

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

850P0249

## HOUSE BILL NO. 1213

Introduced by: Representatives Rounds, Elliott, Faehn, Halverson, Miles, Weems, and Willadsen and Senators Nesselhuf, Bartling, Dempster, Garnos, Gray, Hunhoff, McCracken, and Sutton

1 FOR AN ACT ENTITLED, An Act to provide a uniform standard for processing of accident  
2 and health carrier policy rate and form filings.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "Accident and health carrier," an entity licensed to offer accident and health  
6 insurance in this state, or subject to the insurance laws of this state, or subject to the  
7 jurisdiction of the director, that contracts or offers to contract to provide, deliver,  
8 arrange for, pay for, or reimburse any of the costs of health care services, or any  
9 insurer that provides policies of supplemental, disability income, medicare  
10 supplement, or long-term care insurance;
- 11 (2) "Director," the director of the Division of Insurance;
- 12 (3) "Health care services," services for the diagnosis, prevention, treatment, cure, or  
13 relief of a health condition, illness, injury, or disease;
- 14 (4) "Policy form," any policy, contract, certificate, rider, endorsement, evidence of



1 coverage, or any amendments thereto that are required by law to be filed with the  
2 director for approval prior to their sale or issuance for sale in this state;

3 (5) "Supplemental documents," documents required to be filed in support of policy forms  
4 that may or may not be subject to approval;

5 (6) "Type of insurance," those coverages listed on the NAIC Uniform Life, Accident and  
6 Health, Annuity, and Credit Product Coding Matrix under the headings Continuing  
7 Care Retirement Communities, Health, Long Term Care, and Medicare Supplement.

8 Section 2. This Act applies to any individual or group policy form issued by an accident and  
9 health carrier required to be filed with the director for review or approval.

10 Section 3. No policy form subject to the provisions of this Act may be delivered or issued  
11 for delivery in this state, unless it has been filed with and approved by the director.

12 Section 4. The director shall create a document containing filing requirements for each type  
13 of insurance. The document shall contain a list of all product filing requirements contained in  
14 the statutes and rules and published bulletins in this state with appropriate citations to each,  
15 including the citation for the type of insurance that is required to be filed. The document shall  
16 be available on the internet site of the Division of Insurance.

17 The director shall update the document no less frequently than annually, and within thirty  
18 days of any change in any law, rule, or bulletin requiring its amendment.

19 Section 5. A filer shall submit a copy of the document with a policy form filing, indicating  
20 the location within the policy form or supplemental documents for each requirement contained  
21 in the document, and certifying that the policy form meets all requirements of state law.

22 Section 6. The director shall review and approve, provide notice of deficiencies, or  
23 disapprove the initial filing within sixty days of receipt. At the end of the review period, the  
24 form is deemed approved if the director has taken no action. Any notice of deficiencies or

1 disapproval shall be in writing and based only on the specific provisions of applicable statutes  
2 including § 53-11-21, rules, or bulletins published by the director and contained in the document  
3 created by the director pursuant to section 4 of this Act. The notice of deficiencies or  
4 disapproval shall provide the reasons for the notice of deficiencies or disapproval and sufficient  
5 detail for the filer to bring the policy form into compliance, and shall cite any specific statute,  
6 rule, or bulletin upon which the notice of deficiencies or disapproval is based.

7 Section 7. A filer may resubmit a policy form that corrects any deficiencies or resubmit a  
8 disapproved policy form, and a revised certification, within thirty days of its receipt of the  
9 director's notice of deficiencies or disapproval. Any policy form not resubmitted within thirty  
10 days of the notice of deficiencies is deemed withdrawn. Any disapproved policy form not  
11 resubmitted within thirty days is disapproved.

12 Section 8. The director shall review the resubmitted filing and certification, and shall  
13 approve or disapprove it within thirty days. Notice of deficiencies or disapproval shall be in  
14 writing and shall provide a detailed description of the reasons for the disapproval and sufficient  
15 detail for the filer to bring the policy form into compliance and shall cite any specific statute,  
16 rule, or bulletin upon which the disapproval is based. No further extensions of time may be  
17 taken unless the filer has introduced new provisions in the resubmission or the filer has  
18 materially modified any substantive provisions of the policy form, in which case the director  
19 may extend the time for review by an additional thirty days. At the end of the review period, the  
20 policy form is deemed approved if the director has taken no action.

21 Section 9. Except as provided in this section, the director may not disapprove a resubmitted  
22 policy form for reasons other than those initially set forth in the original notice of deficiencies  
23 or disapproval. The director may disapprove a resubmitted policy form for reasons other than  
24 those initially set forth in the original notice of deficiencies or disapproval if:

- 1 (1) The filer has introduced new provisions in the resubmission;
- 2 (2) The filer has materially modified any substantive provisions of the policy form;
- 3 (3) There has been a change in any statute, rule, or published bulletin; or
- 4 (4) There has been reviewer error and the written disapproval fails to state a specific
- 5 provision of applicable statute, rule, or bulletin that is necessary to have the policy
- 6 form conform to the requirements of law.

7 Section 10. The director may return a grossly inadequate filing to the filer without triggering  
8 any of the time deadlines set forth in this Act. For purposes of this section, a grossly inadequate  
9 filing means a filing that fails to provide key information, including state-specific information,  
10 regarding a product, policy, or rate, or that demonstrates an insufficient understanding of what  
11 is required to comply with state statutes or rules.

12 Section 11. Except in cases of a material error or omission in a policy form that has been  
13 approved or deemed approved pursuant to the provisions of this Act, the director may not:

- 14 (1) Retroactively disapprove a filing; or
- 15 (2) With respect to those policy forms, examine the filer during a routine or targeted
- 16 market conduct examination for compliance with any later-enacted policy form filing
- 17 requirements. However, the policy forms may be examined for compliance with any
- 18 later-enacted requirement to the extent that the later-enacted requirement applies to
- 19 new issues of the policy form or to renewals of policies issued under the policy form.

20 Section 12. The provisions of this Act do not apply to existing approved or  
21 deemed-approved policy forms except upon policy renewal or anniversary date.

22 Section 13. If a rate filing or marketing material is required to be filed or approved for a  
23 specific policy form, the time frames for review, approval or disapproval, resubmission, and  
24 re-review of those rates or materials shall be the same as those provided in this Act for the

1 review of policy forms.

2 Section 14. This Act is effective for health policy forms and rates filed after June 30, 2008.