled Fair Hearing shall contact the Welfare Official at the earliest possible time prior to the hearing. Upon verifiable good cause shown, the Welfare Official may reschedule such hearing. However, the claimant is entitled to only one (1) such postponement or continuance per Fair Hearing request. Verifiable good cause shall include, but not necessarily be limited to, demonstrated medical emergency, or other demonstrated unforeseen circumstances, which reasonably prevents the claimant from attending such scheduled hearing. A claimant shall provide documentation of such circumstances to the satisfaction of the Welfare Official no later than 72 hours after the request for postponement is made. If the claimant does not provide documentation of such circumstances to the Welfare Official within 72 hours, then

the request for a Fair Hearing shall be deemed withdrawn by the claimant.

4. Decisions:

- a) Fair Hearing decisions shall be rendered within five (5) business days of the hearing. Decisions shall be in writing, setting forth the reasons for decisions and the facts on which the Fair Hearing Officer relied in reaching his/her decision. A copy of the decision shall be mailed or delivered to the claimant and to the Welfare Official.
- b) The decision of the Fair Hearing Officer shall be based solely on the hearing record, these Regulations and other relevant law. The hearing record shall consist solely of evidence introduced at the hearing. The Fair Hearing decision shall set forth appropriate relief.
- c) In the case of a hearing to review a denial of aid, the decision is retroactive to the date of the action being appealed. If a claimant fails to prevail at the hearing, the assistance given pending the hearing shall be treated as a debt owed by the individual to the Town of Durham.
- d) The Welfare Official shall keep all Fair Hearing decisions on file in chronological order.
- e) None of the procedures specified herein shall limit any right of the claimant to subsequent court action to review or challenge the adverse decision.

XV. LIENS:**A. REAL ESTATE:**

The law requires the Town to place a notice lien for welfare aid received on any real estate owned by an assisted person in all cases except for verifiable just cause as determined by the Welfare Officer and approved by the Town Council (NH RSA 165:28). This section does not authorize the placement of a lien on the real estate of legally liable relatives, as defined by NH RSA 165:19. The Welfare Official shall file a Notice of Lien with the County Registry of Deeds, complete with the owner's name and description of the property sufficient to identify it. Interest at the rate of 6% per year shall be charged on the amount of money constituting the lien commencing one year after the date the lien is filed, unless waived by a majority vote of the Town Council.

The lien remains in effect until enforced or released or until the amount of the lien is repaid to the Town. The lien shall not be enforced so long as the real estate is occupied as the sole residence of the assisted person, his/her surviving spouse, or his/her surviving children who are under age 18 or blind or permanently and totally disabled.

According to NH RSA 165:28, the Registrar of Deeds shall keep a suitable record of such notices without charging any fee shall enter an acknowledgment of satisfaction of the lien upon written request of the Town Council. At such time as the lien may become enforceable, the Welfare Official shall attempt to contact the attorney handling the real estate or estate before enforcing the lien. Upon repayment of a lien, the Town shall file written notice to discharge the lien with the County Registry of Deeds.

B. CIVIL JUDGMENTS (NH RSA 165:28-a):

The Town of Durham shall be entitled to a lien upon property passing under the terms of a will or an intestate succession, a property settlement, or civil judgment of personal injuries (except workers' compensation) awarded any person granted assistance by the Town for the amount of assistance granted by the Town.

The Town of Durham shall be entitled to the lien only if the assistance was granted no more than six (6) years before the receipt of the inheritance or award of the property settlement or

civil judgment. When the Welfare Official becomes aware of such a claim against a civil judgment he/she shall contact the attorney representing the recipient. The lien shall take precedence over all other claims (NH RSA 165:28-a III).

XVI. RECOVERING FUNDS FOR ASSISTANCE PROVIDED:**A. RECOVERY FROM OTHER MUNICIPALITY:**

A municipality may recover the amount of money spent to support a person, who has a residence in another municipality, from the municipality of residence (NH RSA 165:20). A civil action for recovery may be brought forward. However, NH RSA 165:20-a provides for arbitration of such disputes between communities.

If the Welfare Officer for the Town of Durham arranges to relocate a client to another municipality, the Town of Durham shall be responsible for the client's first thirty (30) days in the other community. Conversely, if another municipality moves a client into the Town of Durham, the Welfare Officer shall contact said municipality to seek recovery of assistance provided for the first thirty (30) days in accordance with the ethics policy established by the New Hampshire Local Welfare Administrator's Association.

B. RECOVERY FROM ASSISTED PERSON'S RELATIVE:

The Town may recover the amount of support from a liable relative. A liable relative may be a father, mother, stepfather, stepmother, husband, wife, or child (who is no longer a minor) of sufficient ability to also support the assisted person (NH RSA 165:19). 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. Written notice of money spent in support of an assisted person shall be given to the liable relative. The Welfare Official shall make reasonable efforts to give such written notice prior to the giving of aid, but aid to which an applicant is entitled under these Regulations shall not be delayed due to inability to contact liable relatives.

C. RECOVERY FROM RECIPIENT AT LATER DATE:

Each recipient who becomes financially able shall reimburse the Town of Durham for assistance rendered when asked to do so (NH RSA 165:20-b). The Welfare Officer, taking into consideration all necessary current and future obligations, shall

determine reimbursement. Each recipient shall understand that General Assistance reimbursement takes priority over all other expenses of a less than necessary nature as determined by the Welfare Officer. The Welfare Officer may also take a lien on real estate or civil judgments in the amount of assistance rendered (NH RSA 165:28, 28-a).

D. TIME LIMITATION FOR FILING FOR RECOVERY IN COURT:

Any legal action to recover shall be filed in a court within 6 years after the expenditure.

E. RECOVERY OF INTERIM ASSISTANCE FROM SSA & HHS:

The amount of money spent by a municipality to support a person who has made initial application for SSI and has signed an Interim Assistance Program Reimbursement Form, shall be recovered through the SSA and Department of Health and Human Services There shall be no delay, refusal or termination of assistance while the Welfare Official is pursuing the statutory remedies to secure reimbursement from responsible relatives or from the municipality of residence.

XVII. APPLICATION OF RENTS PAID BY THE TOWN OF DURHAM.**A. APPLICATION OF PAYMENTS TO LANDLORD'S DELINQUENT BALANCES:**

Whenever the owner of property rented to a person receiving assistance from the Town of Durham is in arrears in sewer, water, tax payments or other debts owed to the Town, the Town may apply the assistance which the property owner would have received in payment of rent on behalf of such assisted person to the property owner's delinquent balances, regardless of whether such delinquent balances are in respect of property occupied by the assisted person (NH RSA 165:4-a).

B. DETERMINATION OF DELINQUENT BALANCES:

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

C. PRIORITY OF PAYMENTS FOR DELINQUENT BALANCES:

Delinquent property tax balances shall be first priority, followed by delinquent sewer/water balances and other Town-owned debts.

D. PROCEDURE:

1. The Welfare Official shall issue a voucher on behalf of the tenant to the landlord for allowed amount of rent. The voucher shall indicate any amount to be applied to a delinquent balance owed by the landlord, specifying which delinquency and referring to the authority of NH RSA 165:4-a.
2. The Welfare Official shall issue a duplicate voucher to the Tax Collector, which shall issue a receipt of payment to the delinquent landlord.

XVIII. AUTHORITY TO SUPERSEDE REGULATIONS:

The Welfare Officer is authorized to provide assistance that does not conform to the Regulations as a result of emergency, necessity or unusual circumstances.

Adopted by majority vote of the Town Council of the Town of Durham, on a vote of nine in favor, zero opposing, and zero abstentions, hereby adopts these Regulations for General Assistance.

DATE: March 3, 2003

Malcolm Sandberg, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Deputy Town Clerk
March 4, 2003