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FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Notice of Proposed Rules

Date in parentheses indicates when rules were filed with the Legislative Research Council.

Copies of proposed rules may be obtained for no charge at <https://rules.sd.gov> or from the agency directly.

Department of Social Services: (May 31, 2023) intends to amend rules to update the nursing facility rate setting and case mix validation process to use the Patient-Driven Payment Model (PDPM) instead of the M3PI; rebase nursing facility rates to use current cost data to match with PDPM case mix data; remove the occupancy rule from direct care; remove the overall rate limit increase; move to inflation calculations based on the nursing facility market basket index; update the depreciation edition referenced in rule; reflect a change in cost ceilings for capital costs; update the case mix validation process; remove the on-site requirement for classification reviews conducted by the department; remove or repeal outdated provisions; and update the Medicaid provider reimbursement manual citation. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held at the Department of Social Services Building, Prairie Conference Room, 811 East 10th Street, Sioux Falls, South Dakota, on June 22, 2023, at 11:00 a.m. (CT). Interested parties may also attend by calling (605) 679-7263 and using conference code 235 971 658#. Copies of the proposed rules may be obtained without charge from Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103. The rules are also available online at <http://rules.sd.gov>. Comments may be sent to Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103 or emailed to DSSAdminRules@state.sd.us. Material sent by mail must reach the department by July 2, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 367-5444, extension 1000309, at least 48 hours before the public hearing.

South Dakota Division of Insurance (Department of Labor and Regulation): (June 1, 2023) intends to amend rules in ARSD article 20:06 to update the sources referenced in rule to the most recent editions, to clean up a broken URL for another rule, and repeal a rule for which the referenced law implemented statute will be repealed effective July 1, 2023. The general authority for these rules, as cited by the division, is SDCL 58-3-11, 58-3-26, 58-4-48, 58-5A-93, 58-6-75, 58-26-13.1, 58-26-45.1, 58-26-46, 58-27-7, 58-27-108, 58-30-117, and 58-171-16.

A public hearing will be held in the Oahe Conference Room, 124 South Euclid Avenue, 1st Floor, Pierre, South Dakota, on June 26, 2023, at 1:30 p.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, South Dakota Division of Insurance, Administrative Rules, 124 South Euclid Avenue, 2nd Floor, Pierre, South Dakota 57501. Comments may also be emailed to lisa.harmon@state.sd.us. Copies of the proposed rules are also available at http://dlr.sd.gov/insurance/admin_rules/public_hearings.aspx or by email request to lisa.harmon@state.sd.us. Information submitted in writing must be received on or before July 6, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3563 at least 48 hours before the public hearing.

State Board of Elections (Office of the Secretary of State): (June 2, 2023) intends to amend rules to change the date for a statewide runoff; prescribe the oath for a county recount board; prescribe the notice for testing automatic tabulating equipment and prescribe the method for testing such equipment; describe how to seal automatic tabulating machines; prescribe ballot box storage and security; clarify how an auditor is to conduct absentee balloting at nursing facilities, assisted living centers, and hospitals; make changes to the voter registration form; add email address and telephone number to the precinct committeeman or committeewoman statement; change the acknowledgement notice for rejected voter registrations from forwardable to non-forwardable; clarify the procedures for voter registration file security; and prescribe the oath for a post-election audit board. The general authority for these rules, as cited by the board, is SDCL 12-1-9, 12-4-35, 12-4-37, 12-4-56, 12-17B-5.2, 12-17B-17, 12-17B-18, 12-19-9.1, 12-19-9.3, and 12-21-2.

A public hearing will be held in the Secretary of State Business Office, 215 East Prospect Avenue, Pierre, South Dakota, on June 28, 2023, at 11:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from the State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501, or at <https://sdsos.gov> or <https://rules.sd.gov>. Written comments may be sent to State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501 or emailed to elections@state.sd.us. Material sent by mail or email must reach the board seventy-two hours before the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-3537 at least 48 hours before the public hearing.

Notice

The **Department of Social Services** is providing an additional public comment period on the proposed changes below due to an error regarding the fiscal impact in the original notice document.

The department intends to make changes to the South Dakota Medicaid State Plan regarding Nursing Facility reimbursement. The proposed State Plan Amendment (SPA) proposes to move South Dakota Medicaid from the Resource Utilization Group III (RUG III) reimbursement model to the Patient Driven Payment Model (PDPM) reimbursement model for Nursing Facility services. The reimbursement rates will also be updated to the provider fiscal year 2021 cost report period and PDPM case mix data. The SPA amends pages 1, 4, 5, 7, 9, 10, 11, 12, 13, 15, and 16 of Attachment 4.19-D of the Medicaid State Plan.

The department intends to make the SPA effective July 1, 2023 and estimates the fiscal impact will be \$5,457,646 in state funds and \$6,784,719 in federal funds, totaling \$12,242,365 in Federal Fiscal Year 2023, and \$21,830,585 in state funds and \$27,138,874 in federal funds, totaling \$48,969,459 in Federal Fiscal Year 2024.

The SPA is available to view on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291, or emailed to MedicaidSPA@state.sd.us. The public comment period will start June 5, 2023, and end July 5, 2023.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Executive Order

Governor Noem has signed [Executive Order 2023-08](#), dated June 2, 2023, declaring a disaster to exist in ten South Dakota counties and one reservation under provisions of [SDCL chapter 34-48A](#) due to moderate to major flooding caused by rapid snow melt along the James, Big Sioux, and Minnesota River basins. The Order declares the disaster exists in the counties of Brown, Clark, Codington, Day, Faulk, Grant, Hand, Marshall, Potter, Roberts, and for the Sisseton Wahpeton Oyate of the Lake Traverse Reservation. It states that federal resources are needed to help alleviate the impacts of the flooding for local governments in South Dakota, including damage to road infrastructure resulting in unexpected costs for emergency and permanent road repairs. The Order does not contain an expiration date.

SCHEDULED PUBLIC HEARINGS

6-8-2023	<u>Board of Medical and Osteopathic Examiners (Department of Health)</u> : Adopt rules to create educational requirements and training for the issuance of a critical care endorsement and amend a rule to update the educational standards of athletic trainers to the 2020 Commission on Accreditation of Athletic Training Education; 49 SDR 91, April 24, 2023.
6-12-2023	<u>Department of Health</u> : Amend rules to add a newly recognized communicable disease with public health impact to the Category I reportable diseases and condition list; update or delete a communicable disease from the Category II reportable disease and condition list; and clarify the methods of reporting; 49 SDR 99, May 8, 2023.
6-13-2023	<u>South Dakota Commission on Gaming (Department of Revenue)</u> : Amend and adopt rules to standardize violations for both illegal substances and violations involving permitted drugs relating to horse racing; increase the fine that may be assessed for such violations; adopt the most recent version of the Association of Racing Commissioners International Uniform Clarification Guidelines for Foreign Substances and Recommended Penalties as applied to authorized drugs, fines, and penalties for violations; increase the permissible bute levels to an amount that is stable, in line with other jurisdictions, and consistent with trainer requests; and rescind a rule relating to the penalty for violation of permitted drug restriction; 49 SDR 109, May 30, 2023.
6-20-2023	<u>South Dakota Investment Council</u> : Adopt rules to clarify the South Dakota Investment Council's declaratory ruling process and repeal unnecessary rules; 49 SDR 107, May 22, 2023.
6-22-2023	<u>Department of Social Services</u> : Amend rules to update the nursing facility rate setting and case mix validation process to use the Patient-Driven Payment Model (PDPM) instead of the M3PI; rebase nursing facility rates to use current cost data to match with PDPM case mix data; remove the occupancy rule from direct care; remove the overall rate limit increase; move to inflation calculations based on the nursing facility market basket index; update the depreciation edition referenced in rule; reflect a change in cost ceilings for capital costs; update the case mix validation process; remove the on-site requirement for classification reviews conducted by the department; remove or repeal outdated provisions; and update the Medicaid provider reimbursement manual citation; 49 SDR 113, June 5, 2023.
6-26-2023	<u>South Dakota Division of Insurance (Department of Labor and Regulation)</u> : Amend rules in ARSD article 20:06 to update the sources referenced in rule to the most recent editions, to clean up a broken URL for another rule, and repeal a rule for which the referenced law implemented statute will be repealed effective July 1, 2023.; 49 SDR 113, June 5, 2023.
6-27-2023	<u>Board of Addiction and Prevention Professionals (Department of Social Services)</u> : Amend and adopt rules to change the timeline for renewal of certificates and licenses to a biennial renewal; revise fees consistent with a biennial renewal for certificates and licenses; establish an annual renewal for trainee recognition based on issue date; revise fees consistent with an annual renewal of trainee recognition; adopt a Code of Ethics for trainees and certificate or license holders; eliminate fees for certain services; clarify application information needed for trainees and certificate and license holders to obtain or new; update the continuing education requirements; and update regulations to conform to current standards; 49 SDR 110, May 30, 2023.
6-28-2023	<u>State Board of Elections (Office of the Secretary of State)</u> : Amend rules to change the date for a statewide runoff; prescribe the oath for a county recount board; prescribe the notice for testing automatic tabulating equipment and prescribe the method for testing such equipment; describe how to seal automatic tabulating machines; prescribe ballot box storage and security; clarify how an auditor is to conduct absentee balloting at nursing facilities, assisted living centers, and hospitals; make changes to the voter registration form; add email address and telephone number to the precinct committeeman or committeewoman statement; change the acknowledgement notice for rejected voter registrations from forwardable to non-forwardable; clarify the procedures for voter registration file security; and prescribe the oath for a post-election audit board; 49 SDR 114, June 5, 2023.

<p>7-7-2023</p>	<p>South Dakota Board of Education Standards (Department of Education): Adopt a rule to require all school districts to uniformly transcribe postsecondary credits onto a student's high school transcript; 49 SDR 95, May 1, 2023.</p>
<p>7-20-2023</p>	<p>Department of Agriculture: Amend and adopt rules to update the state's existing hazardous waste rules by incorporating updated codified federal regulations adopted from July 1, 2018 through June 30, 2022, by reference; 49 SDR 109, May 30, 2023.</p>
<p>7-21-2023</p>	<p>South Dakota Speech-Language Pathology Board of Examiners (Department of Health): Amend and adopt rules to remove unnecessary barriers to licensure; update language to reflect current technology and practice; and correct references to authority and legal references; 49 SDR 110, May 30, 2023.</p>

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2023 Interim is Tuesday, June 13, 2023, at 10:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol. Future meetings for the 2023 Interim are scheduled for July 18, August 8, September 12, and November 7. Find notices of committee meetings in this publication, on the [LRC website](#), and at the Capitol.

The Drafting Manual for Administrative Rules in South Dakota is available on the [Administrative Rules Manual page](#) of the LRC website and is updated regularly to reflect changes in drafting styles and procedures.