

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

297A0132

SENATE BILL NO. 121

Introduced by: Senators Halverson, Aker, Flowers, Frederick, Hutmacher, Kloucek, Lange, Lawler, Olson, Shoener, Symens, Thompson, and Vitter and Representatives Belatti, Apa, Barker, Brosz, Brown (Jarvis), Chicoine, Crisp, Davis, Diedrich, Duniphan, Fiegen, Gabriel, Hagen, Lee, Madden, Matthews, Monroe, Volesky, and Waltman

1 FOR AN ACT ENTITLED, An Act to define medical indigence.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 28-13-1.1 be amended to read as follows:

4 28-13-1.1. For the purposes of this chapter, an indigent or poor person is any person who
5 does not have sufficient money, credit, or property to ~~furnish support or does not have anyone~~
6 ~~able to support him to whom he is entitled to look for support or is unable to~~ be self-supporting;
7 who has no one to look to who is legally required to provide support; or who is unable to be self-
8 supporting through work because of illness or injury. In applying this definition, each county
9 shall establish reasonable eligibility standards for county poor relief. ~~However, such~~ These
10 standards shall be consistent with relevant federal statutes, case law, and the provisions of this
11 section and § 28-13-1.2.

12 Section 2. That § 28-13-16 be amended to read as follows:

13 28-13-16. The county commissioners in each county ~~shall have the oversight and are~~
14 responsible for the care and relief of all poor persons in the county ~~so~~ as provided by this chapter

1 ~~as long as those persons remain a county charge, and shall see that those persons are properly~~
2 ~~relieved and taken care of in the manner provided by law, and shall perform all the duties with~~
3 ~~reference to such poor persons that may be prescribed by law. The commissioners may adopt~~
4 ~~reasonable standards for the amount, scope and duration of emergency and nonemergency~~
5 ~~medical and remedial services eligible. The commissioners may designate a county official to~~
6 assist in the coordination of poor relief information with other counties.

7 Section 3. That § 28-13-27 be amended to read as follows:

8 28-13-27. Terms used in §§ ~~28-13-27 to 28-13-36, inclusive~~, this chapter mean:

- 9 (1) "Actual cost of hospitalization," the actual cost to a hospital of providing
10 ~~hospitalization to an~~ hospital services to a medically indigent person, determined by
11 applying the ratios of costs to charges appearing on the statement of costs required
12 in § 28-13-28 to charges at ~~such~~ the hospital in effect at the time ~~such hospitalization~~
13 ~~is~~ the hospital services are provided;
- 14 (2) ~~"Emergency case," hospitalization provided under circumstances certified by a duly~~
15 ~~licensed physician exercising competent medical judgment, showing that a patient's~~
16 ~~life or health would be threatened by delaying immediate treatment~~ "Emergency
17 hospital services," treatment in a hospital for one or more conditions of an acute,
18 severe nature which require immediate care or attention and for which any delay in
19 treatment would, in the judgment of the responsible physician, threaten the life of or
20 a loss of function of a patient;
- 21 (3) "Hospital," any hospital licensed as such by the state in which it is located;
- 22 (4) "Household," the patient, minor children of the patient living with the patient, and
23 anyone else living with the patient to whom the patient has the legal right to look for
24 support;
- 25 (5) "Nonemergency care," hospitalization which is medically necessary and recommended

1 by a ~~duly licensed~~ physician licensed under chapter 36-4 but does not require
2 immediate care or attention.

3 Section 4. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 A medically indigent person is one who meets the following criteria:

- 6 (1) Requires medically necessary hospital services for which no public or private third-
7 party coverage, such as insurance, veterans' assistance, medicaid, or medicare, is
8 available which covers the actual cost of hospitalization;
- 9 (2) Has no ability or only limited ability, as determined under the provisions of this
10 chapter, to pay a debt for hospitalization; and
- 11 (3) Has not voluntarily reduced or eliminated ownership or control of an asset for the
12 purpose of establishing eligibility.

13 Section 5. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Medically necessary hospital services are services provided in a hospital which meet the
16 following criteria:

- 17 (1) Are consistent with the person's symptoms, diagnosis, condition, or injury;
- 18 (2) Are recognized as the prevailing standard and are consistent with generally accepted
19 professional medical standards of the provider's peer group;
- 20 (3) Are provided in response to a life-threatening condition; to treat pain, injury, illness,
21 or infection; to treat a condition which would result in physical or mental disability;
22 or to achieve a level of physical or mental function consistent with prevailing
23 standards for the diagnosis or condition;
- 24 (4) Are not furnished primarily for the convenience of the person or the provider; and
- 25 (5) There is no other equally effective course of treatment available or suitable for the

1 person needing the services which is more conservative or substantially less costly.

2 A county shall rely on the attending physician's determination as to medical necessity of
3 hospital services unless evidence exists to the contrary.

4 Section 6. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Except for the costs of emergency hospital services, a county may adopt guidelines which
7 define the amount, scope, and duration of medical and remedial services available to eligible
8 persons and the basis for and extent of payments made to providers by counties on behalf of
9 eligible persons.

10 Section 7. That § 28-13-28 be amended to read as follows:

11 28-13-28. ~~No~~ A hospital may avail itself of the provisions of ~~§§ 28-13-27 to 28-13-36,~~
12 ~~inclusive; this chapter~~ for purposes of determining payment for hospitalization of ~~any~~ a medically
13 ~~indigent person unless such~~ only if the hospital has filed a detailed statement of costs with the
14 secretary of health ~~a detailed statement of costs, in such form as~~ in the form prescribed by the
15 secretary ~~shall from time to time prescribe~~. The statement of costs shall compute and set forth
16 the ratios of costs to charges for the hospital's fiscal year covered by the statement of costs. The
17 statement of costs shall be filed with the secretary at least annually, ~~unless such period is~~
18 ~~extended or otherwise provided by the secretary,~~ but a hospital may file ~~such~~ a detailed statement
19 of costs; or amendments ~~thereto as often as once in~~ to such a statement once every six months.

20 Section 8. That § 28-13-29 be amended to read as follows:

21 28-13-29. ~~For the purpose of §§ 28-13-27 to 28-13-36, inclusive, the~~ The amount of
22 reimbursement for hospital services ~~shall be equal to~~ is the amount calculated pursuant to section
23 16 of this Act. It may not exceed the actual cost of hospitalization as defined in subdivision
24 28-13-27(1). ~~In no event, however, may any hospital have any right, under §§ 28-13-27 to~~
25 ~~28-13-36, inclusive, to maintain any claim against any county for any amount whatsoever in~~

1 ~~excess of~~ A hospital may not maintain a claim against a county for any amount which exceeds
2 ~~the usual ordinary and reasonable charge for any item of such hospitalization services, even~~
3 ~~though the same is less than such~~ hospital service, even if the charge is less than the hospital's
4 ~~actual cost of hospitalization as defined in subdivision 28-13-27(1). If such.~~ If the hospital
5 ~~furnishes hospital services to~~ medically indigent persons residing in the county in which such the
6 ~~hospital is located at rates less than the actual cost of hospitalization, determined as provided~~
7 ~~herein, then such the~~ hospital shall furnish such hospital services to all medically indigent persons
8 ~~at the same rates, regardless of any other provisions hereof.~~

9 Section 9. That § 28-13-32.3 be amended to read as follows:

10 28-13-32.3. ~~In order for a person to be entitled to poor relief assistance in the event of~~
11 ~~hospitalization, he shall make, or there shall be made on his behalf, an application to the county~~
12 ~~of his residency. The contents of the application shall be established by the county. To receive~~
13 ~~assistance under this chapter for the costs of hospitalization, a person must be medically indigent~~
14 ~~as defined in section 4 of this Act. The person or someone acting on behalf of the person shall~~
15 ~~apply to the person's county of residence for assistance.~~

16 Section 10. That § 28-13-32.4 be amended to read as follows:

17 28-13-32.4. An application made by a hospital on behalf of ~~an indigent~~ a medically indigent
18 person pursuant to § 28-13-32.3 shall be submitted to the county auditor within one year of the
19 discharge of the indigent. The application shall include:

- 20 (1) The notice of hospitalization as provided in § 28-13-34.1;
- 21 (2) The dates of hospitalization;
- 22 (3) The final diagnosis;
- 23 (4) The cost of hospital services; and
- 24 (5) Any financial information in the possession of the hospital concerning the patient or
25 the responsible party, ~~in the possession of the hospital~~, including the availability of

1 insurance coverage, if known.

2 The county may not require the hospital to provide more information concerning ~~such a~~
3 medically indigent person than is contained in the application provided for in this section.

4 Section 11. That § 28-13-33 be amended to read as follows:

5 28-13-33. Subject to the provisions of §§ ~~28-13-28 to 28-13-32, inclusive,~~ this chapter and
6 except as ~~hereinafter~~ expressly provided, ~~whenever hospitalization for an indigent person has~~
7 ~~been furnished by a hospital in any emergency case~~ if a hospital furnishes emergency hospital
8 services to a medically indigent person, the county where the medically indigent person has
9 established residency ~~shall be~~ is liable to the hospital for the ~~expense~~ actual cost of the
10 hospitalization. In the case of nonemergency ~~hospitalization assistance~~ care, the county of
11 residence ~~shall be~~ is liable only to the extent that the board of county commissioners, in good
12 faith, approves ~~any~~ an application for assistance. To the extent that the county provides payment
13 to a hospital, the county ~~shall have~~ has the same remedies for the recovery of ~~such~~ the expense
14 as are provided by ~~statute~~ chapter 28-14 for the recovery of money expended for the relief and
15 support of poor and indigent persons.

16 Section 12. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 For purposes of determining medical indigence, the county shall establish an annual income
19 guideline for the person which is derived as follows:

- 20 (1) Using the housing index established in section 13 of this Act, determine the housing
21 index for the person's county of residence. Multiply the county index by three hundred
22 six dollars, the median gross rent of residences in South Dakota in 1996;
- 23 (2) Using the federal poverty guidelines established in 43 Federal Register 8,286
24 (March 4, 1996), determine the federal poverty level for the household size and
25 multiply that figure by one hundred seventy-five percent; and

1 (3) Add the results of subdivisions (1) and (2) of this section and multiply by twelve.

2 Section 13. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as

3 follows:

4 The housing index for each county is as follows:

5	COUNTY	HOUSING INDEX
6	Aurora	0.65
7	Beadle	0.91
8	Bennett	0.86
9	Bon Homme	0.71
10	Brookings	0.96
11	Brown	0.95
12	Brule	0.80
13	Buffalo	0.77
14	Butte	0.91
15	Campbell	0.74
16	Charles Mix	0.65
17	Clark	0.72
18	Clay	0.95
19	Codington	0.92
20	Corson	0.47
21	Custer	1.03
22	Davison	0.90
23	Day	0.78
24	Deuel	0.79
25	Dewey	0.89
26	Douglas	0.69
27	Edmunds	0.71
28	Fall River	0.89

1	Faulk	0.66
2	Grant	0.81
3	Gregory	0.68
4	Haakon	0.80
5	Hamlin	0.70
6	Hand	0.70
7	Hanson	0.96
8	Harding	0.70
9	Hughes	1.03
10	Hutchinson	0.72
11	Hyde	0.75
12	Jackson	0.84
13	Jerauld	0.61
14	Jones	0.76
15	Kingsbury	0.67
16	Lake	0.78
17	Lawrence	1.00
18	Lincoln	0.93
19	Lyman	0.77
20	Marshall	0.72
21	McCook	0.73
22	McPherson	0.58
23	Meade	1.03
24	Mellette	0.74
25	Miner	0.65
26	Minnehaha	1.23
27	Moody	0.79
28	Pennington	1.26
29	Perkins	0.65

1	Potter	0.86
2	Roberts	0.70
3	Sanborn	0.67
4	Shannon	0.81
5	Spink	0.82
6	Stanley	1.06
7	Sully	0.82
8	Todd	0.79
9	Tripp	0.83
10	Turner	0.78
11	Union	0.87
12	Walworth	0.97
13	Yankton	0.93
14	Ziebach	0.82

15 Section 14. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 For the purpose of determining a household's income, the county shall consider all sources
18 of income, including the following:

- 19 (1) Compensation paid to household members for personal services, whether designated
20 as gross salary, wages, commissions, bonus, or otherwise;
- 21 (2) Net income from self-employment, including profit or loss from a business, farm, or
22 profession;
- 23 (3) Income from seasonal employment;
- 24 (4) Periodic payments from pensions or retirement programs, including social security,
25 veterans' benefits, disability payments, and insurance contracts;
- 26 (5) Income from annuities or trusts, except for a trust held by a third party for the benefit

1 of the minor children of the household;

2 (6) Interest, dividends, rents, royalties, or other gain derived from investments or capital
3 assets;

4 (7) Gain or loss from the sale, trade, or conversion of capital assets;

5 (8) Unemployment insurance benefits and strike benefits;

6 (9) Workers' compensation benefits and settlements;

7 (10) Alimony and child support payments received; and

8 (11) School grants and stipends which are used for food, clothing, and housing but not for
9 books and tuition.

10 A federal income tax return is the preferred source for determining earnings. If a federal
11 income tax return is not representative of current earnings, the county may also require pay stubs
12 which include gross and net earnings.

13 Section 15. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 For the purpose of determining a household's resources, the county shall consider all
16 resources, including:

17 (1) Equity value of the household's primary residence, excluding fifty percent of the
18 equity value up to a maximum of forty thousand dollars;

19 (2) Equity value of other real property;

20 (3) Equity value of major recreational and other leisure equipment including watercraft,
21 campers, recreational vehicles, all-terrain vehicles, and snowmobiles;

22 (4) Equity value, in excess of five thousand dollars, of all motor vehicles;

23 (5) Personal assets, including cash in excess of one-half month's income, stocks,
24 securities, accounts and notes due the person or the person's household, cash values
25 of life insurance policies, collectible judicial judgments in favor of the person or the

1 person's household, and monetary gifts;

2 (6) Equity value of business property, including real estate, equipment, and inventory; and

3 (7) Equity value of household goods and personal property beyond that which is
4 reasonably essential for everyday living and self-support.

5 Equity value is determined by subtracting an asset's outstanding indebtedness from its fair
6 market value.

7 The county shall subtract five thousand dollars from the total of the household's countable
8 resources to determine the household's adjusted resources.

9 Section 16. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A county is financially responsible only for the hospitalization expense which is beyond the
12 person's ability to pay. A person's ability to pay is determined according to the following:

13 (1) Determine the household's contributions for taxes, social security, medicare, and
14 payments to other standard retirement programs. A household's contribution for taxes
15 is limited to the amount of taxes payable for the actual number of dependents in the
16 household;

17 (2) Determine the household's expenses, including actual rent paid or scheduled principal
18 and interest payments for a personal residence plus property taxes and homeowner's
19 insurance costs; all utilities; child care expenses related to work schedules; grocery
20 expenses up to the maximum allowed under the Food Stamp Program's Thrifty Food
21 Plan as specified in 60 Federal Register 2,733 (January 11, 1995), plus household
22 supplies and toiletries; basic auto expenses, gasoline, and upkeep; employee-paid
23 health, life, and auto insurance payments; installment payments for medical bills;
24 recurring expenses for medicine and medical care; court-ordered child support and
25 alimony paid; and automobile installment payments for one vehicle;

1 (3) Determine the amount of a household's discretionary income by subtracting the sum
2 of the household's contributions and expenses from the household's income
3 determined according to section 14 of this Act. Divide the amount of the household's
4 discretionary income in half and multiply the resulting amount by forty-four dollars
5 and ninety-six cents. The result added to the household's adjusted resources
6 determined according to section 15 of this Act equals the household's ability to pay
7 the debt and constitutes the household's share of the hospital bill. The amount of
8 forty-four dollars and ninety-six cents represents the amount of medical or hospital
9 expenses which can be amortized over sixty months at twelve percent annual interest
10 per dollar of payment.

11 The amount of the county's obligation is determined by subtracting the amount of the
12 household's ability to pay from the hospital charges computed according to § 28-13-29. If the
13 household defaults on the payment of its share of the hospital bill, a hospital may not pursue a
14 collection action against the county for the defaulted payment.

15 Section 17. That § 28-13-34.1 be amended to read as follows:

16 28-13-34.1. If hospitalization is furnished to ~~an~~ a medically indigent person, the county is not
17 liable for the cost of ~~such~~ the hospitalization unless, within fifteen days in the case of an
18 emergency admission or within seven days in the case of a nonemergency admission, notice of
19 ~~such~~ the hospitalization is mailed to the auditor of the county. The notice shall contain:

- 20 (1) The name and last known address of the patient or the patient's guardian;
- 21 (2) The name and address of the responsible party, if known;
- 22 (3) The name of the attending physician;
- 23 (4) The nature and degree of severity of the illness;
- 24 (5) The anticipated diagnostic or therapeutic services required;
- 25 (6) The location at which the services are to be provided;

1 (7) The estimated cost of the services; and

2 (8) A statement that the hospital has ~~inquired of~~ asked the patient or the responsible
3 party, if known, ~~as to whether the patient is a veteran or~~ has served in any branch of
4 the military, is potentially eligible for Indian Health Service benefits, or is a member
5 of a Native American tribe and a statement of the information received in response to
6 ~~such~~ the inquiry.

7 Section 18. That § 28-13-35 be amended to read as follows:

8 28-13-35. ~~In any case of such hospitalization, when such county, through any duly authorized~~
9 ~~officer or other employee, makes a reasonable arrangement for adequate and suitable care and~~
10 ~~removal of such indigent person elsewhere and notifies the hospital thereof in writing, and the~~
11 ~~hospital unreasonably fails or refuses to extend cooperation to effect such changed arrangement,~~
12 ~~there shall be no liability on such county for any hospitalization, subsequent to such failure or~~
13 ~~refusal. In any case of hospitalization of a medically indigent person, the county, through any~~
14 electd officer or through an employee, may arrange for adequate and suitable care of the person
15 elsewhere. If the county notifies the hospital in writing of its arrangement for the removal of the
16 medically indigent person and the hospital unreasonably fails or refuses to cooperate in effecting
17 the change, the county is not liable for any hospitalization subsequent to the hospital's failure or
18 refusal to cooperate.

19 Section 19. That § 28-13-36 be amended to read as follows:

20 28-13-36. Nothing in §§ ~~28-13-27 to 28-13-35, inclusive,~~ shall be construed to prevent or
21 ~~preclude any~~ this chapter precludes a hospital and ~~any a~~ a county from entering into ~~any a~~
22 reasonable and suitable arrangement, contract, or agreement for hospitalization of medically
23 indigent persons at other ~~and different~~ rates than provided by ~~said sections~~ under this chapter,
24 ~~or to abrogate or impair~~ abrogates or impairs any rights or remedies of either ~~such the~~ the county
25 or ~~such the~~ the hospital under any such arrangement, contract, or agreement.

1 Section 20. That § 28-13-38.1 be amended to read as follows:

2 28-13-38.1. Hospitals located outside ~~of the State of~~ South Dakota are eligible for
3 reimbursement from the county where the medically indigent person has established residency
4 only if the hospital provides services which are not available in ~~the State of~~ South Dakota or the
5 hospital is approved by the county of ~~the indigent's residence~~ of the medically indigent person
6 as providing a reasonable or cost-effective service.

7 Section 21. That § 28-13-44 be amended to read as follows:

8 28-13-44. No county is liable for any expenses of any person if such expenses have been
9 discharged in bankruptcy; ~~unless the person is indigent as defined by § 28-13-1.1.~~