

BULLETIN 98-1

TO: ALL HEALTH INSURERS

FROM: DARLA L. LYON, DIRECTOR

DATE: JANUARY 14, 1998

RE: WAITING PERIOD PROVISIONS FOR ALL HEALTH POLICIES

The South Dakota Division of Insurance has received health insurance filings that contain waiting period provisions which require the insured to pay a premium for insurance that may never be provided. Any policy provision that charges an insured a premium for a time period between the effective date of the policy and the effective date of coverage violates SDCL 58-33-35. An example of such a provision indicates that the insured would be eligible for benefits under the policy "if you have never had any [specified disease] prior to 30 days after you become insured under this policy."

SDCL 58-33-35 states that:

No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this title. Violation of this section is a Class 2 misdemeanor.

Policies that do not charge a premium to the insured during the policy's waiting period are not in violation of SDCL 58-33-35.

All policy forms which contain such waiting period provisions that charge premium to an insured before a specific benefit is provided must be refiled.