



## 2024 South Dakota Legislature

# House Bill 1202

Introduced by: **Representative Karr**

1 **An Act to establish procedures for the termination of services by a provider through**  
 2 **the CHOICES waiver program.**

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

4 **Section 1. That a NEW SECTION be added to chapter 27B-2:**

5 Terms used in sections 2 to 5, inclusive, of this Act, mean:

- 6 (1) "CHOICES waiver program," the medicaid 1915(c) waiver program administered  
 7 by the Department of Human Services to provide home and community-based  
 8 services to children and adults with intellectual and developmental disabilities  
 9 through a provider;  
 10 (2) "Participant," an individual with an intellectual or developmental disability who  
 11 receives services through the CHOICES waiver program; and  
 12 (3) "Provider," a community services provider or a community support provider.

13 **Section 2. That a NEW SECTION be added to chapter 27B-2:**

14 Except as provided in section 5 of this Act, a provider must, at least thirty days  
 15 before terminating CHOICES waiver program services to a participant, provide a notice of  
 16 termination to the:

- 17 (1) Participant, with accommodations for participants who have difficulty  
 18 communicating, or the participant's parent, if the participant is under age eighteen;  
 19 (2) Participant's guardian, if applicable;  
 20 (3) Participant's individualized service plan team; and  
 21 (4) Department of Human Services.

22 Affirmative understanding of the notice by the participant is not required.

23 **Section 3. That a NEW SECTION be added to chapter 27B-2:**

24 The notice of termination required in section 2 of this Act must contain:

- 1 (1) The reason for terminating CHOICES waiver program services;
- 2 (2) Information on the availability of other similar services in the community;
- 3 (3) An explanation of the participant's right to appeal the decision; and
- 4 (4) An explanation that an appeal may only be based upon whether the provider
- 5 followed termination procedures set forth in this chapter, administrative rule, and
- 6 the provider's termination policy.

7 **Section 4. That a NEW SECTION be added to chapter 27B-2:**

8 A participant, the participant's parent if the participant is under age eighteen, or  
9 the participant's guardian may appeal the provider's termination of CHOICES waiver  
10 program services to the Department of Human Services within thirty days from the date  
11 of the provider's notice of termination. An appeal may only be based upon whether the  
12 provider followed the termination procedures set forth in this chapter, administrative rule,  
13 and the provider's termination policy.

14 If a termination is being appealed, the provider must continue to provide services  
15 to the participant for a period of ninety days from the date of the provider's notice of  
16 termination, or until a decision is reached after a hearing pursuant to chapter 1-26,  
17 whichever occurs first.

18 If an appeal to terminate services is adjudicated in favor of the participant or the  
19 participant's parent or guardian, the provider must reinstate services to the participant.  
20 After the provider has reinstated services, the provider may reissue a notice of  
21 termination.

22 **Section 5. That a NEW SECTION be added to chapter 27B-2:**

23 If a provider determines that a delay in termination of CHOICES waiver program  
24 services will jeopardize the life, health, or safety of the participant, other participants  
25 cared for by the provider, employees of the provider, or members of the public, the  
26 provider may immediately terminate services to the participant upon providing a notice of  
27 emergency termination to the:

- 28 (1) Participant, with accommodations for participants who have difficulty
- 29 communicating, or the participant's parent, if the participant is under age eighteen;
- 30 (2) Participant's guardian, if applicable;
- 31 (3) Participant's individualized service plan team; and
- 32 (4) Department of Human Services.

33 Affirmative understanding of the notice by the participant is not required.

1           The emergency termination notice must contain the reason for terminating services  
2 to the participant, information on the availability of other similar services in the  
3 community, and the contact information of the participant's case manager and the  
4 Department of Human Services.

5           The provider shall refer a participant who is terminated under this section to the  
6 participant's case manager and the Department of Human Services to secure placement.