

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

490R0160

HOUSE BILL NO. 1162

Introduced by: Representatives Romkema, Bolin, Russell, Schlekeway, and Turbiville and
Senators Nelson and Adelstein

1 FOR AN ACT ENTITLED, An Act to limit the liability of covered persons if health care
2 service contractors are impaired or liquidated.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17C-1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Health care service contractor," any health carrier, intermediary, or employer self-funded
7 health benefit plan;

8 Section 2. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
9 follows:

10 For the purpose of this Act, and only in the event of a finding of impairment by the director
11 or of a final order of liquidation, any covered health care service furnished within the state by
12 a provider to a covered person of a health care service contractor shall be considered to have
13 been furnished pursuant to a contract between the provider and the health care service contractor
14 with whom the covered person was enrolled when the services were furnished.

15 Section 3. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Any contract between a health care service contractor and a provider of health care services
3 shall provide that if the health care service contractor fails to pay for covered health care
4 services as set forth in the covered person's evidence of coverage or contract, the covered person
5 is not liable to the provider for any amounts owed by the health care service contractor. If the
6 contract between the contracting provider and the health care service contractor has not been
7 reduced to writing or fails to contain the provisions required by this section, the covered person
8 is not liable to the contracting provider for any amounts owed by the health care service
9 contractor.

10 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
11 follows:

12 No contracting provider may maintain a civil action against a covered person to collect any
13 amounts owed by the health care service contractor for which the covered person is not liable
14 to the contracting provider.

15 Section 5. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Nothing in this Act impairs the right of a provider to charge, collect from, attempt to collect
18 from, or maintain a civil action against a covered person for any of the following:

- 19 (1) Deductible, copayment, or coinsurance amounts;
- 20 (2) Health care services not covered by the health care service contractor;
- 21 (3) Health care services rendered after the termination of the contract between the health
22 care service contractor and the provider, unless the health care services were rendered
23 during the confinement in an inpatient facility and the confinement began prior to the
24 date of termination or unless the provider has assumed post-termination treatment

1 obligations under the contract.

2 Section 6. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Nothing in this Act prohibits a covered person from seeking noncovered health care services
5 from a provider and accepting financial responsibility for these services.

6 Section 7. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
7 follows:

8 No health care service contractor may limit the right of a provider of health care services to
9 contract with the patient for payment of services not within the scope of the coverage offered
10 by the health care service contractor.