

Bulletin 11-06

To: Health Insurers
From: Merle Scheiber, Director
Date: September 28, 2011
Re: SDCL 58-33-86 and the Children's Health Insurance Program (CHIP)

SDCL 58-33-86 prohibits the use of information pertaining to medical assistance eligibility under Title XIX of the Social Security Act or any other state's equivalent Medicaid program as a factor in enrolling or underwriting any individual or in making benefit payments. While this may be clear that Medicaid eligibility may not be used in health insurance underwriting or in making payments for benefits, questions have arisen with respect to CHIP.

SDCL 58-33-86 is as follows:

Prohibitions against a health insurer from using information pertaining to medical assistance eligibility.

Any insurer subject to this chapter who is engaged in the business of health insurance is prohibited from using information pertaining to medical assistance eligibility under Title XIX of the Social Security Act as amended to January 1, 1994, or any other state's equivalent medicaid program, as a factor in enrolling or underwriting any individual or in making payments for benefits to any individual or in making payments for benefits on behalf of a covered individual.

In South Dakota there are four categories of aid under the umbrella of the CHIP program. All of the categories either qualify as a Medicaid program or are administered by the Medicaid program. Therefore, pursuant to SDCL 58-33-86, an insurer may not consider CHIP eligibility for purposes of underwriting or for payment of benefits on health insurance in this state.