

Tony Plante

From: KeyMunicipalOfficials-owner@imail.memun.org on behalf of Review of Legal Issues Regarding General Assistance <lellis@memun.org>
Sent: Wednesday, July 16, 2014 9:56 AM
To: KeyMunicipalOfficials@imail.memun.org
Subject: Review of Legal Issues Regarding General Assistance

To: Key Municipal Officials
General Assistance Administrators

Fr: Geoff Herman

Re: Review of legal issues regarding General Assistance

Date: July 16, 2014

In response to a number of conflicting directives, memoranda and opinions issued over the last two weeks in June regarding the provision of General Assistance benefits (GA) to certain applicants who are not U.S. citizens, MMA informed its municipal members on June 30 of a two-step action plan approved by the Association's Executive Committee. The purpose of the plan was to provide all the towns and cities – both those that host significant populations of non U.S. citizens and those that do not – with better guidance and solid information so that municipal officials can avoid legal and financial liabilities when responding to the new GA directives from state government.

The first step of the plan was to seek guidance through an action filed in Superior Court as to whether the directives from the Department of Health and Human Services (DHHS) and the Governor's Office were properly implemented and "judicially enforceable." [That petition](#) was filed last week. Although we will be seeking to expedite this request for what is called "injunctive relief," we cannot predict at this point when the decision on this petition will finally be made.

For the plan's second step, we asked a law firm to provide a legal review covering the several points of conflict in the directives and opinions issued by DHHS, the Governor's Office and the Attorney General. That [legal review](#) has been prepared by the Bernstein Shur law firm. I believe this legal review will be helpful to all municipal officers, managers and GA administrators because it serves to narrow the uncertainties associated with the next steps in GA administration all the municipalities will have to take.

- For those communities that host populations of non U.S. citizens, the memo explores in greater detail the various suggestions made by the Attorney General that the DHHS directives, if properly promulgated, would be ultimately determined unconstitutional.
- For all communities, the memo clarifies the maximum extent the state could financially penalize a municipality for providing GA benefits to certain non-citizen applicants.
- For all communities, including those that would typically not receive a GA application from a non U.S. citizen, the guidance in this memo is helpful with respect to the issue of complying with the new elements of the GA reimbursement form. The new form as recently amended by DHHS, has the effect of requiring GA administrator to verify the citizenship status of virtually all applicants in a nondiscriminatory manner.

We hope this information is helpful to you.