**20:06:13:21.  Loss ratio standards.** A Medicare supplement policy form or certificate form may not be delivered or issued for delivery in this state unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return the following to policyholders and certificateholders in the form of aggregate benefits provided under the policy form or certificate form, not including anticipated refunds or credits, at least 75 percent of the aggregate amount of premiums earned in the case of group policies or at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

 The ratios in this section shall be based on incurred claims experience or incurred health care expenses if coverage is provided by a health maintenance organization on a service rather than reimbursement basis and on earned premiums for the period in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a health maintenance organization may not include home office and overhead costs; advertising costs; commissions and other acquisition costs; taxes; capital costs; administrative costs; and claim processing costs.

 All filings of rates and rating schedules must demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions must also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the applicable loss ratio standards. Policies issued as a result of solicitations of individuals through the mail or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual policies.

 For policies issued before July 17, 1992, expected claims in relation to premiums must meet the following requirements:

 (1)  The originally filed anticipated loss ratio when combined with the actual experience since inception;

 (2)  The applicable loss ratio requirement from the first paragraph of this section, when combined with actual experience to date, beginning with the effective date of this amendment; and

 (3)  The applicable loss ratio requirement from the first paragraph of this section over the entire future period for which the rates are computed to provide coverage.

 In meeting these requirements and for the purpose of attaining credibility, an insurer may combine experience under policy forms which provide substantially similar coverage. Once a combined form is adopted, the insurer may not separate the experience except with the approval of the director.

 **Source:** 8 SDR 174, effective July 1, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 225, effective July 17, 1992; 19 SDR 160, effective April 27, 1993; 22 SDR 107, effective February 18, 1996; 25 SDR 13, effective August 9, 1998; 26 SDR 26, effective September 1, 1999; 27 SDR 53, 27 SDR 54, effective December 4, 2000; 30 SDR 39, effective September 28, 2003; 31 SDR 214, effective July 6, 2005; 33 SDR 59, effective October 5, 2006; 36 SDR 209, effective July 1, 2010.

 **General Authority:** SDCL 58-17A-2.

 **Law Implemented:** SDCL 58-17A-2, 58-17A-5.