

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0343

## SENATE ENGROSSED NO. **SB 53** - 01/28/2005

Introduced by: The Committee on Commerce at the request of the Department of Revenue  
and Regulation

1 FOR AN ACT ENTITLED, An Act to provide for adequate access to health care provider  
2 networks.

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

4 Section 1. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person, directly or indirectly, offering a plan or program providing a discount on the  
7 fees of any provider of health care goods or services, that is not offered directly by a health  
8 carrier as provided by this chapter, shall register in a format as prescribed by the director and  
9 shall file reports and conduct business under the same standards as required of utilization review  
10 organizations in accordance with provisions of §§ 58-17C-65 to 58-17C-66, inclusive. No health  
11 carrier may offer or provide coverage through a person not registered but required to be  
12 registered pursuant to this Act. Any plan or program that is registered pursuant to § 58-17C-20  
13 is not required to maintain a separate registration pursuant to this Act. A plan or program of  
14 discounted goods or services that is offered by a health carrier in conjunction with a health  
15 benefit plan, as defined in §§ 58-18-42 and 58-17-66(9), or a medicare supplement policy as



1 defined in § 58-17A-1, is not required to be registered pursuant to this Act. A plan or program  
2 offered by a health care provider as defined in § 34-12C-1 is not required to register pursuant  
3 to this Act if the health care provider does not charge for the plan or program.

4 Section 2. That chapter 58-17C be amended by adding thereto a NEW SECTION as follows:

5 Any person subject to registration pursuant to section 1 of this Act shall prominently and  
6 boldly disclose that the product is not insurance. Any advertisements or solicitations made by  
7 such a person are subject to the provisions of §§ 58-33A-2 to 58-33A-4, inclusive, and §§ 58-  
8 33A-7 to 58-33A-8, inclusive, and §§ 58-33A-10 to 58-33A-12, inclusive. Any administrative  
9 rule promulgated pursuant to § 58-33A-7 does not apply to those registered pursuant to this Act  
10 unless specifically referenced in the rule. If any such person fails to comply with these  
11 provisions or the provisions of this Act, the director may take action in the same manner as  
12 provided for by § 58-17C-67 and may revoke the registration. Any such action by the director  
13 is subject to notice and hearing as provided by chapter 1-26 and § 58-4-7. A person acting as  
14 an agent as defined in chapter 58-30 who sells, solicits, or negotiates a plan or program  
15 containing insurance benefits shall meet the licensing and appointment requirements of that  
16 chapter.

17 Section 3. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 No person subject to registration pursuant to section 1 of this Act may receive personal  
20 information, money, or other consideration for enrollment in a plan or program until the  
21 consumer has signed a contract or agreement with the person and no later than at the time the  
22 contract is signed, provides, at a minimum, the following information, disclosed in a clear and  
23 conspicuous manner:

24 (1) The name, true address, telephone number, and website address of the registered

- 1 person who is responsible for customer service;
- 2 (2) A detailed description of the plan or program, including the goods and services  
3 covered and all exemptions and discounts that apply to each category thereof;
- 4 (3) All costs associated with the plan or program, including any sign-up fee and any  
5 recurring costs;
- 6 (4) An internet website that is updated regularly or a paper copy where the consumer can  
7 access the names and addresses of all current participating providers in the  
8 consumer's area;
- 9 (5) A statement of the consumer's right to return the plan or program within thirty days  
10 of its delivery, or sixty days of its delivery if payment is by automatic or electronic  
11 withdrawal from a bank account, to the person or agent through whom it was  
12 purchased and to have all costs of the plan or program, excluding a nominal process  
13 fee refunded if, after examination of the plan or program, the purchaser is not  
14 satisfied with it for any reason;
- 15 (6) A statement of the consumer's right to terminate the plan or program at any time by  
16 providing written notice or other notice, the form to be used for the termination  
17 notice, and the address where the notice is to be sent if different than the address  
18 provided in subdivision (1);
- 19 (7) Notice that the consumer is not obligated to make any further payments under the  
20 plan or program, nor is the consumer entitled to any benefits under the plan or  
21 program for any period of time after the last month for which payment has been  
22 made;
- 23 (8) A statement that the plan or program benefits may duplicate existing benefits or  
24 government health benefits; and

1 (9) A statement explaining the right of the consumer to contact the insurance department  
2 or commission in the state where the consumer resides at any time for assistance.

3 The requirement that the contract or agreement be signed prior to any money or  
4 consideration being obtained does not apply to a transaction in which payment by the consumer  
5 is made by credit card.

6 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Any plan or program offered by a person subject to registration pursuant to section 1 of this  
9 Act shall provide thirty days from the date of the signed consumer contract or agreement, or  
10 sixty days if payment is by automatic or electronic withdrawal from a bank account, in which  
11 the consumer may return the plan or program to the person or agent through whom it was  
12 purchased and to have all costs of the plan or program, excluding a nominal processing fee as  
13 prescribed by the director by rules promulgated pursuant to chapter 1-26, refunded in full.

14 Section 5. That § 58-18-20 be amended to read as follows:

15 58-18-20. Any insurer authorized to write health insurance in this state ~~shall have the power~~  
16 ~~to~~ may issue blanket health insurance. No such blanket policy or certificate may be issued or  
17 delivered, or coverage solicited, in this state unless a copy of the form thereof ~~shall have~~ has  
18 been filed in accordance with § 58-11-12. Every such blanket policy or certificate shall contain  
19 provisions, which in the opinion of the director, are at least as favorable to the policyholder and  
20 the individual insured as those set forth in §§ 58-18-21 to 58-18-27, inclusive.