

## ARTICLE 5 ELIGIBILITY

### Sec. 7-501 Applicants

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

1. Initial applicants. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 4316-A(1-A), see Section 7-505).
  - A. An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308.1).
  - B. "Need" means that the applicant's income (including pro-rated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 7-608 of this Chapter or the applicant's 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.
2. Subsequent applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

### Sec. 7-502 Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S. § 2017 (b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or a resource; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs. (42 U.S. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under Types of Income at Section 7-606 of this Chapter.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

### Sec. 7-503 Personal Property

1. Liquid assets. No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his/her basic needs, and thereby exhausts them.

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2. Tangible assets. No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

3. Automobile ownership. Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$5000 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$5000. Any income received by the applicant by virtue of such a trade down must be used for his/her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification. (22 M.R.S.A. § 4317). The municipality will neither pay nor consider as necessary expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with Section 7-608(F)(6) and (7) - Travel/Work related expenses.
4. Insurance. Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after an application for assistance.
5. Transfer of property. Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

## Sec. 7-504 Ownership of Real Estate

If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

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If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (22 M.R.S.A. § 4320, see also section 6.8).

## Sec. 7-505 Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

1. Employment: rehabilitation All unemployed applicants and members of their households who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see Exemptions). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.
  - A. A "suitable job" means any job which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.
2. Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.
3. Disqualification. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause;
  - A. Refuse to register for employment with the Maine Job Service;
  - B. Refuse to search diligently for employment when the search is reasonable and appropriate. Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified.
  - C. Refuse to accept a suitable job offer;
  - D. Refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
  - E. Fail to be available for work;

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- F. Refuse to participate or participate in a substandard manner in the municipal work program (see Section 7-506).
4. Disqualification for job quit or discharge for misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301.8, 4316-A (1-A)).
5. Just cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:
- A. The applicant has a physical or mental illness or disability which prevents him/her from working;
  - B. The work assignment pays below minimum wages;
  - C. The applicant was subject to sexual harassment;
  - D. The applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
  - E. The applicant has no means of transportation to or from work or a training or rehabilitation program;
  - F. The applicant is unable to arrange for necessary child care or care of ill or disabled family members; and
  - G. Any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A.5).
6. Applicant's burden of establishing just cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).
7. Eligibility regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.
- For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. §§ 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.
- The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in Section 7-506 of this Chapter, under Eligibility Regained.
8. Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:
- A. A dependent minor child;
  - B. An elderly, ill, or disabled person; and
  - C. A person whose presence is required in order to provide care for any child under

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6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309.3). In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

9. Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill, or disabled. Any person whose presence is required to care for any preschool age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Human Services or Department of Labor.

## **Sec. 7-506 Municipal Work Program**

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A.2). As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in Section 7-505 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

1. Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.
2. Limitations. The work requirement is subject to the following limitations. (22 M.R.S.A. § 4316-A.3)
  - A. No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law. (Note: The federal minimum wage is \$5.15/hour effective September 1, 1997.)
  - B. No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
  - C. In no case shall eligible persons performing work under this subsection replace regular municipal employees.
  - D. In no case will work performed under this subsection interfere with an eligible

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person's:

- 1) existing employment;
- 2) ability to follow up on a bona fide job offer;
- 3) attendance at an interview for possible employment;
- 4) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
- 5) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Human Services or the Department of Labor.

- E. In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his/her regular employment would result in the person working more than 40 hours per week.
  - F. In no case will an eligible person be required to perform work beyond his/her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).
  - G. If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316.5).
  - H. In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.
3. "Workfare first" policy. Under the authority of 22 M.R.S.A. § 43 16-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.
- A. In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
  - B. All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
    - 1) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

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- 2) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);
  - 3) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
  - 4) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
  - 5) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers, and;
  - 6) any other pertinent information related to the workfare assignments) the recipient will be expected to perform.
- C. As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- D. In addition to any disqualification penalty that may apply, the consequences of refusing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in accordance with Section 7-609 of this Chapter.
- E. If some of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with Section 7-609 of this Chapter.
- F. Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.
4. Work-related expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his/her work assignment.
  5. Disqualification. Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 120 days. (22 M.R.S.A. § 4316-A.1). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

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6. Eligibility regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see Section 7-505 - Dependents).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but with no opportunity to requalify.

Any recipient who intentionally causes damage to property or harms other employees by his/her actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

7. Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the Department of Human Services (22 M.R.S.A. § 4316-A.2).

## **Sec. 7-507 Use of Resources**

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (see definition of Resources). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

1. Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:



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- A. The minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- B. The minor has no living parent or the whereabouts of the both parents are unknown; or
- C. No parent will permit the minor to live in the parent's home; or
- D. The minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- E. The Department of Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- F. The Department of Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility. (22 M.R.S.A. § 4309.4).

Any person under the age of 25 who is applying independently from his/her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his/her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his/her parents are financially capable of repaying the municipality. (22 M.R.S.A. §4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his/her parents. If the applicant's parents declare a willingness to provide the applicant with his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being provided by a legally liable relative.

- 2. Mental or physical disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.
- 3. Written notice: disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resources. Any applicant who refuses to utilize such potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize the resources.

General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

- 4. Forfeiture of benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of

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120 days from the date of the forfeiture unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. §4317).

## **Sec. 7-508 Period of Disqualification**

No one will have his/her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. §§ 4321-4322). Each person will be notified in writing of the reasons for his/her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of disqualification.

1. Work requirement. People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility; see Sections 7-505 and 506). Recipients who do not comply with the work requirement associated with their grant of assistance and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.
2. Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days. (see Section 7-604 - Fraud). The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification.