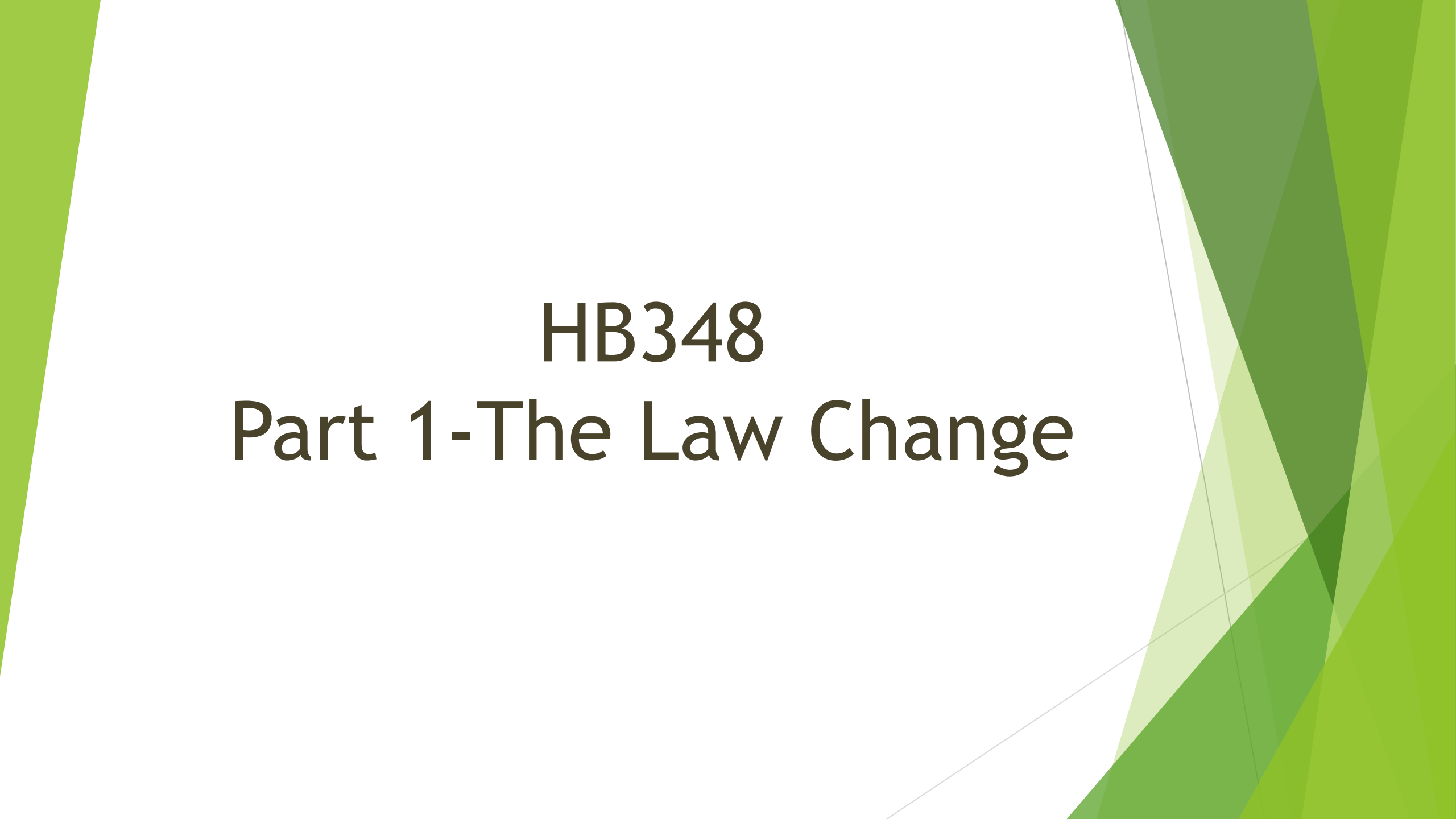


The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect.

HB348

Part 1-The Law Change

The sponsors' intent of HB348

- ▶ To prevent town shopping
- ▶ To hold municipalities who were not meeting their responsibilities under 165 accountable
- ▶ Intended to address local officials desire to be fiscal responsible with their constituents tax dollars

So what has been eliminated in RSA 165?

- ▶ I. Whenever a person in any town is poor and unable to support ~~himself, he~~ **themselves, he or she** shall be relieved and maintained by the overseers of public welfare of such town ~~whether or not he has residence there. For the purposes of this chapter the term "residence" shall have the same definition as in RSA 21:6-a]~~ **in accordance with this chapter.**

What's been added to RSA 165?

- ▶ Municipalities can now require proof of residency as part of the eligibility process (if adopted in their guidelines)
- ▶ An inter-municipal hearing process
- ▶ A residency requirement exemption for victims of dv, stalking, sexual assault, and human trafficking
- ▶ The requirement to establish financial standards in the guidelines and the requirement that these financial standards be reviewed and adjusted annually (if adjustment is warranted)
- ▶ The requirement to provide temporary emergency assistance for up to 6 days for non-residents; when needed
- ▶ Language solidifying the Welfare Officials ability to use some discretion (to the client's benefit)

Proof of residence requirement - The law says “Acceptable proof of residency SHALL include:”

- ▶ **(1) A current lease, car registration, utility bill, or any government or court issued document with an address matching the stated physical residency dated within the last 60 days.**
- ▶ **(2) Attestation on official agency letterhead, which includes the last date of contact, and is signed and dated by an authorized official listed below:**
 - ▶ **(A) The welfare official.**
 - ▶ **(B) A state or local law enforcement or fire official.**
 - ▶ **(C) An emergency medical services provider.**
 - ▶ **(D) A local third-party social services provider having an existing service relationship with the applicant.**

Does the change in the law mean I don't have to help homeless individuals anymore if they aren't originally from my municipality?

 NO!!

► But, why not? ☹️

- ▶ The attestation provision was included in the law as a way to prove a homeless person is actually in your town. If the intent of the law was to make homeless individuals ineligible for General Assistance then this language would not have been included in the law.
- ▶ Persons experiencing homelessness are still entitled to apply for General Assistance.
- ▶ Everyone needs to belong somewhere.

What other documents can you accept as proof of residency?

- ▶ A receipt from a motel/hotel (this is an important document to prove not only where they are staying but also how long they have been there. If they have been self paying for 30 days or more after initially being placed in the motel by another town, then their residence for local welfare purposes has changed- RSA 165:1-c III)
- ▶ A written statement or verbal confirmation from the person they claim to be staying with

The inter-municipal hearing process

- ▶ You must add a statement to your guidelines describing the municipality's policy for referring residency disputes to the inter-municipal hearing process pursuant to RSA 165:2-a
- ▶ If you initiate the inter-municipal hearing process:
 1. Temporary emergency assistance shall be extended until a final decision on residency or responsibility is rendered by the hearing officer (assuming the applicant remains in compliance with the municipality's general assistance guidelines)
 2. Hearings are conducted by an agreed-upon current or former welfare official of a third municipality or an attorney familiar with this chapter.
 3. The hearing is conducted according to the hearing provisions described by the welfare guidelines of the alleged "town of origin"
 4. Hearings can be conducted by telephone or video conference by agreement of the participants.
 5. If the hearing results in a determination that the alleged "town of origin" is responsible for providing the assistance, the "town of origin" shall reimburse the assisting municipality for the costs of assistance previously rendered at the rate consistent with the "town of origins" welfare guidelines, and shall either: (a) Continue to reimburse the assisting municipality so long as the person remains in need of assistance; or (b) Undertake relief and maintenance of the assisted person according to that municipality's welfare guidelines.

Who's willing to conduct these hearings?

Current or former Welfare Officials

- ▶ Dave - former director from Dover
- ▶ Ellen Tully- former director from Portsmouth
- ▶ Liz Sayre former director from Keene

Attorneys familiar with RSA 165

- ▶ Elliot Berry

- ▶ Email info@nhlwaa.org if you wish to have one of these individuals conduct a hearing for you and a board member will contact a hearing officer for you.

- ▶ **These individuals are only to be utilized as hearings officers and not advisors. For advice on cases seek out a NHLWAA board member**

The exemption for victims of domestic violence, stalking, sexual assault or human trafficking

- ▶ If they left the town of origin, for any of the above reasons their residency is a non-issue and they must be treated as residents
- ▶ Can you require proof? (maybe) Should you? (in many cases; probably not)

Financial Standards

- ▶ The law now requires that your governing body establish financial standards, including allowable amounts for basic need expenses in your guidelines
- ▶ The standards shall be based on objective cost information
- ▶ SNAP benefits are a good starting guideline for food costs
- ▶ Utility costs should be the actual monthly charges
- ▶ Rental costs should be based on objective publicly available cost information such as HUD guidance
https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2026_code/select_Geography.odn
- ▶ Cost for temporary housing (e.g. motels) must be set at actual costs of available options. Which may vary based on area, season, local demand, etc.

Temporary aid to non-residents requirement:

- ▶ Up to 6 days (if necessary to meet a basic need emergency)
- ▶ the welfare official CAN authorize, on a documented, case-by-case basis, additional days of assistance as necessary to relieve a basic needs emergency or avert a more costly future need for assistance, provided that no less costly available alternative is sufficient.
- ▶ if requesting an inter-municipal hearing then necessary assistance must be continued until a hearing decision is rendered

Welfare officials have discretion

- ▶ “Nothing in this paragraph or RSA 165:1-f shall be construed to prohibit the welfare official from authorizing, on a documented, case-by-case basis, a deviation as necessary to relieve a basic needs emergency or avert a more costly future need for assistance, provided that no less costly available alternative is sufficient. Any such deviation shall not be construed to create an entitlement and shall not be considered precedential” RSA 165:1 IV (b)

Under what circumstances and for what time frame is a “town of origin” still responsible?

This isn't spelled out in HB348. So we have to **look at other laws** and sometimes apply some common sense to determine this. This is also why the NHLWAA Board has created the **Determination of Responsibility for Non-Residents** document.

So what do those other laws say?

RSA 165:2-a says:

- ▶ I. The financial responsibility for general assistance for assisted persons shall be the responsibility of the town or city in which the person making application has residence for local welfare purposes, as defined in RSA 165:1 and RSA 21:6-a, except as otherwise provided in RSA 165:1-c.

So what does RSA 21:6-a say?

- ▶ 21:6-a Residence. - Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his or her principal place of physical presence to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence. (Despite the potential guidelines change regarding residency/HB 348, a person's self declaration still has weight as does where they are physically staying. Intent is legally important when residency is unclear/ambiguous)

What guidance does 165:1-c provide?

- ▶ Both the beginning and the final statements in 165:1-c REITERATE THE NEED TO PROVIDE TEMPORARY ASSISTANCE TO NON-RESIDENTS:

165:1-c Nonresidents

- ▶ I. Any person, poor and unable to support himself, who is temporarily in a town or city which is not his residence, and who does not intend to make it his residence, shall be provided such temporary assistance as is reasonable and necessary by such town or city. Such town or city may, if requested, cause such person to be returned to his residence.
- ▶ V. **Temporary urgent assistance may need to be provided to meet basic needs of transient individuals or residents of other municipalities.** Municipalities shall communicate and coordinate assistance options with each other, including reimbursements from municipalities of origin pursuant to RSA 165:2-a

What are the exceptions laid out in 165:1-c II?

- ▶ II. In addition to emergency housing governed by RSA 126-A:30* a person does not change his or her residency status while in a hospital, a correctional facility, a treatment program center, or a hotel or motel paid for by a municipality or other service provider, except as provided in this section.

*RSA 126-A:30 refers to shelters (people maintain their prior residency while they are in a shelter)

Examples:

- ▶ If a homeless person from Rochester is staying at crossroads shelter, in Portsmouth - they maintain their residency in Rochester
- ▶ If a homeless person was living in Goffstown prior to being arrested and sent to Valley Street Jail, they maintain their residency in Goffstown
- ▶ If a homeless person living with their sister in Bow is in a drug rehab center in Concord- they maintain their residency in Bow
- ▶ If a homeless person from Gorham is in a motel in Conway - paid for by the town of Gorham they maintain their residency in Gorham

RSA 165:1-c III

III. A person who leaves emergency housing (aka shelter) of their own free will and remains in a situation of homelessness or is removed from emergency housing for non-compliance or policy violations of emergency housing or local welfare regulations, shall not be considered to have changed his or her residency status for 30 days.

- So the person from Rochester, who was staying at Crossroads in Portsmouth and then leaves Crossroads (voluntarily or not) and remains in Portsmouth, retains their Rochester residency until 31 days after leaving Crossroads. This is true regardless of whether or not the Rochester welfare office placed the person in Crossroads, or if the Rochester welfare office had any prior interactions with the person before they went to Crossroads.

RSA 165:1-c IV

- ▶ IV. A person assisted by a municipality, or other assistance providers, with emergency housing assistance in a hotel or motel in another municipality, who then self pays for a consecutive 30 days without municipal or other provider assistance shall, for local welfare purposes, transition residency to the new municipality.
- ▶ So the homeless person placed in a Conway motel by Gorham, remains a Gorham resident for the entire time Gorham pays until and unless the client is able to pay for 30 consecutive days themselves without help from Gorham or another social service provider. If Gorham is able to move them from the motel to a shelter or treatment facility, Gorham would also retain financial responsibility while in these facilities.

So what are my legal obligations when a homeless person is not in a shelter, treatment facility, hospital, correctional facility, or motel/hotel paid for by a municipality or agency? And what should I do when I believe a person should be the responsibility of another municipality?

- ▶ Review the relevant laws and NHLWAA's new *Determination of Responsibility For Non-residents* document.
- ▶ If after reading these documents you still believe the individual should be the responsibility of another town:
 - Contact the Welfare Official in that other town, to explain why you think their town is responsible
 - If you do not reach the other Welfare Official - provide any necessary aid if a basic need emergency exists (for up to 6 days) and follow up with the other municipality to request reimbursement the next business day

So what if the other town accepts responsibility or they at least consider it?

How do we proceed?

- ▶ Come to an agreement with the other town regarding next steps:
 - ❖ Does the person have the ability to get to the town of origin and apply in person?
 - ❖ Does the other municipality want to send you their application or are they ok with using yours?
 - ❖ Are you going to continue handling the case and obtain reimbursement from the other town?

Examples:

- ❖ John was living in Concord with his sister until yesterday when she kicked him out. He takes a bus to Manchester and shows up at Manchester City Welfare at 8:30 am requesting his heart medication which he is out of. Concord is called and agrees to see the client later that day. A bus ticket to Concord sends him on his way. However, if it was 4:00 on a Friday, it may be necessary for Manchester to provide enough medication until at least Monday.
- ❖ If John was from Fitzwilliam, there's no easy way to get him back there regardless of the time of day. The decision may be for the client to complete an application while at the Manchester Office and for Fitzwilliam to reimburse Manchester for the medication.

What happens if the municipalities disagree on which town is responsible

- ▶ The municipality of physical presence processes the application and provides any emergency assistance needed exactly as they would for a resident (up to 6 days).
- ▶ The municipality of physical presence will then need to decide if it's worth their time/energy to pursue an inter-municipal hearing process. If they decide to do so, the other town must participate in the hearing process.
- ▶ If the municipality of physical presence determines that there is no emergency need, they can refer the client back to apply with the other municipality (assuming they can physically get there). Contact should be made with the other welfare official before they are sent to that town.
- ▶ Example: Let's say Concord or Fitzwilliam dispute John's residency in their town, because he doesn't have proof that he was living with his sister for the past 6 months. Manchester would need to provide at least 6 days of medication. Then Manchester needs to decide, are they going to accept liability or pursue a inter-municipal hearing. If it's an expensive heart medication, it's probably worth pursuing the hearing. If it was a \$10 prescriptions for an antibiotic, it's probably not worth Manchester's time to pursue the hearing.

Questions on the new law???

Part 2.

The practical application of HB348

NHLWAA's new *Determination of Responsibility For Non-residents* document

The NHLWAA's Homeless Ad Hoc has created a best practices policy for the determination of responsibility for non-residents. **The NHLWAA board has unanimously approved this policy.** The purpose of this policy is to establish uniform standards for determining municipal responsibility for the provision of general assistance and related services to non-residents, including but not limited to, individuals experiencing homelessness. This policy is intended to be used by welfare officials and hearings officers to ensure consistent, fair, and administratively efficient determinations regarding non-residents are made across municipalities, while remaining consistent with RSA 165 and related statutes.

How long is the Town of Origin responsible?

- ▶ In limited circumstances we have clear answers:
 - ▶ Shelter/emergency housing while in these institutions and for 30 days thereafter. RSA 165:1-c
 - ▶ Correctional facilities, treatment centers, hospitals - as long as they remain in these facilities. RSA 165:1-c
 - ▶ A hotel/motel paid for by a municipality or social service agency as long as the town of origin or social service agency is paying and then until the client can self pay for 30 consecutive days. RSA 165:1-c
 - ▶ If in a county nursing home- cremation/burial costs always reverts to the town of origin (this applies only to county nursing homes) RSA 165:3
 - ❖ If a municipality's welfare official relocates a household to another municipality (30 days) NHLWAA Ethics Resolution

Examples:

Bob become homeless in Bow, when his girlfriend kicks him out due to his drinking. He spends 30 days in a rehab center in Manchester, and upon discharge goes to New Horizons Shelter in Manchester for 3 months before approaching the Welfare Department in Manchester. Which Town is responsible?

Marilyn is an elderly disabled woman who's home in Dummer is condemned by the town. The town of Dummer places Marilyn in a motel in Conway for 2 weeks before being asked to leave by the hotel, due to her strange behavior which may be the result of dementia. The Town of Dummer moves her to a different hotel in Bartlett where she stays for a month before Dummer tells her that they have run out of money and can't help her any longer. Marilyn appears in Bartlett's town hall the following day requesting help. Which Town is responsible?

The *Determination of Responsibility For Non-residents* document defines and addresses different types of homelessness

Homeless but sheltered

vs. Unsheltered

Homeless and transient

vs. Homeless but not transient

Doubled up

vs. Couch- surfing

Transient- as we have Defined it

- For local welfare purposes a transient homeless person is- A homeless individual who has stayed in two (2) or more municipalities since leaving their Town of Origin without clearly establishing residency for local welfare purposes in any such municipality.
- A transient person can be sheltered or unsheltered; couch-surfing or doubled up.
- Responsibility for transient individuals shall be with the municipality of physical presence. 165:1-c v, 21:6-a

Transient examples

- ▶ Tammy was evicted from their apartment in Derry 5 months ago. She then stayed 3 months with a family member in Salem, followed by a month with a friend in Londonderry, before showing up in Chester after having spent the last two nights there in Chester.
- What municipality should they belong to?
- ▶ The homeless couple who came from Massachusetts who spent 3 weeks in a sober living program in Nashua, and then spent 2 weeks with a friend in Rochester, before spending two nights in a motel in Manchester.
- What municipality should they belong to?

Additional definitions

- ▶ Unsheltered homelessness - individuals whose primary nighttime residence is public or private spaces not meant for human habitation such as parks, encampments, vehicles, storage units or abandoned buildings.
- ▶ Couch-surfing - The practice of a person who lacks their own residence and stays at various homes of others such as family or friends for brief periods
- ▶ Doubled-up - The practice of a person experiencing homelessness who is staying in someone's else's home with the intent to stay for an extended period of time if needed.

Unsheltered, Couch-surfers and doubled-up individuals

- ▶ Individuals who are experiencing these forms of homelessness for less than 30 days, who are not considered transient, shall be the responsibility of their town of origin. After 30 days in a new community, NHLWAA recommends that the responsibility for General Assistance transfers to the town of physical presence.
- ▶ Possible exception - if the person's absence from their town of origin is temporary and they have a specific intent to return to the town of residence RSA 21:6-a may apply.

doubled up- not transient example

- ▶ A young couple who have been living in Florida for the past two years, relocated back to NH and moved in with a grandparent in Windham. Prior to living in Florida, one of them was living in their childhood home in Merrimack and the other lived with their parents in Hollis. Neither ever lived in Windham before moving in with the grandmother. After living with the grandmother for awhile, things soured between them and they find an apartment in Derry which they hope to move to. They have enough money for the security deposit, but they apply with the Town of Windham for help with the initial month's rent.
- ▶ Which town is financially responsible? Windham, Derry, Or Merrimack/Hollis? In this case does whether or not they lived in Windham for 28 days vs. 32 days matter? What if one of them had grown up in the Town of Windham would that change things?
- ▶ Answer- Windham. In this case their last town of origin is in Florida. Neither Hollis or Merrimack should be expected to provide assistance to someone who hasn't lived in their town for over 2 years. Does the 28 vs. 32 days matter in this case no because the town of origin is out of state, if it was another NH municipality then yes.

Unsheltered not transient example?

- ▶ A man who claims to be homeless and living in the nearby woods comes into apply with your town. He is somewhat dirty and smells of campfire. He claims that he left his apartment in a nearby town 6 weeks ago when his girlfriend obtained a restraining order against him. They shared her car and without access to it, he's now lost his job. Initially he paid for a hotel in your town, until he ran out of money after the first week? Which town is responsible?
- ▶ Answer- Regardless of staying in a hotel or motel initially, he is now unsheltered. The unsheltered policy states that he's the responsibility of the town of origin for only 30 days. As he's been unsheltered in your community for more than 30 days, the responsibility is now your community.

Couch-surfing example

- ▶ Steve and his girlfriend Stephanie are residents of Bartlett who are having relationship problems. As the relationship was becoming more volatile, Steve and Stephanie agree he needs to leave. He spends his time staying between 2 different friends who both live in Conway. He contacts the Conway Welfare official saying that both of his friends have indicated he can no longer stay with them. Which town is responsible Conway or Bartlett?

Answer: If this is a DV situation- Conway. If this is not a DV situation then it depends how long Steve has been in Conway. Less than 30 days - it's Bartlett, more than 30 days it's Conway.

What if Steve and Stephanie's situation is not DV and they agree Steve will leave the home that he owns, temporarily until Stephanie can make arrangements to move into a new apartment with a friend who's lease is up soon, at which point Steve will return to live in the home he owns?

Answer: Bartlett. 21:6a applies. Steve's residency is Bartlett. His temporary absence from his home is not lost because he has a intent to return to Bartlett to his home.

Institutional stays and discharge

- ▶ The law- stays in hospitals, correctional facilities, or treatment centers does not establish residency for local welfare purposes. However, it doesn't address residency once they leave the facilities, but stay in that new community
- ▶ NHLWAA's policy - Consistent with the treatment of other homeless situations, the Determination of Responsibility for Non-residents indicates that individuals who leave these facilities and remain homeless in the new community, will not have changed their residency status for 30 days.

Not all hotel stays are treated the same

Municipality or Agency-Funded Stays vs. Self-paid Stays

Municipality- or Agency-Funded Stays:

- ▶ When a hotel or motel placement is funded by a municipality or other service provider, residency for local welfare purposes remains with the town of origin, until and unless the person self pays for a consecutive period of 30 days at which point residency for local welfare purposes transitions to the municipality of physical presence.

Self-Funded Motel/Hotel Stays

Self-paid Stays* - Homeless individuals who, without the involvement of their Town of Origin's welfare office or other provider assistance, relocate to another municipality where they self-pay for a hotel/motel stay remain the responsibility of the town of origin for the first 30 days in a town of physical presence. Once the threshold of 30 days in a new community has been met in accordance with RSA 165:1-c, IV, the NHLWAA recommends that responsibility for general assistance transfers to the town of physical presence UNLESS.....

the homeless person (who is not transient) left their town of origin due to the lack of motel/hotel availability in their town of origin, then local welfare responsibility will remain with the town of origin, until the person self-pays for at least 30 days at which point residency for local welfare purposes transitions to the municipality of physical presence.

*Absolute Exception for Domestic Violence, Sexual Assault, stalking, or human trafficking: Notwithstanding the guidelines above if an individual leaves their town of origin to escape any of these forms of abuse, the availability of shelter or emergency housing in the town of origin is legally irrelevant. For safety, trauma-informed care, and confidentiality reasons, any relocation to escape abuse is strictly deemed involuntary. The municipality of physical presence shall assume immediate liability if eligible. No applicant shall be compelled to return to, or coordinate with, the municipality from which they fled.

Examples of self-paid motel stays

- ▶ The Thompson family is evicted from Hamilton which has no motel. They did not seek the assistance of Hamilton before leaving town. They pay for 5 days in a Concord motel before running out of money and applying at the Welfare office in Concord. Which town is responsible?
- ▶ They remain the responsibility of Hamilton not only for the initial 30 days in Concord, but until they are able to pay for themselves for 30 consecutive days w/o municipal agency help because they had no option to leave the town of Hamilton. Additionally, if they had applied with Hamilton before they left town, this would have likely been a municipal funded motel stay instead of self-funded.
- ▶ If the Thompson family was from Manchester, and they decide to get a motel in Nashua “without the involvement Manchester’s welfare office” Which city would be responsible? Manchester would be responsible but only for the first 30 days and then residency transfers. The family could have stayed in Manchester but chose to leave.
- ▶ However, if Mrs. Thompson left her town of origin because she was fleeing DV, they are immediately the responsibility of the town of physical presence.

Recognizing bias

- ▶ We all have biases. We need to recognize, and acknowledge that when making assessments about what town should be financially responsible, we may unconsciously have a desire to pass the case onto another municipality. After all doing so would save us time, money, and work.
- ▶ To combat bias, try to keep an open mind when making these assessments. Make sure you have reviewed the laws and the *Determination of Responsibility For Non-residents* document before you jump to any conclusions and reach out to the other municipality. The changes made by HB348 have the potential to create more friction between municipalities. Building and maintaining positive relationships with other municipal welfare officials benefits us all.

Determining Residency Cheat Sheet

Town of Physical Presence

- **Transient and** homeless** (applies to those living in shelters, unsheltered, couch-surfing, or doubled up)
- Fleeing DV/sex assault/human trafficking*
- Motel/hotel* ** - (after self-paid for 30+ consecutive days)
-

* based on law

**based on NHLWAA policy

Town of Origin

- While living in shelter, correctional facility, hospital, treatment center program* and for 30 days after exiting these facilities (if not transient)**
- Exited shelter and for 30 days thereafter*
- Motel/hotel- (initially paid by municipality/service provider) ongoing until self paid for 30 days consecutively*
- Motel/hotel** - (self paid) for the first 30 days minimum in new community (for all communities)
- Motel/hotel - ongoing until the household has self-paid for 30 consecutive days, if they had to leave their town of origin due to lack of hotel/motel**
- Unsheltered, couch-surfing, or doubled up (but not transient)** - for 30 days

Questions?????

Break out case scenarios if time allows