



Division of Insurance



SOUTH DAKOTA
DEPT. OF **LABOR**
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Spring 2019

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Workers' Compensation Informal Hearing Held April 2

Pursuant to SDCL 58-24-67, a workers' compensation informal hearing was held April 2. The proposed National Council on Compensation Insurance Inc. (NCCI) Advisory Loss Costs and Assigned Risk Rate Filing were discussed.

The filing proposed an overall average decrease of 11.9 percent to the current voluntary advisory loss cost level and an overall average rate level decrease of 19.1 percent to the current assigned risk rate level. The information on the proposed Loss Cost/Assigned Risk Filing was presented by Robert Moss and Stephanie Paswaters of NCCI.

This filing was approved by Division of Insurance Director Larry Deiter with an effective date of July 1, 2019.

PY2020 Product Filing Deadlines

The South Dakota Division of Insurance has established the submission deadline of May 31, 2019, for all on- and off-exchange Individual and Small Group ACA-compliant health insurance plans.

Any issuer who intends to market or renew ACA-compliant products after Jan. 1, 2020, must comply with the filing deadline for all rates, forms, access plans and binder filings.

Additional information and filing requirements is available in [Bulletin 19-02](#).

This deadline does not apply to grandfathered health plans or non-grandfathered health plans with effective dates prior to Dec. 31, 2013.

Flood Insurance FAQs

The Division posted a list of common questions and answers on general flood-related insurance coverage on the [Division's website](#).

Flood insurance is administered by the Federal Emergency Management Agency (FEMA) through the National Flood Insurance Program (NFIP). It is coverage separate from homeowner or dwelling policies which in most cases do not cover flood damage.

Additional information on flood insurance is available by visiting the NFIP website fema.gov/national-flood-insurance-program or by calling 800.427.4661.

Examination Review Workshop

In April, Division of Insurance staff and representatives of the insurance industry joined together to discuss producer licensing examination content development for the South Dakota Insurance Agent Licensing Examinations.



The goal of the Examination Review Workshop hosted by the examination vendor, Pearson VUE, was to review the exam subject matter to ensure the quality and appropriateness of the content in all areas of the South Dakota insurance licensing exams. The review was accomplished through an initial teleconference and completed at an in-person meeting held in Pierre.

During the review, representatives from the Independent Insurance Agents of South Dakota (IIASD) and insurance producers from all areas of our state, representing all lines and qualifications, offered their expertise and knowledge of the overall insurance profession and South Dakota specific policies and practices.

Exam questions were reviewed by workshop participants to ensure the producer licensing test encompasses accurate industry and compliance knowledge that would be expected of an entry level insurance agent candidate.

The exam outlines created specifically for South Dakota as testing preparatory guides were also included in the review. The group discussed their relevancy and effectiveness to the producer licensing examination process.

Director Larry Deiter and the entire Division staff extend their thanks to the IIASD as well as the producers who generously gave their time to make the workshop a success. It could not have been completed without their efforts and support.

Recent NAIC Consumer Alerts:

- [Simplifying the Complications of Disability Insurance](#)
- [A Workers' Most Valuable Asset: Protecting Your Financial Future with Disability Insurance](#)
- [Keep the Road Code: How to Prevent Distracted Driving](#)
- [The Truth about Medigap Changes](#)

Extension of Transition Policies

In conjunction with the March 25, 2019, announcement from the Department of Health & Human Services (HHS)/Centers for Medicare and Medicaid (CMS)/Center for Consumer Information and Oversight (CCIIO), South Dakota will permit issuers that have renewed policies under the transitional policy continually since 2014 to renew such coverage for a policy year starting on or before Oct. 1, 2020, provided all such coverage comes into compliance by Jan. 1, 2021.

Issuers wishing to operate under this transition guidance were instructed to submit their intentions by May 15 to the Division as an informational filing in SERFF.

The Division issued [Bulletin 19-01](#) to clarify the extension of transition policies in South Dakota.

[Access](#) transition plan guidance from CMS.

CMS Issues Final PY2019 Exchange Open Enrollment Final Report

The Centers for Medicare & Medicaid Services (CMS) released the health insurance exchange open enrollment report for 2019.

For South Dakota, the total number of consumers who selected an exchange plan is 29,069, made up of 5,741 new plan holders and 23,328 re-enrollees. A total of 28,857 individuals were determined eligible to enroll with financial assistance.

[Access](#) the press release and report.

Proposed Administrative Rule Changes and Bulletins

A public hearing was held at the Division of Insurance office in Pierre on May 14, 2019, to consider the adoption and amendment of proposed rules to Chapters 20:06:42, 20:06:57 and 20:08:07.

The effect of the proposed rule changes are as follows:

To expand the availability of fully-insured and self-funded association health plans while maintaining consumer protections.

To repeal Rule 505 and amend the requirements for certain hearings where the Division reviews a proposed transaction for fairness.

[View](#) the Notice of Hearing and Rules Text.

[Division Bulletins](#) issued in 2019:

- [19-02 PY2020 Product Filing Deadlines](#)
- [19-01 Extension of Transition Policies](#)

Promissory Note Investor Alert

A leading source of investor complaints is the sale of bogus promissory notes to unsuspecting retail investors as well as other promissory note schemes.

The Division has posted an Investor Alert in the “Securities Regulation” area on the [Division’s website](#) to provide information on fraudulent promissory note schemes, what red flags to watch for and how to protect yourself.

Additional available [Investor Alert](#) Topics include robo-advisors, cryptocurrencies, initial coin offerings (ICOs) and crowdfunding.

Compensable Pranks

A New Jersey Appellate Court has ruled a firefighter who suffered injuries at the hand of a prankster coworker did so within the course and scope of employment.

The decision wasn’t generated by the denial of an injury claim, but as a result of the injured party’s lawsuit against the prankster and a second lawsuit brought by the prankster against their employer (the city).

The injured firefighter sued the prankster who in turn sued the city for allowing “a high degree of pranking among on-duty firefighters.” The prankster also argued state workers’ compensation law prevented the injured firefighter from suing him.

It was noted in the decision that the Workers’ Compensation Act prevents injury lawsuits between coworkers when both were acting within the scope of their employment.

[Access the court opinion.](#)

2019 Legislative Session

South Dakota's 94th Legislative Session began at Noon on Jan. 8 and ended March 29. The 40-day session brought many newly elected legislators as well as a newly established State Administration. Governor Kristi Noem was sworn in on Jan. 5.

The South Dakota Division of Insurance requested the introduction of one bill. Senate Bill (SB) 37 was an act to revise certain provisions regarding association health plans. The legislation adjusts state insurance statutes regarding group insurance participation.

SB 37 was crafted to align South Dakota law with changes introduced at the federal level regarding association health plans. SB 37 has successfully passed through both houses with no dissenting votes and was signed by the Governor on Feb. 14 with an effective date of July 1.*

Over 500 bills, resolutions and commemorations were filed during the 2019 Legislative Session. A recap of the actions of the South Dakota Legislature is available through the Legislative Research Council website at sdlegislature.gov.

Other bills that passed that may be of interest:

- House Bill 1053: An Act to revise the value of gifts permitted for certain insurance advertising or promotional programs.
- House Bill 1137: An Act to revise certain provisions regarding pharmacy benefit managers.
- House Bill 1219: An Act to revise certain provisions regarding surplus line insurance.
- Senate Bill 70: An Act to revise certain provisions regarding hospital liens.
- Senate Bill 96: An Act to expand application of the tax credit for contributions to a scholarship granting organization.
- Senate Bills 136 & 137: An Act to provide for the utilization of telehealth by a health care professional and to provide for the payment of claims for covered services provided by a health care professional via telehealth.

*A recent court decision offered by U.S. District Judge John Bates has rendered invalid major provisions of the federal rule. This decision has been appealed by the U.S. Department of Labor. The Division is reviewing the court decision issued and will be monitoring the appeal for potential impact.

Division Reviews Essential Health Benefits Benchmark Design

The Division of Insurance is currently reviewing the State's Essential Health Benefits (EHB) Benchmark Plan for plan year 2021 under the guidance issued by the Department of Health and Human Services (HHS)/Centers for Medicare and Medicaid Services (CMS).

Each state's designated EHB benchmark plan serves as a baseline for the minimum scope of benefits that individual and small group Affordable Care Act (ACA) compliant health plans must cover at equal or greater value.

Any changes to the EHB benchmark design are subject to federal review and approval. Any approved changes would be effective for the plan year 2021.

Additional information on the proposed South Dakota EHB benchmark set of benefits is available on the [Division's website](#).