

State Public Assistance Legislation, 1962

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THE majority of the State legislatures hold their regular legislative sessions in the odd-numbered years, but in 1962 more than half the legislatures met in regular or special session. About two-fifths of the States enacted laws during the year that cover many aspects of public assistance.¹ They range from Arizona's extensive revision of its welfare code to actions in other States making changes of various types, including necessary provisions to meet the requirements of the Social Security Act. In addition, Federal legislation consolidated and revised the existing statutes governing public assistance in the District of Columbia.

The State legislation summarized in the following pages demonstrates the interest of the States in developing their public assistance programs. No legislative review can reflect completely, however, the continuing changes and adaptations in this field, since much progress is made through administrative and program changes effected under legal authority already in existence.

ELIGIBILITY

The legislative changes in eligibility requirements enacted by the States in 1962 were largely liberalizing in nature.

The Arizona Legislature took action to bring its program of aid to the permanently and totally disabled into conformity with Federal requirements, and thus to qualify for Federal financial participation, by deleting a provision in its law that made certain Indians ineligible. The State's welfare code was also amended to include, as an eligibility factor

in aid to dependent children, the unemployment of a supporting parent. The State was thus enabled to qualify for Federal funds under the 1961 amendments to the Social Security Act extending the program of aid to families with dependent children to include families with an unemployed parent. In addition, the law deleted the provision limiting eligibility for children aged 16-18 to those not regularly attending school. A maximum age of 18 was established, with the less stringent requirement that children in that age group must attend school if educable and acceptable in the public school system.

The Commissioners of the District of Columbia are authorized by the 1962 legislation to prescribe the periods of time that may elapse in each assistance program before reconsideration of the case and to order any further investigation that they deem necessary. There is also a requirement that all assistance cases be reconsidered at least once a year and the payment be changed or withdrawn according to changes in the recipients' financial circumstances and physical condition.

For purposes of aid to dependent children, Kentucky's definition of "parent" was amended to include "parents unrelated by marriage but maintaining an established family relationship." The effect of the change is to give to the State agency a legal basis for denying eligibility to this type of family group on the premise that there is a parent or person acting as a parent in the home.

The Massachusetts law governing eligibility for aid to dependent children was amended by eliminating the requirement that an affirmative determination be made of parental fitness and suitability of the home.

In New Jersey the county welfare boards may now require, as a condition of eligibility for aid to dependent children, that an applicant or recipient give a written promise to repay the amount of the assistance payments from the proceeds of any existing legal or equitable interest of the child or his parent.

New York State's law limiting eligibility for aid to dependent children to children living with specified relatives was amended to include a child living with

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¹ Few of the State legislatures that met in 1962 were still in session when Congress enacted the Public Welfare Amendments of 1962. In most States, therefore, legislative action to implement these amendments would be taken in the 1963 sessions. (The Massachusetts Legislature, before it adjourned, acted in anticipation of the passage of the 1962 amendments to the Federal law when it passed a law authorizing the State Department of Public Welfare to make any rules and regulations necessary to assure conformity with new Federal requirements.)

the spouse of such a relative who has died or who has left the home because of illness or other reason beyond his control. The list of specified relatives was expanded to include great-grandparents, great-aunts, and great-uncles. These revisions are acceptable within the Social Security Act definition of "dependent child," as interpreted by Federal regulations.

CITIZENSHIP AND RESIDENCE

In Arizona's law governing old-age assistance and aid to the blind the alternative requirement to citizenship, which has been 25 years of residence in the United States, was lowered to 15 years. In aid to dependent children the law has provided that a child born in Arizona within the year preceding an application for assistance would be eligible if his mother had been a resident of the State for 1 year immediately preceding the child's birth. Such a child is now considered eligible if he is living with his father or another relative who satisfies the same 1-year residence requirement. Another amendment reduces from 5 years to 12 consecutive months the maximum period during which recipients of aid to the permanently and totally disabled and aid to dependent children may continue to receive assistance after moving out of Arizona and establishing residence elsewhere.

The revised welfare law for the District of Columbia establishes a 1-year residence requirement for all its assistance programs except old-age assistance. In that program the requirement continues to be 5 of the 9 years immediately preceding application. The new law also provides authority for the Commissioners of the District of Columbia to enter into reciprocal agreements with the States on the provision of public assistance to residents and nonresidents.

Massachusetts liberalized the residence requirement for eligibility for old-age assistance. Formerly the applicant must have lived in the State 3 years out of the 9 immediately preceding his application for assistance; now the requirement is 1 year's continuous residence immediately before application is made.

The Colorado Legislature, in a house memorial, urged the President and Congress not to lower to 1 year the period of residence in a State that, under the Social Security Act, can be imposed as a condition of eligibility for old-age assistance.

INCOME AND RESOURCES

Eleven jurisdictions enacted legislation to bring their plans of aid to the blind into conformity with the 1960 amendment to the Social Security Act regarding determination of need. This amendment requires, effective July 1, 1962, that the State agency disregard the first \$85 of earned income per month plus one-half of earned income in excess of \$85. In nine of these States (Arizona, Guam, Hawaii, Massachusetts, Minnesota, New Jersey, Puerto Rico, South Carolina, and Virginia) the amount previously specified in the law was increased to the exact amount in the Federal law. The others, Kentucky and Mississippi, provided for the disregarding of whatever amount is specified by Federal law.

Puerto Rico also authorized the Division of Public Welfare to make any changes in exemption of income that may be necessary to bring its public assistance program in line with changes in Federal law. A similar law enacted in Kentucky provides, in the determination of need in all categories, for the exemption of the kinds and amounts of income prescribed by Federal law and regulations.

Kentucky also amended its law regarding determination of the resources of applicants for public assistance, which required that the income and property of the applicant's spouse be included in determining need for old-age assistance. Under the new law the same requirement is imposed in aid to the blind and aid to the disabled.

In Minnesota, applicants for and recipients of aid to the blind have been required to make a monthly report of earnings for use in the adjustment of subsequent payments. An amendment dispenses with this requirement in certain situations.

New York State's law governing medical assistance for the aged provides that any liquid assets of applicants and recipients that are above specified amounts must be applied toward the cost of the medical care. Under a 1962 amendment, for persons who are in medical or nursing institutions for chronic care the right to retain liquid assets is limited to those who have no life insurance, and the maximum amount that they may retain is \$250 for burial expenses.

Rhode Island has required a lien or assignment on the property of an old-age assistance recipient owning real property and insurance with a combined value of \$700. An amendment raised the amount to \$1,000.

A concurrent resolution adopted by the Louisiana Legislature favored a change in Federal regulations to permit recipients of old-age assistance to earn a minimum of \$50 a month, to maintain a bank balance of \$1,000, and to own property valued at not more than \$5,000. Under a house resolution of the Georgia Legislature the first \$50 of income from any source whatsoever would be disregarded in old-age assistance, aid to the blind, and aid to the permanently and totally disabled.

RELATIVES' RESPONSIBILITY

In the District of Columbia, Congress made uniform the requirements in the law for all its assistance programs concerning the responsibility of relatives to contribute to the support of applicants and recipients. The law also gives to recipients and persons in need of assistance the right to bring legal action to require support from the designated relatives, and continues the power of the District of Columbia to bring action.

Massachusetts uses a statutory *Schedule of Financial Ability of Child* in determining the resources of an applicant for or recipient of old-age assistance. The schedule was amended in 1962 when the basic dollar amounts of a single child's exempted income were increased to the levels already specified in the parallel schedule for medical assistance for the aged. The schedule applicable in both old-age assistance and medical assistance for the aged was amended by increasing to \$4,750 a year the basic exempted income of a married child living apart from the aged parent.

In New York, an amendment to the social welfare law broadened the scope of the State agency's central registry of deserting fathers to include information on deserting mothers. The statute also added to the law a new section that defines and expands the State agency's function in assisting local welfare agencies to enforce relatives' responsibility provisions for the support of indigents.

Virginia, by statutory amendment, raised from 16 to 17 the age at which a child is considered legally responsible for the support of his parents.

PAYMENTS AND ALLOWANCES

The revision of Arizona's welfare code includes a change in the definition of assistance—from "money

payments" to "payments in cash or kind to or on behalf of" needy persons. In addition, the law provides that the assistance may be in the form of vendor payments to third persons on behalf of recipients in all categories, in order to expedite the giving of assistance or to assure that it is meeting basic maintenance needs.²

Louisiana enacted legislative authority for the surviving spouse of a recipient of old-age assistance, aid to the blind, or aid to the permanently and totally disabled to receive financial assistance paid to or on behalf of such a recipient during the month of death.

In Massachusetts the monthly transportation allowance for an old-age assistance recipient not residing in a nursing home or institution was increased from \$4 to \$5. In aid to the blind, the allowance for funeral and burial expenses was increased from \$200 to \$350.

In Mississippi, when a recipient of old-age assistance or aid to the disabled is found incapable of taking care of himself or his money, the law has permitted payments to be made to a person designated by the county welfare department. Under the 1962 legislation, payments may also be made to a designated "firm, association, institution or agency." (These payments are not subject to Federal financial participation.)

The New York Legislature authorized an allowance for clothing and incidentals to be granted to recipients of medical assistance for the aged who are confined to a medical or nursing institution, if these items are not provided by the institution itself. (The Federal Government pays no part of these allowances.)

New York also enacted a law that (1) exempts earnings of public assistance recipients from garnishment by a judgment creditor, (2) provides for written notification to the employer of the assistance status of the employee, and (3) furnishes a right of action to the recipient-employee for any wages improperly withheld, wholly or partly, in violation of this statute.

Under a 1958 amendment to the Social Security Act, assistance payments may be made to the legal representatives of recipients under certain conditions. A statute adopted in Virginia in 1962 conforms to the requirements of that amendment. It

²Except for medical or remedial care, payments in kind, whether to the recipient or to a third party, are not subject to Federal financial participation.

provides for appointment by the court of a personal representative to receive and manage the payments of a recipient of old-age assistance, aid to the blind, or aid to the permanently and totally disabled if the court finds the recipient unable to handle the payments properly, without privation or hazard to himself or others. The same provision applies in cases receiving aid to dependent children, when the payments are not being used for the benefit of the children. The new law, which authorizes county superintendents of public welfare to petition the court for such action, specifically bars the appointment of any employee of the welfare department as a recipient's personal representative.

MAXIMUM LIMITATIONS ON PAYMENTS

Many State laws still limit the dollar amount of assistance that can be granted. The longterm trend has been to increase these maximums; 1962 was no exception.

Alaska, by amendment, increased its maximum old-age assistance payment from \$100 to \$110. It also provided for the exclusion, in determining the maximum, of direct payments for medical services and remedial care.

The Arizona Legislature established a monthly maximum of \$80 in its new program of aid to the permanently and totally disabled and increased from \$80 to \$85 the maximum old-age assistance payment for a recipient who is not living with a self-supporting child. In all categories, the maximum established for total income (assistance payment plus income from other sources) was increased as follows: for a single recipient, from \$90 to \$100; for recipient and spouse, or for any two recipients in the same family unit, from \$135 to \$155; and for three or more recipients in the same family unit, from \$173 to \$220.

The Delaware Legislature provided that its maximum old-age assistance payment may be exceeded by the amount of any payments for medical care.

Mississippi changed the provisions governing maximum payments in three programs. In aid to dependent children, the maximum may now be exceeded for medical care for any child who is mentally retarded or physically handicapped. More than the maximum may be paid under old-age assistance to meet the costs of hospital and other medical care and special needs "as permitted under the Federal Social Security Act." In aid to the

permanently and totally disabled, the maximum may be exceeded by the amount of payments made to or on behalf of a recipient for medical care and other special needs.

Vermont's law governing old-age assistance, aid to the blind, and aid to the permanently and totally disabled was amended to increase the maximum payment from \$75 to \$80.

In Virginia the law relating to the standards used in determining the amount of the payment in old-age assistance, aid to the permanently and totally disabled, and aid to dependent children was changed. The State Board must now take into consideration significant differences in living costs in various parts of the State and establish appropriate variations in monetary assistance standards.

MEDICAL CARE

Virginia in 1962 enacted legislation authorizing a program of medical assistance for the aged; the appropriation implementing the program becomes effective January 1, 1964. New Jersey authorized a similar program to go into operation July 1, 1963. At the close of the 1962 sessions, 32 States had taken legislative action to implement the 1960 amendments to the Social Security Act providing for medical assistance for the aged.

At the beginning of 1962, all but three of the 54 States were providing vendor payments for the medical care of old-age assistance recipients. During 1962 these three States—Alaska, Arizona, and Delaware—enacted the necessary statutory authority to make such payments.

Alaska indirectly authorized vendor payments for medical care under old-age assistance. An amendatory clause specifies that direct payments for medical services and remedial care are not to be considered in determining the maximum amount payable to an old-age assistance recipient.

Arizona's authorizing legislation made provision for vendor payments on behalf of old-age assistance recipients, up to a maximum of \$125 a month, for nursing-home care and, on behalf of recipients not living with a relative, for visiting-nurse and some housekeeping service within the same maximum limitation.

Delaware amended its definition of "medical care" to provide for vendor payments for medical care on behalf of old-age assistance recipients and appropriated funds for such payments.

Georgia broadened the scope of authorized vendor payments on behalf of the needy aged, previously restricted to payments for hospital care, by amending its statutory definition of "assistance" to include medical and remedial care.

In Kentucky, an amendment was made in the law prohibiting assistance to or on behalf of persons in public institutions, patients in institutions for tuberculosis or mental disease, and patients in medical institutions with a diagnosis of tuberculosis or psychosis. The State Commissioner now has authority to prescribe conditions of eligibility for such individuals that will be in conformity with the Federal law.

A New York amendment, by adding administrative costs as an item of full reimbursement, provides for 100-percent reimbursement by the State to public welfare districts for medical assistance for the aged furnished to Indians living on Indian reservations. Another amendment expands the list of benefits to be provided in medical assistance for the aged by adding professional services of dentists, optometrists, and podiatrists; rehabilitative services related to physical therapy; laboratory and X-ray services; and eyeglasses and dentures.

Texas amended its old-age assistance law to grant specific authority for payments to vendors for medical care furnished to recipients while they are temporarily visiting outside the State.

FOSTER CARE IN AFDC

Both Arizona and Mississippi extended their programs of aid to dependent children to include coverage for dependent children placed in a foster home. A Massachusetts amendment transferred financial responsibility for aid to dependent children in foster care from the local public welfare agencies to the State Department of Public Welfare.

SUITABLE HOME PROVISIONS IN AFDC

Kentucky enacted a "suitable home law" that makes the Department of Economic Security responsible for evaluating the suitability of the home environment of children receiving aid to dependent children and for taking certain action if the finding is unfavorable. The action to be taken ranges from intensive casework services to court action for removal of the child from the home. The law

specifically provides that assistance to the child shall not be denied on the basis of unsuitable home conditions but shall continue during efforts to remedy the situation.

Louisiana amended its law by rescinding a requirement that, when a mother receiving aid to dependent children gives birth to an illegitimate child, assistance must be discontinued until it is found that she has discontinued the illicit relationship and is maintaining a suitable home. The new law sets forth a detailed listing of factors that must be investigated and specifies certain protective actions to be taken if the home is found to be unsuitable. The case may be referred, for example, to a court to determine if a child's custody should be transferred to another person or if a child should be placed in foster care. In addition, when a determination is made that the assistance payments are not being used in the best interests of the child, the local public welfare board now has the authority to designate a representative payee or refer the case to the District Court for appointment of a curator. At all stages of such investigations and procedures, the law requires that aid to the family be continued as long as the child remains in the home.

The Michigan Legislature amended the State general assistance law by making it mandatory on each county general assistance agency to provide aid whenever denial of aid to dependent children is required under the State statute relating to unsuitable home conditions.

In Mississippi, by a rider attached to an appropriation act for the fiscal biennial 1962-64, legislative direction is given to the handling of cases of aid to dependent children involving an unsuitable home environment. Under this law, when a mother receiving payments appears to have an immoral or irresponsible pattern of living, or when she willfully fails or refuses to provide for a dependent child, the facts must be brought to the attention of law-enforcement officials. Continuation of the welfare payments is authorized until the problem has been satisfactorily resolved.

COMMUNITY WORK AND TRAINING PROJECTS

Arizona amended its statute authorizing the State Department of Public Welfare to institute work projects by specifying that such projects must be for the employment of needy unemployed persons and by broadening their scope to include not only

county projects but also municipal and school-district projects. The amendment requires that the projects be necessary and desirable to the community and that the local branch of government involved shall cooperate by furnishing supervision and transportation and by paying workmen's compensation premiums.

The New York statute governing services to be provided by public welfare officials was amended to include authorization for such officials to provide instruction and work training to employable or potentially employable recipients of public assistance. The amendment also makes continued eligibility for assistance dependent on the recipient's acceptance of and cooperation in such training. The authority of public welfare officials and districts to assign recipients of home relief to local work relief projects was expanded by statutory amendment. They can now, in addition, assign employable adult recipients of aid to dependent children to such projects.

FRAUD

In Arizona the maximum penalty for fraud in obtaining or aiding another person to obtain assistance to which the recipient is not entitled, or more than the amount to which he is entitled, was increased. The heaviest penalty that could formerly be imposed was a fine of \$250 and/or imprisonment for 3 months; it is now \$1,000 and/or imprisonment for 1 year. In connection with a recipient's responsibility to report changes in his financial and household circumstances, the new law declares it to be a misdemeanor to deliberately conceal assets and resources for the purpose of fraud. The same law establishes, in the State Department of Public Welfare, a special services unit with responsibility for performing investigative work within the counties and for helping to prepare fraud charges for presentation to the county attorney.

In the revised public assistance laws of the District of Columbia, uniform penalties were provided for fraud in obtaining assistance under the various public assistance programs.

The criminal law of New Jersey has made it a misdemeanor in the past to obtain public assistance fraudulently through misrepresentation of the facts of a recipient's financial situation. A 1962 amendment broadens the definition of misrepresentation to include concealment or failure to disclose such material facts.

The New York Legislature showed its interest in this problem by an amendment placing upon the State Department of Public Welfare the responsibility to assist local welfare departments in establishing fraud investigation units and services.

In Kentucky, when an overpayment of assistance results from the withholding or falsifying of information by an applicant or recipient, the State Commissioner has authority, under a new statute, to recover such payments by withholding future assistance payments or by instituting civil action. In addition, he is to report cases of apparent fraud to the county attorney for possible criminal prosecution.

ORGANIZATION AND ADMINISTRATION

Significant changes in Arizona's organizational pattern of administration were included in the 1962 revision of the welfare code. The State Department of Public Welfare must, under the new law, include a division of family services, a division of child welfare, a special services unit, and a legal consultant. The law increased the annual salary of the State commissioner and stated that the director of the division of family services must have experience in that field and accredited graduate social work education. The county boards of public welfare were abolished. Now the county department is to consist of a welfare director and other staff, with an advisory council. Another major change delegates to the county departments the final responsibility for determining eligibility for and the amount of public assistance or services. Final responsibility was previously vested in the State agency and the county departments were charged merely with subordinate responsibility to report their findings and recommendations.

The Kentucky Legislature provided for the appointment of "an administrator of a health and welfare agency, who is to consult and deal with the Federal Government with respect to the public assistance titles." The 1962 legislation also provides for training personnel through the establishment of departmental training programs or, by arrangement, in public or private schools or institutions, and it furnishes a legal basis for salary payments to such employees during training periods as "a part of research assignments."

In Massachusetts an amendment requires that

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TABLE 23.—Aid to families with dependent children, unemployed-parent segment: Recipients and payments to recipients, December 1962¹

[Includes vendor payments for medical care and cases receiving only such payments]

State	Number of families	Number of recipients		Payments to recipients			Percentage change from November 1962 in—	
		Total ²	Children	Total	Average per—		Number of recipients	Amount
					Family	Recipient		
Total.....	53,389	295,151	194,673	\$8,987,674	\$168.34	\$30.45	+8.7	+8.2
Connecticut.....	1,993	8,926	6,302	384,849	193.10	43.12	+17.1	+27.0
Delaware.....	391	2,322	1,596	49,181	125.78	21.18	+38.0	+38.7
Hawaii.....	345	2,166	1,500	59,713	173.08	27.57	+8.9	+6.8
Illinois.....	8,784	53,256	36,724	2,250,951	256.26	42.27	+1.9	(³)
Maryland.....	752	4,516	3,073	129,555	172.28	28.69	+31.0	+34.6
Massachusetts.....	435	2,491	1,701	94,662	217.61	38.00	+14.0	+16.1
New York.....	11,689	67,965	45,691	2,112,395	180.72	31.08	+12.0	+8.3
North Carolina.....	7	31	18	693	(⁴)	(⁴)	(⁴)	(⁴)
Oklahoma.....	32	183	123	5,228	(⁴)	(⁴)	+1.7	-5.7
Oregon.....	594	3,464	2,339	116,535	196.19	33.64	+32.9	+37.5
Pennsylvania.....	14,765	78,581	50,091	1,982,563	134.27	25.23	+9.1	+11.4
Rhode Island.....	444	2,476	1,622	84,292	189.85	34.04	+15.9	+16.1
Utah.....	705	3,778	2,457	61,359	87.03	16.24	+35.9	+25.2
West Virginia.....	12,453	64,996	41,436	1,655,698	132.96	25.47	+4.9	+7.4

¹ Data for this segment of the program, shown separately here, are included in table 22. All data subject to revision.

² Includes as recipients the children and 1 or both parents or 1 caretaker relative other than a parent in families in which the requirements of such

adults were considered in determining the amount of assistance.

³ Increase of less than 0.05 percent.

⁴ Average payment not computed on base of fewer than 50 families; percentage change, on fewer than 100 recipients.

TABLE 24.—Aid to families with dependent children receiving foster care: Recipients and payments for foster care, by State, December 1962¹

State	Number of—				Payments for foster care			
	Children receiving foster care			Families from which children were removed	Total amount	Average per child	In foster homes	In institutions
	Total	In foster homes	In institutions					
Total.....	2,133	² 1,545	² 3	846	\$155,007	\$72.67	³ \$87,020	(³)
Alabama.....	27	27	0	6	1,054	(⁴)	1,054	0
California.....	533	533	0	224	43,089	80.84	43,089	0
Illinois.....	417	(²)	(²)	180	42,300	101.44	(³)	(³)
Indiana.....	29	29	0	12	1,151	(⁴)	1,151	0
Louisiana.....	217	214	3	81	14,839	68.38	(³)	(³)
Maryland.....	168	(²)	(²)	48	10,848	64.57	(³)	(³)
New Mexico.....	55	55	0	15	2,755	50.09	2,755	0
North Carolina.....	43	43	0	9	2,425	(⁴)	2,425	0
Oklahoma.....	187	187	0	83	8,312	44.45	8,312	0
Oregon.....	147	147	0	56	10,651	72.46	10,651	0
Utah.....	128	128	0	62	6,889	53.82	6,889	0
Virginia.....	41	41	0	10	1,734	(⁴)	1,734	0
Wisconsin.....	141	141	0	60	8,960	63.55	8,960	0

¹ Data for this segment of the program, shown separately here, are included in table 22. All data subject to revision.

² Excludes Illinois and Maryland; breakdown not available.

³ Excludes Illinois, Louisiana, and Maryland; breakdown not available.

⁴ Average payment not computed on base of fewer than 50 children.

STATE PA LEGISLATION

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three members of the Advisory Board of the State Department of Public Welfare shall be directors of local public welfare agencies or districts.

In New York State, for the declared purpose of improving the effectiveness and efficiency of public welfare personnel in local welfare departments, legislation was enacted authorizing the State Department of Social Welfare to develop and operate intensive programs of inservice training.

The law specifies that such programs may be established in local welfare departments, in the State agency's area offices, or in other available facilities and directs that they shall include planned courses given at regular intervals during office time.

New York also adopted a law making it a duty and responsibility of the State Department of Social Welfare to engage in social research directed toward fiscal savings through restoring individuals to a condition of self-support and personal independence.