

AN ACT

ENTITLED, An Act to revise certain provisions regarding coordination of benefits between health plans.

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

Section 1. That § 58-18A-58 be amended to read as follows:

58-18A-58. For the purposes of this chapter, the term, plan, includes:

- (1) Group and nongroup insurance contracts and subscriber contracts;
- (2) Uninsured arrangements of group or group-type coverage;
- (3) Group and nongroup coverage through closed panel plans;
- (4) Group-type contracts;
- (5) The medical care components of long-term care contracts, such as skilled nursing care;
- (6) The medical benefits coverage in automobile no fault and traditional automobile fault type contracts;
- (7) Medicare or other governmental benefits, as permitted by law, except for the medical assistance program. That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program; and
- (8) Group and nongroup insurance contracts and subscriber contracts that pay or reimburse for the cost of dental care.

Section 2. That § 58-18A-70 be amended to read as follows:

58-18A-70. Unless there is a court decree stating otherwise, plans covering a dependent child shall determine the order of benefits as follows:

- (1) For a dependent child whose parents are married or are living together, whether or not they have ever been married:
  - (a) The plan of the parent whose birthday falls earlier in the calendar year is the

- primary plan; or
- (b) If both parents have the same birthday, the plan that has covered the parent longest is the primary plan;
- (2) For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married:
- (a) If a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with responsibility has no health care coverage for the dependent child's health care expenses, but that parent's spouse does, that parent's spouse's plan is the primary plan. This item does not apply with respect to any plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provision;
  - (b) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of subdivision 1 of this section shall determine the order of benefits;
  - (c) If a court decree states that the parents have joint custody without specifying that one parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of subdivision (1) of this section shall determine the order of benefits; or
  - (d) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows:
    - (i) The plan covering the custodial parent;
    - (ii) The plan covering the custodial parent's spouse;

- (iii) The plan covering the noncustodial parent; and then
  - (iv) The plan covering the noncustodial parent's spouse;
- (3) For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits shall be determined, as applicable, pursuant to subdivision (1) or (2) of this section as if those individuals were parents of the child; and
- (4) For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, the provisions of § 58-18A-73 apply. If the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits shall be determined, as applicable, pursuant to the provisions of subdivision (1) of this section to the dependent child's parent or parents and the dependent's spouse.

An Act to revise certain provisions regarding coordination of benefits between health plans.

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I certify that the attached Act
originated in the

SENATE as Bill No. 31

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 31

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby
approved this \_\_\_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State