

# South Carolina

South Carolina Insurance Commission  
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## Summary of Important Regulations

MEWA Regulations .....	Yes
TPA Regulations .....	Yes
Stop-Loss Regulations .....	No
UR Regulations .....	Yes

## NAIC Model Laws and Regulation

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	S.C. Ins. R. 69-7	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	None
Small Employer Health Insurance Availability Model Law	S.C. Code Ann. §§ 38-71-910 to 38-71-990; §§ 38-71-1310 to 38-71-1450	S.C. Code Ann. §§ 38-71-670 to 38-71-680
Model Regulation To Eliminate Unfair Sex Discrimination	None	None
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	None	None
Utilization Review Model Law	None	S.C. Code Ann. §§ 38-70-10 to 38-70-60; S.C. Ins. R. 69-47
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	S.C. Code Ann. §§ 38-51-10 to 38-51-120	None



38-71-140

Health Examination Benefits  
Availability Law

None

None

## NAIC Model Laws and Regulation

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	S.C. Code Ann. §§ 38-71-510 to 38-71-540
Agents and Brokers Licensing Model Law	None	S.C. Code Ann. §§ 38-45-10 to 38-45-150; §§ 38-43-10 to 38-43-470; §§ 38-47-10 to 38-47-70
MEWA Licensing Model Law	None	S.C. Code Ann. § 38-41-25; Bulletin 77-10
Managing General Agents Law	S.C. Code Ann. §§ 38-44-10 to 38-44-80	None
Health Maintenance Organization Model Law	S.C. Code Ann. §§ 38-33-10 to 38-33-300	None
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	S.C. Code Ann. §§ 38-57-10 to 38-57-310, 38-59-10 to 38-59-50; S.C. Ins. R. 69-19	S.C. Code Ann. § 38-55-50
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of South Carolina	S.C. Ins. R. 69-32	None

Total or Partial Blindness

## NAIC Model Laws and Regulation

<b><u>Name of Model Law/Regulation</u></b>	<b><u>Model/Similar</u></b>	<b><u>Related</u></b>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	None
Unfair Claims Settlement Practices Law	S.C. Code Ann. §§ 38-59-10 to 38-59-50	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self-Insurance Model Law	None	S.C. Code Ann. §§ 42-5-10 to 42-5-250
Public Employee Workers' Compensation Group Self-Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

## State-Mandates

### **Benefits That Must Be Covered**

- Breast reconstruction
- Cervical cancer screening (pap smear)
- Cleft palate/cleft lip
- Dermatological care (referrals only)
- Diabetic supplies, education
- Emergency services
- Gynecological exams
- Mammography screening
- Mental health, parity (does not apply to small-employer group plans)
- Minimum mastectomy stays
- Minimum maternity stays
- Off-label drug use
- Prostate cancer screening

### **Benefits That Must Be Offered**

- Substance abuse treatment
- Chiropractic care
- Home health care
- Mental health (serious)

### **Persons Who Must Be Allowed Coverage**

- Adopted children
- Continuation/dependents
- Continuation/employees
- Conversion for former spouse
- Handicapped dependents
- Newborns

### **Providers Who Must Be Covered**

- Chiropractors
- Dentists
- Optometrists
- Podiatrists

**Coordination of Benefits**

- Birthday Rule? Yes
- Divorced/Separated Rule? Yes
- Joint Custody Rule? Yes
- Active v. Inactive Rule? Yes
- Longer v. Shorter Rule? Yes
- Managed Care Rule? Yes
- COBRA Rule? No
- Preservation Rule? No

**Patient's Bill of Rights Legislation**

None

**High Risk Health Pool**

Yes capped at 200%

**External Grievance System**

Yes – all health care plans

**Basis of Filing Grievance**

Emergencies, experimental/investigational, medical necessity, untimely internal delay, waiver of Internal appeal by insurer

**Status of Decision of Grievance Panel**

Binding on both parties

**Prompt Payment of Health Claim Requirement**

None

**Miscellaneous**

- Employers with more than 50 employees that offer insurance coverage under a “closed panel health plan,” which requires patients to use only certain pre-selected care providers, must also offer to employees a point-of-service coverage option.
- South Carolina group health insurance insurers may not discriminate against an insured or proposed insured on the basis of the individual’s genetic characteristics.
- South Carolina requires employers with 50 or more employees which offer major medical insurance coverage under a closed plan of providers to also offer a point-of-service option.

**MEWA Regulation**

South Carolina enacted a MEWA statute in 1985.<sup>1</sup> The principal provisions of the statute are these:

- The MEWA is any jointly maintained plan of unrelated employers which is not fully insured.
- Any MEWA doing business with South Carolina participants must be registered. This rule applies to private, as well as governmental, entities.

- Those MEWAs in place prior to July 1985, which were governed by an IRC § 501(c)(9) trust, are *grandfathered* out from under the statute.
- Single-employer plans (so-called ERISA) plans are exempt.
- Failure to register automatically makes the MEWA an unlicensed insurer.
- The MEWA must have at least 250 participants and must be protected by both specific and aggregate stop-loss coverage (noncancellable for a two-year period), subject to the approval of the South Carolina Insurance Department.
- The MEWA must file its papers, by-laws, etc. with the South Carolina Insurance Department.
- All MEWA funds must be trustee-owned; trustees must be plan participants, must be bonded, must serve without compensation, and must not represent more than one employer.
- Trust assets must be with a South Carolina financial institution.
- Trust must file an annual report.
- Minimum claim reserves must be established; such claim reserves shall be equal to greater of:
  1. Three times average monthly premium (actual or estimated), or
  2. \$1,000.
- MEWAs must pay a license fee of 2% of claims.
- The MEWA's books must be available for inspection.
- The South Carolina Insurance Commission must be involved in the dissolution of a MEWA.

No agent, broker, or administrator doing business on behalf of a multiple employer self-funded health plan, unless the agent or broker first notifies the Insurance Commission in writing that the plan is doing business, or proposing to do business, in the state. The required notice does not constitute approval by the Insurance Commission of the plan, nor does the notice limit the administrative remedies available to the Insurance Commission or a plan participant's right of action under the law.

## TPA Regulations

South Carolina adopted an administrator statute in 1985.<sup>2</sup> Violations may constitute felonies.

- Taxes and fees –initial and renewal of \$100
- Records – five year retention
- Bond -- \$75,000 surety bond
- Registration – the initial application should include these attachments:
  1. Papers of the TPA corporation
  2. Resumes of officers, directors, etc.
  3. Administration agreements
  4. Current financials

The Insurance Commissioner may revoke or suspend a TPA's license for cause as well as levy a \$1,000 to \$10,000 fine.

The bond in South Carolina, while called a *fidelity* bond, is in reality a *surety* bond and is written in favor of the state. The clear intention of the state is this: If the TPA's self-funder is in trouble, South Carolina wishes to look to the TPA's bond for recovery if a South Carolina citizen suffers a loss as a result of certain violations:

- Violations of TPA administrator law
- Failure of TPA to properly transmit payments
- Misapplication or misappropriation of funds

The bond has as its purpose the recompense of any person (beneficiary) who suffers a loss due to acts stated above. An added difficulty with this bond would be that South Carolina might wish to hold the bond for a period of time beyond when a plan was terminated, since claims might arise long after such termination. For a more complete discussion of bonding, see the section on TPA bonding.

Violation fee for nonlicensing is up to \$10,000 plus up to two years in prison.

## Stop-Loss Regulation

No regulation is reported.

## Utilization Review Regulations

Agency Responsible <sup>3</sup> .....	Dept. of Insurance
Requirements .....	Certification
Exemptions .....	HMOs
Waivers .....	None
Comments .....	Insurers/HMOs; otherwise, state-regulated have exemption.

## Miscellaneous

### Small Group Reform

An employer with no more than 50 employees may purchase group health insurance for groups of two to 50 of its employees and dependents under rules that restrict an insurer's ability to deny coverage on the basis of health status or claims experience.<sup>4</sup>

The insurer must issue these plans to all or a small employer's eligible employees and dependents, and may not limit coverage to certain individuals in a small employer group. However, an insurer may exclude late enrollees from coverage for the greater of 18 months or for an 18-month exclusionary period for preexisting conditions. A *late enrollee* is an eligible employee or dependent who does not enroll for health insurance coverage during the first available open enrollment period (which must not be less than 30 days).

According to the version of the standard and basic plans approved by the state Insurance Commissioner, each plan must contain certain minimum benefits that must be paid on the basis of the provider's usual and customary charges as determined by the insurer issuing the policy. Both types of policy cover the same illnesses and services and have the same 80% coinsurance factor, but differ in many plan provisions.

### MSA Legislation

No action.

### State Premium Taxes

Commercial insurers and Blue Cross pay 1.25% tax; HMOs are not taxed by premium, but do pay a corporate income tax.

## Endnotes

<sup>1</sup> S.C. Code Ann. §§ 38-65-10 to 38-65-90; S.C. Ins. Reg. § 69-42.

<sup>2</sup> S.C. Code Ann. §§ 38-51-10 to 38-51-120.

<sup>3</sup> S.C. Code Ann §§ 38-70-10 *et seq.*

<sup>4</sup> S.C. Code Ann §§ 38-71-910 to 38-71-990.