

AN ACT

ENTITLED, An Act to revise the definition of indigent by design for purposes of county poor relief.

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

Section 1. That § 28-13-27 be amended to read as follows:

28-13-27. Terms used in this chapter mean:

- (1) "Actual cost of hospitalization," the actual cost to a hospital of providing hospital services to a medically indigent person, determined by applying the ratios of costs to charges appearing on the statement of costs required in § 28-13-28 to charges at the hospital in effect at the time the hospital services are provided;
- (2) "Emergency hospital services," treatment in the most appropriate hospital available to meet the emergency need. The physician, physician assistant, or nurse practitioner on duty or on call at the hospital must determine whether the individual requires emergency hospital care. The need for emergency hospital care is established if the absence of emergency care is expected to result in death, additional serious jeopardy to the individual's health, serious impairment to the individual's bodily functions, or serious dysfunction of any bodily organ or part. The term does not include care for which treatment is available and routinely provided in a clinic or physician's office;
- (3) "Hospital," any hospital licensed as such by the state in which it is located;
- (4) "Household," the patient, minor children of the patient living with the patient, and anyone else living with the patient to whom the patient has the legal right to look for support;
- (5) "Nonemergency care," hospitalization which is medically necessary and recommended by a physician licensed under chapter 36-4 but does not require immediate care or attention;
- (6) "Indigent by design," an individual who meets any one of the following criteria:
 - (a) Is able to work but has chosen not to work;
 - (b) Is a student at a postsecondary institution who has chosen not to purchase health

insurance;

- (c) Has failed to purchase or elect major medical health insurance or health benefits made available through an employer-based health benefit plan although the person was financially able, pursuant to section 2 of this Act, to purchase or elect the insurance or health benefits;
- (d) Has failed to purchase available major medical health insurance although the individual was insurable and was financially able, pursuant to section 2 of this Act, to purchase the insurance. For purposes of this subdivision, an individual is presumed insurable unless the individual can produce sufficient evidence to show that the individual was declined major medical insurance by an insurance company and the individual did not qualify for any guarantees of major medical insurance available through any legal or contractual right that was not exercised; or
- (e) Has transferred resources for purposes of establishing eligibility for medical assistance available under the provisions of this chapter. The lookback period for making this determination includes the thirty-six month period immediately prior to the onset of the individual's illness and continues through the period of time for which the individual is requesting services.

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

For purposes of subsections 28-13-27(6)(c) and (d), when determining whether the household was financially able to purchase health insurance which would have covered the medical costs the county is being requested to pay, the county shall use the following methodology:

- (1) Determine the household's income and resources according to §§ 28-13-32.7 and 28-13-32.8;
- (2) Determine the household's contributions for taxes, social security, medicare, and payments

to other standard retirement programs according to subdivision 28-13-32.9(1);

- (3) Except for the medical expenses for which the household is requesting assistance, determine the household's expenses according to subdivision 28-13-32.9(2);
- (4) Determine the amount of the household's discretionary income by subtracting the sum of the household's contributions and expenses from the household's income. Divide the amount of the household's discretionary income in half. The result added to the household's adjusted resources determined according to § 28-13-32.8 equals the household's discretionary income that was available to purchase health insurance;
- (5) Subtract the amount of the monthly health insurance premium that was available to the household if known or, if unknown, an estimate of the premium the household could be expected to incur. For purposes of this subdivision, the county shall establish such estimate either by obtaining premium estimates from two major medical insurance carriers doing business in the state or by using an estimate based on the rate data provided to the county by the Division of Insurance of the Department of Commerce and Regulation. The policy used shall have a benefit design that equals or exceeds the benefit design of the basic benefit plan as developed by the Health Benefit Plan Committee pursuant to § 58-18B-32. If the result is a negative number, the health insurance was not affordable. If the result is a positive number, health insurance was affordable and the individual is considered to be indigent by design.

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I certify that the attached Act
originated in the

SENATE as Bill No. 97

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 97
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Ass. Secretary of State