

South Dakota

South Dakota Insurance Commission
910 E. Sioux
Pierre, SD 57501-3940
(605) 773-3563

Summary of Important Regulations

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

NAIC Model Laws and Regulation

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|--|--|--|
| Health Insurance Reserves Model Regulation | None | S.D. Codified Laws Ann. § 58-26-30 |
| Comprehensive Health Ins. Cost Containment Model Act | None | None |
| Standardized Health Claims Form Model Regulation | S.D. Admin. R. Ch. 20:06:27 | S.D. Codified Laws Ann. §§ 58-12-12 to 58-12-14 |
| Small Employer Health Insurance Availability Model Law | S.D. Codified Laws Ann. §§ 58-18B-1 to 58-18B-56 | None |
| Model Regulation To Eliminate Unfair Sex Discrimination | S.D. Codified Laws Ann. §§ 58-33-13.1 to 58-33-13.2 | None |
| Health Information Privacy Model Law | None | None |
| Preferred Provider Arrangements Model Law | None | None |
| Utilization Review Model Law | S.D. Codified Laws Ann. §§ 58-17C-34 to 58-17C-57;HB 1032 | S.D. Admin. R. § 20:06:33 |
| Managed Care Plan Network Adequacy Model Law | S.D. Codified Law Ann. §§ 58-17C-7 to 58-17C-26 | None |
| Third Party Administrator Law | S.D. Codified Laws §§ 58-29D-1 to 58-29D-34 | None |

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| Stop-loss Insurance Model Law | None | S.D. Codified Laws Ann. § 58-18B-35 |
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NAIC Model Laws and Regulation

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|---|--|---|
| Jurisdiction of Health Care Providers Model Law | None | None |
| Standard Group Health Model Law | None | S.D. Codified Laws Ann. §§ 58-18-1 to 58-18-6.1, 58-18-21 to 58-18-30 |
| Group Health Insurance Mandatory Conversion Law | None | S.D. Codified Laws Ann. §§ 58-18-7 to 58-18-7.6 |
| Group Coverage Discontinuance/ Replacement Model Regulation | None | None |
| Premium Rates and Renewability of Coverage-Small Groups | S.D. Codified Laws Ann. §§ 58-18B-1 to 58-18B-49 | None |
| Group Coordination of Benefits Model Law | S.D. Codified Laws Ann. §§ 58-18A-1 to 58-18A-15 | None |
| Model Regulation for Certification of Health Plans | None | None |
| Off-Label Drug Use Model Law | None | HB 1133 |
| Group Health Mandatory Drug/ Alcohol Dependency Law | None | S.D. Codified Laws Ann. §§ 58-18-7.1 to 58-18-7.3; 58-17-30.5 to 58-17-30.7; 58-40-10.1 to 58-40-10.3 |
| Model Newborn Children's Law | S.D. Codified Laws Ann. §§ 58-17-30.2 to 58-17-30.4 | None |

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| Health Examination Benefits Availability Law | None | None |
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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 | None |
| Agents and Brokers Licensing Model Law | None | S.D. Codified Laws Ann. §§ 58-30-1 to 58-30-113 |
| MEWA Licensing Model Law | None | None |
| Managing General Agents Law | S.D. Codified Laws §§ 58-30-124 to 58-30-139 | None |
| Health Maintenance Organization Model Law | None | S.D. Codified Laws Ann. §§ 58-41-1 to 58-41-97 |
| Insurance Information and Privacy Protection Law | None | None |
| Unfair Trade Practices Law | S.D. Codified Laws Ann. §§ 58-33-1 to 58-33-46.1; §§ 58-33-66 to 58-33-69 | None |
| 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 Dakota | S.D. Codified Laws Ann. § 58-33-12.1 | None |

Total or Partial Blindness

NAIC Model Laws and Regulation

| <u>Name of Model Law/Regulation</u> | <u>Model/Similar</u> | <u>Related</u> |
|--|------------------------------------|---|
| Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law | None | S.D. Codified Laws Ann. § 58-18B-27; S.D. Admin. R. § 20:06:40:07 |
| Unfair Claims Settlement Practices Law | S.D. Codified Laws Ann. § 58-33-67 | None |
| Improper Termination Practices Law | None | None |
| Employee Leasing Registration Model Law | None | None |
| Private Employer Workers' Compensation Group Self-Insurance Model Law | None | None |
| 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
- Dental anesthesia
- Diabetic supplies, education
- Mammography screening
- Mental health, parity
- Minimum maternity stays
- Prostate cancer screening

Benefits That Must Be Offered

- Alcoholism treatment
- PKU

Persons Who Must Be Allowed Coverage

- Adopted children
- Continuation/dependents
- Conversion to non-group
- Handicapped dependents
- Newborns

Providers Who Must Be Covered

- Chiropractors
- Dentists
- Licensed Health Professionals
- Nurse (Anesthetist)
- Nurse Midwives
- Nurse Practitioners
- Nurse Psychiatric
- Optometrists
- Osteopaths
- Podiatrists
- Psychologists
- Social Workers

Coordination of Benefits

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

Patient's Bill of Rights Legislation

None

High Risk Health Pool

None

External Grievance System

None

Prompt Payment of Health Claim Requirement

Yes - 45 days

MEWA Regulation

South Dakota does not regulate MEWAs.

TPA Regulations

South Dakota requires that all TPAs must register if they are soliciting business in South Dakota and in case of group insurance have 100 or more participants living in South Dakota.

Application for a license must include the following:

- Basic organizational documents of the administrator, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, and other applicable documents and all amendments to such documents.
- Bylaws, rules, regulations, or similar documents regulating the internal affairs of the administrator.
- Names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of the affairs of the administrator including board of directors, trustees, executive committee, principal officers or partners, shareholders holding directly or indirectly ten percent of the voting securities, and any other person who exercises control or influence over the affairs of the administrator.
- Annual financial statements or reports for the two most recent years which provide that the applicant is

solvent.

- A statement describing the business plan, including information on staffing levels and activities proposed in this state and nationwide.
- If the applicant will be managing the solicitation of new or renewal insurance business, proof that it employs, or has contracted with, an agent licensed in the state for solicitation and taking of applications.
- A copy of the written agreement including a statement of duties which the administrator is expected to perform.
- Identity of the federally or state insured financial institution where such TPA maintains its fiduciary accounts.

If the TPA has a valid TPA license or certificate issued in a state that has standards for administrators that are at least as stringent as those contained in South Dakota, the TPA may waive licensing application requirements although TPAs shall register with the Director annually.

No bond or errors and omissions requirements.

ERISA plans are exempt from the licensing requirements, although TPAs administering self-funded plans must *register* with the State Division of Insurance.

Stop-Loss Regulation

No regulation is reported.

Utilization Review Regulations

Not regulated.

Miscellaneous

Small Group Reform

None

MSA Legislation

No action.

State Premium Taxes

All carriers pay a 2.5% premium tax. HMOs have a credit for a South Dakota home office.

Registration of Self-Funded Plans

Self-funded plans must register with the State Insurance Department. If the plan cannot show that it is subject to the jurisdiction of some other state or federal agency, it must meet certain solvency requirements and must comply with the insurance code.

Continuation of Coverage and Conversion of Benefits

South Dakota requires that group policies allow participants and their dependents, who have been insured under the group policy for at least six months, to continue coverage if their coverage ends for any

reason other than failure to pay premiums.² Participants who choose such coverage must pay the full premium, including the employer portion, before the date each month that the group policy begins.

Insurers are only required to offer conversion coverage to individuals who lose group health coverage due to divorce. The South Carolina Department of Insurance suggests that individuals should be advised at the time their coverage terminates due to divorce that they may convert to an individual policy when their continuation coverage ends.

Endnotes

¹ S.D. Codified Laws Ann. §§ 58-290-1 to 58-290-22.

² S.D. Codified Laws Ann. § 38-31-770.