

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4012

BY DELEGATES KESSINGER, MARTIN, ROWAN, WARD,
JENNINGS, FAST, C. ROMINE, HOLLEN, FRICH, GRAVES
AND PHILLIPS

[Introduced January 15, 2018; Referred
to the Committee on Health and Human Resources then
the Judiciary.]

1 A BILL to amend and reenact §9-1-2 of the Code of West Virginia, 1931, as amended, relating to
2 amending the definition of medical services, so as to exclude abortion.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. LEGISLATIVE PURPOSE AND DEFINITIONS.

§9-1-2. Definitions.

1 The following words and terms when used in this chapter have the meanings indicated
2 unless the context clearly indicates a different meaning, and any amendment of this section
3 applies to any verdict, settlement, compromise or judgment entered after the effective date of the
4 amendments to this section enacted during the regular session of the Legislature, one thousand
5 nine hundred ninety-five.

6 (a) The term "department" means the state division of human services.

7 (b) The term "commissioner" means the commissioner of human services.

8 (c) The term "federal-state assistance" means and includes: (1) All forms of aid, care,
9 assistance and services to or on behalf of persons, which are authorized by, and who are
10 authorized to receive the same under and by virtue of, subchapters one, four, five, ten, fourteen,
11 sixteen, eighteen and nineteen, chapter seven, Title 42, United States Code, as those
12 subchapters have heretofore been and may hereafter be amended, supplemented and revised
13 by Acts of Congress, and as those subchapters so amended, supplemented and revised have
14 heretofore been and may hereafter be supplemented by valid rules and regulations promulgated
15 by authorized federal agents and agencies, and as those subchapters so amended,
16 supplemented and revised have heretofore been and may hereafter be supplemented by rules
17 promulgated by the state division of human services, which division rules shall be consistent with
18 federal laws, rules and regulations, but not inconsistent with state law; and (2) all forms of aid,
19 care, assistance and services to persons, which are authorized by, and who are authorized to
20 receive the same under and by virtue of, any Act of Congress, other than the federal social
21 security act, as amended, for distribution through the state division of human services to recipients

22 of any form of aid, care, assistance and services to persons designated or referred to in (1) of this
23 definition and to recipients of state assistance, including by way of illustration, surplus food and
24 food stamps, which Congress has authorized the secretary of agriculture of the United States to
25 distribute to needy persons.

26 (d) The term "federal assistance" means and includes all forms of aid, care, assistance
27 and services to or on behalf of persons, which are authorized by, and who are authorized to
28 receive the same under and by virtue of, any Act of Congress for distribution through the state
29 division of human services, the cost of which is paid entirely out of federal appropriations.

30 (e) The term "state assistance" means and includes all forms of aid, care, assistance,
31 services and general relief made possible solely out of state, county and private appropriations to
32 or on behalf of indigent persons, which are authorized by, and who are authorized to receive the
33 same under and by virtue of, state division of human services' rules.

34 (f) The term "welfare assistance" means the three classes of assistance administered by
35 the state division of human services, namely: Federal-state assistance, federal assistance and
36 state assistance.

37 (g) The term "indigent person" means any person who is domiciled in this state and who
38 is actually in need as defined by department rules and has not sufficient income or other resources
39 to provide for such need as determined by the state division of human services.

40 (h) The term "domiciled in this state" means being physically present in West Virginia
41 accompanied by an intention to remain in West Virginia for an indefinite period of time, and to
42 make West Virginia his or her permanent home. The state division of human services may by
43 rules supplement the foregoing definition of the term "domiciled in this state", but not in a manner
44 as would be inconsistent with federal laws, rules, and regulations applicable to and governing
45 federal-state assistance.

46 (i) The term "medical services" means essential medical, surgical, dental, optometric,
47 podiatric, chiropractic, telehealth, and nursing services, and other remedial services recognized

48 by law, in the home, office, hospital, clinic and any other suitable place, which are provided or
49 prescribed by persons permitted or authorized by law to give such services; the services to include
50 drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing
51 home and convalescent care and such other medical services and supplies as may be prescribed
52 by the persons but not including abortions, or induced miscarriages or premature births, unless in
53 the opinion of a physician the procedures are necessary for the preservation of the life of the
54 woman seeking the treatment or except in induced premature birth intended to produce a live
55 viable child, and if the procedure is necessary for the health of the mother or her unborn child.

56 (j) The term "general relief" means cash or its equivalent in services or commodities
57 expended for care and assistance to an indigent person other than for care in a county infirmary,
58 child shelter or similar institution.

59 (k) The term "secretary" means the Secretary of the Department of Health and Human
60 Resources.

61 (l) The term "estate" means all real and personal property and other assets included within
62 the individual's estate as defined in the state's probate law.

63 (m) The term "services" means nursing facility services, home and community-based
64 services, and related hospital and prescription drug services for which an individual received
65 Medicaid medical assistance.

66 (n) The term "State Medicaid Agency" means the division of the Department of Health and
67 Human Resources that is the federally designated single state agency charged with
68 administration and supervision of the state Medicaid program.

NOTE: The purpose of this bill is to amend the definition of medical services to exclude
abortion.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.