**67:16:14:01.  Definitions.** Terms defined in SDCL 36-11-2 have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1)  "Bioavailability," the degree to which a drug or other substance becomes available to the target tissue after administration;

(2)  "Brand name," an arbitrarily adopted name that is given by a manufacturer to a drug to distinguish it as produced or sold by the manufacturer and which may be used and protected as a trademark;

(3)  "Compounded medication," a therapeutic product prescribed by a licensed practitioner requiring the mixing together of two or more substances by the pharmacist or prescriber;

(4)  "Consolidated price," a replacement for average wholesale price calculated according to the guidelines provided in the South Dakota Medicaid State Plan;

(5)  "Contractor," a vendor that has a contract with the department to provide a list of drugs that are widely and consistently available to South Dakota pharmacies at a price that is less than the consolidated price;

(6)  "Cost," for all drugs and supplies, the actual amount paid by the dispensing provider to the supplier after all discounts are deducted;

(7)  "Estimated acquisition cost," for all drugs not subject to the federal upper limit pricing covered under the provisions of subdivision 67:16:14:06(3) or the state maximum allowable cost covered under the provisions of subdivision 67:16:14:06(4), the consolidated cost of the drug less 13 percent;

(8)  "Generic drugs," drugs of similar chemical composition available from multiple sources and not protected by trademark registration;

(9)  "Legend drugs," drugs which may be dispensed by prescription only;

(10)  "Maintenance drugs," a medication that has been dispensed three times in the same strength, regardless of dosage schedule, in any combination of brand name or generic form, and used in the treatment of a chronic health condition;

(11)  "Multiple-source drug," a drug that is sold in therapeutically equivalent forms under one or more brand names, available from two or more generic distributors, and available from one or more drug wholesale firms located in South Dakota;

(12)  "Nonlegend drugs," drugs and supplies available without a prescription;

(13)  "Over-the-counter" or "OTC," drugs available without a prescription which have been recommended by the P and T committee for coverage under the medical services program;

(14)  "Pharmaceutical and therapeutics committee" or "P and T committee," the South Dakota medicaid pharmaceutical and therapeutics committee established under the provisions of Executive Order 2005-09;

(15)  "Pharmacist," a person licensed to practice pharmacy under SDCL chapter 36-11 or by the state in which the pharmacist is located;

(16)  "Pharmacy," a facility defined as a pharmacy under SDCL chapter 36-11 or by the state in which it is located;

(17)  "PHS provider," an entity which participates as a public health service provider under the provisions of 42 U.S.C. § 256b(a)(4), except § 256b(a)(4)(C), as in effect on October 1, 1995, and provides covered drugs on an outpatient basis to an individual who is a patient of the PHS provider. Entities operated by state or local government are not considered PHS providers;

(18)  "State MAC list" or "state maximum allowable cost," the maximum allowable cost established by the department, in consultation with the contractor, for drugs listed on the state MAC list and covered under the provisions of this chapter;

(19)  "Therapeutically equivalent," drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration with comparable bioavailability; and

(20)  "Trademark," a device or word which points distinctly to the origin or ownership of the drug to which it is applied and whose exclusive use is legally reserved to the owner.

**Source:** SL 1975, ch 16, § 1; 1 SDR 77, effective May 29, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 8, effective August 3, 1986; 14 SDR 46, effective September 28, 1987; 14 SDR 153, effective May 23, 1988; 16 SDR 234, effective July 1, 1990; 22 SDR 93, effective January 7, 1996; 29 SDR 113, effective February 13, 2003; 31 SDR 21, effective August 25, 2004; 34 SDR 68, effective September 12, 2007; 36 SDR 215, effective July 1, 2010; 36 SDR 215, adopted June 11, 2010, effective July 1, 2011; 37 SDR 236, effective June 28, 2011; 37 SDR 236, adopted June 8, 2011, effective July 1, 2012; 39 SDR 15, effective August 6, 2012.

**General Authority:** SDCL 28-6-1, 21 U.S.C. 801, 812.

**Law Implemented:** SDCL 28-6-1, 21 U.S.C. 801, 812.

**Reference:** **South Dakota Medicaid State Plan**, Attachment 4.19-B, page 20. Copies may be obtained from the Department of Social Services, Division of Medical Services, 700 Governors Drive, Pierre, South Dakota 57501.