

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 for* Passage

366

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COMMITTEE SUBSTITUTE FOR

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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-

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
2 organize within the department a board of review, con-
3 sisting of the director as chairman and as many other
4 members, not to exceed five, as may be necessary. The
5 board of review shall conduct hearings and make decisions
6 as provided in article five of this chapter. Hearings may
7 be held by individual board members in the counties, but
8 all decisions shall be by the board.

Article 5. Public Assistance.

Section 1. *Purpose.*—The purpose of this article is to
2 provide public assistance for the indigent aged, the in-
3 digent blind, dependent children, the indigent relative
4 with whom any dependent child is living, and the indigent
5 permanently and totally disabled, that will conform to
6 the requirements for federal grants-in-aid under the Fed-
7 eral “Social Security Act,” as amended.

8 Public assistance shall be granted only:

9 (1) To the extent that funds are available for the pur-
10 pose.

11 (2) To those actually in need.

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

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

3 “Public assistance” shall mean money payments to, or
4 in behalf of, aged persons, blind persons, dependent chil-
5 dren, the relative with whom any dependent child is
6 living, or permanently and totally disabled persons. Pub-
7 lic assistance may include medical care or other type of
8 remedial care recognized by law.

9 "Resources" shall mean all property, real and personal,
10 tangible and intangible, and all income, whether in the
11 form of money or otherwise.

12 "Applicant" shall mean the person for whose use and
13 benefit application is made.

14 "Recipient" shall mean the person for whose use and
15 benefit a grant of public assistance is made.

Sec. 3. *Aged Persons*.—An aged person shall be eligible

2 for public assistance who:

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

4 (2) Has resided in the state for at least one year imme-
5 diately preceding application for public assistance.

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

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

11 (5) Is not a patient in an institution for tuberculosis
12 or mental diseases, nor has been diagnosed as having tu-
13 berculosis or psychosis and is a patient in a medical insti-
14 tution as a result thereof.

15 (6) Is actually in need and has not sufficient income
16 or other resources to provide a subsistence compatible
17 with decency and health.

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

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

6 (2) Has been examined by an ophthalmologist or by a
7 physician skilled in the diseases of the eye or by an op-
8 tometrist approved or designated by the state department,
9 and the findings of the examination have been certified by
10 such examiner in the manner and form required by the
11 state department.

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

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

16 (5) Is not a patient in an institution for tuberculosis
17 or mental diseases, nor has been diagnosed as having tu-

18 tuberculosis or psychosis and is a patient in a medical insti-
19 tution as a result thereof.

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

Sec. 5. Dependent Children and Relatives of Dependent

2 *Children.*—(a) A dependent child shall be eligible for
3 public assistance who:

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

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

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

13 (4) Has resided in the state for one year immediately
14 preceding application for public assistance; or, was born

15 within one year immediately preceding the application of
16 a mother who resided within the state for one year imme-
17 diately preceding such birth; or, was born within one year
18 immediately preceding the application, if the parent or
19 other relative with whom the child is living has resided
20 in the state for one year immediately preceding such
21 birth.

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

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

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

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

35 (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

20 would not be available under Title XIV of the Social Se-
21 curity Act, as amended.

Sec. 7. *Application and Assistance.*—All persons wishing
2 to make application for public assistance shall have op-
3 portunity to do so, and public assistance shall be furnished
4 with reasonable promptness to all eligible persons. Appli-
5 cation shall be in writing, or reduced to writing, and made
6 according to reasonable rules and regulations of the state
7 department. The person making the application shall sub-
8 scribe to an oath or affirmation attesting to the correctness
9 and completeness of the information stated therein.

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

Sec. 9. *Recommendation by County Council.*—Upon the
2 completion of the investigation the application and the
3 results of the investigation shall be submitted to the county
4 council. The county council shall immediately consider
5 the application and recommend its approval or denial to
6 the state department.

Sec. 10. *Notice and Certification.*—Upon determining its
2 recommendation on the application the county council
3 shall immediately certify the record of the application and
4 its recommendation to the state department.

Sec. 11. *Examination and Decision by State Depart-*
2 *ment.*—Upon receipt of the certification from the county
3 council the state department shall examine the recom-
4 mendation of the county council. The state department
5 may approve, reverse, or change the recommendation of
6 the county council, or, if it finds the record of the applica-
7 tion incomplete, it may take or cause to be taken such
8 other action with respect to the application as it deems
9 necessary. The state department shall notify the county
10 council and the applicant of its decision in writing.

Sec. 12. *Amount of Grant.*—When the state department
2 approves an application for public assistance it shall fix
3 the amount of the monthly grant in accordance with its
4 established standard of need and the funds available for
5 the purpose. Public assistance shall be paid monthly and
6 out of funds appropriated for the purpose of this article

7 upon requisition of the director by means of a warrant
8 signed by the auditor and treasurer.

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

Sec. 14. *Limitation on Assistance to Same Person.*—
2 During any period for which a person is receiving public
3 assistance, he shall receive it only as an aged person, or
4 as a blind person, or as a dependent child, or as the rela-
5 tive with whom a dependent child is living, or as a per-
6 manently and totally disabled person, and for no period
7 shall he receive public assistance as two or more such
8 persons.

Sec. 15. *Reinvestigation.*—Each grant of public assist-
2 ance shall be reinvestigated at least once every twelve
3 months, or whenever there is reason to believe that the
4 conditions governing a grant of public assistance have
5 changed so as to affect the eligibility of a recipient or the
6 amount of assistance granted. Upon consideration of the

7 results of a reinvestigation the state department shall take,
8 or cause to be taken, such action with respect to a rein-
9 vestigated grant of public assistance, consistent with the
10 provisions of this article, as it deems necessary. If a grant
11 of assistance is revoked or reduced, the recipient shall be
12 notified immediately in writing of such action and that
13 he has an opportunity for a hearing before the board of
14 review of the state department.

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

- 5 (1) His application is denied or he is denied the oppor-
6 tunity to apply.
- 7 (2) His application is not acted upon with reasonable
8 promptness.
- 9 (3) His grant of assistance is not forthcoming with rea-
10 sonable promptness after he has been determined to be
11 eligible therefor.
- 12 (4) He deems the grant inadequate.
- 13 (5) The grant is revoked.

14 (6) The grant is reduced.

15 The state department shall inform applicants and re-
16 cipients in writing of their right to a hearing, and such
17 a hearing shall be afforded upon request in writing setting
18 forth the reasons it is desired.

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

Sec. 18. *Action on Hearing.*—The board of review, on
2 the basis of a hearing, may affirm, reverse or modify the
3 determination of the state department and the decision
4 of the board of review shall be the final decision of the
5 state department with respect thereto. A hearing may be
6 continued from time to time at the discretion of the board

7 of review for the purpose of further investigation by, or
8 at the direction of, the state department, or for such other
9 purpose as the board of review deems necessary. Reason-
10 able notice of the resumption of a continued hearing shall
11 be given to interested parties. The board of review shall
12 notify the person who requested the hearing and the
13 county council of its decision in writing.

Sec. 19. *Complaint by Citizens; Appeal.*—A citizen or
2 group of citizens of the county may file with the county
3 council objections to a grant or the continuance of a grant
4 of public assistance. The council shall, upon request,
5 afford opportunity for a hearing of such objections.
6 If, after hearing, the complainants are dissatisfied, they
7 may appeal to the board of review of the state depart-
8 ment. The appeal shall be heard and decided in the man-
9 ner provided by sections sixteen, seventeen and eighteen
10 of this article.

Sec. 20. *Tax and Process Exemptions.*—Public assist-
2 ance grants received under the provisions of this article
3 shall be exempt from the collection of taxes (except sales

4 taxes), from levy of execution, garnishment, and any other
5 legal process.

Sec. 21. *Agreement to Reimburse.*—As a condition of
2 receiving public assistance, an aged person shall submit
3 to the county council a properly acknowledged agreement
4 granting to the state a lien upon all or any part of his
5 real or personal property including that subsequently ac-
6 quired, as may be required by the rules of the state de-
7 partment. The lien shall attach upon the signing of the
8 agreement and shall be for the total amount of public
9 assistance paid to such person.

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

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

Sec. 24. *Certificate of Amount of Assistance Paid.*—Un-
2 der the rules and in the form prescribed by the state de-

3 partment, the county council shall execute and file with
4 the clerk of the county court of the county wherein the
5 recipient resides, or owns property, a certificate showing
6 the amount of public assistance paid to an aged person.
7 The certificate when filed shall be a legal claim of the
8 state against the recipient and his estate, which claim shall
9 have the force and effect of a judgment at law with pri-
10 ority over all unsecured claims except funeral expenses
11 for such recipient, which expenses shall not exceed one
12 hundred dollars.

13 A claim of the state under this section shall not be ex-
14 tinguished by the statute of limitations.

Sec. 25. *Lien Against Real Estate.*—A lien given under
2 this article shall not be enforced against real estate occu-
3 pied by the surviving spouse of a recipient unless:

4 (1) Such person is a widow who remarries.

5 (2) There is a threatened or actual sale or transfer of
6 the property.

Sec. 26. *Powers of County Councils; Enforcement and*
2 *Release of Liens.*—A county council shall receive all as-
3 signments and perform any and all acts necessary to pro-

4 tect the financial interests of the state in the assets of
5 recipients of public assistance.

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

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

Sec. 27. *Exemptions.*—In the enforcement of a lien held

2 by the state under this article, real property to the value
3 of fifteen hundred dollars and personal property to the
4 value of two hundred dollars shall be exempt, and such
5 exemption shall apply to the estate after the death of the
6 recipient as well as during his lifetime. The foregoing
7 exemptions shall apply to all reimbursement liens here-
8 tofore granted to the state and remaining unsatisfied at
9 the time this act takes effect and all such liens are hereby
10 expressly released to the extent of, but not exceeding,
11 said exemptions. No lien shall be required on real or per-
12 sonal property where the value of such property does not
13 exceed the exemption for such property herein granted.
14 The value of the exemption shall be determined in the
15 same manner as exemptions claimed in pursuance of sec-
16 tion forty-eight, article six of the state constitution.

Sec. 28. *Reimbursement to Federal Government.*—That
2 portion of the net amount collected from the estate of a
3 recipient of old age assistance under the provisions of
4 this article which represents the amount to which the
5 federal government would be equitably entitled by virtue
6 of grants-in-aid for old age assistance under the social se-

7 curity act, as amended, shall be reimbursed to the federal
8 government as may be required under such act. At such
9 times as the federal government may require, the state
10 director shall draw his requisition upon the state auditor
11 in favor of the treasurer of the United States for the
12 amount of such funds in the state treasury which are pay-
13 able to the federal government. The reimbursement shall
14 be paid out of the state treasury as other claims against
15 the state are paid.

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

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

- 3 (1) Reconsideration, revocation, or change.
- 4 (2) Appropriation by the Legislature of public funds.
- 5 (3) Amendment or repeal.
- 6 (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
2 state of West Virginia may receive full advantage of the
3 provisions of the Federal Social Security Act, as amended,
4 whereby Federal grants-in-aid may be used on behalf of
5 recipients of public assistance for medical care or any
6 other type of remedial care recognized by law, the state
7 department of public assistance is authorized, empow-
8 ered, and directed to establish a special fund to be known
9 as “The State of West Virginia Public Assistance Medical
10 Services Fund,” hereinafter referred to as “the fund.” The
11 fund shall be only for the purpose of providing necessary
12 medical services for recipients of assistance, and any bal-
13 ance in the fund at the end of any fiscal year shall remain
14 in the fund and shall not expire or revert. Payments shall
15 be made out of the fund upon requisition of the director
16 by means of a warrant signed by the auditor and treas-
17 urer.

Sec. 2. *Payments Into Medical Services Fund.*—The fund
2 shall consist of payments made into the fund with re-

3 spect to recipients of assistance out of state money appro-
4 priated for the purpose and such Federal grants-in-aid as
5 are available for the purpose under the Federal Social
6 Security Act, as amended. The amount of such payments
7 into the fund shall be fixed from time to time by the di-
8 rector, and shall be sufficient to pay the costs of necessary
9 medical services as determined by the director to be
10 feasible in accordance with section three of this article.

Sec. 3. *Payments from Medical Services Fund.*—Recipi-
2 ents of assistance shall be entitled to have costs of neces-
3 sary medical services paid out of the fund, in such
4 amounts, and to the extent and in the manner determined
5 from time to time to be feasible by the director pursuant
6 to rules, regulations and standards established by him.
7 Such rules, regulations and standards shall be established
8 on the basis of money available for the purpose, the num-
9 ber of recipients, the experience with respect to the inci-
10 dence of illness, disease, accidents, and other causes among
11 such recipients causing them to require medical services
12 and the costs thereof, the amounts which recipients re-
13 quire otherwise in order to maintain a subsistence com-

14 patible with decency and health, and any other factors
15 considered relevant and proper by the director.

Sec. 4. *Other Powers and Duties of Director.*—The di-
2 rector shall establish reasonable rules, regulations and
3 standards necessary to carry out the provisions of this
4 article.

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

2 (1) "Medical Services" means medical, surgical, dental
3 and nursing services, and other remedial services recog-
4 nized by law, in the home, office, hospital, clinic and any
5 other suitable place, provided or prescribed by persons
6 permitted or authorized by law to give such services; such
7 services to include drugs and medical supplies, appliances,
8 laboratory, diagnostic and therapeutic services, nursing
9 home and convalescent care and such other medical serv-
10 ices and supplies as may be prescribed by such persons.

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

Sec. 6. *Advisory Council; Powers and Duties; Members;*
2 *Meetings; Chairman; Expenses.*—There shall be an ad-

3 visory council of six members, all of whom shall be citi-
4 zens of West Virginia, to assist in the establishment of
5 rules, regulations and standards necessary to carry out
6 the provisions of this article and to serve as consultants
7 to the director in carrying out the provisions of this ar-
8 ticle. The council shall meet at least twice each year and
9 at the call of the director. The members of the council
10 shall elect annually one of its members to serve as chair-
11 man.

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

15 Of the five members of the council appointed by the
16 director, one shall be a person of recognized ability in
17 the field of medicine and surgery with respect to whose
18 appointment the state medical association shall be afford-
19 ed the opportunity of making nomination of three quali-
20 fied persons, one shall be a person of recognized ability
21 in the field of dentistry with respect to whose appointment
22 the state dental association shall be afforded the oppor-
23 tunity of making nomination of three qualified persons,

24 and the remaining three shall be chosen from persons of
25 recognized ability in the fields of hospital organization
26 and administration, nursing, welfare, public health, or
27 allied professions in the field of health, or consumers of
28 medical services.

29 The members appointed by the director shall be ap-
30 pointed for five year terms except that in the original ap-
31 pointments one person shall be appointed for one year,
32 one person for two years, one person for three years, one
33 person for four years, and one person for five years. There-
34 after each member shall be appointed to serve five years
35 or until his successor is appointed. In the case of a vacancy
36 the appointee shall serve the remainder of the unexpired
37 term.

38 Members of the advisory council shall be eligible to suc-
39 ceed themselves. Members of the advisory council shall
40 serve without compensation but shall be entitled to re-
41 imbursement for actual expenses incurred in the perform-
42 ance of the duties of their office.

Article 11. General Provisions.

Section 2. *Grants Conditional.*—The grant of general

2 relief under the provisions of this chapter shall be condi-
3 tional, and a person shall have no claim as of right to such
4 relief.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. M. Kinley
Chairman Senate Committee

W. H. Aubler
Chairman House Committee

Originated in the House of Delegates

Takes effect *ninety days from* passage.

Howard Myers
Clerk of the Senate

Edliff
Clerk of the House of Delegates

Ralph Bran
President of the Senate

W. E. Hammers
Speaker House of Delegates

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

William C. Marland
Governor



FILE IN THE OFFICE OF THE SECRETARY OF STATE
OF THE COMMONWEALTH OF VIRGINIA
MAR 20 1953
D. PITT O'BRIEN,
SECRETARY OF STATE