



Division of Insurance

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Larry Deiter, Director



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Deiter Named South Dakota's Insurance Director

State Labor and Regulation Secretary Marcia Hultman announced Larry Deiter was named the new director of the Division of Insurance effective Jan. 8, 2015.

"Larry's leadership capabilities and industry knowledge allows him to excel in his new role," said Secretary Hultman. "He has proven himself a trusted advisor in helping navigate the complexities of the insurance industry."

As director, Deiter continues to be active at the national level in the National Association of Insurance Commissioners. He participates in committees involving property and casualty insurance, workers' compensation, crop insurance, surplus lines and examination oversight.

Deiter, a South Dakota native, joined the division in November 2012 with more than 25 years of experience in commercial banking and business management. He previously served as a VP/market manager of a publicly traded financial institution headquartered in South Dakota.

The mission of the Division of Insurance is to protect the public and make insurance available and affordable by efficiently providing quality assistance, providing fair regulation for industry and promoting a healthy, competitive insurance market.

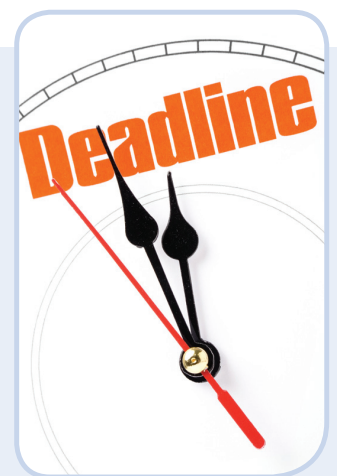
Filing Deadlines for Health Insurance Companies

Filing deadlines can be found in bulletin [15-01](#).

Category	Deadline
Inside Exchange Only	May 1, 2015
Inside and Outside Exchange	May 1, 2015
Outside Exchange Only	May 1, 2015

No rate or form filing submitted in accordance with this bulletin will be approved prior to May 1, 2015.

These timeframes do not apply to grandfathered health plans or non-grandfathered health plans with effective dates prior to Dec. 31, 2013.



Workers' Compensation Bill Passed

In 2014, it was brought to the attention of the division by agents as well as contractors that a number of general contractors were being charged a workers' compensation premium for sub-contractors, even when the sub-contractor had no employees. South Dakota law does not require independent contractors to carry workers' compensation coverage. The division issued [Bulletin 14-05](#) in September 2014 to help address this issue, but it was apparent additional discussion and possible changes in state law were needed.

Rep. Spencer Hawley brought the issue to the attention of the State Advisory Council on Workers' Compensation at the Sept. 10, 2014, meeting. The council voiced support for Hawley's efforts to ensure these additional premium costs were not unjustly assessed.

House Bill 1105, An Act to provide for an affidavit creating a rebuttable presumption that a person is not an employee for purposes of workers' compensation and to provide a penalty therefor, passed during the 2015 South Dakota Legislative Session. It establishes a process to distinguish between employees and independent contractors for workers' compensation coverage. Hawley, the bill's prime sponsor from the House of Representatives, proposed the introduction of an affidavit, signed by both the general contractor and sub-contractor, to verify the sub is an independent contractor with no employees. This approach models a practice used in Kansas.

The Division of Insurance would like to acknowledge the hard work put forth during the 2015 Legislative Session. The passage of this legislation could not have happened without the supreme efforts of Rep. Hawley, Rep. Herman Otten and Sen. Corey Brown, the Senate's prime sponsor. The legislators, with the cooperation of the insurance agents and the Independent Insurance Agents of South Dakota (IIASD) Executive Director Jerry Diamond, worked with the division as well as other interested parties to address all concerns and find an agreeable resolution to this issue.

With the signing of this bill into law, the division has initiated the process of promulgating rules to establish necessary definitions, the form, and the procedures and documentation for filing the affidavit of exemption. A public hearing announcement on the proposed rules will be issued when the rules are completed and the hearing date is set. The public hearing notice along with the proposed rules will be posted in the "Laws, Regulations and Bulletins" section of the division's website at <http://dlr.sd.gov/insurance>.

Workers' Compensation Informal Hearing Held March 24

Pursuant to SDCL 58-24-67, a workers' compensation informal hearing was held March 24. 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 8.9 percent to the current voluntary advisory loss cost level and an overall average decrease of 8.4 percent to the current assigned risk rate level. The information on the proposed July 1, 2015, Loss Cost/Assigned Risk Filing was presented by Robert Moss and Carla Townsend of NCCI.

This filing was approved by the division as presented on April 13, 2015.

2015 Legislative Session Recap

The 2015 legislative session officially ended March 30. Three bills were introduced by the Department of Labor and Regulation, Division of Insurance and successfully completed the legislative process. Below is the recap of the division bills as well as other insurance bills that passed during the 2015 legislative session. Unless otherwise noted, all legislation has an effective date of July 1, 2015.

Division of Insurance Bills:

SB 30: An Act to revise the review process for rate and policy form filing denials for insurers. This bill clarifies that a denial of a rate and form filing is reviewable in an administrative hearing under chapter 1-26 and a time period for which a company may request a hearing.

SB 31: An Act to revise certain provisions regarding coordination of benefits between health plans. This bill updates state statutes to be consistent with National Association of Insurance Commissioners (NAIC) model language. The bill adds dental to the definition

of plan and also establishes how to determine the order of benefits for a dependent who has coverage under one or both parents' plans as well as coverage under a spouse's plan.

HB 1052: An Act to revise certain provisions regarding the regulation of insurance holding companies. The bill updates chapter 58-5A, which regulates insurance holding companies. It amends the definition section of the chapter and adds provisions for the regulation of divestments and enterprise risk filings.

Other Insurance Legislation:

SB 101: An Act to establish certain provisions regarding cancer treatment medication coverage by insurance companies. This provides parity between a plan's injected or intravenously administered cancer treatment medication benefits and plan benefits for prescribed, orally administered anticancer medication, regardless of the formulation or benefit category determination by the plan. (Effective date: Jan. 1, 2016).

SB 118: An Act to provide additional transparency for prescription drug plans. This requires the publication of an easily accessible online list of providers and facilities and provides for an easily accessible disclosure of

the method by which it may be determined whether a specific drug is available on the current formulary and prior authorization or step edit requirements may be obtained.

SB 190: An Act to clarify health coverage for applied behavior analysis, and to establish the Applied Behavior Analysis Provider Workgroup. This mandates coverage for applied behavior analysis for the treatment of autism spectrum disorders to be included in all non-ACA compliant individual and group health insurance policies and establishes the annual maximum benefit coverage. The Applied Behavior Analysis Provider Workgroup is also established. (Effective date: Jan. 1, 2016.)

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Long-Term Care Partnership Education Sessions Announced

Several sessions providing information on long-term care and the Long-Term Care Partnership Program (LTCPP) will be held across South Dakota in the coming weeks. Sessions will provide basic information on long-term care, the related costs, how to plan for long-term care needs, what Medicare and Medicaid will cover and how the LTCPP can help. The 60-minute sessions are open to the public. The session schedule is available in the "Education Sessions" section on South Dakota's Long-Term Care Partnership Program website at <https://ltcpartnership.sd.gov/>.

2015 Legislative Session Recap, Continued

HB 1015: An Act to repeal certain provisions regarding the South Dakota Risk Pool. Ends the South Dakota Risk Pool on June 30, 2015.

HB 1088: An Act to permit procurement of certain disability insurance from a non-admitted insurer. This bill allows a narrow exception for the sale of disability insurance as a surplus line as long as the benefit limit is over and above any benefit limit available from a carrier licensed to operate in South Dakota.

HB 1105: An Act to provide for an affidavit creating a rebuttable presumption that a person is not an employee for purposes of workers' compensation and to provide a penalty therefor. This allows for the filing of an affidavit signed by both the general contractor and the sub-contractor in order to verify that the sub is an independent contractor with no employees and is not required to carrier workers' compensation coverage.

HB 1180: An Act to revise certain provisions regarding the regulation of captive insurance companies. This bill amends the definition of affiliated entity and allows for the formation of agency captives while clarifying activities of an affiliated entity and reporting options.

HB 1235: An Act to update the valuation manual related to the valuation of assets, liabilities and reserves. This bill models language approved by the National Association of Insurance Commissioners to allow for the use of Principle-Based Reserving (PBR) for calculating life insurance policy reserves and non-forfeiture benefits.

HB 1236: An Act to revise certain provisions regarding commissions received by insurance producers. This bill clarifies that a licensed and appointed producer can share compensation with a like licensed producer.

South Dakota Risk Pool Ending

Legislation passed during the 2015 Legislative Session effectively ends the South Dakota Risk Pool as of June 30, 2015.

The Risk Pool, created in June 2003, established a state run insurance program to stabilize the health insurance market in South Dakota. Individuals who had lost coverage through no fault of their own could apply for Risk Pool coverage as administered by the Bureau of Human Resources.

Federal health care reform has changed the availability of coverage and allows access to individual policies in the insurance market through private insurance carriers. This change in federal policy removed the necessity for the state run insurance program.

Existing Risk Pool members are eligible for a special enrollment period to obtain health insurance coverage due to the closing of the Risk Pool.

House Bill 1015, An Act to repeal certain provisions regarding the South Dakota Risk Pool, is available for review in the 2015 Legislative Session area of the South Dakota Legislative Council website <http://legis.sd.gov/>.

With the ending of the Risk Pool, the annual carrier assessment process outlined in SDCL 58-17-126 will no longer occur.

Questions regarding the South Dakota Risk Pool can be directed to the Bureau of Human Resources at 605.773.3148 or by email to Riskpool@state.sd.us.

NCCI State Advisory Forum 2015

NCCI’s South Dakota State Advisory Forum will be Tuesday, June 16, from 9 a.m. to noon. A continental breakfast will be served at 8:30 a.m. This year the forums will continue to focus on state-specific information and address the following discussion items in greater detail:

- State system cost drivers
- NCCI studies and economic information
- Proposed/enacted state and federal legislation
- The residual market

June 16, 2014
ClubHouse Hotel & Suites
808 W. Sioux Ave.
Pierre, SD 57501
605.301.4930

[State Advisory Forum Online Registration](#)

Register online, or contact NCCI’s Customer Service Center at 800-NCCI-123 (800.622.4123) and select option seven from the automated menu. A customer service representative will process your registration and send you a confirmation within 24 hours. If you have any questions or need additional information, please call 314.843.4001.

*****CE Credits will be available**

Deadline Reminders

Companies are reminded to file the following reports/statements by their due date with their domestic state:

- May 15**
First Quarter 2015 Statements
- June 1**
Independent Auditor’s Report
- July 1**
Form B – Insurance Holding Company System Annual Registration Statement
Form C – Summary of Registration Statement

- Aug. 1**
Written Communication as to Unremediated Material Weaknesses in Internal Controls over Financial Reporting
Management’s Report of Internal Control over Financial Reporting

- Aug. 15**
Second Quarter 2015 Statements

- Nov. 15**
Third Quarter 2015 Statements

Bulletins

- [15-01](#) Health Insurance Market
- [15-02](#) Limited Health Benefit Plans
- [15-03](#) Composite Premium Billing

Recent Administrative Rule Changes & Bulletins