WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953

ENROLLED
Committee substitute for

HOUSE BILL No. 366
Originating in the Committee
(By Mr. on the Judiciary)

PASSED March 14, 1953
In Effect ninety days from Passage
AN ACT to amend chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section twelve, article three; by repealing article five and reenacting in lieu thereof a new article five; by adding thereto a new article to be designated article five-a; and by amending and reenacting section two, article eleven, relating to the duties of the board of review of the state department of public assistance; and enabling the state to take full advantage of the recent amendments to the federal social security act by providing, in addition to assistance to needy aged persons, blind persons and dependent children, assistance to the relative with whom a dependent child is living and assistance to permanently and totally disabled persons, and establishing a spe-
Enr. Com. Sub. for H. B. No. 366 | 2

...cial fund in the state treasury for the use and benefit of the state department of public assistance to pay costs of necessary medical care of recipients of public assistance.

Be it enacted by the Legislature of West Virginia:

That chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section twelve, article three; by repealing article five and reenacting in lieu thereof a new article five; by adding thereto a new article to be designated article five-a; and by amending and reenacting section two, article eleven; all to read as follows:

Article 3. The Director of Public Assistance.

   Section 12. Board of Review.—The state director shall organize within the department a board of review, consisting of the director as chairman and as many other members, not to exceed five, as may be necessary. The board of review shall conduct hearings and make decisions as provided in article five of this chapter. Hearings may be held by individual board members in the counties, but all decisions shall be by the board.

Article 5. Public Assistance.
Section 1. Purpose.—The purpose of this article is to provide public assistance for the indigent aged, the indigent blind, dependent children, the indigent relative with whom any dependent child is living, and the indigent permanently and totally disabled, that will conform to the requirements for federal grants-in-aid under the Federal "Social Security Act," as amended.

Public assistance shall be granted only:

(1) To the extent that funds are available for the purpose.

(2) To those actually in need.

(3) To the extent necessary to safeguard a decent and healthful subsistence.

Sec. 2. Definitions.—Unless the context clearly requires a different meaning, when used in this article:

"Public assistance" shall mean money payments to, or in behalf of, aged persons, blind persons, dependent children, the relative with whom any dependent child is living, or permanently and totally disabled persons. Public assistance may include medical care or other type of remedial care recognized by law.
“Resources” shall mean all property, real and personal, tangible and intangible, and all income, whether in the form of money or otherwise.

“Applicant” shall mean the person for whose use and benefit application is made.

“Recipient” shall mean the person for whose use and benefit a grant of public assistance is made.

Sec. 3. Aged Persons.—An aged person shall be eligible for public assistance who:

(1) Has attained the age of sixty-five years.

(2) Has resided in the state for at least one year immediately preceding application for public assistance.

(3) Has not made an assignment or transfer of property for the purpose of qualifying for assistance, except as required by section twenty-one of this article.

(4) Is not an inmate of a public institution (except as a patient in a medical institution).

(5) Is not a patient in an institution for tuberculosis or mental diseases, nor has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.
(6) Is actually in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health.

Sec. 4. Blind Persons.—A blind person shall be eligible for public assistance who:

(1) Has no vision, or has vision which is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(2) Has been examined by an ophthalmologist or by a physician skilled in the diseases of the eye or by an optometrist approved or designated by the state department, and the findings of the examination have been certified by such examiner in the manner and form required by the state department.

(3) Has resided in the state for one year immediately preceding the application for public assistance.

(4) Is not an inmate of a public institution (except as a patient in a medical institution).

(5) Is not a patient in an institution for tuberculosis or mental diseases, nor has been diagnosed as having tu-
Enr. Com. Sub. for H. B. No. 366]

berculosis or psychosis and is a patient in a medical insti-
tution as a result thereof.

(6) Is actually in need and has not sufficient income or
other resources to provide a subsistence compatible with
decency and health; except that in making this determina-
tion an amount not to exceed the first fifty dollars per
month of earned income shall be disregarded.

Sec. 5. Dependent Children and Relatives of Dependent
Children.—(a) A dependent child shall be eligible for
public assistance who:

(1) Has not attained the age of eighteen years.

(2) Is deprived of parental support or care by rea-
son of the death, continued absence from home, or physi-
cal or mental incapacity of a parent.

(3) Is living with his father, mother, grandfather,
grandmother, brother, sister, stepfather, stepmother, step-
brother, stepsister, uncle or aunt in a place of residence
maintained by one or more of such relatives as his or their
own home.

(4) Has resided in the state for one year immediately
preceding application for public assistance; or, was born
within one year immediately preceding the application of
a mother who resided within the state for one year imme-
diately preceding such birth; or, was born within one year
immediately preceding the application, if the parent or
other relative with whom the child is living has resided
in the state for one year immediately preceding such
birth.

(5) Is actually in need and has not sufficient income or
other resources to provide a subsistence compatible with
decky and health.

(b) The relative of a dependent child shall be eligible
for public assistance for any month in which public as-
sistance is paid with respect to such child, who:

(1) Is the father, mother, grandfather, grandmother,
brother, sister, stepfather, stepmother, stepbrother, step-
sister, uncle or aunt of a dependent child.

(2) Maintains himself, or together with any one or
more of the other specified relatives, a place of residence
as his or their own home, and is the person with whom a
dependent child is living in such place of residence.

(3) Is actually in need and has not sufficient income
36 or other resources to provide a subsistence compatible with
37 decency and health.

Sec. 6. Permanently and Totally Disabled Persons.—A
2 permanently and totally disabled person shall be eligible
3 for public assistance who:
4 (1) Has attained the age of eighteen years.
5 (2) Has resided in the state for at least one year imme-
6 diately preceding the application for public assistance.
7 (3) Is not an inmate of a public institution (except as
8 a patient in a medical institution).
9 (4) Is not a patient in an institution for tuberculosis
10 or mental diseases, nor has been diagnosed as having tu-
11 berculosis or psychosis and is a patient in a medical insti-
12 tution as a result thereof.
13 (5) Is actually in need and has not sufficient income
14 or other resources to provide a subsistence compatible
15 with decency and health.
16 (6) Is permanently and totally disabled as shall be
17 defined in regulations by the state director, which defini-
18 tion shall not include as permanently and totally disabled,
19 persons with respect to whom Federal matching funds
would not be available under Title XIV of the Social Security Act, as amended.

Sec. 7. Application and Assistance.—All persons wishing to make application for public assistance shall have opportunity to do so, and public assistance shall be furnished with reasonable promptness to all eligible persons. Application shall be in writing, or reduced to writing, and made according to reasonable rules and regulations of the state department. The person making the application shall subscribe to an oath or affirmation attesting to the correctness and completeness of the information stated therein.

Sec. 8. Investigation.—Upon receipt of an application for public assistance an investigation shall be made with reasonable promptness to determine the eligibility of the applicant and the amount of assistance.

Sec. 9. Recommendation by County Council.—Upon the completion of the investigation the application and the results of the investigation shall be submitted to the county council. The county council shall immediately consider the application and recommend its approval or denial to the state department.
Sec. 10. Notice and Certification.—Upon determining its recommendation on the application the county council shall immediately certify the record of the application and its recommendation to the state department.

Sec. 11. Examination and Decision by State Department.—Upon receipt of the certification from the county council the state department shall examine the recommendation of the county council. The state department may approve, reverse, or change the recommendation of the county council, or, if it finds the record of the application incomplete, it may take or cause to be taken such other action with respect to the application as it deems necessary. The state department shall notify the county council and the applicant of its decision in writing.

Sec. 12. Amount of Grant.—When the state department approves an application for public assistance it shall fix the amount of the monthly grant in accordance with its established standard of need and the funds available for the purpose. Public assistance shall be paid monthly and out of funds appropriated for the purpose of this article.
upon requisition of the director by means of a warrant signed by the auditor and treasurer.

Sec. 13. *Limitation of Amount.*—The amount of public assistance granted from state funds to a recipient shall not in any case exceed the amount for which maximum financial participation is available from the federal government under the social security act, as amended.

Sec. 14. *Limitation on Assistance to Same Person.*—During any period for which a person is receiving public assistance, he shall receive it only as an aged person, or as a blind person, or as a dependent child, or as the relative with whom a dependent child is living, or as a permanently and totally disabled person, and for no period shall he receive public assistance as two or more such persons.

Sec. 15. *Reinvestigation.*—Each grant of public assistance shall be reinvestigated at least once every twelve months, or whenever there is reason to believe that the conditions governing a grant of public assistance have changed so as to affect the eligibility of a recipient or the amount of assistance granted. Upon consideration of the
results of a reinvestigation the state department shall take, or cause to be taken, such action with respect to a reinvestigated grant of public assistance, consistent with the provisions of this article, as it deems necessary. If a grant of assistance is revoked or reduced, the recipient shall be notified immediately in writing of such action and that he has an opportunity for a hearing before the board of review of the state department.

Sec. 16. Hearing by Board of Review.—An applicant for or a recipient of public assistance under this article shall be afforded an opportunity for a hearing before the board of review of the state department when:

(1) His application is denied or he is denied the opportunity to apply.

(2) His application is not acted upon with reasonable promptness.

(3) His grant of assistance is not forthcoming with reasonable promptness after he has been determined to be eligible therefor.

(4) He deems the grant inadequate.

(5) The grant is revoked.
(6) The grant is reduced.

The state department shall inform applicants and recipients in writing of their right to a hearing, and such a hearing shall be afforded upon request in writing setting forth the reasons it is desired.

Sec. 17. Hearing and Notice.—Upon receipt of the request the board of review shall set a time for hearing at a place convenient for the person making the request, and reasonable notice with respect to the hearing shall be given such person. The hearing shall be held in not less than ten nor more than thirty days. The person making the request may appear and be heard in person or may designate another person to represent him. The hearing may be before a single member of the board of review, but the decision on the hearing shall be by the board.

Sec. 18. Action on Hearing.—The board of review, on the basis of a hearing, may affirm, reverse or modify the determination of the state department and the decision of the board of review shall be the final decision of the state department with respect thereto. A hearing may be continued from time to time at the discretion of the board.
of review for the purpose of further investigation by, or at the direction of, the state department, or for such other purpose as the board of review deems necessary. Reasonable notice of the resumption of a continued hearing shall be given to interested parties. The board of review shall notify the person who requested the hearing and the county council of its decision in writing.

Sec. 19. Complaint by Citizens; Appeal.—A citizen or group of citizens of the county may file with the county council objections to a grant or the continuance of a grant of public assistance. The council shall, upon request, afford opportunity for a hearing of such objections. If, after hearing, the complainants are dissatisfied, they may appeal to the board of review of the state department. The appeal shall be heard and decided in the manner provided by sections sixteen, seventeen and eighteen of this article.

Sec. 20. Tax and Process Exemptions.—Public assistance grants received under the provisions of this article shall be exempt from the collection of taxes (except sales
Sec. 21. Agreement to Reimburse.—As a condition of receiving public assistance, an aged person shall submit to the county council a properly acknowledged agreement granting to the state a lien upon all or any part of his real or personal property including that subsequently acquired, as may be required by the rules of the state department. The lien shall attach upon the signing of the agreement and shall be for the total amount of public assistance paid to such person.

Sec. 22. Lien Against Assets.—The lien provided for by section twenty-one shall extend to assets accruing to the estate of a recipient of old age assistance.

Sec. 23. Insurance Policies.—As a condition of receiving public assistance, an aged person shall assign to the state department any life insurance policy on which he has paid or is paying premiums as security for the amount of public assistance granted to him.

Sec. 24. Certificate of Amount of Assistance Paid.—Under the rules and in the form prescribed by the state de-
partment, the county council shall execute and file with
the clerk of the county court of the county wherein the
recipient resides, or owns property, a certificate showing
the amount of public assistance paid to an aged person.
The certificate when filed shall be a legal claim of the
state against the recipient and his estate, which claim shall
have the force and effect of a judgment at law with pri-
ority over all unsecured claims except funeral expenses
for such recipient, which expenses shall not exceed one
hundred dollars.
A claim of the state under this section shall not be ex-
tinguished by the statute of limitations.

Sec. 25. Lien Against Real Estate.—A lien given under
this article shall not be enforced against real estate occu-
pied by the surviving spouse of a recipient unless:
(1) Such person is a widow who remarries.
(2) There is a threatened or actual sale or transfer of
the property.

Sec. 26. Powers of County Councils; Enforcement and
Release of Liens.—A county council shall receive all as-
signments and perform any and all acts necessary to pro-
tect the financial interests of the state in the assets of
recipients of public assistance.

All liens and claims under this article shall be enforced
by the county council as the agent and in the name of the
state, and all money reclaimed shall be paid by the council
into the state treasury.

Whenever, on application in writing, it shall appear to
a county council that the obligation of a lien, as provided
in this article, has been satisfied by payment, reimburse-
ment, or otherwise by the recipient of public assistance,
his heirs or assigns, the council shall thereupon enter an
order accordingly and the chairman of the council shall
thereupon prepare, execute and acknowledge a release of
such lien and deliver same to said recipient, his heirs or
assigns, as the case may be, for recordation. Any and all
such releases heretofore ordered by a county council and
executed, acknowledged and delivered, as herein provided,
shall be as legal, valid, effective and binding as if ordered,
executed, acknowledged and delivered after the effective
date of this section.

Sec. 27. Exemptions.—In the enforcement of a lien held
by the state under this article, real property to the value of fifteen hundred dollars and personal property to the value of two hundred dollars shall be exempt, and such exemption shall apply to the estate after the death of the recipient as well as during his lifetime. The foregoing exemptions shall apply to all reimbursement liens here-tofore granted to the state and remaining unsatisfied at the time this act takes effect and all such liens are hereby expressly released to the extent of, but not exceeding, said exemptions. No lien shall be required on real or personal property where the value of such property does not exceed the exemption for such property herein granted.

The value of the exemption shall be determined in the same manner as exemptions claimed in pursuance of section forty-eight, article six of the state constitution.

Sec. 28. Reimbursement to Federal Government.—That portion of the net amount collected from the estate of a recipient of old age assistance under the provisions of this article which represents the amount to which the federal government would be equitably entitled by virtue of grants-in-aid for old age assistance under the social se-
19 curity act, as amended, shall be reimbursed to the federal
government as may be required under such act. At such
times as the federal government may require, the state
director shall draw his requisition upon the state auditor
in favor of the treasurer of the United States for the
amount of such funds in the state treasury which are pay-
able to the federal government. The reimbursement shall
be paid out of the state treasury as other claims against
the state are paid.

Sec. 29. Notice of Change in Resources.—A recipient of
public assistance shall notify immediately the county di-
rector of any increase in his resources. If a recipient fails
to notify the county director of any such increase, the
amount of aid paid to him in excess of his actual needs
shall be recoverable in the name of the state as a debt.

Sec. 30. Grants Conditional.—A grant of public assist-
ance shall be subject to:

(1) Reconsideration, revocation, or change.
(2) Appropriation by the Legislature of public funds.
(3) Amendment or repeal.
(4) Continuation of federal grants-in-aid.
Article 5-a. The State of West Virginia Public Assistance Medical Services Fund.

Section 1. Medical Services Fund.—In order that the state of West Virginia may receive full advantage of the provisions of the Federal Social Security Act, as amended, whereby Federal grants-in-aid may be used on behalf of recipients of public assistance for medical care or any other type of remedial care recognized by law, the state department of public assistance is authorized, empowered, and directed to establish a special fund to be known as “The State of West Virginia Public Assistance Medical Services Fund,” hereinafter referred to as “the fund.” The fund shall be only for the purpose of providing necessary medical services for recipients of assistance, and any balance in the fund at the end of any fiscal year shall remain in the fund and shall not expire or revert. Payments shall be made out of the fund upon requisition of the director by means of a warrant signed by the auditor and treasurer.

Sec. 2. Payments Into Medical Services Fund.—The fund shall consist of payments made into the fund with re-
spect to recipients of assistance out of state money appro-
priated for the purpose and such Federal grants-in-aid as
are available for the purpose under the Federal Social
Security Act, as amended. The amount of such payments
into the fund shall be fixed from time to time by the di-
rector, and shall be sufficient to pay the costs of necessary
medical services as determined by the director to be
feasible in accordance with section three of this article.

Sec. 3. Payments from Medical Services Fund.—Recepi-
ents of assistance shall be entitled to have costs of neces-
sary medical services paid out of the fund, in such
amounts, and to the extent and in the manner determined
from time to time to be feasible by the director pursuant
to rules, regulations and standards established by him.
Such rules, regulations and standards shall be established
on the basis of money available for the purpose, the num-
ber of recipients, the experience with respect to the inci-
dence of illness, disease, accidents, and other causes among
such recipients causing them to require medical services
and the costs thereof, the amounts which recipients re-
quire otherwise in order to maintain a subsistence com-
patible with decency and health, and any other factors considered relevant and proper by the director.

Sec. 4. Other Powers and Duties of Director.—The director shall establish reasonable rules, regulations and standards necessary to carry out the provisions of this article.

Sec. 5. Definitions.—As used in this article:

(1) "Medical Services" means medical, surgical, dental and nursing services, and other remedial services recognized by law, in the home, office, hospital, clinic and any other suitable place, provided or prescribed by persons permitted or authorized by law to give such services; such services to include drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care and such other medical services and supplies as may be prescribed by such persons.

(2) "Costs of necessary medical services" means such fees and charges as are approved and scheduled by the director upon consultation with the advisory council.

Sec. 6. Advisory Council; Powers and Duties; Members; Meetings; Chairman; Expenses.—There shall be an ad-
visory council of six members, all of whom shall be citizens of West Virginia, to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the director in carrying out the provisions of this article. The council shall meet at least twice each year and at the call of the director. The members of the council shall elect annually one of its members to serve as chairman.

Five of the members of the advisory council shall be appointed by the director. The sixth member shall be the state director of health, ex officio.

Of the five members of the council appointed by the director, one shall be a person of recognized ability in the field of medicine and surgery with respect to whose appointment the state medical association shall be afforded the opportunity of making nomination of three qualified persons, one shall be a person of recognized ability in the field of dentistry with respect to whose appointment the state dental association shall be afforded the opportunity of making nomination of three qualified persons,
and the remaining three shall be chosen from persons of recognized ability in the fields of hospital organization and administration, nursing, welfare, public health, or allied professions in the field of health, or consumers of medical services.

The members appointed by the director shall be appointed for five year terms except that in the original appointments one person shall be appointed for one year, one person for two years, one person for three years, one person for four years, and one person for five years. Thereafter each member shall be appointed to serve five years or until his successor is appointed. In the case of a vacancy the appointee shall serve the remainder of the unexpired term.

Members of the advisory council shall be eligible to succeed themselves. Members of the advisory council shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of their office.


Section 2. Grants Conditional.—The grant of general
relief under the provisions of this chapter shall be conditional, and a person shall have no claim as of right to such relief.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 20th day of March, 1953.

[Signature]
Governor

[Stamp] MAR 20 1953

D. Pitt O'Brien,
Secretary of State