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**Testimony of Joby Thoyalil, Maine Equal Justice Partners**  
***in opposition to LDs 36, 220, 219, and 10***  
**April 10, 2017**

Good afternoon Senator Brakey, Representative Hymanson and members of the Joint Standing Committee on Health and Human Services. My name is Joby Thoyalil and I am a policy analyst at Maine Equal Justice Partners. We are a civil legal aid organization and we work with and for people with low income seeking solutions to poverty through policy, education and legal representation. I am speaking today in opposition to LDs 36, 220, 219, and 10.

Without a doubt those who need help from the General Assistance program are among those who face the deepest levels of poverty and the greatest risk of homelessness and hunger in our State. With respect to most of the bills that the Committee will consider today, in late 2012, a Working Group convened by the Legislature and appointed by the DHHS Commissioner spent hundreds of hours examining the General Assistance program to identify savings and consider how to improve the program. Maine Equal Justice Partners' Public Policy Director served on the Working Group along with others, including the Maine Municipal Association, municipal welfare directors, and the Department. They came up with a thoughtfully negotiated compromise and their recommendations were largely adopted by the Legislature. Our organization did not like every part of that compromise, but it was just that, a compromise. It is disturbing to see many of the same proposals that were carefully considered, debated and rejected by that group reappear here today, as they did two years ago before being largely rejected by the 127<sup>th</sup> Legislature.

**LD 36** would impose an arbitrary 9-month time limit to GA that will lead to more homelessness and hunger in Maine communities. The limit applies to those who are "capable of working," but provides no definition of what this means; this is subject to opinion, abuse, and misinterpretation.

Maine has already been down this path. During the 2012-13 State Fiscal Year GA used for housing assistance was limited to a 9-month cap.<sup>1</sup> This provision allowed for hardship exceptions for people with mental or physical conditions or who had a pending application with the federal Social Security Administration or any other emergency that may cause undue hardship and unnecessary costs, as determined by the municipality. This provision was put in place for a year with a sunset at the end of that period so that its impact could be evaluated. In fact, no one lost housing assistance as a result of this provision as everyone who needed assistance for this long fell within the exceptions for disability or emergency. However, when this provision was in effect, hundreds of needy people lived in fear that they would lose their housing even though they continued to be in great need. As a result, the Legislature allowed this provision to sunset without renewal.

**LD 220** would take away access to GA – the assistance program of last resort – specifically for families with children who, after 60 months receiving TANF, still find themselves in need of assistance. Research shows that families that reach the TANF time limit have: work-limiting mental and physical health problems that are disproportionately higher than those that do not reach the time limit; a lower educational level; and other significant barriers to employment. Many remain deeply economically insecure after TANF termination and TANF termination has shown to lead to poorer outcomes for their children.

In 2012, the General Assistance Working Group I mentioned earlier considered the question of how to treat families who have reached the TANF time-limit. After careful consideration, the group did NOT decide to take away access to the GA program for these families. Instead, a majority of working group members recommended additions to the list of exceptions to the TANF time limit that targeted some of the underlying reasons why a family might still need assistance after 60 months, including taking into consideration significant barriers to employment.<sup>2</sup>

Over the last five years, the rate of Maine children living in deep poverty has increased eight times as fast as the rest of the nation.<sup>3</sup> Passage of LD 220 would do nothing to solve this very real problem – or its underlying causes – and in fact would only make it worse by pushing families deeper into poverty.

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<sup>1</sup> 22 MRS § 4308, 1-A

<sup>2</sup> Maine Department of Health and Human Services. 2013. *General Assistance Working Group Recommendation Report*.

<sup>3</sup> 2015 ACS data analysis by Maine Center for Economic Policy

**LD 219** appears to address a matter of program eligibility – specifically clarifying that someone who has not exhausted available and potential resources is deemed ineligible for GA. Under current law, when a GA applicant does not take advantage of an available resource, they are deemed ineligible and cannot receive assistance until they use that other available resource.

The main thing LD 219 does is to make it so that not only would someone in this situation be ineligible, but they would ALSO be punished and prohibited from receiving assistance for at least 120 days, regardless of whether they subsequently take advantage of the available resource and become eligible well before 120 days are up.

This provision also penalizes someone for “abandoning” a resource even though that may have happened well before they applied for GA and at the time they had no knowledge of the impact of that action on their GA application.

**LD 10** would significantly increase the severity of the penalty for someone who was found to have made a false representation in order to receive GA. The penalty for this is already severe and in fact, was made more so just two years ago through a bipartisan agreement made by the 127<sup>th</sup> Legislature. We see no reason why it needs to be revisited in the very next legislative session, before the prior impact can be adequately evaluated.

The current penalty for making a false representation includes a benefit repayment requirement and four-month disqualification period. The repayment alone is nearly impossible for most people who find themselves in this situation. LD 10 will ensure that anyone who runs afoul of this rule will not be able to receive GA again for at least two years, and in many cases it would be longer than that. This would be regardless of whether they have repaid the municipality for previous assistance and regardless of whether they are now otherwise eligible for and in need of assistance. Since GA is the assistance program of last resort, the consequence would be homelessness, hunger, costly visits to local ERs, etc.

Thank you for the opportunity to provide comments today. I would be glad to answer any questions that you may have.

## **Appendix: Additional Information regarding LDs 36, 220, 219, and 10; Joby Thoyalil, Maine Equal Justice Partners**

### **LD 36 - An Act To Create a 9-month Time Limit on General Assistance Benefits for Certain Persons**

**Summary: This bill imposes an arbitrary 9-month time limit to GA that will lead to more homelessness and hunger in Maine communities.**

- The limit applies to those who are **“capable of working”**, but provides no definition of what this means; this is subject to opinion, abuse and misinterpretation. Most who administer GA in Maine municipalities are NOT professional welfare administrators; nor are they professional mental or physical health professionals. They are ill-equipped to make the complex physical and mental health determinations related to a person’s ability to work required by this bill.
- **Maine has already been down this path.** During State Fiscal Year ’12-13, GA used for housing assistance (which is what the majority of GA is used for) was limited to a 9-month cap.<sup>1</sup> This provision allowed for hardship exceptions for people with mental or physical conditions or who had a pending application with the federal Social Security Administration or any other emergency that may cause undue hardship and unnecessary costs, as determined by the municipality. The legislature limited this provision to one year to better understand its impact. **NO ONE was denied assistance during this year as a result of this cap because people receiving for this length of time are typically disabled, or in an emergency situation. As a result, the Legislature allowed this provision to sunset without renewal.** Yet while this provision was in effect hundreds of needy Mainers lived in fear of losing needed assistance.
- **People often get GA while they are waiting for a disability determination from Social Security, which can take well over nine months – even years – to complete.** During that time they have not yet been determined “disabled” but they are very likely to be totally unable to work.
- **Most people get GA for a short period of time.** The great majority of GA recipients need assistance for well less than 9 months; only a small minority needs it for longer. For those who need it for longer, there are good, valid reasons.
- **A University of New England (UNE) study<sup>2</sup> of those who need GA for longer periods shows that without GA:**

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<sup>1</sup> 22 MRS § 4308, 1-A

<sup>2</sup> University of New England. 2012. *Survey of Longer-Term General Assistance Recipients: Preliminary Findings*

- 92% said they would have NO place to live;
- Almost 2/3rds (62%) would not have the medicine they need; and
- Nearly 60% would not have enough to eat.
- **This restriction is particularly dangerous given the complex array of physical, psychological, or social problems long term recipients face.**
- **The majority of these individuals face challenges that have been chronic and lifelong, arising in many cases from traumatic childhood experience**—these individuals who needed GA for longer ranked 160% higher than the mainstream population in the level of Adverse Childhood Experiences they suffered.
- **LD 36 puts people with serious mental health conditions at risk of homelessness. Nearly 85% of GA is provided for housing help.** Without this help many would become homeless. Again, most GA administrators lack the training and skills to make the complex physical and mental health determinations related to a person's ability to work required by this bill, yet their decisions will have a great impact on whether people can keep a roof over their heads.
- **If people need GA for longer periods and ARE able to work the municipality can require them to work for their benefits right now**—they can require them to do any number of needed jobs within their communities. If they refuse, they will lose all help.
- **There is a well-established link between homelessness and other more costly services** including expensive emergency and inpatient mental health care; police contacts and shelter stays.

### **LD 220 - An Act To Align Time Limits in the Municipal General Assistance Program and Temporary Assistance for Needy Families Program**

**Summary: LD 220 would take away access to GA – the assistance program of last resort – specifically for families with children who, after 60 months receiving TANF, still find themselves in need of assistance.**

**Over the last five years, the rate of Maine children living in deep poverty has increased 8 times as fast as the rest of the nation.<sup>3</sup> Passage of this bill would do nothing to solve this very real problem – or its underlying causes – and in fact would only make it worse by pushing families deeper into poverty.**

In 2011, Maine created a lifetime limit of 60 months for families and children receiving Temporary Assistance for Needy Families (TANF) assistance.<sup>4</sup> Prior to that, families remained eligible provided that they were complying with the program's work requirements.

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<sup>3</sup> 2015 ACS data analysis by Maine Center for Economic Policy

<sup>4</sup> PL 2011, c. 380, Pt. PP, §2

- **Families that reach the TANF time limits are shown to have:** (1) work-limiting mental and physical health problems that are disproportionately higher than those that do not; (2) a lower educational level; and (3) other significant barriers to employment. Many remain deeply economically insecure after TANF termination has shown to lead to poorer outcomes for their children.
- **Here are more details on what we know about families reaching the TANF time limit:**
  - A professor from the University of Maine who conducted research on the Maine's new 60-month time limit in 2011 found that<sup>5</sup>:
    - Nearly one in three families lost their homes after losing their TANF. Nearly half reported running out of heating fuel and most relied on food banks to have enough to eat;
    - The household head in more than half of all families cut off of TANF *did not* have a high school diploma or GED;
    - The “hardship” extensions established by the legislature were not working as intended with many families coping with disabilities apparently not receiving extensions that they were likely eligible for;
    - Most families did not include a working adult and those that were working described their employment status as “insecure.”
  - Numerous other studies reached similar conclusions finding that families reaching TANF time limits are far more likely than other TANF recipients to experience employment barriers such as physical and mental health problems, suffer from substance abuse, and have lower levels of cognitive functioning and education.<sup>6</sup>
- **Given these facts, it is no surprise that one-in-three families lost their homes when they lost TANF.**
- **GA has been a lifeline—preventing homelessness and hunger for many of these families.**
- **It is hard to imagine what would have happened to these families and their children had GA not been there.**
- **TANF must be improved to provide parents greater opportunity to become employed and leave assistance behind.** Legislation that we'll see later in the session will help to reach that goal. But until that goal is reached, General Assistance must be available to keep a roof over children's heads throughout the state.
- **In 2013, the Maine DHHS General Assistance Working Group considered the question of how to treat families who have reached the TANF time-limit.** After careful consideration, the group did NOT decide to take away access to the GA program for these

<sup>5</sup> <http://www.mejp.org/content/tanf-time-limits-one-year-later>

<sup>6</sup> Pavetti, LaDonna and Jacqueline Kauff (2006). When Five Years Is Not Enough: Identifying and Addressing the Needs of Families Nearing the TANF Time Limit in Ramsey County, Minnesota. Mathematica Policy Research, Inc.; DeMaster, Dana. (2008). “At the Limit: December 2006 Minnesota Family Investment Program (MFIP) Cases that Reached the 60 Month Time Limit.” Minnesota Department of Human Services; Seefeldt, Kristen and Sean Orzol (2005). Watching the Clock Tick: Factors Associated with TANF Accumulation. National Poverty Center Working Paper Series.

families. Instead, a majority of working group members recommended additions to the list of exceptions to the TANF time limit that targeted some of the underlying reasons why a family might still need assistance after 60 months, including taking into consideration significant barriers to employment.<sup>7</sup>

- **This is not likely to save the state a significant amount of money.** According to the bill's Fiscal Note: "The potential savings to the department is not expected to be significant because recipients typically do not stay in the program, having to reapply each month they seek help."
- **Real reform does not simply cut people off from help they need.** Instead we need to do a better job from day one getting people the tools they need to find and keep a job so they no longer need welfare. Many people in Maine come on and off the program because they are churning in and out of low-paying, insecure jobs. We need to help these people get the education and training they need so they can get a better paying, more reliable job for the long-term. This up-front investment in families today will ensure that they have every opportunity to leave welfare and poverty behind permanently in the years to come. *We know that over half of the people who lost TANF due to time limits in 2011 lacked a high school degree or the equivalent. These families did not move from welfare to work – instead life simply got harder and kids in these families went without basics like a home and enough food to eat.*
- The deep poverty often faced by families affected by TANF time limits can lead to long term negative outcomes for children including poorer outcomes in school readiness, language development and behavior and lower earnings in adulthood.<sup>8</sup>

### **LD 219 - An Act To Prioritize Use of Available Resources in General Assistance Programs**

**Summary:** This bill appears to address a matter of program eligibility – specifically clarifying that someone who has not exhausted available and potential resources is deemed ineligible for GA. Under current law, when a GA applicant does not take advantage of an available resource, they are deemed ineligible and cannot receive assistance until they use that other available resource.

**The main thing LD 219 is doing is to make it so that not only would someone in this situation become ineligible, but they would ALSO be punished and prohibited from receiving assistance again for at least 120 days, regardless of whether or not their circumstances change and they become eligible well before that time period is up.**

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<sup>7</sup> Maine Department of Health and Human Services. 2013. *General Assistance Working Group Recommendation Report*.

<sup>8</sup> Duncan, Greg and Katherine Magnuson (2011). The Long Reach of Early Childhood Poverty. *Pathways*.

[http://www.stanford.edu/group/scspi/\\_media/pdf/pathways/winter\\_2011/PathwaysWinter11\\_Duncan.pdf](http://www.stanford.edu/group/scspi/_media/pdf/pathways/winter_2011/PathwaysWinter11_Duncan.pdf); Dearing, Eric, Kathleen McCartney, and Beck Taylor (2001). Change in the Family Income-to-Needs Matters More for Children with Less. <http://pages.uoregon.edu/harbaugh/Readings/Kid%20outcomes/Dearing%20McCartney%20and%20Beck%202001%20CD,%20Income%20to%20Needs%20for%20chil.pdf>

- The law ALREADY requires people receiving General Assistance to apply for any other help available to them in order to remain eligible for GA.
- The law ALREADY disqualifies people from GA if they come to GA after losing any other public benefit because they didn't follow that program's rules.
- **The new 120-day penalty added by this bill is wholly unnecessary.** Currently, if someone fails to take advantage of another resource, they are very likely doing so without knowing that these rules or resources even exist. Accordingly, they are allowed to attempt to make up for the mistake by applying for potential resources or attempting to obtain available resources, after which, they may find that they are still in need of – and eligible for – GA. This would change that by barring them from access to what is likely desperately needed assistance for about four months, regardless of whether or not they are eligible.
- **This is not likely to save the state a significant amount of money.** According to the bill's Fiscal Note: "The potential savings to the department is not expected to be significant because the frequency of refusing or abandoning resources is expected to be very small, the municipalities [sic] ability [sic] to identify abandoned or refused resources is unknown and recipients typically do not stay in the program, having to reapply each month they seek help."
- **This bill includes a list of 'just causes' for not using available resources, but the list doesn't take into account any number of common and reasonable reasons that someone might refuse or abandon an available resource.** For example:
  - Domestic violence. A person who is a victim of domestic violence may move from a subsidized apartment to get away from an abusive relationship.
  - Wellbeing of children. Picture this likely scenario: You and your kids are living with a family member in crowded conditions and that family member took out their frustration by constantly punishing your children for crying or exhibiting other stress-inducing behaviors.
  - Similarly, a parent may decide to give up a resource and move to a different community so that their children can live in a safer neighborhood.
  - Divorce. Who is to judge whether someone's decision to leave their spouse is or is not a "just cause." Divorce is a serious decision and none of us would want someone second guessing our own decision about something that personal and important.

**LD 10 - An Act To Build Greater Accountability into the General Assistance Program by Increasing the Penalty for Falsely Representing Information on an Application for General Assistance**

**Summary: This bill increases the severity of the penalty for someone who was found to have made a false representation in order to get GA. The penalty is already severe and in fact, was made more so just two years ago through a bipartisan agreement made by the**



**127<sup>th</sup> Legislature. We see no reason why it needs to be revisited in the very next legislative session, before the prior impact can even adequately evaluated.**

According to current law, when a GA recipient is found to have made a false representation to a city or town in order to get GA, they can be charged with a Class E crime AND they would be required to pay back the assistance they had received AND be disqualified from receiving GA again until they repay or after 120 days has passed, whichever is greater.

LD 10 proposes to change the disqualification period from four months (120 days) to *two full years (24 months), or until repayment is made, whichever is longer.*

- **How this section of law changed in 2015.** In 2015, this section of law changed so that municipalities could better enforce the repayment requirement by withholding GA from anyone until they repay. This is already an insurmountable barrier for people who find themselves in this situation as repayment would be totally unrealistic for many who need GA. If, by chance they are able to repay and the 120-day period has passed, AND then they subsequently find themselves in need of assistance again, then they are able to apply and receive that assistance. This is already a very severe penalty for individuals that typically apply for GA, and we see no evidence of the need to increase it.
- **This is not likely to save the state a significant amount of money as falsification is infrequent.** According to the bill's Fiscal Note: "The savings to the department is not expected to be significant because the frequency of falsification is very small and recipients typically do not stay in the program, having to reapply each month they seek help."
- **This is overly punitive.** If someone needs GA, they are in dire straits and in a desperate situation. The repayment requirement and four-month waiting period is already a harsh penalty. LD 10 will ensure that anyone who runs afoul of this rule will not be able to receive GA again for at least two years, and in many cases it would be longer than that. This would be regardless of whether they have repaid the municipality for previous assistance and regardless of whether they are now truly in need of assistance. Since GA is the assistance of last resort, the consequence would be homelessness, hunger, costly visits to local ERs, etc.
- **4 months vs. 2 years.** Four months without access to GA could put people into a very desperate situation. Two years would be devastating for them.
- **Consequences of a Class E crime.** As stated above, someone who is found guilty of this type of fraud can be charged and convicted of a Class E crime. This is a criminal conviction which is often required to be listed on employment applications. The downstream consequences of this could make life harder for the individual in various ways, including in their ability to secure employment, and limiting their ability to repay the General Assistance falsely obtained. Again, the current penalty structure is harsh enough.