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Bulletin 08-04

DATE: May 29, 2008
TO: All Health Insurers
FROM: Merle Scheiber, Director
RE: Health Policy Rate and Form Filing

HB1213 was enacted during the 2008 legislative session and will be effective on July 1, 2008. This legislation mirrored the NAIC Health Policy Rate and Form Filing Model. You may use the following link to access HB1213 in an electronic format: <http://legis.state.sd.us/sessions/2008/Bills/HB1213ENR.pdf>. South Dakota went to an all SERFF filing format effective May 1, 2007 ([see Bulletin 07-01](#)) so all filings made pursuant to HB1213 must be via SERFF.

A component of HB1213 was to identify for insurers all applicable filing standards that must be met to receive approval of a health filing. This bulletin will serve to aid in that process by outlining specific filing standards that may not be otherwise explicitly outlined in statute or rule. A complete list of the standards to include all bulletins, statutes and rules will be accessible on the Divisions website (<http://www.state.sd.us/drr2/reg/insurance/index.html>) on or before July 1, 2008.

The following standards must be met for health insurance filings:

1. For policies or certificates that provide coverage for hospital stays, benefits may not be restricted in a way that is based upon the number of hours that the insured stays in the hospital.
2. Policies or certificates may not contain an exclusion that excludes all services or charges not specifically covered in the policy or certificate.
3. For other than health benefit plans, a policy or certificate, an outline of coverage or an advertisement may not include the phrase "we pay actual charges" or any similar phrase that would incorrectly infer that the policy pays actual charges.
4. For other than health benefit plans, a policy or certificate, an outline of coverage or an advertisement may not include the phrase "no lifetime maximum".
5. No accidental death or accidental death and dismemberment policy or certificate may contain an exclusion for voluntary inhalation of poisonous gas.
6. No policy or certificate may limit coverage to natural or sound teeth.
7. An application or a policy form may not include a statement that indicates that the agent cannot bind the company. An application or a policy form may contain language that indicates that agents or others have no authority to modify or waive any provisions of the policy or certificate.
8. For long term care insurance advertisements, including those that contain invitations to attend a meeting at which no solicitations will take place, the term "seminar" may not be used.



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9. For any policy or certificate exclusions for doctors that are family members must permit coverage for treatment by family members if it is the only doctor in the area provided that the doctor is acting within the scope of practice.
10. Any policy or certificate that contains a precertification or preauthorization provision that must be instituted within a specific time frame must contain an exception that also allows notification as soon as reasonably possible.
11. For disability policies or certificates, the provisions of SDCL 58-17-109 allowing for reduction of benefits if the insured is receiving benefits under a governmental program or eligible to receive benefits under another insurance policy do not extend to benefits received or eligible to be received by the spouse or child of the insured.
12. No policy or certificate may contain a provision that allows for the decision of a insurer selected medical provider to be binding for purposes of determining medical appropriateness or medical necessity of any claimed benefit.
13. No health policy or certificate may contain a provision that restricts or excludes benefits unless the insured survives a specified period of time.
14. A provision of a policy or certificate which has the effect of making the insurance excess or secondary is a coordination of benefits provision and must only be included in compliance with Chapter 58-18A.
15. No health policy or certificate amendment or endorsement filing may contain blank provisions that may be completed upon issuance by the insurer.
16. No policy or certificate may exclude covered sicknesses or injuries caused by alcohol or drug use unless it is in the commission of a felony.

The provisions of this bulletin are effective immediately.