

2026 South Dakota Legislature

House Bill 1292**AMENDMENT 1292B
FOR THE INTRODUCED BILL**

1 **An Act to limit the ability of a health carrier to recoup, recover, or retroactively deny**
2 **previously paid claims.**

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

4 **Section 1. That a NEW SECTION be added to chapter 58-17H:**

5 Except as otherwise provided in this section, a previously paid claim may be
6 recouped, recovered, or retroactively denied by the health carrier ~~only~~ within eighteen
7 months ~~year~~ from the date the claim payment was made, if the health carrier has provided
8 written notice of the reason to the provider. This ~~limitation~~ does not apply to a previously
9 paid claim that:

10 (1) Was ~~determined by the health carrier to have been~~ submitted fraudulently or to
11 involve waste or abuse;

12 (2) Is the subject of an adjustment with a different health carrier, administrator, or
13 payor, and the adjustment is not affected by a contractual relationship, association,
14 or affiliation involving claims payment, processing, or pricing;

15 (3) Was for medical services covered by casualty insurance, as defined by §§ 58-9-11
16 to 58-9-27, inclusive;

17 (4) Was for medical services covered by a self-insured health plan governed by the
18 Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001 to
19 1461, inclusive (July 6, 2012);

20 (5) Was for medical services covered under medicare, 42 U.S.C. §§ 1395-1395III,
21 inclusive (March 15, 2025), medicaid, 42 U.S.C. §§ 1396 to 1396w-6, inclusive
22 (July 4, 2025), or any other federal law;

23 (6) Was for medical services covered by workers' compensation, as provided for in title
24 62; or

25 (7) Was incorrect because the provider or the member was already paid for the medical
26 services identified in the claim.

1 A violation of this section is subject to enforcement by the Division of Insurance
2 under title 58.

3 For purposes of this section, "medical services," do not include dental services,
4 pharmaceutical services, or the provision of prescription drug products or supplies.

5 For purposes of this section, "retroactively deny a previously paid claim" means to
6 retroactively collect claim payments made to a provider by requiring repayment of the
7 payments, reducing other payments currently owed to the provider, withholding or setting
8 off against future payments, or reducing or affecting the future claim payments to the
9 provider in any other manner.

10 **Section 2. That a NEW SECTION be added to chapter 58-17H:**

11 A health carrier shall notify a provider, in writing, at least thirty days in advance of
12 retroactively denying a previously paid claim, as defined in section 1 of this Act.

13 The provider has six months from the date of notification under this section to
14 refund the claim payment at issue, unless the provider determines and notifies the health
15 carrier that an exception set forth in section 1 of this Act is applicable.

16 The health carrier has thirty days after receipt of the notice to respond in writing
17 to the provider. If the health carrier objects to the provider's determination, the health
18 carrier must state the basis for the objection. If the health carrier fails to respond to the
19 provider's determination within the time required, the matter is deemed to be resolved
20 and the carrier may take no additional action in furtherance of a claim denial.

21 If a dispute between the provider and the health carrier concerning the claim
22 payment at issue persists, either may, within thirty days of the provider's receipt of the
23 health carrier's response to the provider's determination, file with the Division of Insurance
24 a request for a mandatory review of the ongoing claim payment dispute. Upon receipt of
25 all necessary documentation, the division shall provide a recommendation for a resolution.
26 No legal action may be commenced during the pendency of the review.

27 Within thirty days after the division has submitted its recommendation to the health
28 carrier and the provider, either party may commence legal action for a resolution of the
29 dispute by a court of competent jurisdiction in this state. Nothing in this section preempts
30 or limits any other right or remedy available to a health carrier or provider under law,
31 except to the extent that such right or remedy is inconsistent with this section.

32 If legal action is not commenced as provided for in this section, the provider must
33 refund the claim payment at issue.

1 A payment remitted by the provider to the health carrier, as provided for in section
2 1 of this Act, must be in the amount originally paid by the carrier and may not include any
3 additional fees, penalties, or interest.

4 **Section 3.** This Act is applicable to claims for ~~health care medical services, as defined in § 58-~~
5 ~~17H-1, which are~~ provided on or after July 1, 2026.

