



SOUTH DAKOTA REGISTER

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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 Health: (May 4, 2023) intends to 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 diseases and condition list; and clarify the methods of reporting. The general authority for these rules, as cited by the department, is SDCL 34-1-17, 34-22-9, 34-22-12, and 34-23-13.

A public hearing will be held at the Hayes Building Conference Room, 600 East Capitol Avenue, Pierre, South Dakota, on June 12, 2023, at 11:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from the Department of Health, 615 East Fourth Street, Pierre, South Dakota 57501 or online at <https://rules.sd.gov>. Written comments may be sent to the Department of Health, Epidemiology, Surveillance, and Informatics Centers, 615 East Fourth Street, Pierre, South Dakota 57501. Material sent by mail must reach the department by June 22, 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) 773-3361 at least 48 hours before the public hearing.

Petition for Rules

The **Department of Game, Fish and Parks** on May 4, 2023, served on the Interim Rules Review Committee and director of the Legislative Research Council petitions received from interested persons, per [SDCL 1-26-13](#), to amend administrative rule to modify the beaver trapping season location and time ([ARSD 41:08:01:07](#)) and to allow for the use of blowgun darts to take fish ([ARSD 41:07](#)). The [Game, Fish and Parks Commission](#) reviewed the petitions at its May 4, 2023, meeting.

Notices

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan to implement community mental health center (CMHC) and substance use disorder (SUD) agency rate increases appropriated by the South Dakota Legislature during the 2023 legislative session, and effective June 1, 2023. Medicaid CMHC and SUD agency services will receive a 16 percent rate increase; the updated fee schedules will be posted on the department's website at <https://dss.sd.gov/medicaid/providers/feeschedules/> by June 1, 2023. South Dakota Medicaid providers should continue to submit claims and bill South Dakota Medicaid as they did prior to June 1, 2023. Fee schedules are the maximum allowable reimbursement amount; per ARSD 67:16:01:09, payment for services is limited to the provider's usual and customary charge. The SPA revises Attachment 4.19-B, Introduction page 1.

The department intends to make the SPA effective June 1, 2023 and estimates the fiscal impact will be \$622,612 in state funds and \$957,278 in federal funds, totaling \$1,579,890 in Federal Fiscal Year 2023, and \$1,867,836 in state funds and \$2,871,833 in federal funds, totaling \$4,739,669 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 May 8, 2023, and end June 7, 2023.

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan regarding the health home program. The proposed state plan amendment (SPA) updates the quality measures and associated weights for the health home quality incentive payment methodology, which has been updated based on provider and stakeholder group feedback. The updated methodology is calculated based on seven weighted measures regarding improved outcomes, met and exceeded targets, and caseload severity. The updated measures and associated weights are as follows:

Measure	Weight	Target
Depression Follow-Up Plan Doc	15	90.40%
Active Care Plan	25	77.98%
BMI in control	12	21.60%
Mammogram up to date	12	55.27%
Colonoscopy up to date	12	57.10%
Blood Pressure in control	12	74.34%
Face-to-face visits missed	12	15.75%

The SPA amends the health home payment methodology pages, Attachment 3.1-H, and pages 11-19. The department intends to make the SPA effective June 1, 2023 and estimates there will be no fiscal impact in Federal Fiscal Year 2023 or Federal Fiscal Year 2024 as the total payment pool for the quality incentive payments is not changing.

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. The public comment period will start May 8, 2023, and end June 7, 2023.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Final Administrative Rules

BOARD OF WATER AND NATURAL RESOURCES (DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES):

74:05:08:01, 74:05:08:02, 74:05:08:03.01, 74:05:08:12.03, 74:05:08:13; 74:05:11:01, 74:05:11:02, 74:05:11:06, 74:05:11:06.01, 74:05:11:07, 74:05:11:12, 74:05:11:14, 74:05:11:18, 74:05:11:18.02, 74:05:11:18.03.

History/Notice: 49 SDR 74, February 27, 2023

Hearing: March 30, 2023

Filed: May 2, 2023

Effective: May 22, 2023

SOUTH DAKOTA STATE FAIR (DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES): 12:02:04:05.

History/Notice: 49 SDR 78, March 13, 2023

Hearing: April 5, 2023

Filed: May 2, 2023

Effective: May 22, 2023

[CIVIL SERVICE COMMISSION \(BUREAU OF HUMAN RESOURCES\)](#): 55:09:04:04.01.

History/Notice: 49 SDR 78, March 13, 2023

Hearing: April 4, 2023

Filed: May 2, 2023

Effective: May 22, 2023

[SOUTH DAKOTA COMMISSION ON GAMING \(DEPARTMENT OF REVENUE\)](#): 20:18:12.01:16, 20:18:12.01:23; 20:18:15:30.19; 20:18:33:14.

History/Notice: 49 SDR 72, February 21, 2023

Hearing: March 14, 2023

Filed: May 5, 2023

Effective: May 25, 2023

Executive Order

Governor Noem has signed [Executive Order 2023-06](#), dated May 4, 2023, prohibiting any "employee or agency of the State of South Dakota," and any "person or entity who contracts with the State of South Dakota," from downloading or using any application or visiting any website controlled by China-based technology and media company Tencent Holdings, Ltd., on state-issued devices, and state-owned or state-leased equipment, respectively. The purpose of the Order, as described in the document, is to maintain the cybersecurity of South Dakota state government and protect user information from being used by the Chinese Communist Party, consistent with [Executive Order 2022-10](#). Under this latest Order, the Commissioner of the Bureau of Information and Telecommunications shall designate any other application, website, platform, service, or product whose use or access would be detrimental to state security, consistent with both Executive Orders. The Commissioner shall also create and maintain a list of entities designated and prohibited under this Executive Order and Executive Order 2022-10. Neither Order has an expiration date.

Executive Appointments

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeding</u>	<u>Effective/End Date</u>
South Dakota Professional Administrators Practices and Standards Commission			
Jennifer Knecht Platte	Governor	Samantha Waldner	4/25/2023 – 12/31/2025
State Board of Regents			
James Lochner Dakota Dunes	Governor	Tonnis Venhuizen	4/19/2023 – 3/31/2027
Douglas Morrison Sioux Falls	Governor	Barbara Stork	4/19/2023 – 3/31/2025

SCHEDULED PUBLIC HEARINGS

5-11-2023	Department of Agriculture and Natural Resources : Amend rules to update pest control certification and training regulations in accordance with the department's signed certification and training plan with the Environmental Protection Agency, update pesticide recycling rules on types of containers, and waive the pre-registration requirement for waste pesticide disposal; 49 SDR 86, April 11, 2023.
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5-12-2023	<u>Department of Social Services:</u> Amend rules to repeal four chapters; add a new chapter covering the licensing requirements for family day care homes, licensed day care programs, and before and after school care; streamline and clarify rules related to group care centers, residential treatment centers, and intensive residential treatment centers; apply the 15:1 ratio for five-year-old children for a licensed program; increase by one the number of infants a family day care provider can care for; change the group size to align with the capacity of a room and for licensed programs serving twenty or less to have a ratio of 10:1 in a mixed age group with no more than four children under age two; expand the duties of a 14-year-old staff member when working at a before or after school program; remove the requirement for a family day care provider to have a physical examination; remove the limitation on the number of hours a substitute provider can be used; remove the requirement to have a staff training plan; remove the requirement for annual training for bus drivers or other staff who do not care for children; reduce the ongoing training requirements for family day care providers; and incorporate style and form edits; 49 SDR 91, April 17, 2023.
5-15-2023	<u>Bureau of Administration:</u> Amend rules to increase the rate for legal publications; 49 SDR 95, May 1, 2023.
5-19-2023	<u>Department of Social Services:</u> Amend rules to update the Temporary Assistance to Needy Families (TANF) payment standard amounts; update federal medical services eligibility standards that are reflected in rule; update the Medicaid eligibility categories to remove the Limited Coverage Pregnancy Group; extend the eligibility for the Post-Partum Group from 60 days to 12 months; and add the new Adult Group of individuals aged 19 or older and under age 65; 49 SDR 92, April 24, 2023.
5-22-2023 *Note date change from 5/16/2023	<u>Department of Health:</u> Amend a rule to add dental hygienists to the list of professions eligible to participate in the Rural Healthcare Facility Recruitment Assistance Program; 49 SDR 92, April 24, 2023.
5-22-2023	<u>South Dakota Board of Education Standards (Department of Education):</u> 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.
5-23-2023	<u>South Dakota Division of Insurance (Department of Labor and Regulation):</u> Amend a rule to incorporate the 2023 Medicare Supplement coverage amounts set by the federal government; 49 SDR 95, May 1, 2023.
5-24-2023	<u>South Dakota Board of Massage Therapy (Department of Health):</u> Repeal a rule that requires fees to be remitted to the Board of Massage Therapy in the form of a personal check, cashier's check, certified check, or money order; 49 SDR 96, May 1, 2023.
6-2-2023	<u>South Dakota State Board of Dentistry (Department of Health):</u> Amend rules to update regulations pertaining to clinical examinations and licensure; update advertising regulations; update specialty practice advertising regulations and account for legal case law developments; update supervision requirements for the administration of nitrous oxide sedation and analgesia by dental hygienists and registered dental assistants; update supervision requirements for the administration of local anesthesia by dental hygienists; and repeal the unnecessary reporting requirement for collaborative supervision; 49 SDR 88, April 17, 2023.
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.

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.