

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0310

## SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 38** - 01/12/2001

Introduced by: The Committee on Commerce at the request of the Department of  
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to revise health plan coverage requirements for newborns  
2 and newly adopted children.

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

4 Section 1. That § 58-17-30.3 be amended to read as follows:

5 58-17-30.3. The coverage for a newly born child from the moment of birth or for a newly  
6 adopted child, from the beginning of the six-month adoption bonding period, shall consist of  
7 coverage of injury or sickness including the necessary care and treatment of premature birth and  
8 medically diagnosed congenital defects and birth abnormalities. The coverage required by this  
9 section applies to any subsequent health benefit plan that is purchased providing coverage for  
10 that newly born or newly adopted child if application for the subsequent coverage is made within  
11 sixty-three days of the termination of the prior coverage. The provisions of §§ 58-17-30.2 to 58-  
12 17-30.4, inclusive, apply to any individually written health benefit plan issued or renewed by any  
13 health insurer, health carrier, health maintenance organization, fraternal benefit society, nonprofit  
14 medical and surgical plan, nonprofit hospital service plan, or other entity providing coverage

1 through a health benefit plan subject to the provisions of this title.

2 Section 2. That § 58-18-33 be amended to read as follows:

3 58-18-33. The coverage for a newly born child from the moment of birth or for a newly  
4 adopted child, from the beginning of the six-month adoption bonding period, shall consist of  
5 coverage of injury or sickness including the necessary care and treatment of premature birth and  
6 medically diagnosed congenital defects and birth abnormalities. The coverage required by this  
7 section applies to any subsequent health benefit plan that is purchased providing coverage for  
8 that newly born or newly adopted child if application for the subsequent coverage is made within  
9 sixty-three days of the termination of the prior coverage. The provisions of §§ 58-18-32 to 58-  
10 18-34, inclusive, apply to any group health benefit plan issued or renewed by any health insurer,  
11 health carrier, health maintenance organization, fraternal benefit society, nonprofit medical and  
12 surgical plan, nonprofit hospital service plan, or other entity providing coverage through a health  
13 benefit plan subject to the provisions of this title.

14 Section 3. That § 58-33-85 be amended to read as follows:

15 58-33-85. Any insurer subject to this chapter, including any group health plan, as defined in  
16 section 607(1) of the Employee Retirement Income Security Act of 1974, as amended to  
17 January 1, 1994, who are engaged in the business of health insurance is prohibited from denying  
18 enrollment of a dependent child, ~~as defined by subdivision 25-7A-1(7),~~ under the health insurance  
19 coverage of either the child's natural, adoptive, or stepparents for any of the following reasons:

- 20 (1) The child was born out of wedlock; or  
21 (2) The child is not claimed as a dependent on the parent's federal income tax return; or  
22 (3) The child does not reside with the parent or in the insurer's service area.

23 Section 4. That § 58-38-11.7 be repealed.

24 ~~58-38-11.7. Any health insurance policy or indemnity type contract issued by a nonprofit~~

1 ~~medical and surgical service plan corporation which offers coverage for a family member of an~~  
2 ~~insured or subscriber shall provide that the health insurance benefits applicable for children are~~  
3 ~~payable with respect to a newly born child of the insured or subscriber from the moment of birth~~  
4 ~~or to a newly adopted child of the insured or subscriber from the beginning of the six-month~~  
5 ~~adoption bonding period. The newly born or newly adopted child shall be added to the policy~~  
6 ~~without underwriting and without the imposition of any preexisting waiting period. Any policy~~  
7 ~~or contract issued before July 1, 1984, shall, upon its next anniversary date, also provide that the~~  
8 ~~health insurance benefits applicable for children are payable with respect to a newly born child~~  
9 ~~of the insured or subscriber from the moment of birth or to a newly adopted child of the insured~~  
10 ~~or subscriber from the beginning of the six-month adoption bonding period.~~

11 Section 5. That § 58-38-11.8 be repealed.

12 ~~—58-38-11.8. The coverage for a newly born child from the moment of birth or for a newly~~  
13 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
14 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
15 ~~medically diagnosed congenital defects and birth abnormalities.~~

16 Section 6. That § 58-38-11.9 be repealed.

17 ~~—58-38-11.9. An insurer may require notice that a newly born or newly adopted child is to be~~  
18 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
19 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
20 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
21 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
22 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
23 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
24 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~

1 of premium adjustment until the birth of the child or the start of the adoption bonding period. An  
2 insurer is considered to have taken reasonable steps if prominent disclosure of the requirements  
3 of this section are included in a certificate, subscriber contract, evidence of coverage, or  
4 employee handbook if such are provided to all insureds.

5 — If payment of a specific premium or subscription fee is required to provide coverage for a  
6 child, the policy or contract may require that notification of birth of a newly born child or  
7 notification of the start of the six-month adoption bonding period for an adopted child and  
8 payment of the required premium or fees be furnished to the nonprofit medical and surgical  
9 service plan corporation within thirty-one days after the date of birth or start of the bonding  
10 period in order to have the coverage continued beyond the thirty-one day period.

11 Section 7. That § 58-40-10.7 be repealed.

12 — 58-40-10.7. Any health insurance policy or indemnity type contract issued by a nonprofit  
13 hospital service plan corporation which offers coverage for a family member of an insured or  
14 subscriber shall provide that the health insurance benefits applicable for children are payable with  
15 respect to a newly born child of the insured or subscriber from the moment of birth or to a newly  
16 adopted child of the insured or subscriber from the beginning of the six-month adoption bonding  
17 period. The newly born or newly adopted child shall be added to the policy without underwriting  
18 and without the imposition of any preexisting waiting period. Any policy or contract issued  
19 before July 1, 1984, shall, upon its next anniversary date, also provide that the health insurance  
20 benefits applicable for children are payable with respect to a newly born child of the insured or  
21 subscriber from the moment of birth or to a newly adopted child of the insured or subscriber  
22 from the beginning of the six-month adoption bonding period.

23 Section 8. That § 58-40-10.8 be repealed.

24 — 58-40-10.8. The coverage for a newly born child from the moment of birth or for a newly

1 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
2 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
3 ~~medically diagnosed congenital defects and birth abnormalities.~~

4 Section 9. That § 58-40-10.9 be repealed.

5 ~~—58-40-10.9. An insurer may require notice that a newly born or newly adopted child is to be~~  
6 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
7 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
8 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
9 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
10 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
11 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
12 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~  
13 ~~of premium adjustment until the birth of the child or the start of the adoption bonding period. An~~  
14 ~~insurer is considered to have taken reasonable steps if prominent disclosure of the requirements~~  
15 ~~of this section are included in a certificate, subscriber contract, evidence of coverage, or~~  
16 ~~employee handbook if such are provided to all insureds.~~

17 ~~—If payment of a specific premium or subscription fee is required to provide coverage for a~~  
18 ~~child, the policy or contract may require that notification of birth of a newly born child or~~  
19 ~~notification of the start of the six-month adoption bonding period for an adopted child and~~  
20 ~~payment of the required premium or fees be furnished to the nonprofit medical and surgical~~  
21 ~~service plan corporation within thirty-one days after the date of birth or start of the bonding~~  
22 ~~period in order to have the coverage continued beyond the thirty-one day period.~~

23 Section 10. That § 58-41-35.2 be repealed.

24 ~~—58-41-35.2. Any health insurance policy or indemnity type contract issued by a health~~

1 maintenance organization which offers coverage for a family member of an insured or subscriber  
2 shall provide that the health insurance benefits applicable for children are payable with respect  
3 to a newly born child of the insured or subscriber from the moment of birth or to a newly  
4 adopted child of the insured or subscriber from the beginning of the six-month adoption bonding  
5 period. The newly born or newly adopted child shall be added to the policy without underwriting  
6 and without the imposition of any preexisting waiting period. Any policy or contract issued  
7 before July 1, 1984, shall, upon its next anniversary date, also provide that the health insurance  
8 benefits applicable for children are payable with respect to a newly born child of the insured or  
9 subscriber from the moment of birth or to a newly adopted child of the insured or subscriber  
10 from the beginning of the six-month adoption bonding period.

11 Section 11. That § 58-41-35.3 be repealed.

12 ~~— 58-41-35.3. The coverage for a newly born child from the moment of birth or for a newly~~  
13 ~~adopted child, from the beginning of the six-month adoption bonding period, shall consist of~~  
14 ~~coverage of injury or sickness including the necessary care and treatment of premature birth and~~  
15 ~~medically diagnosed congenital defects and birth abnormalities.~~

16 Section 12. That § 58-41-35.4 be repealed.

17 ~~— 58-41-35.4. An insurer may require notice that a newly born or newly adopted child is to be~~  
18 ~~added to the policy or that coverage is to be changed from single or spousal coverage to family~~  
19 ~~coverage. However, the insurer may not require notification sooner than the birth of the child~~  
20 ~~or the start of the adoption bonding period. If the child is added or coverage changed to family~~  
21 ~~coverage before the birth of the child or the start of the adoption bonding period, no additional~~  
22 ~~premium may be charged by the insurer until the birth of the child or the start of the adoption~~  
23 ~~bonding period. The insurer shall take reasonable steps to provide adequate notice to insureds~~  
24 ~~of the need to alter coverage to ensure newborn or adopted children are covered and of the lack~~

1 ~~of premium adjustment until the birth of the child or the start of the adoption bonding period. An~~  
2 ~~insurer is considered to have taken reasonable steps if prominent disclosure of the requirements~~  
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5 ~~— If payment of a specific premium or subscription fee is required to provide coverage for a~~  
6 ~~child, the policy or contract may require that notification of birth of a newly born child or~~  
7 ~~notification of the start of the six-month adoption bonding period for an adopted child and~~  
8 ~~payment of the required premium or fees be furnished to the nonprofit medical and surgical~~  
9 ~~service plan corporation within thirty-one days after the date of birth or start of the bonding~~  
10 ~~period in order to have the coverage continued beyond the thirty-one day period.~~