



## 2021 South Dakota Legislature

# House Bill 1141

Introduced by: **Representative Cwach**

1 **An Act to create the medical reinsurance program and to make an appropriation**  
 2 **therefor.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **58-48-1. Medical reinsurance program--Establishment.**

6 The medical reinsurance program is hereby established in the Division of  
 7 Insurance.

8 **Section 2.** That a NEW SECTION be added:

9 **58-48-2. Definitions.**

10 Terms used in this Act mean:

- 11 (1) "Attachment point," the threshold dollar amount for cost of claims incurred by a  
 12 reinsurance eligible health benefit plan for an insured individual's covered benefits  
 13 in a benefit year after which additional cost of claims are eligible for reinsurance  
 14 payments;
- 15 (2) "Annual assessment," the assessment percentage multiplied by the assessment  
 16 base;
- 17 (3) "Assessment base," the gross amount of premium earned by an insurer during a  
 18 benefit year that was derived from a health benefit plan delivered or issued for  
 19 delivery in the state;
- 20 (4) "Assessment percentage," the percentage established by the department that is  
 21 used for the purpose of computing the annual assessment;
- 22 (5) "Benefit year," the calendar year for which a health insurer provides coverage  
 23 through an individual health insurance policy;
- 24 (6) "Coinsurance rate," the rate established by the department that is used for the  
 25 purpose of computing the reinsurance payment;

- 1 (7) "Department," the Department of Labor and Regulation;  
 2 (8) "Grandfathered health plan," an individual health plan governed by the provisions  
 3 of 42 U.S.C. § 18011;  
 4 (9) "Health benefit plan," as defined in § 58-17-66;  
 5 (10) "Medical reinsurance fund," the account held by the department to deposit all  
 6 assessment fees and federal pass-through monies received through the medical  
 7 reinsurance program, and to distribute reinsurance payments;  
 8 ~~(10)~~(11) "Reinsurance cap," the maximum dollar amount of each claim incurred for an  
 9 insured individual's covered benefits in a benefit year that is established by the  
 10 department after which additional cost of claims are not eligible for a reinsurance  
 11 payment;  
 12 ~~(11)~~(12) "Reinsurance--eligible health benefit plan," a health benefit plan providing  
 13 individual coverage that:  
 14 (a) Is delivered or issued for delivery in this state; and  
 15 (b) Is not a grandfathered health plan;  
 16 ~~(12)~~(13) "Reinsurance--eligible individual," an individual who is insured by a reinsurance-  
 17 eligible health benefit plan before January 2, 2023;  
 18 ~~(13)~~(14) "Reinsurance payment," an amount paid by the medical reinsurance program  
 19 to a health insurer under a reinsurance--eligible health benefit plan;  
 20 ~~(14)~~(15) "Secretary," the secretary of the department.

21 **Section 3.** That a NEW SECTION be added:

22 **58-48-3. Actuarial review--Medical reinsurance program--Funding for**  
 23 **actuarial review.**

24 The secretary shall, before January 1, 2022, complete an actuarial review of the  
 25 medical reinsurance program established under this Act to confirm that the program  
 26 satisfies the following requirements:

- 27 (1) Provides access to quality health care that is at least as comprehensive and  
 28 affordable as would be provided in the absence of the program;  
 29 (2) Provides coverage to a comparable number of state residents as would be provided  
 30 coverage in the absence of the program;  
 31 (3) Does not increase the federal deficit; and  
 32 (4) Is projected to generate revenue that is no less than the projected expenditure of  
 33 the program.

1 **Section 4.** That a NEW SECTION be added:

2 **58-48-4. State innovation waiver--Federal pass-through funding--**

3 **Application.**

4 If the medical reinsurance program satisfies the requirements of § 58-48-3, the  
5 secretary shall, before July 1, 2022, apply to the United States secretary of health and  
6 human services under 42 U.S.C. § 18052, for a state innovation waiver and federal pass-  
7 through funding to implement the medical reinsurance program for benefit years  
8 beginning January 1, 2023.

9 **Section 5.** That a NEW SECTION be added:

10 **58-48-5. Reinsurance payment--Eligibility--Amount.**

11 The secretary shall make a reinsurance payment to an insurer of a reinsurance-  
12 eligible health benefit plan if the insurer's cost of claims for a reinsurance--eligible  
13 individual's covered benefits in a calendar year exceeds the attachment point. The amount  
14 of the payment is the product of the coinsurance rate and the insurer's cost of claims for  
15 the reinsurance--eligible individual that exceeds the attachment point. A reinsurance  
16 payment may not exceed the reinsurance cap.

17 **Section 6.** That a NEW SECTION be added:

18 **58-48-6. Annual assessment--Requirements.**

19 For benefit years beginning January 1, 2023, the annual assessment is imposed on  
20 each insurer authorized to deliver or issue for delivery a health benefit plan in the state.  
21 Each insurer shall compute, report, and pay the annual assessment in the time and  
22 manner established by the department.

23 **Section 7.** That a NEW SECTION be added:

24 **58-48-7. Promulgation of rules--Restrictions.**

25 The department shall promulgate rules, pursuant to chapter 1-26, to establish:  
26 (1) The attachment point, assessment percentage, coinsurance rate, and reinsurance  
27 cap;  
28 (2) The application procedures, requirements, and timing for requesting and  
29 processing a reinsurance payment from the medical reinsurance fund;  
30 (3) Time and manner for reporting and paying the assessment;  
31 (4) Penalties for the failure to timely report or timely pay the assessment; and

1       (5) Reporting requirements for a reinsurer of a reinsurance--eligible health benefit  
2           plan.  
3           The department may not change the attachment point, reinsurance cap, or  
4           coinsurance rate for a benefit year after the benefit year begins.

5       **Section 8.** There is hereby appropriated from the general fund the sum of \$10,300,000 to  
6       the Department of Labor and Regulation, \$300,000 of which shall be used for purposes of  
7       completing an actuarial review of the medical reinsurance program established under this Act,  
8       and \$10,000,000 of which shall be used to provide initial funding for the medical reinsurance  
9       program established under this Act.

10      **Section 9.** The secretary of the Department of Labor and Regulation shall approve vouchers  
11      and the state auditor shall draw warrants to pay expenditures authorized by this Act.

12      **Section 10.** Any amounts appropriated in this Act not lawfully expended or obligated shall  
13      revert in accordance with the procedures prescribed in chapter 4-8.