

Division of Insurance

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Health Law Changes Effective for Most Policies January 1

Under the Patient Protection and Affordable Health Care Act (PPACA), a number of provisions became effective for plan or policy years beginning on or after September 23, 2010. For most affected individuals and businesses, this means that those provisions become effective January 1, 2011.

The PPACA provisions that take effect for most include the following:

- 1. Dependent to age 26.** Health insurance plans must allow parents to keep their children covered to age 26 and furthermore must allow those who dropped off due to reaching the maximum age to be allowed back on the plan during a special enrollment right.
- 2. Lifetime Maximums.** Health insurance plans must delete any overall lifetime cap on benefits.
- 3. External Review.** Health insurance plans must provide, once the internal process has been exhausted, for a right to appeal adverse benefit determinations to an outside independent third party with clinical expertise in the applicable area.
- 4. Preventive Services.** Certain preventive services must now be covered under health insurance and must be covered without any deductibles or coinsurance applying to those services.
- 5. Choice of Health Care Providers.** Persons covered under health insurance must be able to have direct access to an OBGYN, obstetrician, or pediatrician of their choice.
- 6. Pre-existing Conditions under age 19.** Health insurance plans cannot impose a pre-existing condition exclusion on those under the age of 19. There is also a open enrollment for children each year for 45 days beginning July 1.

Re-organization Announcement from Director Scheiber

The Division of Insurance is changing departments. As part of Governor Dugaard's executive order, some of the divisions within the Department of Revenue, including insurance, will be moving into the Department of Labor and Regulation. While the change in the chain of command is immediate, you will continue to see the Division of Insurance under the Department of Revenue and Regulation on our

website and other communications until the transition is complete later this year. We look forward to being part of Department of Labor under Secretary Pamela Roberts' leadership. Also as part of the re-organization, the Insurance Fraud Unit will be transferred to the Attorney General's office in April.

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Automobile Medical Payments/Health Insurance Hearing Scheduled

A notice of hearing has been issued regarding medical payments coverage in automobile insurance and how coverage is being coordinated with any applicable health insurance. (<http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>)

The decision to hold a hearing was based upon investigations indicating numerous problems in how these claims have been handled.

The hearing is scheduled to better determine coordination of benefit practices with regard to medical payment coverages and furthermore to explore solutions to the problems identified to date. Any interested party may contact the Division for additional information. Attendance at the hearing is open to the public.

Anyone planning on attending is requested to contact the Division so as to better coordinate scheduling of the hearing.

New External Review Requirements on Health Insurance

Under the Patient Protection and Affordable Care Act (PPACA), health insurance plans must provide for a review of "adverse benefit decisions." This is available once the internal appeals process has been exhausted. External reviews are conducted by those external review organizations certified by the Division as independent and clinically qualified. The final determination of whether an adverse decision qualifies for external review and which external review organization is selected is done by the Division.

The Division has developed an External Review Request form that can be found online at <http://www.state.sd.us/drr2/reg/insurance/consumer/externalreview.htm>

Additionally as of January 1, 2011, external review is also required for Long Term Care Insurance. A carrier must provide notice to an insured if they determine a benefit trigger has not been met on an insured's long term care policy. The insured has the right to an internal appeal and after exhaustion, if not satisfied, the right to an external review through an Independent Review Organization.

Health and Long Term Care Independent Review Organizations (IROs) are required to be registered with the Division of Insurance. A listing of certified IROs can also be found on the website at <http://www.state.sd.us/drr2/IRO.htm>

Individuals with questions regarding the External Review process are encouraged to contact the Division of Insurance.