

**WEST VIRGINIA LEGISLATURE**  
**2023 FIRST EXTRAORDINARY SESSION**

**Enrolled**

**Senate Bill 1009**

By Senator Blair (Mr. President) and Woelfel

[By Request of the Executive]

[Passed August 8, 2023; in effect from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §15A-4-13a, relating to inmate medical care; prohibiting the use of state funds  
3 for certain procedures or benefits that are not medically necessary for persons in the  
4 custody of the commissioner; authorizing the commissioner to establish rules, policies, or  
5 regulations relating to certain levels of care; and defining terms.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. CORRECTIONS MANAGEMENT.**

**§15A-4-13a. Prohibition on use of taxpayer resources for certain medical procedures.**

1 (a) For purposes of this section:

2 (1) "Medical procedure" means health care services or products, surgery, in-patient or out-  
3 patient treatment, or the prescribing or dispensing of drugs or biologicals for the purpose of  
4 treating an illness, injury, disease, condition, or the symptoms thereof.

5 (2) "Medically necessary" means health care services or products that a prudent provider  
6 of health care would provide to a patient to prevent, diagnose, or treat an illness, injury, or disease,  
7 or any symptoms thereof to include the provision of contraception by means of dispensing drugs or  
8 medical procedures, that are necessary and:

9 (A) Provided in accordance with generally accepted standards of medical practice;

10 (B) Clinically appropriate with regard to type, frequency, extent, location, and duration;

11 (C) Not provided primarily for the convenience of the patient or provider of health care;

12 (D) Required to improve a specific health condition of a patient or to preserve the existing  
13 state of health of the patient; and

14 (E) The most clinically appropriate level of health care that may be safely provided to the  
15 patient.

16 (3) A provider of health care prescribing, ordering, recommending, or approving a health  
17 care service or product does not, by itself, make that health care service or product medically  
18 necessary.

19           (b) No funds authorized or appropriated by state law shall be expended, directly or  
20 indirectly, for any medical procedure that the Commissioner of Corrections and Rehabilitation, or  
21 his or her designee or agent, after consulting with a medical professional determines is not  
22 medically necessary for any individual who is in the custody of the Division of Corrections and  
23 Rehabilitation.

24           (c) No funds authorized or appropriated by state law may be expended, directly or  
25 indirectly, for health benefits that cover any medical procedure that the Commissioner of  
26 Corrections and Rehabilitation, or his or her designee or agent, after consulting with a medical  
27 professional determines is not medically necessary for any individual who is in the custody of the  
28 Division of Corrections and Rehabilitation.

29           (d) The commissioner is authorized to establish written rules, policies, and regulations  
30 regarding medical procedures which may distinguish between inmates based upon, among other  
31 grounds, length of incarceration.