

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

256D0148

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB97** - 1/24/00

Introduced by: Senators Halverson, Brown (Arnold), Dennert, Lange, Lawler, Madden, Reedy, Rounds, and Symens and Representatives Diedrich (Larry), Apa, Clark, Engbrecht, Hennies, Slaughter, Sutton (Daniel), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise the definition of indigent by design for purposes  
2 of county poor relief.

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

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

5 28-13-27. Terms used in this chapter mean:

6 (1) "Actual cost of hospitalization," the actual cost to a hospital of providing hospital  
7 services to a medically indigent person, determined by applying the ratios of costs to  
8 charges appearing on the statement of costs required in § 28-13-28 to charges at the  
9 hospital in effect at the time the hospital services are provided;

10 (2) "Emergency hospital services," treatment in the most appropriate hospital available  
11 to meet the emergency need. The physician, physician assistant, or nurse practitioner  
12 on duty or on call at the hospital must determine whether the individual requires  
13 emergency hospital care. The need for emergency hospital care is established if the  
14 absence of emergency care is expected to result in death, additional serious jeopardy  
15 to the individual's health, serious impairment to the individual's bodily functions, or

1 serious dysfunction of any bodily organ or part. The term does not include care for  
2 which treatment is available and routinely provided in a clinic or physician's office;

3 (3) "Hospital," any hospital licensed as such by the state in which it is located;

4 (4) "Household," the patient, minor children of the patient living with the patient, and  
5 anyone else living with the patient to whom the patient has the legal right to look for  
6 support;

7 (5) "Nonemergency care," hospitalization which is medically necessary and recommended  
8 by a physician licensed under chapter 36-4 but does not require immediate care or  
9 attention;

10 (6) "Indigent by design," an individual who meets any one of the following criteria:

11 (a) Is able to work but has chosen not to work;

12 (b) Is a student at a postsecondary institution who has chosen not to purchase  
13 health insurance;

14 (c) Has failed to purchase or elect major medical health insurance ~~which was or~~  
15 health benefits made available through ~~the individual's employer~~ an employer-  
16 based health benefit plan;

17 (d) Has failed to purchase available major medical health insurance although the  
18 individual was insurable and was financially able, pursuant to section 2 of this  
19 Act, to purchase the insurance. For purposes of this subdivision, an individual  
20 is presumed insurable unless the individual can produce sufficient evidence to  
21 show that the individual was declined major medical insurance by an insurance  
22 company and the individual did not qualify for any guarantees of major medical  
23 insurance available through any legal or contractual right that was not  
24 exercised; or

25 ~~(d)~~(e) Has transferred resources for purposes of establishing eligibility for medical

1 assistance available under the provisions of this chapter. The lookback period  
2 for making this determination includes the thirty-six month period immediately  
3 prior to the onset of the individual's illness and continues through the period  
4 of time for which the individual is requesting services.

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

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

- 11 (1) Determine the household's income and resources according to §§ 28-13-32.7 and  
12 28-13-32.8;
- 13 (2) Determine the household's contributions for taxes, social security, medicare, and  
14 payments to other standard retirement programs according to subdivision  
15 28-13-32.9(1);
- 16 (3) Except for the medical expenses for which the household is requesting assistance,  
17 determine the household's expenses according to subdivision 28-13-32.9(2);
- 18 (4) Determine the amount of the household's discretionary income by subtracting the sum  
19 of the household's contributions and expenses from the household's income. Divide  
20 the amount of the household's discretionary income in half. The result added to the  
21 household's adjusted resources determined according to § 28-13-32.8 equals the  
22 household's discretionary income that was available to purchase health insurance;
- 23 (5) Subtract the amount of the monthly health insurance premium that was available to  
24 the household if known or, if unknown, an estimate of the premium the household  
25 could be expected to incur. For purposes of this subdivision, the county shall establish

1 such estimate either by obtaining premium estimates from two major medical  
2 insurance carriers doing business in the state or by using an estimate based on the rate  
3 data provided to the county by the Division of Insurance of the Department of  
4 Commerce and Regulation. The policy used shall have a benefit design that equals or  
5 exceeds the benefit design of the basic benefit plan as developed by the Health Benefit  
6 Plan Committee pursuant to § 58-18B-32. If the result is a negative number, the  
7 health insurance was not affordable. If the result is a positive number, health insurance  
8 was affordable and the individual is considered to be indigent by design.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to State Affairs. S.J. 74

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 162