



# SOUTH DAKOTA REGISTER

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Monday, 8:00 a.m., June 29, 2020

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## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

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### Notice of Proposed Rules

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Date in parentheses indicates when rules were filed with the Legislative Research Council.

Copies of proposed rules may be obtained for no charge at <https://rules.sd.gov> or from the agency directly.

**Department of Game, Fish and Parks:** (June 25, 2020) intends to amend rules to not require a park entrance license to be purchased for any enrolled Yankton Sioux tribal member and their family member to enter North Point Recreation Area, Fort Randall South Shore Recreation Area, Randall Creek Recreation Area, and Fort Randall Spillway Lakeside Use Area; eliminate the administrative fee required for lost or destroyed licenses, permits or game tags; establish a fee for nonresident landowner-on-own-land licenses; reduce the number of resident single tag fall turkey licenses while increasing the number of resident double tag licenses for Prairie Units; adjust the number of turkey licenses available in the Black Hills; close certain Prairie Units; establish a resident river otter trapping season from November 1 through December 31; and eliminate unnecessary language, amend form and style, update authorities, and arrange rules to be consistent and concise. The general authority for these rules, as cited by the department, is SDCL 32-3A-1, 34A-8-3, 34A-8-8, 34A-8-10, 40-36-21, 41-2-18, 41-6-10, 41-6-10.2, 14-6-18.4, 41-6-19.6, 41-6-31, 41-6-33, 41-6-37.2, 41-6-84, 41-8-20, 41-8-31, 41-8-37, 41-8-39.1, 41-10-16, 41-11-2, 41-11-5, 41-15-14, 41-17-1.1, 41-17-13, 41-17-13.4, and 42-8-1.1.

A public hearing will be held virtually on July 16, 2020, at 2:00 p.m. CT. Interested parties may attend through the [Zoom link](#) or by calling (699) 900-9128. The meeting ID is 973 2452 9966 and the password is 670107. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of the Department of Game, Fish and Parks, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Comments may also be submitted at <http://gfp.sd.gov/forms/positions>. All written and email comments must include the name, city, and state of the person submitting them. The comment period will close 72 hours prior to the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf) at least 48 hours before the public hearing.

**Department of Social Services:** (June 26, 2020) intends to update certain rules to reflect annual changes and update several citations. The general authority for these rules, as cited by the department, is SDCL 28-6-1, 28-6-1.1, 28-6-18, and 28-6A-12.

A public hearing will be held telephonically on July 23, 2020, at 9:00 a.m. CT. Interested parties may attend by calling 1-844-833-2681 and using conference code 0094258#. Copies of the proposed rules may be obtained without charge from Teresa Schulte, Department of Social Services, 811 East 10<sup>th</sup> Street, Sioux Falls, South Dakota 57103 or online at <http://rules.sd.gov>. Written comments may be sent to Teresa Schulte, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Material sent by mail must reach the department by August 3, 2020, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 367-5444, extension 1000309 at least 48 hours before the public hearing.

## Notices

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The **Department of Social Services** has published an Access Monitoring Review Plan pursuant to the federal requirements of 42 CFR 447.203. The access plan contains a description of access to care for South Dakota Medicaid recipients and establishes a baseline of metrics to be used for evaluating access in accordance with 42 CFR 447.203. It is available on the Department's website at [https://dss.sd.gov/docs/publichearings/Access\\_Monitoring\\_Review\\_Plan\\_2020.pdf](https://dss.sd.gov/docs/publichearings/Access_Monitoring_Review_Plan_2020.pdf)

The access plan will be open for public comment from June 29, 2020, through July 29, 2020. Comments may be made by email to [DSS.MEDICAID@state.sd.us](mailto:DSS.MEDICAID@state.sd.us), by phone, or by mail. Written requests for a copy of the access plan, and corresponding comments, may be sent to Division of Medical Services, ATTN: Access Plan, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan to implement inflationary rate increases appropriated by the 2020 Legislature, effective July 1, 2020. The updated fee schedules will be posted on the department's website at <http://dss.sd.gov/medicaid/providers/feeschedules/dss/> on or around June 30, 2020. South Dakota Medicaid providers should continue to submit claims and bill South Dakota Medicaid as they did prior to July 1, 2020. Fee schedules are the maximum allowable reimbursement amount; per ARSD 67:16:01:09, payment for services is limited to the provider's usual and customary charge. The proposed State Plan Amendment revises Attachment 4.19-A, page 1, 5, 7, 8, 10a, and 10b, Attachment 4.19-B, Introduction page 1 and 1a, and the Health Home Payment Methodology pages in Attachment 3.1-H. The department intends to make this SPA effective July 1, 2020.

The following services are receiving a 2.0 percent inflationary increase: Instate DRG Inpatient Hospital Services; Instate DRG Exempt Inpatient Hospital Units; Instate APC Outpatient Hospital Services; Physician Services including Health Homes Per Member Per Month; Dental Services including Orthodontic Services and Dentures; Optometric Services; Chiropractic Services; Nutritionists and Dietician Services; Durable Medical Equipment (not including items subject to Section 1903(i)(27)) of the Social Security Act); Clinic Services; Physical Therapy; Occupational Therapy; Speech, Hearing, or Language Disorder Services; Prosthetic Devices; Eyeglasses; Diabetes Self-Management Training; Nurse Midwife Services; Community Transportation; Secure Medical Transportation; Air and Ground Ambulance Transportation; Home Health Agencies; Independent Mental Health Practitioners Services; Nutrition Items; Community Mental Health Centers; Substance Use Disorder Agencies; Personal Care Services; Child Private Duty Nursing; Community Health Worker Services; Disproportionate Share Hospital Payment Pools; and Graduate Medical Education Payment Pools.

The estimated expenditures listed below are solely due to rate increases. No rates are being decreased. The department estimates the total annual aggregate increase in expenditures will be the following: Inpatient Hospital Services - \$2,719,093.98; Outpatient Hospital Services - \$1,579,529.86; Physician Services including EPSDT Screenings/Treatment, and Health Home Per Member Per Month - \$2,276,199.73; Dental Services including Orthodontic Services and Dentures - \$511,977.73; Optometric - \$48,602.80; Chiropractic Services - \$17,991.84; Other Medical Services - \$681,346.05; Disproportionate Share Hospital Payments - \$18,975.00; and Graduate Medical Education Payments - \$59,627.00.

The Other Medical Services category includes the following services: Independent Mental Health Practitioners Services, Nutritionists and Dietician Services, Durable Medical Equipment, Clinic Services, Physical Therapy, Occupational Therapy, Speech, Hearing, or Language, Disorder Services, Prosthetic Devices, Eyeglasses, Diabetes Self-Management Training, Nurse Midwife Services, Community Transportation, Secure Medical Transportation, Air and Ground Ambulance Transportation, Nutrition Items, Community Mental Health Centers, Substance Use Disorder Agencies, Home Health Services, Personal Care Services, Child Private Duty Nursing, and Community Health Worker Services. The State Plan Amendment also clarifies that DRG Groupers are updated annually effective January 1 each year.

The Amendment can be viewed on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Written requests for a copy of these changes, and corresponding comments may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

**FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE**

Final Administrative Rules

[SOUTH DAKOTA BOARD OF ACCOUNTANCY \(DEPARTMENT OF LABOR AND REGULATION\)](#): 20:75:02:07, 20:75:02:14; 20:75:05:01, 20:75:05:05, 20:75:05:07, 20:75:05:08, 20:75:05:17; 20:75:07:01.

**History/Notice:** 46 SDR 116, April 14, 2020  
**Hearing:** May 7, 2020  
**Filed:** June 19, 2020  
**Effective:** July 9, 2020

Executive Orders

Governor Noem has signed the following Executive Orders in response to the state's on-going COVID-19 efforts:

- [Executive Order 2020-28](#), dated June 26, 2020, suspending the implementation of Senate Bill 113, which changes statutes related to minor driver's permits. The bill was set to go into effect July 1, 2020.
- [Executive Order 2020-29](#), dated June 26, 2020, extending the deadline for the compilation of a report by the South Dakota Commission on Child Support to December 31, 2021.

Executive Appointments

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeding</u>	<u>Effective/End Date</u>
<b>Board of Tourism</b> Tom Biegler Sioux Falls	Governor	Reappointed	7/1/2020 – 6/30/2024
<b>Civil Service Commission</b> Barbara L. Christianson Rapid City	Governor	Reappointed	7/1/2020 – 6/30/2024
<b>School Finance Accountability Board</b> Liza Clark Pierre	Governor	Reappointed	7/1/2020 – 6/30/2024
<b>State Electrical Commission</b> Doug Fuerst Mitchell	Governor	Reappointed	6/17/2020 - 4/14/2023
<b>State Capitol Complex Restoration and Beautification Commission</b> David Gilbertson Pierre	Governor	John Miller	6/17/2020 – 6/30/2024
<b>South Dakota Workforce Development Council</b> Dave M. Giovannini Aberdeen	Governor	Reappointed	7/1/2020 – 6/30/2023

**Board of Minerals and Environment**

Rexford A. Hagg Rapid City	Governor	Reappointed	7/1/2020 – 6/30/2024
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**Research and Commercialization Council**

Jaret Heise Lead	Governor	Reappointed	7/1/2020 – 6/30/2022
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**South Dakota Snowmobile Advisory Council**

Bruce Hintz Lead	Governor	Reappointed	7/1/2020 – 6/30/2023
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**Housing Development Authority**

Rick Hohn Watertown	Governor	Reappointed	7/1/2020 - 6/30/2025
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**South Dakota Workforce Development Council**

Chris Houwman Sioux Falls	Governor	Reappointed	7/1/2020 – 6/30/2023
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**Board of Tourism**

Theodore H. Hustead Wall	Governor	Reappointed	7/1/2020 – 6/30/2024
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**South Dakota 911 Coordination Board**

Gary Jaeger Goodwin	Governor	Curt Littau	7/1/2020 – 6/30/2023
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**Civil Service Commission**

Kim Jensen Yankton	Governor	Judith Greff	7/1/2020 - 6/30/2024
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**Research and Commercialization Council**

Kathryn Johnson Hill City	Governor	Paul Batcheller	7/1/2020 – 6/30/2022
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**South Dakota Economic Development Finance Authority Board of Directors**

Matt Judson Pierre	Governor	Reappointed	7/1/2020 – 6/30/2024
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**Board of Minerals and Environment**

Doyle R. Karpen Jefferson	Governor	Reappointed	7/1/2020 – 6/30/2024
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**Western Interstate  
Commission for Higher  
Education**

Brian Maher Governor Paul Beran 7/6/2020 – 6/30/2023  
Pierre

**Civil Service Commission**

Jeff Miller Governor Reappointed 7/1/2020 – 6/30/2024  
Brookings

**South Dakota 911  
Coordination Board**

Jessica Mundahl Governor Reappointed 7/1/2020 - 6/30/2023  
Sioux Falls

**School Finance  
Accountability Board**

Terry Nebelsick Governor Reappointed 7/1/2020 – 6/30/2024  
Huron

**South Dakota Board of  
Directors for Educational  
Telecommunications**

Jerry Oster Governor Reappointed 7/1/2020 – 6/30/2023  
Yankton

**State Plumbing Commission**

Alex Payton Governor Dave Baumberger 6/17/2020 – 4/14/2023  
Sioux Falls

**South Dakota Advisory Panel  
for Children with Disabilities**

Brian Poelstra Governor New Position 7/1/2020 – 6/30/2023  
Pierre

**South Dakota Medicaid  
Pharmaceutical &  
Therapeutics Committee**

Heather Preuss Governor Dr. Richard Holm 6/17/2020  
Hot Springs

**School Finance  
Accountability Board**

Susan Proefrock Governor Reappointed 7/1/2020 – 6/30/2024  
Belle Fourche

**State Arts Council**

Jane Rasmussen Governor Reappointed 7/1/2020 - 6/30/2023  
Sisseton

**School Finance  
Accountability Board**

Abi Van Regenmorter Governor Jarod Larson 7/1/2020 – 6/30/2024  
DeSmet

**South Dakota Advisory  
Panel for Children with  
Disabilities**

Erin Schons Governor Reappointed 7/1/2020 – 6/30/2023  
Sioux Falls

**South Dakota Health and  
Educational Facilities  
Authority**

Donald Scott Governor Reappointed 7/1/2020 – 6/30/2025  
Sioux Falls

**Critical Teaching Needs  
Scholarship Board**

Robert A. Sittig Governor Reappointed 7/1/2020 – 6/30/2025  
Baltic

**Board of Tourism**

Frank Smith Governor Reappointed 7/1/2020 – 6/30/2024  
Gettysburg

**Board of Water and Natural  
Resources**

Jerry Soholt Governor Reappointed 7/1/2020 – 6/30/2024  
Sioux Falls

**State Electrical Commission**

Tor Sorlien Governor Duane Mergen 6/17/2020 – 4/14/2023  
Tea

**South Dakota Workforce  
Development Council**

Randy Stainbrook Governor Reappointed 7/1/2020 – 6/30/2023  
Rapid City

**School Finance  
Accountability Board**

Eric Stroeder Governor Reappointed 7/1/2020 -6/30/2024  
Glenham

**Research and  
Commercialization Council**

Eddie J. Sullivan Governor Reappointed 7/1/2020 – 6/30/2022  
Sioux Falls

**Western Interstate  
Commission for Higher  
Education**

Diana VanderWoude Governor James Hansen 7/1/2020 – 6/30/2024  
Sioux Falls

**Board of Tourism**

Kristi M. Wagner Governor Reappointed 7/1/2020 – 6/30/2024  
Whitewood

**State Arts Council**

James L. Walker Governor Reappointed 7/1/2020 – 6/30/2023  
Bath

**South Dakota Snowmobile  
Advisory Council**

Todd Wilkinson Governor Reappointed 7/1/2020 – 6/30/2023  
DeSmet

**Critical Teaching Needs  
Scholarship Board**

Steve Willard Governor Reappointed 7/1/2020 – 6/30/2025  
Belle Fourche

**SCHEDULED PUBLIC HEARINGS**

7-16-2020	<b>Department of Game, Fish and Parks:</b> Amend rules to not require a park entrance license to be purchased for any enrolled Yankton Sioux tribal member and their family member to enter North Point Recreation Area, Fort Randall South Shore Recreation Area, Randall Creek Recreation Area, and Fort Randall Spillway Lakeside Use Area; eliminate the administrative fee required for lost or destroyed licenses, permits or game tags; establish a fee for nonresident landowner-on-own-land licenses; reduce the number of resident single tag fall turkey licenses while increasing the number of resident double tag licenses for Prairie Units; adjust the number of turkey licenses available in the Black Hills; close certain Prairie Units; establish a resident river otter trapping season from November 1 through December 31; and eliminate unnecessary language, amend form and style, update authorities, and arrange rules to be consistent and concise; 46 SDR 151, June 29, 2020.
7-20-2020	<b>Department of Health:</b> Amend rules to update the form used by a physician to comply with the requirements of SDCL 34-23A-10.1 (1); 46 SDR 146, June 15, 2020.
7-23-2020	<b>Department of Social Services:</b> Update certain rules to reflect annual changes and update several citations; 46 SDR 151, June 29, 2020.
8-19-2020	<b>Division of Labor and Management (Department of Labor and Regulation):</b> Amend rules to update references on relative values and allow a party to have a case dismissed for lack of prosecution without prejudice; 46 SDR 149, June 22, 2020.

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee for the 2020 Interim is Tuesday, July 14, 2020, at 10:00 a.m. via electronic conference with limited public access in Room 414 of the Capitol. Future meetings for the 2020 Interim are scheduled for August 18, September 15, and November 10.

Watch for notices of 2020 meetings in this publication, on the [LRC website](#), and at the Capitol.

The Drafting Manual for Administrative Rules in South Dakota is available on the [Administrative Rules Manual page](#) of the LRC website and will be updated regularly to reflect changes in drafting styles and procedures.