



# SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 50

Monday, 8:00 a.m., October 2, 2023

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## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

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### Notice of Proposed Rules

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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.

**South Dakota Division of Insurance (Department of Labor and Regulation)**: (September 26, 2023) intends to amend a rule to remove the \$25 filing fee paid by a consumer when seeking an external review of an adverse determination made by a health carrier. The general authority for this rule, as cited by the division, is SDCL [58-17-87](#), [58-17H-49](#), [58-17I-16](#), and [58-18-79](#).

A public hearing will be held in the Oahe Conference Room, 124 South Euclid Avenue, 1<sup>st</sup> Floor, Pierre, South Dakota, on October 17, 2023, at 1:30 p.m. (CT). Members of the public who wish to appear remotely should please contact the Division by October 13, 2023, for more information. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, South Dakota Division of Insurance, Administrative Rules, 124 South Euclid Avenue, 2<sup>nd</sup> Floor, Pierre, South Dakota 57501. Comments may also be emailed to [lisa.harmon@state.sd.us](mailto:lisa.harmon@state.sd.us). Copies of the proposed rules are also available at [http://dlr.sd.gov/insurance/admin\\_rules/public\\_hearings.aspx](http://dlr.sd.gov/insurance/admin_rules/public_hearings.aspx) or by email request to [lisa.harmon@state.sd.us](mailto:lisa.harmon@state.sd.us). Information submitted in writing must be received on or before October 27, 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) 773-3563 at least 48 hours before the public hearing.

### Petition for Rules

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The **Department of Game, Fish and Parks** on September 29, 2023, served on the Interim Rules Review Committee and director of the Legislative Research Council a petition received from an interested person, per [SDCL 1-26-13](#), to amend administrative rule to allow nonresidents to use hounds to hunt raccoons ([ARSD 41:08:01:12](#)). The [Game, Fish and Parks Commission](#) will review the petition at its October 5, 2023, meeting.

### Notice

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The **Department of Social Services** intends to hold a public forum regarding the Former Foster Care Youth Demonstration. The demonstration was approved by the Center for Medicare and Medicaid Services on May 1, 2018, and provides the State the authority to continue Medicaid coverage for individuals who were in foster care under the responsibility of another state, were enrolled in Medicaid in that state, and now reside in South Dakota. As of September 1, 2023, three individuals were covered under the demonstration.

To be eligible for Medicaid coverage under the demonstration, an individual must meet the following criteria:

- Be a citizen of the United States, or have a non-citizen status that qualifies for federally funded Medicaid;
- Be a South Dakota resident;
- Are under the age of 26;
- Are not otherwise mandatorily eligible for coverage under the state plan;

- Were in foster care under the responsibility of another state and were enrolled in Medicaid under another state's state plan or 1115 demonstration when they turned 18 or at the time of aging out of the state's foster care program; and
- Have an income less than 182 percent of the Federal Poverty Level.

The department will hold a public forum in the Kneip 1 Conference Room, Kneip Building, 700 Governors Drive, Pierre, South Dakota, on November 9, 2023, at 1:00 p.m. (CT). Attendees may also join via [Zoom](#), using meeting ID 973 8123 4389. The forum provides the public an opportunity to provide feedback on the progress of the demonstration project.

A copy of the demonstration and demonstration extension request are available on the department's website at <https://dss.sd.gov/medicaid/1115waiver.aspx>. Comments may be emailed to [Ashley.Lauing@state.sd.us](mailto:Ashley.Lauing@state.sd.us). Written requests for a copy of the demonstration, and corresponding comments, may be sent to the Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291. The public comment period will start October 10, 2023, and end November 10, 2023.

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## FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

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### Final Administrative Rules

**DEPARTMENT OF PUBLIC SAFETY:** 61:08:01:01; 61:08:04:03; 61:08:05:01, 61:08:05:16; 61:08:05:17, 61:08:05:19, 61:08:05:22; 61:08:06:03, 61:08:06:07, 61:08:06:08; 61:08:07:01; 61:08:09:02, 61:08:09:11, 61:08:09:33, 61:08:09:39, 61:08:09:41, 61:08:09:54, 61:08:09:55; 61:16:01:01, 61:16:01:02, 61:16:01:03; 61:23:01:04; 61:25:04:05; 61:33:01:01, 61:33:01:02, 61:33:01:03, 61:33:01:04, 61:33:01:05, 61:33:01:06, 61:33:01:07, 61:33:01:08, 61:33:01:09, 61:33:01:10, 61:33:01:11, 61:33:01:12.

**History/Notice:** 50 SDR 8, July 17, 2023  
**Hearing:** August 14, 2023  
**Filed:** September 26, 2023  
**Effective:** October 16, 2023

**DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES:** 12:53:01:02.

**History/Notice:** 50 SDR 8, July 17, 2023  
**Hearing:** August 23, 2023  
**Filed:** September 29, 2023  
**Effective:** October 19, 2023

### Executive Appointments

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeding</u>	<u>Effective/End Date</u>
<b>American Dairy Association of South Dakota</b>			
Riley S. Boadwine Baltic	Governor	Tim den Dulk	10/31/2023 – 10/30/2026
<b>Board of Minerals and Environment</b>			
Glenn A. Blumhardt Bowdle	Governor	Reappointed	9/28/2023 – 6/30/2027



	used; clarify supervision requirements of the LPN, update and modernize the IV therapy tasks an LPN may perform, including the administration of blood components, after obtaining additional education and training; and update tasks and IV medications an LPN may not perform or administer; 50 SDR 14, July 31, 2023.
10-11-2023	<b>Department of Social Services:</b> Amend and adopt rules to update citations; update procedure codes that are reimbursed at a percent of the provider's usual and customary charge and included on the applicable fee schedule; clarify coverage for the removal of implanted contraceptives; clarify coverage for routine foot care services for those diagnosed with metabolic, neurologic, or peripheral vascular diseases; update personal care assessment frequency and the information reviewed; clarify reasons for discontinuation of personal care services; remove the certificate of medical necessity requirement to align with Medicare; increase the timeliness of access to breast pumps by updating billing provisions; update treatment plan timing to coordinate with the mental health chapter and current practice; update and clarify nursing facility level of care definitions, categories, and various coverage for services; clarify what settings and services apply to each level of care classification; clarify and detail the specialized therapy services that are covered under the Family Support 360 waiver program and update the applicable procedure codes for billing those services; and remove repealed rule references; 50 SDR 34, September 18, 2023.
10-11-2023	<b>Department of Social Services:</b> Adopt and amend rules to replace the term "division" with "department" throughout most of ARSD articles 67:61 and 67:62 to coincide with the transition of the accreditation and licensing of providers or agencies to the newly formed Office of Licensing and Accreditation within the Department of Social Services; 50 SDR 36, September 18, 2023.
10-11-2023	<b>Department of Human Services:</b> Adopt, amend, and repeal rules to add regulatory definitions for the terms "abuse," "exploitation," and "neglect;" revise criteria for imposing probation on certain providers; specify that providers must afford all participants their rights; specify providers may not allow or condone abuse, neglect, or exploitation; update appeal provisions when services are terminated by a provider; update definitions concerning Family Support Waiver Services; clarify hiring responsibilities under the agency with choice model; add new language concerning the common-law employer model; add specialized therapies as a service covered under the Family Support Waiver; repeal review of a qualified provider; update notice requirements for when an intermediate care facility terminates services; and repeal certain registration requirements for interpreters; 59 SDR 36, September 18, 2023.
10-12-2023	<b>Department of Health:</b> Amend a rule to add Newborn Hearing Screening to South Dakota's newborn screening panel; 50 SDR 35, September 18, 2023.
10-12-2023	<b>Office of the Attorney General:</b> Adopt and amend rules to update and clarify minimum standards, training, and employment regulations for law enforcement officers and 911 telecommunicators; correct certain statutory references and definitions; provide provisions for refusal of school sentinel applications; and expand law enforcement employment eligibility in limited cases, permitting certain technical college students who complete a state-recognized law enforcement program to be potentially eligible for employment prior to reaching age 21; 50 SDR 36, September 18, 2023.
10-17-2023	<b>South Dakota Division of Insurance (Department of Labor and Regulation):</b> Amend a rule to remove the \$25 filing fee paid by a consumer when seeking an external review of an adverse determination made by a health carrier; 50 SDR 46, October 2, 2023.
10-18-2023	<b>Department of Health:</b> Adopt and amend rules to update and clarify the minimum regulations related to operation, physical environment, fire protection, management and administration, physician services, nursing and related care services, dietetic services, medication control, medical record services, hospital diagnostic services, hospital complimentary services, long-term care supportive services, construction standards, additional hospital standards, and swing bed patients' rights necessary for hospitals, specialized hospitals, critical access hospitals, and rural emergency hospitals to maintain the health and safety of patients receiving services in these facilities; and add rural emergency hospitals to ARSD article <a href="#">44:75</a> , as authorized by <a href="#">House Bill 1123</a> during the 2022 legislative session, to outline the minimum regulations necessary to operate a rural emergency hospital. Rural emergency hospitals were designated as a new Medicare provider type for Medicare and Medicaid Services (CMS) in January of 2023; 50 SDR 35, September 18, 2023.

<p><b>10-20-2023</b></p>	<p><b><a href="#">South Dakota State Board of Dentistry (Department of Health)</a></b>: Amend rules to update license, registration, and permit fees that have not been updated since 2012; 50 SDR 35, September 18, 2023.</p>
<p><b>10-24-2023</b></p>	<p><b><a href="#">South Dakota Board of Physical Therapy (Department of Health)</a></b>: Adopt and amend rules to update the application and license renewal fee to accommodate biennial licensure; update the code of ethics for physical therapists; adopt a code of ethics for physical therapist assistants; update the hours of continuing education required for license renewal to accommodate biennial licensure; and update references to the Board of Physical Therapy; 50 SDR 35, September 18, 2023.</p>

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**RULES REVIEW COMMITTEE MEETINGS**

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The final meeting of the Interim Rules Review Committee for the 2023 Interim is Tuesday, November 7, 2023, at 8:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol. Find information regarding 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.