



Division of Insurance



SOUTH DAKOTA
DEPT. OF **LABOR**
& **REGULATION**

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Spring 2020

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COVID-19

Division of Insurance Director Larry Deiter announces that, in the interests of the State's citizens and their insured members, many South Dakota health carriers are voluntarily waiving co-payments and deductibles for diagnostic testing of COVID-19 in their fully insured plans.

Carriers are also promoting the use of telehealth as the first step option for medical consultations. In addition, certain health carriers are offering additional services to assist their members, such as: waiving prior authorization for treatment related to COVID-19, allowing early prescription refills, formulary flexibility in the event of medication shortages, and an emotional support hotline.

Insured members with specific questions related to coverage or services related to COVID-19 should contact their insurance agent or the carrier directly utilizing the contact information found on the insurance identification card.

South Dakotans who have coverage through self-funded employer plan groups, short-term major medical plans, etc. should contract their human resources departments or their plan administrator for coverage information specific to them.

Governor Kristi Noem and the South Dakota Department of Health has launched covid.sd.gov, a COVID-19 website to provide informational resources and keep South Dakotans up to date on current situations and assistance available.

Additional COVID-19 resources and information specifically related to the programs administered by the Department of Labor and Regulation can be accessed [here](#).

Division of Insurance Staff Working Remotely

In compliance with South Dakota Governor Kristi Noem's Executive Order 2020-06 and its extensions, the Division of Insurance staff are working remotely. The staff continues to carry out the Division mission and perform all primary functions during the unprecedented COVID-19 pandemic. While working in a remote environment, there may be short delays in typical response times.

Staff may be contacted by email to their state email address, by voicemail message to their state office line or by calling the Division's main line at 605.773.3563.

The Division is actively reviewing all regulatory requirements in this quickly-changing environment. We will continue to make decisions and communicate with stakeholders as updated information becomes available.

COVID-19 Related Investment Schemes Anticipated

Amid the ongoing COVID-19 pandemic, the South Dakota Division of Insurance is alerting investors to be on guard against an anticipated surge of fraudulent investment schemes.

The North American Securities Administrators Association, of which the Division is a member, anticipates fraudulent investment schemes will rise as a result of the ongoing pandemic.

The Division warns investors to be on the lookout for investments specifically tied to the threat of COVID-19. Bad actors can be expected to develop schemes that falsely purport to raise capital for companies manufacturing surgical masks and gowns, producing ventilators and other medical equipment, distributing small-molecule drugs and other preventative pharmaceuticals, or manufacturing vaccines and miracle cures. The schemes often appear legitimate because they draw upon current news, medical reports and social and political developments.

The Division suggests investors stay clear of anything sounding too good to be true, such as guarantees of high returns with no risk, and vet their investment professional about their licenses and registrations.

Investors should contact the Division with questions about any investment opportunity or the person offering it for sale before investing in the product. More information on this topic, including tips on what to watch for and how to protect yourself, is available [here](#).

COVID-19 and Health Benefit Plans

The Division of Insurance issued [Bulletin 20-02](#) on March 25, 2020 offering guidance and resources on COVID-19 to health insurance carriers operating in South Dakota. The bulletin can be viewed [here](#).

Division Implements Temporary Producer Licenses

The South Dakota Division of Insurance has implemented a process to issue temporary producer licenses during the COVID-19 pandemic.

Applications for temporary licenses were made available on April 20, 2020 and will be accepted until the COVID-19 emergency concludes. The cost of a temporary license is \$10 and payment must accompany the application.

[Bulletin 20-03](#) was issued outlining the qualifications and conditions for temporary licensure.

Qualifications for a temporary license include, but are not limited to:

- 1) Applicant must be a South Dakota resident otherwise qualified for an insurance producer's license if the applicable insurance examination was available.
- 2) An applicant for temporary licensure must be completed and submitted to the Division with all additional materials to supplement the application.
- 3) The applicant must have a South Dakota licensed producer designated to be responsible for the applicant's activities during the temporary license period.
- 4) Applicants may only apply for temporary licensure for insurance lines held by their Responsible Licensed Producer.

Licensees with a temporary license must obtain company appointments and comply with the Insurance Code.

The non-renewable, temporary license will automatically expire 180 days from the date of issue or 60 days after the COVID-19 emergency concludes, whichever is sooner.

Additional information on the temporary license application process is available on the [Division's website](#).

OPTins Available for Paying Premium Tax

The South Dakota Division of Insurance has implemented OPTins (Online Premium Tax for Insurance) for insurance companies paying premium tax. OPTins, a product of the National Association of Insurance Commissioners (NAIC), has been developed to facilitate state specific premium tax payments.

With OPTins, once a company is registered and an account set up, payments can be submitted online. Everything is electronic and the payment is recorded as received by the South Dakota Division of Insurance upon submission by the company.

If you are a new user to OPTins, getting started is easy and a product specialist will work with a company or producer to complete the implementation. Setup of a new account takes 5-7 business days.

If a company is already registered to use OPTins to file premium taxes to other states, no additional setup is required. The option to pay South Dakota premium taxes is available.

Companies are asked to pay their annual and quarterly premium tax payments utilizing OPTins starting immediately.

Additional information is available about OPTins [here](#).

Deiter Elected 2020 Midwest Zone Chair

Division of Insurance Director Larry Deiter was elected 2020 Chair for the Midwest Zone by members of the National Association of Insurance Commissioners (NAIC) during the Fall National Meeting held in Austin in December 2019.

Deiter served as Vice-Chair for the Midwest Zone during 2019.

The NAIC four-zone structure, consisting of states located in the same geographical areas, is designed to support the operations of the NAIC's Executive Committee and provide the foundation with which NAIC members provide regulatory oversight and consumer protections.

The Midwest zone consists of 13 states. Each Zone performs functions as designated by the Executive Committee, the members of the NAIC as a whole, or by the members of the Zone. In addition to Deiter's election to Chair of the Midwest Zone, Jillian Froment, Ohio, was elected Vice-Chair and Doug Ommen, Iowa, will serve as Secretary-Treasurer. Their terms of office began on Jan. 1, 2020.



2021 Product Filing Deadlines for Health Insurance Plans

The South Dakota Division of Insurance has established the submission deadline of June 10, 2020, for all on and off-exchange individual and small-group ACA-compliant health insurance plans with coverage effective January 1, 2021.

[Bulletin 20-04](#) issued by the Division regarding qualified health plan (QHP) filing deadlines can be accessed [here](#).

Federal Health Insurance Exchange 2020 Open Enrollment Report

The Centers for Medicare and Medicaid issued the 2020 Open Enrollment Report summarizing health plan selections made on the individual Exchanges. The accompanying public use files (PUF) contain information on applications submitted and plan selections by state, county and ZIP code. The report information and access to PUF is available [here](#).

Extension of Transition Policies

In conjunction with the January 31, 2020, announcement from the Department of Health & Human Services, 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 October 1, 2021, provided that all such coverage comes into compliance by January 1, 2022.

South Dakota will apply this extension to the individual and small group market. [Bulletin 20-01](#) issued by the Division regarding this extension can be accessed [here](#).

2019 DLR Annual Report Available

The Department of Labor and Regulation has released its [2019 Annual Report](#). This report recaps the wide variety of operations, regulatory oversight, and programs administered by the department. The department annual report is available [here](#).

Dell Joins Division of Insurance

Maggie Dell joined the Division of Insurance as the Assistant Director of Property & Casualty Rate/Form Filings and Complaints/Market Conduct/Producer Licensing on Jan. 27, 2020. Dell brings experience both in the financial services industry and as a licensed insurance producer. Dell replaces Dan Nelson, who accepted a position with the National Council on Compensation Insurance (NCCI).

Notice of Hearing for Proposed Administrative Rules Changes

The South Dakota Division of Insurance has issued a notice of public hearing to adopt changes to administrative rules in Chapter 20:06. Due to the COVID-19 pandemic, the hearing will be held by telephone conference on May 19, 2020, at 2:00 p.m. CT.

Proposed changes to administrative rules are:

- 1) to update the sources referenced in rule to refer to the most recent edition,
- 2) to update the Division's Medicare Supplement rules to incorporate the 2020 coverage amounts set by the federal government, and
- 3) clarify the information required for insurance companies to complete the Corporate Governance Annual Disclosure provided by House Bill 1017 passed during the 2020 Legislative Session.

The notice of hearing, a copy of the proposed rules and call-in information to participate in the public hearing can be accessed [here](#).

2020 NCCI Workers' Compensation Advisory Loss Costs & Assigned Risk Rates Approved Filing

An informal hearing was conducted on Tuesday, March 31, 2020, at 10 a.m. CT via teleconference. The hearing's purpose was to discuss the proposed 2020 NCCI Workers' Compensation Voluntary Advisory Loss Costs and Assigned Risk Rates filing. The proposal reflected an overall average decrease of 9.8% in the advisory loss costs and an overall rate level decrease of 8.4% in the assigned risk market. The filing was reviewed by the Division and approved on April 17, 2020. Approved final rates have an effective date of July 1, 2020.

Flood Insurance

South Dakota Division of Insurance Director Larry Deiter, in coordination with the South Dakota Department of Public Safety Office of Emergency Management, is pleased to share the following information on the importance of flood insurance.

Spring is not far away and the risk of flooding in our state will be high again in 2020. Director Deiter encourages consumers to discuss coverage options with your local agent, whether that coverage is a National Flood Insurance Program (NFIP) policy or private flood coverage.

Flood Insurance - Information Insurance Agents and Property Owners Should Know

Flooding is America's number one natural disaster. Yet, too many property owners remain uninformed about flood risk and flood insurance. When floods struck the Midwest in 2019, fewer than 10% of residents in high-risk areas of flooded communities had flood insurance. Fewer than 1% of those in lower-risk areas were insured. If a Federal Individual Assistance declaration was not issued for their community after the flooding, those survivors were left without a financial backstop. Following the March 2019 flooding in South Dakota, the average Federal Emergency Management Agency (FEMA) Individual Assistance payout was \$1,017. Depending on the amount of damage, this assistance was not always enough to cover repairs and replacement of belongings.

Property owners continually report they were unaware they could buy flood insurance, thought they were ineligible for coverage, or were told they didn't need it. Many do not know their homeowner's insurance does not cover flood damage. Some homeowners did not believe a flood could happen to them. These tragic misconceptions must end.

Tips

Flood insurance is not only for buildings in high-risk areas. Low-to-moderate risk areas also flood where over 75% of homes are not considered in the floodplain; nearly 30% of all NFIP claims come from these areas. Most home and business owners, condominium unit owners and renters will qualify for a Preferred Risk Policy, the lowest-cost policy offered by the NFIP.

For insurance purposes, a high-risk area is defined as an area with at least a one-in-100, or 1%, chance of being flooded in any given year. If the community participates in the NFIP (South Dakota NFIP Community List), the entire community is eligible to purchase flood insurance, inside and outside of high-risk flood areas. Underwriting restrictions may apply in certain limited circumstances.

Ask your agent about flood insurance costs. Even in high-risk areas, buildings that meet floodplain management requirements can be insured at an affordable rate.

"Not required" does not mean "not needed." By law, federally regulated and insured lenders require flood insurance for buildings in high-risk areas. But all properties are at risk, regardless of the flood zone. For flood mapping information, please visit [FEMA's Flood Map Service Center](#).

Helpful Resources

- [NFIP website](#)
- [FloodSmart.gov](#)
- [The Flood Claim Process Fact Sheet](#)
- [National Flood Insurance Program Fact Sheet](#)
- [Flood Insurance Agent Field Guide](#)



2020 Legislative Session

South Dakota's 95th Legislative Session began at Noon on Jan. 14 with Governor Kristi Noem's State of the State address. The 37-day session ended March 30.

The South Dakota Department of Labor and Regulation requested the introduction of 13 bills, including four specifically addressing state insurance law.

[Senate Bill \(SB\) 8](#) is an act to revise certain provisions regarding insurance holding companies. This legislation updates model holding company law to allow the Division of Insurance to fully participate in and lead group-wide supervisory colleges for internationally active insurance groups. SB 8 is based on National Association of Insurance Commissioners (NAIC) model law required to maintain financial accreditation.

[SB 11](#) updates South Dakota insurance law governing third party administrators (TPA). The bill provides a pathway for newly established (less than two years) TPAs meeting financial requirements to do business in our state. The bill also clarifies TPA registration requirements for certain self-funded plans.

[House Bill \(HB\) 1017](#) requires disclosure requirements of insurance company corporate governance structures to better understand and evaluate the risks posed to consumers purchasing their products. This is an NAIC model law required to maintain financial accreditation.

[HB 1018](#) updates laws governing the South Dakota Life and Health Insurance Guaranty Association. This bill adjusts the assessment base between life and health insurers thereby increasing the equity of assessments to address potential future long-term care company insolvencies. This is a model law drafted nationally with the broad support of the insurance industry.

All four bills successfully cleared the legislative process and have been signed by Governor Noem.

Other bills of interest to the Division of Insurance included [SB155](#) and [SB181](#), providing step therapy protocol for certain prescription drugs and a definition of short term major medical plan, respectively.

The 37-day session ended on March 30, 2020, with the legislature taking action on bills vetoed by the Governor as well as considering emergency legislation to aid with addressing the impact of COVID-19 in South Dakota.

Interested parties can review the actions taken by the South Dakota Legislature and final bill dispositions via the [Legislative Research Council website](#).

SERFF Filing Access

Public access to company filings with final disposition and marked for viewing is now provided through SERFF Filing Access (SFA). SERFF, or the System for Electronic Rates and Forms Filing, is a product of the NAIC which provides a platform for form submittal, document management, and review access. Through SFA, filings are available anywhere with internet access, 24-hours a day. This public access to company filing information for South Dakota is provided at no cost to the user. SFA can be accessed [here](#).

Top Investor Threats for 2020

In conjunction with the North American Securities Administrators Association (NASAA), the South Dakota Division of Insurance announces the top five investment products or schemes likely to trap South Dakota investors in 2020 and tips for protecting yourself from investment fraud.

The top five areas of concern include:

- Promissory Notes
- Ponzi Schemes
- Real Estate related Investments
- Cryptocurrency related Investment Products
- Social Media/Internet-based Investment Schemes

The Division stresses the importance for investors to understand what they are investing in and with whom they are investing.

Investment offers that sound “too good to be true” generally are and often share similar characteristics. The most common telltale sign of an investment scam is an offer of guaranteed high returns with no risk. All investments carry the risk that some, or all, of the invested funds could be lost. No one can guarantee an investment return. Don’t fall for promises of guaranteed high returns with little or no risk or deals pitched with a false sense of urgency or limited availability.

Investors should always verify the salesperson and the investment itself are properly licensed or registered. This information can be confirmed by the Division of Insurance. Working with a properly licensed investment professional affords investors certain legal protections.

Additional information on each of the 2020 investor threats is available [here](#) or through nasaa.org.

Bulletins Issued and Administrative Rule Changes

[Bulletin 20-01 - Extension of Transition Policies](#) - Provides for the extension of transition policies until Dec. 31, 2021.

[Bulletin 20-02 - COVID-19 and Health Benefit Plans](#) - Addresses COVID-19 and Health Benefit Plans offered in South Dakota.

[Bulletin 20-03 - Temporary Insurance Producer Licenses](#) - Establishes the process for obtaining a temporary insurance producer license during the COVID-19 pandemic.

[Bulletin 20-04 - Product Filing Deadlines](#) - Sets the product filing deadline for all on and off-exchange individual and small group ACA-compliant health insurance plans.

Administrative Rule Changes

[20:06:18:07 and 20:06:18:08](#) (Effective Nov. 25, 2019) - Updates continuing education (CE) course requirements for insurance producers

[Notice of Public Hearing to Adopt Rules](#) - Chapters 20:06:12, 20:06:13, 20:06:19, 20:06:25, 20:06:26, 20:06:36, 20:06:59 and 20:06:60.