

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0805

SENATE BILL NO. 270

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to create an administrative hearing process before the
2 Division of Insurance for certain insureds and beneficiaries.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. This Act applies to any health benefit program that is self-insured, and any policy
5 or certificate of group health insurance providing benefits for hospital or medical expenses
6 delivered or issued for delivery in this state by a commercial health insurance company, by a
7 nonprofit medical and surgical service plan corporation, by a nonprofit hospital service plan
8 corporation, by a health maintenance organization, or by any other similar mechanism.

9 Section 2. Any person covered under any health insurance plan or self-funded arrangement
10 subject to this Act may request an administrative hearing before the Division of Insurance for any
11 dispute arising out of a claim. The director shall designate the hearing officer. The hearing shall
12 be held before the Division of Insurance and is not subject to chapter 1-26D. The decision of the
13 hearing officer may be appealed pursuant to the provisions of chapter 1-26.

14 Section 3. Notwithstanding any other provisions of law, any decision by the hearing officer
15 pursuant to this Act constitutes final agency action. The order of the hearing officer is binding
16 on the parties. If it is determined that coverage exists, the insurer or self-insured employer shall

1 pay the disputed claim prior to any appeal. If the decision of the hearing officer is reversed on
2 appeal, the insurer or self-insured employer may seek reimbursement for the disputed amount.

3 Section 4. In the case of a self-funded arrangement, any third-party administrator
4 administering the plan shall cooperate with the division in providing any information necessary
5 to administer this Act and is responsible for carrying out any orders made pursuant to this Act.

6 Section 5. The Department of Health, at the division's request, shall provide information
7 pertaining to medical protocols and quality of care and such information is admissible at the
8 hearing.

9 Section 6. The division may make such inquiries and investigations as it deems necessary. A
10 record of the proceedings at the hearing shall be kept by the division and the expense of the
11 record shall be borne by the division. The division shall file its decision, findings of fact, and
12 conclusions of law, and shall serve them on the parties, without delay, by sending a copy
13 addressed to each party or each party's attorney by mail, postage paid.

14 Section 7. In order to conduct hearings under this Act, the director of the Division of
15 Insurance shall employ a sufficient staff including at least two hearing officers.

16 Section 8. The division may appoint a duly qualified and impartial physician to examine any
17 applicable medical records and make a report. The fee for this service, together with traveling
18 expenses, shall be paid by the insurer or self-insured employer. The amount of such fee is subject
19 to approval by the director.

20 Section 9. The director of the Division of Insurance may promulgate rules pursuant to
21 chapter 1-26 necessary to administer this Act. The rules may pertain to the following subjects:

- 22 (1) Definitions of terms;
- 23 (2) Time frames and notice;
- 24 (3) Service of process;
- 25 (4) Procedures;

- 1 (5) Discovery;
- 2 (6) Filing of requests for hearing;
- 3 (7) Witnesses;
- 4 (8) Compliance with orders;
- 5 (9) Investigations and inquiries;
- 6 (10) Fees and mileage.