

CHAPTER 67:10:01
GENERAL PROVISIONS

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67:10:01:04. Individuals who must be included in assistance unit -- Option for Indian stepparent or child in foster care. Unless specifically ineligible under this article for a reason other than not being needy, the following individuals must be included in the assistance unit if they live in the same household as the dependent child for whom assistance is being requested or for whom assistance is being received:

(1) The dependent child's brothers and sisters, including blood-related or adoptive brothers and sisters who meet the definition of a dependent child;

(2) The parent of the dependent child; and

(3) Except for an Indian stepparent in Indian country who is under the exclusive jurisdiction of a tribe for purposes of determining the domestic relations rights of the family, the dependent child's stepparent.

The following individuals have the option to be included in the assistance unit if they live in the same household as the dependent child for whom assistance is being requested or for whom assistance is being received:

(a) An Indian stepparent in Indian country who is under the exclusive jurisdiction of a tribe for purposes of determining the domestic relations rights of the family ~~has the option of being included in the assistance unit. ; or~~

(b) A child in foster care who meets the specified degree of relationship to be included in the assistance unit.

Source: 24 SDR 24, effective August 31, 1997.

General Authority: SDCL 28-7A-3(1).

Law Implemented: SDCL 28-7A-3(1).

Cross-Reference: Specific degree of relationship between child and parent or relative, § 67:10:01:06.

67:10:05:03. Payment standard -- Assistance unit includes parent -- Independent or shared living arrangement. Based on the number of members in the assistance unit and the unit's living arrangement, the payment standard for a household which includes at least one parent of a dependent child is as follows:

PAYMENT STANDARD		
UNIT SIZE	INDEPENDENT LIVING ARRANGEMENT	SHARED LIVING ARRANGEMENT
1 person	\$ 437 <u>449</u>	\$ 271 <u>278</u>
2 persons	536 <u>550</u>	369 <u>379</u>
3 persons	599 <u>615</u>	433 <u>445</u>
4 persons	662 <u>680</u>	497 <u>510</u>
5 persons	724 <u>744</u>	559 <u>574</u>
6 persons	788 <u>809</u>	622 <u>639</u>
7 persons	851 <u>874</u>	684 <u>702</u>
8 persons	913 <u>938</u>	748 <u>768</u>
9 persons	975 <u>1,001</u>	811 <u>833</u>
10 persons	1,036 <u>1,064</u>	871 <u>895</u>
11 persons	1,100 <u>1,130</u>	934 <u>959</u>
12 persons	1,163 <u>1,194</u>	996 <u>1,023</u>

Add \$53 for each additional member in the assistance unit.

Source: 24 SDR 24, effective August 31, 1997; 28 SDR 1, effective July 18, 2001; 28 SDR 178, effective July 3, 2002; 29 SDR 177, effective July 1, 2003; 30 SDR 211, effective July 1, 2004; 32 SDR 33, effective August 31, 2005; 34 SDR 93, effective October 17, 2007; 34 SDR 323, effective July 1, 2008; 36 SDR 22, effective August 18, 2009; 39 SDR 113, effective December 26, 2012; 40 SDR 229, effective June 30, 2014.

General Authority: SDCL 28-7A-3(1).

Law Implemented: SDCL 28-7A-3(1), 28-7A-4.

67:10:05:05. Payment standard -- Child not living with parent and not placed by child placement agency. The following is the payment standard for an assistance unit which does not meet the criteria contained in either § 67:10:05:03 or 67:10:05:04:

UNIT SIZE	PAYMENT STANDARD
1 child	\$ 369 <u>379</u>
2 children	433 <u>445</u>
3 children	497 <u>510</u>
4 children	559 <u>574</u>
5 children	622 <u>639</u>
6 children	684 <u>702</u>
7 children	748 <u>768</u>
8 children	811 <u>833</u>
9 children	871 <u>895</u>
10 children	934 <u>959</u>
11 children	996 <u>1,023</u>
12 children	1,061 <u>1,090</u>

Add \$53 for each additional child in the assistance unit.

Source: 24 SDR 24, effective August 31, 1997; 28 SDR 1, effective July 18, 2001; 28 SDR 178, effective July 3, 2002; 29 SDR 177, effective July 1, 2003; 30 SDR 211,

effective July 1, 2004; 32 SDR 33, effective August 31, 2005; 34 SDR 93, effective October 17, 2007; 34 SDR 323, effective July 1, 2008; 36 SDR 22, effective August 18, 2009; 39 SDR 113, effective December 26, 2012; 40 SDR 229, effective June 30, 2014.

General Authority: SDCL 28-7A-3(1).

Law Implemented: SDCL 28-7A-3(1), 28-7A-4.

67:11:01:03. Federal poverty level. For programs under Title 67, the department uses the federal poverty level established in ~~80 Fed. Reg. 3236 (January 22, 2015)~~ 81 Fed. Reg. 4036 (January 25, 2016).

Source: 21 SDR 162, effective March 23, 1995; 22 SDR 188, effective July 8, 1996; 24 SDR 11, effective August 4, 1997; 25 SDR 13, effective August 9, 1998; 26 SDR 109, effective March 5, 2000; 26 SDR 168, effective July 1, 2000; 28 SDR 1, effective July 18, 2001; 28 SDR 178, effective July 3, 2002; 30 SDR 26, effective September 3, 2003; 30 SDR 193, effective June 13, 2004; 32 SDR 33, effective August 31, 2005; 32 SDR 163, effective March 23, 2006; 34 SDR 322, effective July 1, 2008; 35 SDR 234, effective April 1, 2009; 37 SDR 182, effective March 25, 2011; 41 SDR 7, effective July 29, 2014; 41 SDR 218, effective June 30, 2015.

General Authority: SDCL 25-4-45.3, 28-1-61, 28-6-1(6), 28-6A-12, 28-7A-3, 28-7A-24.

Law Implemented: SDCL 25-4-45.3, 28-1-60, 28-6-1(6), 28-6A-2, 28-7A-3, 28-7A-20.

Cross-References:

Work activities -- Combined work and education, § 67:10:06:13.01.

Eligibility requirements, § 67:46:01:02.

Computation of community spouse's maintenance allowance and excess shelter allowance, § 67:46:07:12.

Eligibility requirements, § 67:46:10:04.

Household required to participate in child care costs, § 67:47:01:08.

Family pays costs when lump sum income exceeds federal poverty level,
§ 67:47:01:08.01.

ARTICLE 67:12
ASSISTANCE PAYMENTS

Chapter

67:12:01	Assistance applications and eligibility.
67:12:02	Notice to applicants and recipients.
67:12:03	Fair hearings, Transferred.
67:12:04	Limitations on real property.
67:12:05	Limitations on personal property.
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67:12:09	Job opportunities and basic skills, Repealed.
67:12:10	Food stamp program, Transferred.
67:12:11	Refugee resettlement program, <u>Repealed</u> .
67:12:12	Dependent children foster care.
67:12:13	Repatriate program.
67:12:14	Optional state supplemental program.
67:12:15	Dependent care.
67:12:16	Transitional child care, Repealed.
67:12:17	Transitional medical benefits, Repealed.
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67:12:19	Intentional program violations (IPVs), Repealed.
67:12:20	Transitional employment allowance, Repealed.

67:12:21 Time limits for AFDC benefits, Repealed.

CHAPTER 67:12:11
REFUGEE RESETTLEMENT PROGRAM

Section

- ~~67:12:11:01 — Qualifications for refugee assistance.~~
- ~~67:12:11:01.01 — Documentation required.~~
- ~~67:12:11:02 — Eligibility factors relating to refugees with children —~~
~~Exceptions.~~
- ~~67:12:11:02.01 — Period of time during which assistance will be provided.~~
- ~~67:12:11:02.02 — Earned income exemption not applied.~~
- ~~67:12:11:03 — Eligibility factors relating to adult refugees.~~
- ~~67:12:11:03.01 — Children of refugees who are U. S. citizens.~~
- ~~67:12:11:04 — Repealed.~~
- ~~67:12:11:05 — Exempted income and resources.~~
- ~~67:12:11:06 — Medical services.~~
- ~~67:12:11:07 — Repealed.~~
- ~~67:12:11:08 — Employable refugees to register with Lutheran Social~~
~~Services.~~
- ~~67:12:11:08.01 — Criteria for determining appropriate work.~~
- ~~67:12:11:08.02 — Criteria for determining appropriate training.~~
- ~~67:12:11:08.03 — Claims of adverse effects of physical or mental health.~~
- ~~67:12:11:09 — Employable refugee — Exemptions from accepting work~~
~~or training.~~

~~67:12:11:09.01 ————— Good cause.~~

~~67:12:11:10 and 67:12:11:11 — Repealed.~~

~~67:12:11:11.01 ————— Effects of termination on household.~~

~~67:12:11:11.02 ————— Repealed.~~

~~67:12:11:11.03 ————— Period of ineligibility for refusal to comply.~~

~~67:12:11:12 ————— English language requirements.~~

~~67:12:11:13 ————— Receipt of assistance while attending educational or
training program.~~

~~67:12:11:14 ————— Fair hearings.~~

~~———— **67:12:11:01. Qualifications for refugee assistance.** Pursuant to the Refugee Act of 1980, Pub. L. No. 96-212, assistance may be provided to individuals who have been granted asylum or have been admitted as refugees. United States citizens and their dependents who have been repatriated are excluded under the refugee assistance program for the first 90 days they are in this country.~~

~~———— **Source:** 2 SDR 10, effective August 12, 1975; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981.~~

~~———— **General Authority:** SDCL 28-1-50.~~

~~———— **Law Implemented:** SDCL 28-1-47.~~

~~———— **Cross References:**~~

~~———— Repatriate program, ch 67:12:13.~~

~~—— Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 105.~~

~~—— Immigration and Nationality Act of 1959, 66 Stat. 166.~~

~~—— **67:12:11:01.01. Documentation required.** A refugee applying for assistance under this chapter must present to the department documentation issued by the Immigration and Naturalization Service and the Office of Refugee Resettlement. The documentary evidence required is an I-94 card stating that the refugee has been granted asylum or has been admitted as a refugee. Those refugees who have lived in the United States for more than one year must also present an I-151 or an I-551, resident alien card, as documentary evidence. If a refugee no longer holds an I-94 card, the refugee must present evidence to the department that the refugee was issued an I-94 card and that it designated the refugee as having been granted asylum or admission as a refugee. Evidence of federal approval issued by the Immigration and Naturalization Service or by the Office of Refugee Resettlement will be accepted by the department.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **67:12:11:02. Eligibility factors relating to refugees with children**——~~
~~**Exceptions.** Assistance may be provided under this chapter in behalf of any child or to any other member of the household who would be eligible for assistance under chapters~~

~~67:12:01 to 67:12:06, inclusive, and chapters 67:12:08 and 67:12:09, with the following exceptions:~~

- ~~—— (1) The requirements covering citizenship and alienage;~~
- ~~—— (2) The age requirements for AFDC; and~~
- ~~—— (3) The deprivation of parental support or care.~~

~~—— **Source:** 2 SDR 10, effective August 12, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:**~~

~~—— Period of time during which assistance will be provided, § 67:12:11:02.01.~~

~~—— Qualifications for refugee assistance, § 67:12:11:01.~~

~~—— Citizenship and alienage, § 67:12:01:14.~~

~~—— Deprivation of parental support or care, §§ 67:12:01:29 to 67:12:01:39, inclusive.~~

~~—— Eligibility of second parent in AFDC grant, § 67:12:01:55.~~

~~—— Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

~~—— **67:12:11:02.01. Period of time during which assistance will be provided.**~~

~~Assistance may be provided to an eligible refugee only during the first eight months in which the refugee is in the United States.~~

—— ~~**Source:** 7 SDR 90, effective April 1, 1981; 8 SDR 58, effective November 29, 1981; 8 SDR 133, effective April 1, 1982; 15 SDR 61, effective October 7, 1988; 18 SDR 86, effective November 20, 1991.~~

—— ~~**General Authority:** SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:**~~

—— ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 114.~~

—— ~~Duration of eligibility, 45 C.F.R. § 400.62(e).~~

—— ~~47 Fed. Reg. 10,841 (March 12, 1982).~~

—— ~~53 Fed. Reg. 32,222 (August 24, 1988).~~

—— ~~**67:12:11:02.02. Earned income exemption not applied.** When determining eligibility and computing the amount of assistance for refugees under this chapter, the earned income exemption may not be applied.~~

—— ~~**Source:** 8 SDR 133, effective April 1, 1982; 9 SDR 76, effective December 1, 1982; 12 SDR 4, effective July 21, 1985.~~

—— ~~**General Authority:** SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:** Earned income exemption for AFDC, § 7:12:05:14; 47 Fed. Reg. 10,841 (March 12, 1982).~~

—— ~~**67:12:11:03. Eligibility factors relating to adult refugees.** Assistance may be provided to adult refugees without children who would be eligible under the income and resource limitations of the AFDC program. The amount of the assistance payments shall be determined according to chapters 67:12:04 to 67:12:06, inclusive.~~

—— ~~**Source:** 2 SDR 10, effective August 12, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981.~~

—— ~~**General Authority:** SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:**~~

—— ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 114.~~

—— ~~Limitations on real property, ch 67:12:04.~~

—— ~~Limitations on personal property, ch 67:12:05.~~

—— ~~Budgeting, ch 67:12:06.~~

—— ~~**67:12:11:03.01. Children of refugees who are U. S. citizens.** Those children of refugees who are United States citizens because they were born in this country are considered a part of the refugee family as far as eligibility for financial assistance, medical care, and social services are concerned.~~

—— **Source:** ~~8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

—— **General Authority:** ~~SDCL 28-1-50.~~

—— **Law Implemented:** ~~SDCL 28-1-47.~~

—— **Cross Reference:** ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 103.~~

—— ~~**67:12:11:04. SSI eligible refugees provided assistance until SSI established.**~~
~~Repealed.~~

—— **Source:** ~~2 SDR 10, effective August 12, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; repealed, 23 SDR 109, effective January 5, 1997.~~

—— ~~**67:12:11:05. Exempted income and resources.**~~ ~~Resources or income of the sponsor and resources not currently available to the refugee, such as resources remaining in the refugee's homeland, shall be exempted in the determination of initial or continuing eligibility for the program.~~

—— **Source:** ~~2 SDR 10, effective August 12, 1975; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981.~~

—— **General Authority:** ~~SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:**~~

—— ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102.~~

—— ~~Limitations on real property, ch 67:12:04.~~

—— ~~Limitations on personal property, ch 67:12:05.~~

—— ~~Budgeting, ch 67:12:06.~~

—— ~~**67:12:11:06. Medical services.** If a refugee is eligible for services under this chapter, medical assistance may be provided for a period of eight months from the date the refugee entered the United States.~~

—— ~~**Source:** 2 SDR 10, effective August 12, 1975; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 9 SDR 24, effective September 2, 1982; 15 SDR 61, effective October 7, 1988; 18 SDR 86, effective November 20, 1991.~~

—— ~~**General Authority:** SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:**~~

—— ~~Medical assistance for refugees, § 67:46:01:09.~~

—— ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

—— ~~Covered medical services, art 67:16.~~

——~~53 Fed. Reg. 32,222 (August 24, 1988).~~

——~~67:12:11:07. Social services.~~ Repealed.

——~~Source: 2 SDR 10, effective August 12, 1975; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 8 SDR 11, effective August 13, 1981.~~

——~~67:12:11:08. Employable refugees to register with Lutheran Social Services.~~
~~Employable refugees who apply for or receive assistance and all employable refugee members of the household shall register with Lutheran Social Services for social services, employment, or employment training. The refugee shall comply with any recommendation made by Lutheran Social Services for needed social services. Needed social services are those services which would enhance the individual's employability. The refugee shall accept any appropriate employment or employment training.~~

——~~An employable refugee who voluntarily quits employment or who refuses to comply with this section is ineligible for assistance.~~

——~~Source: 3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 9 SDR 76, effective December 1, 1982; 11 SDR 85, effective December 30, 1984.~~

——~~General Authority: SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:**~~

~~—— Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

~~—— Criteria for determining appropriate work, § 67:12:11:08.01.~~

~~—— Criteria for determining appropriate training, § 67:12:11:08.02.~~

~~—— Employable refugee — Exemptions from accepting work or training, § 67:12:11:09.~~

~~—— Effects of termination on household, § 67:12:11:11.01.~~

~~—— Period of ineligibility for refusal to comply, § 67:12:11:11.03.~~

~~—— English language requirements, § 67:12:11:12.~~

~~—— **67:12:11:08.01. Criteria for determining appropriate work.** The department shall determine appropriate work for refugees on the basis of the following criteria:~~

~~—— (1) The wage meets or exceeds the requirements of the federal or state minimum wage law, whichever is applicable. If such laws are not applicable, the wage may not be less favorable than the wage normally paid for similar work in that labor market but in no event may the wage be less than three-fourths of the minimum wage rate;~~

~~—— (2) The daily hours of work and the weekly hours of work do not exceed those customary to the occupation;~~

~~—— (3) The position is not vacant due to a strike, lockout, or other labor dispute;~~

~~—— (4) The individual is not required to perform contrary to the conditions of the individual's existing union membership governing that occupation. Employment not governed by the rules of a union in which the individual is a member is considered appropriate;~~

~~—— (5) The individual is physically and mentally capable of performing the work on a regular basis;~~

~~—— (6) The total daily commuting time to and from home to the work site to which the individual is assigned does not normally exceed two hours by available transportation, exclusive of the time necessary to transport children to and from a child care facility, unless a longer commuting distance and time is generally accepted in the community. In that case, the round trip commuting time may not exceed the generally accepted community standards; and~~

~~—— (7) The work site to which the individual is assigned may not endanger the individual's health and safety.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:** Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115; Claims of adverse effects of physical or mental health, § 67:12:11:08.03.~~

~~—— **67:12:11:08.02. Criteria for determining appropriate training.** The department shall determine appropriate training for refugees on the basis of the following criteria:~~

~~—— (1) The training meets local employers' requirements so that the individual will be in a competitive position within the local labor market;~~

~~—— (2) The training is likely to lead to employment which will meet the appropriate work criteria in § 67:12:11:08.01;~~

~~—— (3) The individual is physically and mentally capable of performing the training assignment on a regular basis;~~

~~—— (4) The total daily commuting time to and from home to the training site to which the individual is assigned does not normally exceed two hours by available transportation, exclusive of the time necessary to transport children to and from a child care facility, unless a longer commuting distance and time is generally accepted in the community. In that case the round trip commuting time may not exceed the generally accepted community standards; and~~

~~—— (5) The training site to which the individual is assigned may not endanger the individual's health and safety.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:** Claims of adverse effects of physical or mental health, § 67:12:11:08.03.~~

~~—— Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

~~—— Receipt of assistance while attending educational or training program, § 67:12:11:13.~~

~~—— **67:12:11:08.03. Claims of adverse effects of physical or mental health.** An employable refugee who refuses to accept employment or terminates employment on a claim of adverse physical or mental health shall provide to the department medical testimony from a physician or psychologist indicating that participation would impair the individual's physical or mental health.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981; 9 SDR 76, effective December 1, 1982.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross Reference:** Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

~~—— **67:12:11:09. Employable refugee — Exemptions from accepting work or training.** The department shall consider a refugee employable unless the department determines that the refugee meets one of the following criteria:~~

~~—— (1) Is under the age of 16;~~

~~—— (2) Is at least 16 but not yet 18 and is a full-time student in either an elementary or a secondary school; or is age 18 and a full-time student in a secondary school and is reasonably expected to complete the program before reaching age 19;~~

~~—— (3) Is attending a full-time educational or training program which the department has approved;~~

~~—— (4) Is ill, incapacitated, or over 65 years of age;~~

~~—— (5) Is required to be present in the home because of the illness or incapacity of another member of the household;~~

~~—— (6) Is a mother or caretaker relative providing care for a child who is under 6 years of age; or~~

~~—— (7) Is a mother or other caretaker relative of a child, when the nonexempt refugee father or other nonexempt refugee adult relative in the home is registered and has not refused without good cause to accept employment or employment training.~~

~~—— Under no circumstance may the refugee's inability to communicate in English by itself exempt the refugee from accepting employment or employment training.~~

~~—— **Source:** 3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 9 SDR 24, effective September 2, 1982; 9 SDR 76, effective December 1, 1982.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:**~~

~~—— Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

~~—— Receipt of assistance while attending educational or training program, § 67:12:11:13.~~

~~—— Determination of incapacity by disability/incapacity consultation team, § 67:12:01:40.~~

~~—— Definitions, § 67:12:01:01.~~

~~—— **67:12:11:09.01. Good cause.** It shall be good cause for a refugee to refuse to accept employment or employment training, to refuse to continue employment or employment training, to refuse to register for employment, or to voluntarily terminate employment when the work or training is determined inappropriate according to § 67:12:11:08.01 or 67:12:11:08.02.~~

—— ~~Source: 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

—— ~~General Authority: SDCL 28-1-50.~~

—— ~~Law Implemented: SDCL 28-1-47.~~

—— ~~67:12:11:10. Refusal to apply for or to accept employment or employment training or voluntarily quitting employment affects eligibility.~~ Repealed.

—— ~~Source: 3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 9 SDR 76, effective December 1, 1982; repealed, 11 SDR 85, effective December 30, 1984.~~

—— ~~67:12:11:11. Actions to be taken when employable refugee refuses to register for, accept, or to continue employment.~~ Repealed.

—— ~~Source: 3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; repealed, 9 SDR 76, effective December 1, 1982.~~

—— ~~67:12:11:11.01. Effects of termination on household.~~ When an employable refugee has been given timely and adequate notice of termination of assistance as a result

~~of actions taken under § 67:12:11:08, the termination of assistance shall be applied as follows:~~

~~—— (1) If the household includes other refugees, the grant shall be reduced by the amount allocated for the refugee who refused social services or an offer of employment or employment training;~~

~~—— (2) If the employable refugee is a caretaker relative, assistance in the form of protective, vendor, or two-party payments shall be provided for the remaining recipient members of the household; or~~

~~—— (3) If the refugee is the only member of the household, the grant shall be terminated.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981; 9 SDR 76, effective December 1, 1982; 11 SDR 85, effective December 30, 1984.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

~~—— **Cross References:** Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115; Period of ineligibility for refusal to comply, § 67:12:11:11.03.~~

~~—— **67:12:11:11.02. Reestablishment of assistance.** Repealed.~~

—— ~~**Source:** 8 SDR 11, effective August 13, 1981; repealed, 9 SDR 76, effective December 1, 1982.~~

—— ~~**67:12:11:11.03. Period of ineligibility for refusal to comply.** The period of ineligibility for an employable refugee who fails to comply with § 67:12:11:08 is three payment months for the first occurrence. For each subsequent occurrence, the individual shall remain ineligible for six payment months.~~

—— ~~**Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 30, 1981; 9 SDR 76, effective December 1, 1982; 11 SDR 85, effective December 30, 1984.~~

—— ~~**General Authority:** SDCL 28-1-50.~~

—— ~~**Law Implemented:** SDCL 28-1-47.~~

—— ~~**Cross References:** Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115; Effects of termination on household, § 67:12:11:11.01.~~

—— ~~**67:12:11:12. English language requirements.** As a condition of eligibility for assistance, an employable refugee who is not employed or who is employed for less than 100 hours a month shall take instructions in the English language, if available.~~

—— ~~When a refugee is employed for 100 hours a month or more, the refugee may take instructions in the English language.~~

—— **Source:** ~~3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 11 SDR 85, effective December 30, 1984.~~

—— **General Authority:** ~~SDCL 28-1-50.~~

—— **Law Implemented:** ~~SDCL 28-1-47.~~

—— **Cross Reference:** ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.~~

—— ~~**67:12:11:13. Receipt of assistance while attending educational or training program.** No refugee is exempt from accepting employment because of part-time participation in training under an approved employment plan. Attendance in a college program by a refugee is not considered appropriate training.~~

—— **Source:** ~~3 SDR 58, effective February 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 11, effective August 13, 1981; 9 SDR 24, effective September 2, 1982; 9 SDR 76, effective December 1, 1982.~~

—— **General Authority:** ~~SDCL 28-1-50.~~

—— **Law Implemented:** ~~SDCL 28-1-47.~~

—— **Cross References:**

—— ~~Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 113.~~

—— ~~Criteria for determining appropriate training, § 67:12:11:08.02.~~

~~—— Employable refugee — Exemptions from accepting work or training, § 67:12:11:09.~~

~~—— **67:12:11:14. Fair hearings.** Applicants and recipients are entitled to fair hearings in accordance with chapter 67:17:02.~~

~~—— **Source:** 8 SDR 11, effective August 13, 1981; 8 SDR 58, effective November 29, 1981.~~

~~—— **General Authority:** SDCL 28-1-50.~~

~~—— **Law Implemented:** SDCL 28-1-47.~~

CHAPTER 67:42:03
FAMILY DAY CARE HOMES

Section

67:42:03:01	Definitions.
67:42:03:02 to 67:42:03:04	Repealed.
67:42:03:04.01	Maximum number of children allowed.
67:42:03:05	Repealed.
67:42:03:06	Qualifications of a family day care provider.
67:42:03:07	Repealed.
67:42:03:07.01	Qualifications of helpers.
67:42:03:07.02	Training.
67:42:03:07.03	Staff <u>Helper</u> records and hiring requirements.
67:42:03:07.04	Repealed.
67:42:03:07.05	Qualifications of substitute providers <u>Repealed.</u>
<u>67:42:03:07.06</u>	<u>Orientation.</u>
67:42:03:08	Health standards <u>and immunizations</u> for children.
67:42:03:08.01	Medications.
67:42:03:09	Repealed.
67:42:03:09.01	Reporting suspected child abuse and neglect.
67:42:03:10 to 67:42:03:11.01	Repealed.
67:42:03:11.02	Smoke detectors and fire extinguishers.
67:42:03:11.03	Exit requirements — Drills <u>Emergency preparedness and response.</u>

67:42:03:11.04	Repealed.
67:42:03:11.05	Water supply <u>source and temperature</u> .
67:42:03:11.06	Heating, ventilating, and lighting.
67:42:03:11.07	Electrical outlet covers.
67:42:03:11.08	Food quality and storage.
67:42:03:11.09	Insect and rodent control.
67:42:03:11.10	Railings.
67:42:03:12	Sanitation requirements.
67:42:03:13	Nutrition requirements.
67:42:03:14	Repealed.
67:42:03:15	Presence of the provider.
67:42:03:16	Discipline.
67:42:03:17	Playground area and equipment.
67:42:03:18	Parental observation.
67:42:03:19	Handwashing.
67:42:03:20	Water safety.
67:42:03:21	Other hazardous conditions.
67:42:03:22	Pets.
67:42:03:23	Sleeping arrangements — Cribs .

67:42:03:01. Definitions. Terms used in this chapter mean:

(1) "Family day care," the provision of regular care and supervision of no more than 12 children, including the provider's own children who are under the age of six years, for part of a 24-hour period as a supplement to regular parental care; and

(2) "~~Registered helper~~ Helper," an employee or volunteer present in the facility to assist with the care of children; or an employee or volunteer who, upon request of the provider, substitutes for the provider to care for children no more than 12 hours per week.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Family day care defined -- Number of children allowed, SDCL ~~26-6-4.1~~ 26-6-14.1; ~~Definition of unregistered family day care~~ Unregistered family day care defined--Number of children allowed, SDCL 26-6-14.8.

67:42:03:04.01. Maximum number of children allowed. A family day care provider may care for a maximum of 12 children, including the provider's own children who are under the age of six years. No more than four of the 12 children may be under the age of two years, and no more than two of these four children may be under the age of one unless there is a registered helper in the home. If a registered helper is present in the home, no more than eight of the twelve children may be under the age of two and no more than four of the eight may be under the age of one.

Source: 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-14.1, 26-6-14.2, 26-6-16.

Cross-Reference: Additional number of children in day care -- Staff-to-child ratios, SDCL 26-6-15.1.

67:42:03:07.01. Qualifications of helpers. A family day care helper must be at least 14 years old. A helper under the age of 18 may be included in the adult-child ratio only if there is another adult present in the home. A helper who is under the age of 18 may not be left alone on the premises with children in care.

A helper must meet the requirements of §§ 67:42:03:07.02, ~~and~~ 67:42:03:07.03 and 67:42:03:07.06.

A volunteer filling the position of a helper must meet the requirements of this section.

Source: 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1).

67:42:03:07.03. Staff Helper records and hiring requirements. A family day care provider shall maintain a record on each ~~staff member~~ helper. The record must include the ~~staff member's~~ helper's name, age, address, telephone number, ~~in-service~~ training, dates of employment and separation, and a statement signed by the ~~staff member~~ helper which defines child abuse and neglect and outlines the ~~staff member's~~ helper's responsibility to report all incidents of child abuse or neglect under the provisions of SDCL 26-8A-3 and 26-8A-8. The facility shall make the personnel records available to the department for verification of the contents. The personnel records must be kept for six months after the ~~staff member's~~ helper's employment ends.

Before hiring ~~an individual~~ a helper to work at the facility, the provider shall contact ~~at least three~~ references which may include the individual's former employers. The references may not be related to the prospective ~~staff member~~ helper. References must be in the form of a documented conversation or written letter and must be on record before hiring the individual.

Source: 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1).

67:42:03:07.05. Qualifications of substitute providers. ~~A substitute provider must be at least 18 years of age and may not have on record a substantiated report of child abuse or neglect. A substitute provider may not be utilized more than 12 hours per week. Prior to being left alone to supervise children, a substitute provider must complete the cardio-pulmonary resuscitation (CPR) requirements of 67:42:03:07.02~~ Repealed.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: ~~SDCL 26-6-16.~~

Law Implemented: ~~SDCL 26-6-16.~~

67:42:03:07.06. Orientation. The provider and each helper shall have documented completion of orientation training within 90 days after the date of registration or date of hire in at least the following areas:

- (1) Prevention and control of infectious diseases;
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices;
- (3) Administration of medication;
- (4) Prevention of and response to an emergency due to food and allergic reactions;
- (5) Building and physical premises safety;
- (6) Prevention of shaken baby syndrome and abusive head trauma;
- (7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;
- (8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (9) Precautions in transporting a child;
- (10) Recognition and reporting of child abuse and neglect; and
- (11) First aid.

In addition, a provider shall become certified in cardiopulmonary resuscitation (CPR) prior to initial registration. A helper shall become certified in CPR before being left alone with a child. A helper shall become certified in CPR within 90 days after the date of hire. CPR training shall include hands-on skill testing. CPR certification shall remain valid at all times.

Orientation training may count toward the required annual training for the provider in the initial year of registration, and for each helper or substitute during the first year of employment.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1)(3).

67:42:03:08. Health standards and immunizations for children. Before admitting a child for care in a family day care home, the provider shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing the immunization status of the child and verifying that the child meets the minimum immunization requirements for the child's age as recommended by the South Dakota Department of Health.

The operator shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a physician, physician's assistant, certified nurse practitioner, or community health nurse. Immunization levels may be verified by an annual audit conducted by the Department of Health.

If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The provider shall notify the Department of Health if any child in the family day care home contracts a communicable disease. The provider shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease. The family day care home must have on file the name, address, and telephone number of each child's source of regular health supervision as well as other emergency medical information.

A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the

physical condition of the child is such that a test or immunization would endanger the child's life or health or if the child's parent or guardian has signed a written statement that the child is an adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.

Written permission from parents or guardians allowing for the child's emergency medical care must be obtained and maintained by the operator.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Tests and immunizations for communicable diseases required for admission to school or early childhood program -- Exceptions -- Rules, SDCL 13-28-7.1; Records ~~and reports~~ on children in care of agencies -- Information confidential, SDCL 26-6-20; Definition of "communicable disease," § 44:20:01:01.

67:42:03:11.03. ~~Exit requirements~~—Drills Emergency preparedness and response. The provider shall have a written emergency preparedness and response plan that includes procedures carried out before, during, and after a natural, or man-caused event that include: evacuation, relocation, shelter-in-place, lock-down procedures, procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities and children with chronic medical conditions. Every helper shall be made aware of the emergency preparedness plan and procedures.

The provider shall conduct at least four fire drills and one tornado drill each year. The tornado drill shall be conducted at the beginning of summer. The provider shall maintain written documentation as evidence that the drills were conducted.

Each level of the family day care home used for the care of children must have two exits which are separate and remote from each other. Each of these exits must provide unobstructed travel to the outside. One of these exits must be a standard-sized door that meets the applicable code for the structure. The other exit may be a window which is easy to open from the inside without the use of tools.

A window used as an exit in a family day care home must provide a clear opening at least 20 inches wide and 24 inches high and must be at least 5.0 square feet in area. There may be no more than 44 inches between the floor and the bottom of the window. If more than 44 inches exists between the floor and the bottom of the window, a stable and permanent platform must be used that raises the level of the floor such that the distance is 44 inches or less between the bottom of the window and the platform landing.

If storm windows, screens, or burglar guards are used, they must be provided with quick-opening devices which may be easily opened from the inside.

No room or space may be occupied for living or sleeping purposes which is accessible only by a ladder, by a folding stair, or through a trap door.

~~The home must have a written evacuation plan and must conduct at least four fire drills and one tornado drill each year. The tornado drill must be conducted at the beginning of summer. The provider must maintain written documentation as evidence that the drills were conducted.~~

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1)(6).

67:42:03:11.05. Water supply source and temperature. Water must be derived from a community water system or from a water system that is tested at least annually by the Department of Environment and Natural Resources or a laboratory certified by the Department of Health to conduct such tests. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider must maintain written documentation of the test results.

Hot water from plumbing fixtures normally utilized by children in care may not exceed 120 degrees Fahrenheit.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Drinking water standards, ch ~~74:04:05~~ 74:04:12.

67:42:03:12. Sanitation requirements. A family day care home must be kept clean, neat, and free of litter and rubbish.

If care is provided to infants, the home must have a diaper changing table or pad that has a surface that is easily cleanable and nonabsorbent. The table or pad must be cleaned after each use with a solution of one ounce of household bleach to one quart of water.

If a toy comes in contact with a child's saliva or other bodily fluids it must be sanitized with a solution of one ounce of household bleach to two gallons of water or washed and rinsed in a mechanical dishwasher.

If a provider finds a product that the provider prefers to use instead of bleach, the provider shall submit the product label to the department. The department, in consultation with the Department of Health, shall review the product and make a determination of whether the product and the provider's established procedures for using the product is an effective and acceptable disinfectant for a child care program.

Hazardous cleaning solutions, chemicals, and poisons must be labeled and kept in an enclosed cabinet that is not accessible to children. The program shall have procedures in place for the handling and storage of hazardous materials and the disposal of bio contaminants.

Garbage and refuse must be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 15 SDR 162, effective May 4, 1989; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(2).

67:42:03:13. Nutrition requirements. If a child is in family day care during the home's regular meal time, the child must be offered a meal which consists of a variety of foods which supplies at least one-third of the child's daily nutritional needs. Nutritious midmorning, midafternoon, and evening snacks must be served between meals as long as there are at least two hours between each meal and snack. Breakfast may be substituted for the midmorning snack. The provider shall prepare and post menus of the meals available at the home for the week and shall record on the menu the food actually served. The provider shall retain the menus for a period of six months after the week for which it was prepared.

The provider shall have a written plan for prevention and response to emergencies due to food and allergic reactions.

Infants must be fed according to their individual schedule and must be held while bottle feeding.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(6)(9).

67:42:03:23. Sleeping arrangements—Cribbs. Each child must be provided with or must bring a mat or blanket to be used during nap or rest periods. A provider may not allow a child to nap or rest directly on bare or carpeted floors.

If nighttime care is provided, the provider shall provide a cot or bed for each child in nighttime care.

Cribs and mattresses must be maintained in good repair. Stackable cribs may not be used.

Soft bedding materials that could pose a suffocation hazard may not be used in cribs or playpens.

Infants must be placed on their backs for sleeping.

Source: 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

CHAPTER 67:42:10

LICENSED DAY CARE PROGRAMS

Section

67:42:10:00	Definitions.
67:42:10:01	Statement defining purpose and function.
67:42:10:02	Qualifications for director or proprietor.
67:42:10:02.01	Qualifications for individual responsible for program planning and staff supervision.
67:42:10:03	Transferred.
67:42:10:04	Repealed.
67:42:10:05	Qualifications of staff members.
67:42:10:06	Staff development and training.
67:42:10:06.01	Staff orientation.
67:42:10:07	Staff-child ratio.
67:42:10:08	Repealed.
67:42:10:09	Staff records and hiring requirements.
67:42:10:10	Program standards.
67:42:10:11	Standards for discipline.
67:42:10:12	Parental involvement.
67:42:10:13	Nutrition requirements.
67:42:10:14	Health standards <u>and immunizations</u> for day care children.
67:42:10:15	Medications.
67:42:10:16	Building plans.

67:42:10:17	Compliance with environmental health standards required – Environmental health survey.
67:42:10:18	Fire and life safety.
67:42:10:19	Physical standards for facility.
67:42:10:20	Night-time care.
67:42:10:21	Repealed.
67:42:10:22	Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.
67:42:10:23	Center procedures for handling suspected in-house child abuse.
67:42:10:24	Storage for personal items.
67:42:10:25	Staff person trained in first aid and CPR must be on site during hours of operation.

67:42:10:06. Staff development and training. Each program must have and implement a written training plan. Each staff member for a group family day care home shall participate in 10 hours of training annually. Each staff member for a day care center shall participate in 20 hours of training annually. Training must be obtained in the following areas:

- (1) Child growth and development;
- (2) Detecting and reporting child abuse and neglect;
- (3) Guidance and behavior management;
- (4) Food handling techniques;
- (5) Identification and prevention of communicable diseases;
- (6) Program health and safety;
- (7) Nutrition for children;
- (8) Program management and regulation;
- (9) Communication and relations with staff;
- (10) Cultural diversity;
- (11) Learning environments;
- (12) Age-appropriate activities and planning;
- (13) Professionalism;
- (14) Partnerships with parents;
- (15) Inclusion of all children; and
- (16) Basic first aid.

Instruction provided to staff members or volunteers while performing their job may not be used to meet the requirements of this rule.

The number of training hours required of staff who are not full-time employees must be proportionate to the number of hours worked.

Before an initial license is issued, the director or a designated staff person shall complete ~~at least one hour of~~ class instruction in basic first aid. In addition, if not already certified, the director shall become certified in infant-child ~~cardio-pulmonary~~ cardiopulmonary resuscitation (CPR). CPR shall be obtained through an entity that provides hands-on skills testing as part of the training. ~~Within the first year of employment, each staff person shall complete and become certified in infant-child CPR.~~ Each staff person shall maintain a valid certification in CPR at all times.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:19:19, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:10, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1)(6)(10).

67:42:10:06.01. Staff orientation. ~~The program must have and implement a written plan for orientation training.~~ The plan must program shall provide for staff orientation of all staff, and documentation of such, to occur within 90 days after the date of employment, in at least the following areas:

- ~~(1) — Planning developmentally appropriate activities for children;~~
- ~~(2) — Supervision and guidance techniques;~~
- ~~(3) — Handwashing and sanitation techniques to reduce the spread of disease and infection;~~
- ~~(4) — Meeting the nutritional needs of children;~~
- ~~(5) — Meeting the special health care needs of children;~~
- ~~(6) — Emergency response procedures;~~
- ~~(7) — Reporting suspected cases of child abuse and neglect;~~
- ~~(8) — Facility policies; and~~
- ~~(9) — Regulations governing center operations.~~

- (1) Prevention and control of infectious diseases;
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices;
- (3) Administration of medication;
- (4) Prevention of and response to an emergency due to food and allergic reactions;
- (5) Building and physical premises safety;
- (6) Prevention of shaken baby syndrome and abusive head trauma;
- (7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;

(8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(9) Precautions in transporting a child;

(10) Recognition and reporting of child abuse and neglect;

(11) First aid; and

(12) Cardiopulmonary resuscitation (CPR).

~~Orientation must be completed either before the staff member or volunteer may have unsupervised contact with children in care or within 30 days after beginning work with children, whichever occurs first. Documentation of the completed orientation must be kept in the staff member's or volunteer's personnel file.~~

Orientation training may count toward ~~one hour of~~ the required annual training for each staff person during the person's first year of employment.

Source: 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1)(3)(6)(10).

Cross-References: Staff development and training, § 67:42:10:06; Staff person trained in first aid and CPR must be on site during hours of operation, § 67:42:10:25.

67:42:10:10. Program standards. Each program shall have written policies regarding the following:

- (1) Admission and termination of service;
- (2) Fee, payment, and refund policies;
- (3) Health program policies for children, including the need for a current immunization record, the reporting of contagious diseases, and the storage and administration of medications;
- (4) Responsibility to report and the procedures for reporting suspected child abuse or neglect within the program;
- (5) Nutrition policies, including the time meals are served, a description of a balanced meal, the program's position concerning food brought from home, the storage of food brought from home, and the feeding of infants;
- (6) Transportation policies, including use of seatbelts and whether transportation is provided;
- (7) ~~Evacuation plans, including location of the evacuation plan and annual fire and tornado drill requirements~~ An emergency preparedness and response plan;
- (8) Discipline policies, including the ~~form~~ forms of discipline used and those prohibited;
- (9) Reporting changes in circumstances such as a change of facility location, the felony conviction of a staff member, or involvement with the Division of Child Protection Services or law enforcement concerning investigations of child abuse or neglect;
- (10) Program activities, including a daily schedule of activities and programs; ~~and~~

(11) Personnel policies and staff qualifications;

(12) Prevention of shaken baby syndrome and abusive head trauma;

(13) Prevention and response to an emergency due to food and allergic reactions;

and

(14) Handling and storage of hazardous materials and the disposal of bio
contaminants.

In addition, there must be a written program of activities planned according to the developmental level of each group of children. The program shall provide each child with experiences which encourage self-esteem and positive self-image, social interaction, self-expression and communication skills, creative expression, large and small muscle development, and intellectual growth. The program schedule must be planned to provide a flexible balance of active and quiet activities, individual and group activities, and indoor and outdoor activities.

Children must be given attention on a one-to-one basis by staff members.

Each program shall have safe, non-toxic play materials and equipment for creative activity, dramatic play, language arts, and large and small muscle development and coordination.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; written policies requirement transferred from § 67:42:10:03, 12 SDR 209, effective July 6, 1986; 14 SDR 98, effective January 18, 1988; 21 SDR 206, effective June 4, 1995; 24 SDR 76, effective December 11, 1997; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(2)(6)(7)(9)(12).

Law Implemented: SDCL 26-6-16(2)(6)(7)(9)(12).

Cross-Reference: Application and plan—Health and safety requirements, 42

U.S.C §9858c(c)(2)(I).

67:42:10:13. Nutrition requirements. If a child is at the program during the program's regular meal time, the program shall offer the child a meal which consists of a variety of foods and supplies at least one-third of the child's daily nutritional needs. Nutritious midmorning, midafternoon, and evening snacks must be served between meals. Breakfast may be substituted for the midmorning snack. A program preparing food must meet the food service requirements contained in chapter 67:42:11. A program may serve food prepared in another facility if that facility complies with the food service requirements of chapter 67:42:11 and a copy of that facility's current food service license issued by the Department of Health is kept on file.

The program must post a weekly menu which indicates the meals to be served that week. The program must record on the weekly menu the food actually served. Each weekly menu must be retained for inspection for six months after the week for which it was prepared.

Infants must be fed according to their individual schedule and must be held while bottle feeding.

Meals, snacks, and formulas which are prepared by the child's parents and served by the program must be stored according to § ~~67:42:11:17~~ 67:42:11:16 until consumed and disposed of.

Source: SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:22, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:14, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21

SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16~~(6)(9)(12)~~.

67:42:10:14. Health standards and immunizations for day care children.

Before a child may be admitted to a program, the program shall require a child's parent or guardian to submit a written statement signed by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse or an immunization record from the South Dakota Immunization Information System showing that the child meets the minimum immunization requirements as recommended by the Department of Health.

The day care center shall ensure that immunization levels of all children are current. For children who begin the series late or are more than one month behind in immunizations, the immunization levels of these children must show current progress toward achieving adequate immunization levels as recommended by a licensed physician, physician's assistant, certified nurse practitioner, or community health nurse. The Department of Health may verify immunization levels during an annual audit. If a child suffers an illness during the day, the child must be separated from other children and the child's parents must be notified. The program shall notify the Department of Health if any child in the day care center contracts a communicable disease. The program shall follow the Department of Health's recommendations for addressing a situation involving a communicable disease. The program shall have on file the name, address, and telephone number of each child's source of regular health supervision as well as other emergency medical information.

A child is exempt from meeting the minimum age-specific immunization levels if the child's parent or guardian has certification from a licensed physician stating that the physical condition of the child is such that a test or immunization would endanger the

child's life or health or if the child's parent or guardian has signed a written statement that the child is an adherent to a religious doctrine whose teachings are opposed to such tests and immunizations.

Written permission from parents or guardians allowing for the child's emergency medical care must be obtained and maintained by the director.

Source: SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; transferred from § 67:14:19:23, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:15, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 209, effective July 6, 1986; 15 SDR 162, effective May 4, 1989; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Tests and immunization for communicable diseases required for admission to school or early childhood program-- Exceptions -- Rules, SDCL 13-28-7.1; Definition of "communicable disease," § 44:20:01:01.

67:42:10:18. Fire and life safety. A licensed day care center shall comply with the construction and fire safety requirements in chapter 61:15:05. A licensed group family day care home shall comply with the fire safety requirements in chapter 61:15:06. The Department of Public Safety, the city fire inspection authority, or the city health inspection authority shall inspect the center before an initial license is issued and each year thereafter. Before an initial license is issued, the center shall provide to the department a copy of the inspection results. The inspection results must indicate compliance with the fire and life safety requirements. Each year thereafter, the center shall provide to the department a copy of the inspection results indicating continued compliance with the fire and life safety requirements.

Fire drills are required at least four times a year. The program shall conduct one tornado drill at the beginning of each summer. The program shall document completion of fire and tornado drills.

~~The program must have written emergency evacuation plans posted. All staff members must be aware of exits and methods to be used in the event of flood, fire, strong winds, or other emergencies.~~

Source: SL 1975, ch 16, § 1; transferred from § 67:14:19:33, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:04:24, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 20 SDR 223, effective July 7, 1994; 24 SDR 76, effective December 11, 1997; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(2).

Law Implemented: SDCL 26-6-16(2).

67:42:10:22. Staff responsibility for reporting suspected ~~in-house incidents~~ of child abuse or neglect. The program shall require each staff member to read and sign a statement which defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect according to state law. Each staff member shall, in addition to complying with SDCL 26-8A-3 and 26-8A-8, report any incident of child abuse or neglect ~~to the director, the proprietor, or a designee. The director, proprietor, or designee shall immediately report any suspected or alleged in-house incident of child abuse or neglect~~ to the department, police, sheriff, or state's attorney and cooperate fully in the investigation of any incident.

Source: 12 SDR 209, effective July 6, 1986; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(6).

CHAPTER 67:42:11

ENVIRONMENTAL HEALTH STANDARDS

Section

67:42:11:01	Scope of chapter.
67:42:11:02	Playground area -- Group care centers, residential treatment centers, day care programs, and intensive residential treatment centers.
67:42:11:02.01	Space requirements -- Before and after school care.
67:42:11:03 and 67:42:11:04	Repealed.
67:42:11:05	Sleeping areas.
67:42:11:06	Toilet facilities.
67:42:11:06.01	Diaper changing.
67:42:11:07	Cleaning and sanitizing of equipment.
67:42:11:07.01 and 67:42:11:07.02	Repealed.
67:42:11:08	Ventilation of cooking areas.
67:42:11:09	Water supply <u>source and temperature</u> .
67:42:11:10	Electrical outlet covers.
67:42:11:11	Repealed.
67:42:11:12	Heating, ventilating, and cooling systems.
67:42:11:13	Repealed.
67:42:11:14	Railings.
67:42:11:15	Other hazardous conditions.
67:42:11:15.01	Traffic through food preparation area prohibited.

67:42:11:16	Food supplies.
67:42:11:17	Repealed.
67:42:11:18	Food storage -- General requirements.
67:42:11:19	Repealed.
67:42:11:20	Raw fruits and vegetables.
67:42:11:21 and 67:42:11:22	Repealed.
67:42:11:23	Employee health.
67:42:11:24	Personal cleanliness.
67:42:11:25	Food service practices.
67:42:11:26 to 67:42:11:28	Repealed.
67:42:11:29	Equipment and utensil storage.
67:42:11:30 to 67:42:11:32	Repealed.
67:42:11:33	Handwashing.
67:42:11:34	Garbage and refuse.
67:42:11:35	Repealed.
67:42:11:36	Insect and rodent control.
67:42:11:37	Floor construction.
67:42:11:38	Floor carpeting.
67:42:11:39	Walls and ceilings -- Maintenance and construction.
67:42:11:40	Housekeeping.
67:42:11:41	Laundry.
67:42:11:42 and 67:42:11:43	Repealed.
67:42:11:44	Pets.

67:42:11:09. Water ~~supply~~ source and temperature. Enough water for the needs of the program must be provided. Water must be derived from a community water system or from a water system that is tested at least annually by the Department of Environment and Natural Resources or a laboratory certified by the Department of Health to conduct such tests. The water must be tested for bacteria and nitrate levels and must be safe for consumption. The provider shall maintain written documentation of the test results.

The hot water supply system must be large enough to meet the peak hot water demands of the facility. Hot water from plumbing fixtures normally utilized for the everyday living activities of clients may not exceed 120 degrees Fahrenheit.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 14 SDR 37, effective September 13, 1987; 15 SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(2)(6).

Cross-References: General rules, ch 74:02:01; Water system operators, art 74:21.

67:42:11:29. Equipment and utensil storage. Equipment and utensils must be stored as follows:

(1) Cleaning and sanitized utensils and equipment must be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination in any form. The food contact surfaces of fixed equipment must be protected from contamination. Equipment and utensils may not be placed under exposed sewer lines or water lines except for automatic fire protection sprinkler heads;

(2) Utensils not air dried before being stored must be stored in a self-draining position; and

(3) Cups and glasses must be stored inverted. Other stored utensils must be stored covered or inverted wherever practical. Knives, forks, and spoons must be stored in facilities that present the handle to the consumer or employee.

Source: 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(2).

Cross-Reference: Cleaning and sanitizing of equipment ~~and utensils~~, § 67:42:11:07.

67:42:14:12. Staff orientation. The center shall ~~have and implement a written plan for orientation. The plan must provide for orientation of all staff, and documentation of such, to occur within 90 days after the date of employment,~~ in at least the following areas:

- ~~(1) Planning activities specific to the center;~~
- ~~(2) Supervision and discipline techniques;~~
- ~~(3) Handwashing and sanitation techniques to reduce the spread of disease and infection;~~
- ~~(4) Meeting the nutrition needs of children;~~
- ~~(5) Meeting the special health care needs of children;~~
- ~~(6) Emergency response procedures;~~
- ~~(7) Reporting suspected cases of child abuse and neglect;~~
- ~~(8) Center policies; and~~
- ~~(9) Operation requirements mandated by law and regulations.~~
- (1) Prevention and control of infectious diseases;
- (2) Prevention of sudden infant death syndrome and use of safe sleep practices;
- (3) Administration of medication;
- (4) Prevention of and response to an emergency due to food and allergic reactions;
- (5) Building and physical premises safety;
- (6) Prevention of shaken baby syndrome and abusive head trauma;
- (7) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;

(8) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(9) Precautions in transporting a child;

(10) Recognition and reporting of child abuse and neglect;

(11) First aid; and

(12) Cardiopulmonary resuscitation (CPR).

~~Orientation for staff, including volunteers, must begin within the first two weeks the staff member or volunteer has contact with children in care. Orientation must be completed either before the staff member or volunteer may have unsupervised contact with children in care or within 30 days beginning work with children, whichever occurs first.~~ Documentation of the completed orientation training must be kept in the staff member's ~~or volunteer's~~ personnel file. Orientation training may count toward the one ~~hour of~~ required annual training for each staff person during their first year of employment.

Source: 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16 (1)(3).

Cross-Reference: Staff training, §67:42:14:13.

67:42:14:13. Staff training. The center shall have a written plan for training each staff member and volunteer who works directly with children and is included in the staff-child ratio. The staff member or volunteer shall complete ten hours of training annually from the following areas:

- (1) Child growth and development;
- (2) Detecting and reporting child abuse and neglect;
- (3) Guidance and behavior management;
- (4) Food handling techniques;
- (5) Identification and prevention of communicable diseases;
- (6) Program health and safety;
- (7) Nutrition for children;
- (8) Program management and regulation;
- (9) Communication relations with staff;
- (10) Cultural diversity;
- (11) Learning environments;
- (12) Age-appropriate activities and planning;
- (13) Professionalism;
- (14) Partnerships with parents;
- (15) Inclusion of all children; and
- (16) Basic first aid.

Instruction provided to members or volunteers while performing their jobs may not be used to meet the requirements of this rule.

Before an initial license is issued, the director or a designated staff person shall complete ~~at least one hour of~~ class instruction in basic first aid. During the hours the facility is in operation, there must be at least one staff person on site who is trained in first aid and is certified in cardiopulmonary resuscitation (CPR). CPR training shall ~~that~~ ~~includes~~ include hands-on skill testing as part of the training. Each staff person shall maintain a valid certification in CPR.

Source: 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(1).

67:42:14:16. Center policies. Each before and after school care center must have written policies and procedures concerning the following:

- (1) Services offered, fees charged, and payment policies;
- (2) Discipline used for children in care;
- (3) Requirements for enrollment;
- (4) Termination of services;
- (5) Handling and documenting injuries and illnesses;
- (6) Dispensing medications;
- (7) Nutritional guidelines and requirements for snacks and meals;
- (8) Reporting suspected child abuse or neglect, including procedures for ensuring that the alleged incident will not reoccur while waiting for the official investigation and procedures for evaluating the continued employment of any staff member determined to be involved in an incident of child abuse;
- (9) Notification to a parent when there is a significant change in the center's services or policies;
- (10) Sharing with the parent information concerning the child's health, development, or behavior;
- (11) Steps to be followed if a child fails to arrive at the center;
- (12) Opportunities for parental involvement in program development and center operation; ~~and~~
- (13) Confidentiality of records and information relating to children in care and their families;:
- (14) Prevention and response to an emergency due to a food or allergic reaction;

(15) An emergency preparedness and response plan;

(16) Handling and storage of hazardous materials and the disposal of bio
contaminants;

(17) Proof that immunization levels of all children are current;

(18) Separation from other children and notification of the child's parents if a
child suffers an illness during the day; and

(19) Notification of the Department of Health if a child in the
program contracts a communicable disease. The program shall follow the Department of
Health's recommendations for addressing a situation involving a communicable disease.

A copy of the center's policies must be provided to each employee and enrolled family and a copy must be available to the department on request.

Source: 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(2)(6), 26-6-20.

67:42:14:23. Required records. The center shall maintain the following records:

(1) A record for each staff member and volunteer that includes the individual's name, age, address, telephone number, education, work experience, in-service and orientation training, annual training, dates of employment and separation, central registry screening results, results of the reference checks, and the signed child abuse and neglect form required in § 67:42:14:14. The center shall make the personnel records available to the department for verification of the contents; and

(2) An enrollment record for each child that includes the child's name, date of birth, allergies, special needs that the child has, dates of beginning and ending enrollment, names and telephone numbers of the child's parents, name and telephone number of an individual to contact in the event of an emergency, the release signed by the child's parent that allows emergency medical treatment, the name of the school where the child is enrolled, and the medication authorization required under § 67:42:14:24, if applicable. The center shall make the enrollment records available to the department on request and must maintain closed records for a minimum of six months.

If the child's record is maintained at a location other than at the center the child attends, the center the child attends must have the original signed release authorizing emergency medical treatment, the names and phone numbers of the child's parent and doctor, allergies, the name and phone number of a person to contact in case of an emergency, and the authorization to administer medication, if applicable.

Source: 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(3), 26-6-20.

Cross-References: ~~Criminal record~~ Background check, § 67:42:16:04; Prohibition of licensure, registration, or operation by person convicted of child abuse or other felony, or whose name appears on registry -- Failure to report as misdemeanor, SDCL 26-6-14.10.

CHAPTER 67:42:16

SCOPE OF SERVICES FOR CHILD CARE PROGRAMS

Section

- 67:42:16:01 Definitions.
- 67:42:16:02 Application.
- 67:42:16:03 Initial evaluation and approval -- ~~Renewal~~ Continuation of license
licensed operation ~~or~~ -- Renewal of registration certificate.
- 67:42:16:04 ~~Criminal record~~ Background check.
- 67:42:16:05 ~~Screening for substantial reports of abuse and neglect~~ Repealed.
- 67:42:16:06 Notice to facility.
- 67:42:16:07 Physical health standards required of applicant and applicant's family.
- 67:42:16:08 ~~Qualifications of substitute providers~~ Repealed.
- 67:42:16:09 Reporting incidents or changes in circumstances.
- 67:42:16:10 Denial of license or registration certificate.
- 67:42:16:11 Revocation of license or registration certificate.
- 67:42:16:12 Fair hearing.
- 67:42:16:13 Maintenance of records.
- 67:42:16:14 Confidentiality.
- 67:42:16:15 Transportation.
- 67:42:16:16 Insurance.
- 67:42:16:17 Final inspection reports -- Required posting.
- 67:42:16:18 Telephones.
- 67:42:16:19 Supervision.

67:42:16:01. Definitions. Terms used in this chapter mean:

- (1) "Alternative care," care provided in family day care homes, day care centers, group family day care homes, and before and after school programs;
- (2) "Applicant," an individual, agency, institution, or organization which submits an application for a license or registration certificate to the department as provided in this chapter;
- (3) "Day care center," a facility for the care and supervision of 21 or more children on a regular basis for part of a day as a supplement to regular parental care;
- (4) "Day care program" or "program," refers to both day care centers and group family day care homes;
- (5) "Employee applicant," an individual applying to a provider for employment;
- (6) "Family day care," the provision of regular care and supervision of no more than 12 children including the provider's own children who are under the age of six years for part of a 24-hour period as a supplement to regular parental care;
- (7) "Facility," a family day care home, day care center, group family day care home, before and after school program licensed or registered under the provisions of this chapter;
- (8) "Group family day care home," a facility where regular supervision of 13 to 20 children is provided for part of a 24-hour period as a supplement to regular parental care;
- (9) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children in the facility;

(10) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this chapter;

(11) "Medication," a substance that is intended to relieve pain or treat disease;

(12) "Provider," an individual, agency, institution, or organization providing services covered in this chapter;

(13) "Provider applicant," an individual, agency, institution, or organization applying to be a provider under this chapter;

(14) "~~Registered helper~~ Helper," an employee or volunteer present in the family day care home to assist with the care of children;

(15) "Registration certificate," the document described in SDCL 26-6-15 which certifies that a provider meets the family day care registration standards contained in chapter 67:42:03;

(16) "Staff member" or "staff person," an employee or volunteer of a facility; and

(17) "Volunteer applicant," an individual applying to provide voluntary services for a provider.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:16:03. Initial evaluation and approval -- ~~Renewal~~ Continuation of license licensed operation ~~or~~ -- Renewal of registration certificate. The department's initial evaluation of the applicant includes reference checks, personal interviews, a screening for records of abuse or neglect, a ~~criminal record~~ background check, and on-site visits. The applicant shall provide three references.

Based on the ~~evaluation~~ inspection, the department shall determine whether to issue a license or registration certificate.

~~Renewal~~ Continuation of a license is based on the department's annual ~~evaluation~~ inspection of the licensed facility and care provided. Renewal of a registration certificate is based on the department's ~~biennial evaluation~~ annual inspection of the facility and care provided.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(10)(12).

Cross-Reference: Prohibition of licensure, registration, or operation by person convicted of child abuse or other felony, or whose name appears on registry--Failure to report as misdemeanor, SDCL 26-6-14.10; Criminal background checks, 42 U.S.C §9858f (July 1, 2016).

67:42:16:04. Criminal record Background check. The department shall secure a ~~criminal record~~ background check to obtain information concerning convictions for criminal offenses or substantiated reports of child abuse or neglect by an individual that provides care for or has unsupervised access to a child in care. This includes a prospective provider of family day care, a helper, and any adult a person living in a prospective family day care. ~~For family day care, and a staff member in a day care programs program~~ and before and after school ~~programs program~~; ~~the department shall review the provider's records to ensure that the criminal records are being secured for staff in order to detect convictions for~~ An individual is prohibited from working in a licensed child care program or family day care if the background check detects any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state; ~~or~~
- (4) A felony conviction for domestic abuse, physical assault or battery;
- ~~(4)~~ (5) Within the preceding five years, a conviction for any other felony; or
- (6) A substantiated report of child abuse or neglect.

A background check is required at least once during every five year period following the initial submission.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(11).

67:42:16:05. Screening for substantiated reports of abuse and neglect. The department shall screen a provider applicant, family members, and other household members who are at least ten years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine whether the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of the individual's name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of his or her name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the individual shall

~~request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record~~ Repealed.

Source: 39 SDR 220, effective June 27, 2013.

~~General Authority:~~ ~~SDCL 26-6-16.~~

~~Law Implemented:~~ ~~SDCL 26-6-16.~~

67:42:16:08. Qualifications of substitute providers. ~~A substitute provider must be at least 18 years of age and may not have on record a substantiated report of child abuse or neglect. A substitute may not be used more than 12 hours per week~~ Repealed.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: ~~SDCL 26-6-16.~~

Law Implemented: ~~SDCL 26-6-16.~~

67:42:16:13. Maintenance of records. A record must be maintained by the provider on each child. The record must include the child's name, date of enrollment, date enrollment is terminated, the names and ~~telephone numbers~~ contact information of the child's ~~doctor, dentist,~~ parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider. A provider shall maintain these records for a period of six months after the child ceases receiving care.

Source: 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(3).

67:42:16:19 Supervision. The provider and staff members in a registered family day care home, licensed child care program, or a before and after school program are responsible for the direct care, protection, supervision and guidance of every child through active involvement or direct observation.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16(6).

ARTICLE 67:46

ELIGIBILITY FOR MEDICAL SERVICES

Chapter

67:46:01	General provisions.
67:46:02	Application for long-term care.
67:46:03	Long-term care eligibility.
67:46:04	Long-term care income requirements.
67:46:05	Long-term care resource requirements.
67:46:06	Budgeting for long-term care.
67:46:07	Community spouses.
67:46:08	Long-term care notice requirements.
67:46:09	Disabled children.
67:46:10	Chronic renal disease program.
67:46:11	Qualified Medicare beneficiaries (QMB).
67:46:12	Medicaid coverage for certain low-income families.
67:46:13	Transitional medical benefits.
67:46:14	Children's health insurance (CHIP-NM).
<u>67:46:15</u>	<u>Refugee Medical Program.</u>

67:46:01:02. Eligibility requirements. The following individuals are eligible for medical assistance:

(1) A parent/caretaker relative eligible for Medicaid under the provisions of chapter 67:46:12;

(2) A person who is a recipient of a money payment under the SSI program;

(3) A person under age 21 who would be a recipient of a money payment under the SSI program if not subject to paragraphs (A) and (B) of 42 U.S.C. 1382(c)(7);

(4) A person who is in a hospital or intermediate care facility and would be eligible for a money payment under the SSI program upon leaving the facility;

(5) A person under the age of 21 who is in the custody of the department and who meets the income requirements of § 67:46:12:15;

(6) A person under the age of 21 who meets the income requirements of § 67:46:12:15, is in foster care, and whose financial responsibility has been assumed in full or in part by the department;

(7) A person who is eligible under the provisions of chapters 67:46:02 to 67:46:06, inclusive;

(8) A person who is eligible for transitional medical benefits under the provisions of chapter 67:46:13;

(9) A child in a subsidized adoption;

(10) A person who is currently receiving social security, who was entitled to and received social security and SSI concurrently after April 1977, who was terminated from SSI, and who currently would be eligible for SSI if the social security cost of living allowances back to the time of SSI ineligibility are disregarded;

(11) A pregnant woman who meets the income requirements under the provisions of chapter 67:46:12;

(12) A woman who applied for Medicaid while pregnant and who was eligible for and received Medicaid on the date the pregnancy ended. Eligibility continues to the end of the month 60 days after the pregnancy ends. Coverage is limited to postpartum care and family planning services;

(13) A child under age 19 whose family income meets the income requirements under the provisions of chapter 67:46:12;

(14) A child under age 19 who is eligible for the nonmedicaid children's health insurance program covered under the provisions of chapter 67:46:14;

(15) A pregnant woman whose family meets the income requirements as established under the provisions of chapter 67:46:12. Eligibility continues throughout the pregnancy and to the end of the month 60 days after the pregnancy ends without regard to income changes. Services payable are limited to those services that are related to pregnancy, postpartum care, or family planning;

(16) A person determined to be a qualified Medicare beneficiary under the provisions of chapter 67:46:11, with benefits limited to the part A and B premium, deductible, co-payments, and coinsurance charges;

(17) A person determined to be a Special Low-Income Medicare beneficiary under the provisions of chapter 67:46:11 whose income is at least 100 percent, but less than 120 percent of the federal poverty level. Benefits are limited to payment of part B Medicare premiums;

(18) A person determined to be a qualified Medicare beneficiary under the provisions of chapter 67:46:11 whose income is at least 120 percent, but less than 135 percent of the federal poverty level, and who is not otherwise eligible for Medicaid. Benefits are limited to payment of part B Medicare premiums. The department may discontinue services provided under the provisions of this chapter if the department exhausts its financial resources for providing the services;

(19) A person who is eligible for and is receiving services under the home and community-based services waiver program in chapter 67:44:03 or the home and community-based services program in chapter 67:54:04, 67:54:06 or 67:54:09;

(20) A disabled widow or a disabled widower who is at least age 50 but less than age 65, who was terminated from SSI due to receipt of social security benefits under Title II of the Social Security Act, as amended to January 1, ~~2014~~ 2016, who is not on Medicare part A, and who would continue to be eligible for SSI if the Title II benefits are disregarded;

(21) A disabled adult who became disabled or blind before age 22 and was terminated from SSI due to entitlement to social security benefits as an adult disabled child, but who would remain SSI-eligible if the social security benefits are disregarded;

(22) A child born to a woman eligible for and receiving Medicaid on the date of the child's birth. Eligibility continues for up to one year as long as the child remains a resident of the state;

(23) A child under age 21 who is under the jurisdiction of the South Dakota Department of Corrections, is not an inmate of a public institution, does not reside with a

parent, and meets the income requirements as established under the provisions of chapter 67:46:12;

(24) A child under age 26 who, on the child's eighteenth birthday, was in foster care under the responsibility of the state; ~~and~~

(25) A woman over age 29 and under age 65 who was screened for breast and cervical cancer by the Department of Health's All Women Count Program and who is in need of treatment for breast or cervical cancer or a precancerous condition of the breast or cervix, is not covered under creditable coverage, and is not otherwise eligible for medical services; ;

(26) Coverage from conception to birth when the mother is not eligible for Medicaid under the requirements of 67:46:01:16 and meets the income limits established in 67:46:12:11; and

(27) A working individual with a disability who has a net income below 250% of the federal poverty level and who, except for earned income, meets all criteria for receiving benefits under the supplemental security income program.

For purposes of this rule, a qualified alien who arrived in the United States after August 21, 1996, and who meets the eligibility requirements contained in this section must also meet the requirements of § 67:46:01:10.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 4 SDR 35, effective December 22, 1977; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 170, effective June 21, 1982; 12 SDR 4, effective July 21, 1985; 12 SDR 112, effective January 16, 1986; 13 SDR 193, effective June 22, 1987; 14

SDR 140, effective May 1, 1988; 15 SDR 2, effective July 17, 1988; 15 SDR 171, effective May 15, 1989; 15 SDR 191, effective June 11, 1989; 17 SDR 8, effective July 23, 1990; 17 SDR 53, effective October 16, 1990; 17 SDR 187, effective June 3, 1991; 17 SDR 187, effective June 3, 1991; 17 SDR 200, effective July 1, 1991; transferred from § 67:16:01:02, effective August 23, 1992; 19 SDR 141, effective March 25, 1993; 20 SDR 92, effective December 21, 1993; 21 SDR 67, effective October 13, 1994; 21 SDR 162, effective March 23, 1995; 22 SDR 32, effective September 11, 1995; 23 SDR 152, effective March 14, 1997; 24 SDR 24, effective August 31, 1997; 24 SDR 104, effective January 29, 1998; 25 SDR 13, effective August 9, 1998; 26 SDR 168, effective July 1, 2000; 29 SDR 84, effective November 22, 2002; 30 SDR 193, effective June 13, 2004; 36 SDR 215, effective July 1, 2010; 41 SDR 7, effective July 29, 2014; 41 SDR 93, effective December 3, 2014.

General Authority: SDCL 28-6-1(6).

Law Implemented: SDCL 28-6-1(6).

Cross-References:

Federal poverty level, § 67:11:01:03.

Subsidized adoption regulations, ch 67:14:14.

Declaration and documentation of citizenship required, § 67:46:01:16.

Income limit -- Pregnant woman, § 67:46:12:11.

Medicaid entitlement for certain newborns, 42 C.F.R. § 435.117.

Institutionalized individuals, 42 C.F.R. § 435.1009.

Definition of "public institution," 42 C.F.R. § 435.1010.

Group care centers for minors, ch 67:42:07.

Residential treatment centers, ch 67:42:08.

State option of Medicaid coverage for adolescents leaving foster care, Pub. L. No. 106-169, § 121, (113 Stat. 1829).

John H. Chafee foster care independence program, Pub. L. No. 106-109, § 477(a)(5), (113 Stat. 1824).

State option of Medicaid coverage for adolescents leaving foster care, 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVII).

State option of Medicaid coverage for certain breast or cervical cancer patients, 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).

Definition of "creditable coverage," 42 U.S.C. § 300gg-3(c).

State option of working individuals with disabilities, 42 USC § 1396a(a)(10)(A)(ii)(XIII) (July 1, 2016).

CHAPTER 67:46:04

LONG-TERM CARE INCOME REQUIREMENTS

Section

67:46:04:01	Scope of chapter.
67:46:04:02	Definitions.
67:46:04:03	Items not considered income when determining eligibility for long-term care or medical assistance.
67:46:04:04	Income from other benefit programs -- Overpayments.
67:46:04:05	Repealed.
67:46:04:06	Income considered in month received.
67:46:04:07	Repealed.
67:46:04:08	Income before application.
67:46:04:09	Repealed.
67:46:04:10	Income considered.
67:46:04:11	Repealed.
67:46:04:12	Repealed.
67:46:04:13	Department to refer certain individuals to Social Security Administration to apply for SSI.
67:46:04:14	Ineligibility when income exceeds 300 percent of maximum SSI standard.
67:46:04:15	Ineligibility when income exceeds monthly care rates for assisted living or adult foster care.
67:46:04:16	Income from trust.

67:46:04:17	Repealed.
67:46:04:18	Assets held in common with another person <u>Repealed.</u>
67:46:04:19	Assets disposed of to establish eligibility — Ineligibility for Services <u>Repealed.</u>
67:46:04:20	Absence of an income regulation.

67:46:04:18. Assets held in common with another person. ~~If an asset is held by an individual in common with another person in joint tenancy, tenancy in common, or a similar arrangement, the asset or the affected portion of the asset is considered to have been transferred by the individual when any action by any of the individuals reduces or eliminates the individual's ownership or control of the asset.~~

~~When this occurs, the department shall establish a period of ineligibility under the provisions of chapter 67:46:05.~~

~~The provisions of SDCL 30-21A-1 and ch 67:48:02 apply if an individual who has died had received medical benefits and had assets which were held in common with another person~~ Repealed.

Source: 21 SDR 162, effective March 23, 1995.

General Authority: ~~SDCL 28-6-1.~~

Law Implemented: ~~SDCL 28-6-1.~~

67:46:04:19. Assets disposed of to establish eligibility -- Ineligibility for services. ~~If an applicant or recipient of home and community based services, assisted living, or adult foster care disposed of assets to establish Medicaid eligibility, the individual is ineligible for all medical services provided under article 67:16.~~

~~If an individual receiving long term care services in a nursing facility disposes of assets to establish Medicaid eligibility, the individual is ineligible for long term care services until the transfer penalty period has expired. If the individual would otherwise be eligible for Medicaid, except for the transfer penalty, the individual is eligible for medical services but ineligible for long term care services Repealed.~~

Source: 21 SDR 162, effective March 23, 1995.

General Authority: ~~SDCL 28-6-1.~~

Law Implemented: ~~SDCL 28-6-1.~~

Cross Reference: ~~Calculating period of ineligibility, § 67:46:05:09.~~

67:46:05:09.02. Ineligibility if assets transferred. If an asset is disposed of for the purpose of establishing Medicaid eligibility and the asset was disposed of for less than fair market value within the look-back periods established in § 67:46:05:06.01, the period of ineligibility is determined under the provisions of § 67:46:05:09.

The department shall apportion the number of months of ineligibility equally between the individual receiving home and community based or nursing facility services and the individual's spouse who is applying for home and community based or nursing facility services if the following conditions exist:

(1) Both the individual and the individual's spouse are residing in a nursing facility or receiving home and community based waiver services or if one spouse is in a nursing facility and the other is receiving home and community based waiver services;

(2) The department had previously determined that the individual residing in a nursing facility or receiving home and community based waiver services was ineligible because of a transfer and the individual is currently serving out a period of ineligibility; and

(3) The spouse would otherwise be eligible for nursing facility or home and community based waiver services except for the period of ineligibility.

If more than one transfer occurs, the periods of ineligibility are consecutive. If a period of ineligibility is in effect and a transfer occurs, the period of ineligibility for the additional transfer is added to the period of ineligibility already in effect.

If the individual is an applicant, the period of ineligibility begins the date the applicant is eligible for nursing facility or home and community based waiver services but for the period of ineligibility or the date after a prior period of ineligibility has ended,

whichever is later. If the individual is a recipient, the period of ineligibility begins with the date the applicant became eligible for nursing facility or home and community based waiver services, the first day of the month after the transfer occurred, or the date after a prior period of ineligibility has ended, whichever is later.

Source: 21 SDR 162, effective March 23, 1995; 30 SDR 193, effective June 13, 2004; 31 SDR 107, effective February 1, 2005; 33 SDR 44, effective August 31, 2006; 41 SDR 93, effective December 3, 2014.

General Authority: SDCL 28-6-1, 28-6-3.1.

Law Implemented: SDCL 28-6-3.1.

Cross-References:

Disposal of resources for purposes of establishing eligibility, § 67:46:05:06.

Lengthening look-back period for all disposals to five years, 42 U.S.C. § 1396p(c)(1)(B)(i).

Authority for states to accumulate multiple transfers into one penalty period, 42 U.S.C. § 1396p(c)(1)(H).

CHAPTER 67:46:06

BUDGETING FOR LONG-TERM CARE

Section

- 67:46:06:01 Scope of chapter.
- 67:46:06:02 Definitions.
- 67:46:06:03 Income for determining long-term care assistance.
- 67:46:06:04 Supplemental payment to long-term care facility.
- 67:46:06:05 Deduction for personal needs.
- 67:46:06:06 Deduction for premiums.
- 67:46:06:07 Deduction for dependents -- No community spouse.
- 67:46:06:08 Repealed.
- 67:46:06:09 Treatment of income for less than a full month's residence.
- 67:46:06:10 Basis of payment for program benefits.
- 67:46:06:11 Payment made to facility or representative payee.
- 67:46:06:12 Deduction for home maintenance.

67:46:06:12. Deduction for home maintenance. An applicant or recipient residing in a nursing or intermediate care facility is allowed a deduction in the amount of the SSI benefit standard minus \$60 for the maintenance of the home of the individual or couple for not longer than 6 months if a physician has certified that the individual, or one member of the institutionalized couple, is likely to return to the home within that period.

Source:

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

67:46:07:02. Assessment of community spouse's share of resources. The department shall assess a couple's combined countable resources to determine the community spouse's share if all of the following occur:

(1) An application for assistance with nursing facility or home and community based waiver services has been made or an institutionalized spouse, the community spouse, or the couple's authorized representative has requested the assessment;

(2) The institutionalized spouse was admitted to a hospital, nursing facility, or intermediate care facility or began receiving home and community based waived services after September 29, 1989, and is expected to remain in the facility or continue receiving home and community-based waived services for at least 30 consecutive days; and

(3) The institutionalized spouse has a community spouse.

The department must complete the assessment within 45 days of the request unless delay is due to nonreceipt of documentation or verification from the requesting party or a third party. The department may not use the time standard as a waiting period or reason for not completing the assessment if documentation has been provided.

~~The department shall reassess the couple's resources if the institutionalized spouse has a break in institutional care of at least 30 consecutive days and if subdivisions (1), (2), and (3) of this section occur.~~

The department shall apply the provisions of chapter 67:46:05 if the spouse is entering an assisted living facility and is not receiving HCBS or HCBWS or is entering an adult foster care facility.

Source: 16 SDR 203, effective May 27, 1990; transferred from § 67:16:32:02, effective August 23, 1992; 30 SDR 193, effective June 13, 2004; 41 SDR 93, effective December 3, 2014.

General Authority: SDCL 28-6-1, 28-6-18.

Law Implemented: SDCL 28-6-1, 28-6-18.

Cross-References: Definition of HCBS, § 67:54:04:01; Definition of HCBWS, § 67:44:03:01.

67:46:08:01. Required timely and adequate notice. Timely and adequate notice shall be mailed to each recipient detailing the reason for a proposed action which may result in termination or reduction of payment or inability to authorize payment. The notice shall inform the recipient of any changes in federal or state law requiring automatic grant adjustments for classes of recipients and of a change in the manner or form of payment to a protective, vendor, or two-party payment. This notice shall state the specific regulations supporting the action taken and explain the individual's right to request a conference and to be represented by others at the conference, the right to and procedure for requesting a fair hearing, the right to be represented by others at the hearing, and the time in which a hearing may be requested. This timely notice shall be mailed ten days before the date of action, which is the date when the recipient would normally receive an assistance check or, in the case of a Medicaid recipient, ten days before the intended change would be effective. In cases of probable fraud, notice of a proposed action which may result in termination or reduction of payment or inability to authorize payment shall be considered timely if mailed at least five days before the action would become effective. This notice shall also explain the circumstances under which assistance may be continued if a hearing is requested. Timely and adequate notice is not required when the recipient of a one-person case has died.

Source: 2 SDR 74, effective May 13, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 170, effective June 21, 1982; transferred from § 67:16:22:01, effective August 23, 1992.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

67:46:08:02. Adequate notice to applicants. A written notice to applicants for services under this article shall be sent at the time the decision is made approving or rejecting each application. This written notice shall include a statement of what action the agency intends to take, the reasons for the intended agency action, the specific regulations supporting such action, and an explanation of the individual's right to request a conference and to be represented by others at the conference, the right to and procedure for requesting a fair hearing, the right to be represented by others at the hearing, and the time in which a hearing may be requested. This notice shall explain the individual's right under the Civil Rights Act of 1964. Nothing in this section shall be construed as indicating that the department will pay for legal fees for representing applicants at conferences or hearings held according to this section.

Source: 8 SDR 170, effective June 21, 1982; transferred from § 67:16:22:01.01, effective August 23, 1992.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

67:46:10:09. Scope of services and benefits. Services and benefits which may be paid under the program include the following:

- (1) Institutional dialysis;
- (2) Home dialysis, including supplies, equipment, and special water softeners;
- (3) Renal transplants;
- (4) Hospitalization;
- (5) Prescription drugs necessary for dialysis or transplants not covered by other sources; and
- (6) Travel expenses for the recipient are reimbursed according to the provisions of ~~67:16:25~~ 67:16:25:07.03.

Source: 2 SDR 88, effective July 1, 1976; 6 SDR 66, effective January 10, 1980; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 7 SDR 121, effective July 2, 1981; transferred from § 67:16:23:08, effective August 23, 1992; 21 SDR 86, effective December 29, 1994; 22 SDR 2, effective July 17, 1995; 30 SDR 193, effective June 13, 2004; 40 SDR 122, effective January 7, 2014.

General Authority: SDCL 28-6A-12, 28-6-1.1.

Law Implemented: SDCL 28-6A-2.

CHAPTER 67:46:15
REFUGEE MEDICAL PROGRAM

Section

<u>67:46:15:01</u>	<u>Qualifications for refugee assistance.</u>
<u>67:46:15:02</u>	<u>Documentation required.</u>
<u>67:46:15:03</u>	<u>Eligibility factors relating to refugees with children.</u>
<u>67:46:15:04</u>	<u>Earned income exemption not applied.</u>
<u>67:46:15:05</u>	<u>Eligibility factors relating to adult refugees.</u>
<u>67:46:15:06</u>	<u>Children of refugees who are U. S. citizens.</u>
<u>67:46:15:07</u>	<u>Exempted income and resources.</u>
<u>67:46:15:08</u>	<u>Medical services.</u>
<u>67:46:15:09</u>	<u>Fair hearings.</u>

67:46:15:01. Qualifications for refugee assistance. Pursuant to the Refugee Act of 1980, Pub. L. No. 96-212, assistance may be provided to individuals who have been granted asylum or have been admitted as refugees. United States citizens and their dependents who have been repatriated are excluded under the refugee assistance program for the first 90 days they are in this country.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References:

Repatriate program, ch 67:12:13.

Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 105.

Immigration and Nationality Act of 1959, 66 Stat. 166.

67:46:15:02. Documentation required. A refugee applying for assistance under this chapter must meet immigration status and identification requirements pursuant to 45 CFR 400.100(a)(2) (July 1, 2016).

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-Reference: General eligibility requirements, 45 CFR 400.100(a)(2).

67:46:15:03. Eligibility factors relating to refugees with children. Assistance may be provided to any child or any other member of the household who would be eligible for assistance under chapters 67:12:01 to 67:12:02, 67:12:04 to 67:12:06, but are not required to meet the requirements of §§ 67:12:01:14, 67:12:01:19, and 67:12:01:29 to 67:12:01:39, inclusive.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References:

Citizenship and alienage, § 67:12:01:14.

Age requirements for AFDC. § 67:12:01:19.

Deprivation of parental support or care, §§ 67:12:01:29 to 67:12:01:39, inclusive.

Eligibility of second parent in AFDC grant, § 67:12:01:55.

Qualifications for refugee assistance, § 67:12:11:01.

Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.

67:46:15:04. Earned income exemption not applied. When determining eligibility and computing the amount of assistance for a refugee under this chapter, the earned income exemption may not be applied.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References: Earned income exemption for AFDC, § 7:12:05:14; 47 Fed. Reg. 10,841 (March 12, 1982).

67:46:15:05. Eligibility factors relating to adult refugees. Assistance may be provided to adult refugees without children who would be eligible under the income and resource limitations according to chapters 67:12:04 to 67:12:06, inclusive.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References:

Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 114.

Limitations on real property, ch 67:12:04.

Limitations on personal property, ch 67:12:05.

Budgeting, ch 67:12:06.

67:46:15:06. Children of refugees who are U. S. citizens. A child of a refugee who is a United States citizen because the child was born in this country is considered a part of the refugee family for purposes of eligibility for medical care.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-Reference: Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 103.

67:46:15:07. Exempted income and resources. Resources or income of the sponsor and resources not currently available to the refugee, such as resources remaining in the refugee's homeland, shall be exempted in the determination of initial or continuing eligibility for the program.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References:

Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102.

Limitations on real property, ch 67:12:04.

Limitations on personal property, ch 67:12:05.

Budgeting, ch 67:12:06.

67:46:15:08. Medical services. If a refugee is eligible for services under this chapter, medical assistance may be provided for a period of eight months from the date the refugee entered the United States.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

Cross-References:

Medical assistance for refugees, § 67:46:01:09.

Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 115.

Covered medical services, art 67:16.

53 Fed. Reg. 32,222 (August 24, 1988).

67:46:15:09. Fair hearings. An applicant or a recipient is entitled to a fair hearing
in accordance with chapter 67:17:02.

Source:

General Authority: SDCL 28-1-50.

Law Implemented: SDCL 28-1-47.

ARTICLE 67:47

CHILD CARE SERVICES

Chapter

- 67:47:01 Assistance with child care costs.
- 67:47:02 Child care assistance for TANF recipients.
- 67:47:03 ~~Transitional child care assistance~~ Repealed.
- 67:47:04 Child care service grants, Repealed.

CHAPTER 67:47:01

ASSISTANCE WITH CHILD CARE COSTS

Section

- | | |
|----------------|---|
| 67:47:01:01 | Definitions. |
| 67:47:01:02 | Application for child care services. |
| 67:47:01:03 | Child care services available for certain children. |
| 67:47:01:03.01 | Time requirements for work and education -- Exceptions. |
| 67:47:01:03.02 | Child care assistance for recipient working at night. |
| 67:47:01:03.03 | Determination of incapacity and inability to provide child care. |
| 67:47:01:04 | Required documentation. |
| 67:47:01:05 | Income eligibility. |
| 67:47:01:05.01 | Adjustment to gross earned income. |
| 67:47:01:06 | Deadline for determining eligibility -- Beginning date of eligibility. |
| 67:47:01:07 | Notice to household -- Issuance of child care certificate. |
| 67:47:01:08 | Household required to participate in child care costs. |
| 67:47:01:09 | Ineligibility when household fails to make copayments. |
| 67:47:01:09.01 | Cooperation with Division of Child Support as condition of eligibility. |
| 67:47:01:10 | Maximum rates payable for child care service costs. |
| 67:47:01:10.01 | Repealed. |
| 67:47:01:10.02 | Maximum rates payable for family day care provider choosing to care for infants and toddlers and limit the number of children in care to six or less. |

67:47:01:10.03	Repealed.
67:47:01:10.04	Repealed.
67:47:01:11	Provider eligibility.
67:47:01:11.01	Time limits for meeting provider eligibility requirements -- Beginning date of payment.
67:47:01:12	Access of recipient to child.
67:47:01:13	Requirements for in-home, informal, or relative provider.
<u>67:47:01:13.01</u>	<u>Requirements for an in-home or informal provider.</u>
67:47:01:14	Repealed.
67:47:01:15	Provider's portion of child care certificate -- Completion of request for payment form required for payment -- Provider to bill usual and customary charge.
67:47:01:16	Payment of benefits.
67:47:01:17	Change in child care provider <u>Repealed.</u>
67:47:01:18	Household to report change in circumstances.
67:47:01:19	Redetermination of eligibility and copayment.
67:47:01:20	Financial complaints.
67:47:01:21	Repealed.
67:47:01:22	Recovery of overpayments.
67:47:01:23	Repealed.
67:47:01:24	Department may withhold payments.
67:47:01:25	Department to investigate report -- Notice of action -- Review -- Final determination.

67:47:01:25.01	Overpayments -- Hearings -- Payments made pending hearing.
67:47:01:26	Verification.
67:47:01:27	Certain individuals ineligible to receive child care assistance.
67:47:01:28	Continuance of child care assistance pending fair hearing decision.
67:47:01:29	Department to maintain waiting list.

67:47:01:05. Income eligibility. Eligibility for child care services is based on annual income. Income is considered prospectively based on the verification required in this section. As proof of income, a recipient must provide either copies of the last two pay stubs or employer verification of current wages. A recipient who is self-employed must provide a copy of the recipient's most recent income tax return. Depreciation is not an allowable expense and will be added to the recipient's net profit or loss. Income is considered as follows:

- (1) If the child resides with both parents, consider the child's unearned income and the income of both parents;
- (2) If the child resides with both parents but the parents are separated due to work or school, consider the child's unearned income and the income of both parents;
- (3) If the child resides with one parent, consider the child's unearned income and the income of the parent with whom the child resides;
- (4) If the child resides with one parent and that parent is cohabiting with another individual who is not the child's parent, consider the child's unearned income and the income of the parent;
- (5) If a child resides with one parent who is cohabiting with another individual and the parent and the cohabiting individual have a child in common, consider the unearned income of the children and the income of the parent and the cohabiting individual;
- (6) If the child resides with one parent and that parent is married to an individual who is not the child's parent, consider the child's unearned income and the income of both the parent and the parent's spouse;

(7) If the child resides with one parent a majority of the time but is residing with the second parent temporarily, consider the child's unearned income and the income of the second parent with whom the child has taken temporary residency;

(8) If the child resides with a guardian but custody is held by the department or a tribe, consider only the child's unearned income;

(9) If the child resides with a guardian and the guardian has custody and is married, consider the child's unearned income and the income of the guardian and the guardian's spouse;

(10) If the child resides with an adult who is married and exercises parental control over the child, consider the child's unearned income and the income of the adult exercising parental control and the spouse of the adult exercising parental control; and

(11) If the child's parent resides with one or both parents, a guardian, or an adult exercising parental control, consider the child's unearned income and the earned and unearned income of the child's parent.

For the parent, guardian, or adult exercising parental control of the child, income includes all earned and unearned income such as child support, TANF, social security income, rental or lease income, interest income, work study, tips, retirement, unemployment benefits, wages, veterans benefits, and workers compensation.

A household with adjusted income which exceeds 175 percent of the federal poverty level or 85% of the state median income, whichever is less, is ineligible for child care assistance.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(1).

Law Implemented: SDCL 28-1-60.

Cross-References: Federal poverty level, § 67:11:01:03; Definition of “eligible child,” 42 U.S. Code § 9858n(4) (July 1, 2016).

67:47:01:08. Household required to participate in child care costs. A household is not required to participate in the cost of child care if the household's adjusted income is at or below the federal poverty level. All other households must contribute to child care costs as recognized by the department if the household's adjusted income is between 101 percent and 175 percent of the federal poverty level. The household's contribution is the higher of \$10 or that amount remaining after subtracting from the household's adjusted monthly income the amount obtained when calculating 105 percent of the federal poverty level for the household's size. ~~A household with adjusted income which exceeds 175 percent of the federal poverty level is ineligible for child care assistance.~~

In no case may the household's copayment exceed 15 percent of the household's adjusted income.

The household must pay its share of child care costs directly to its primary care provider. The amount remaining on the allowable child care costs is paid by the department directly to the provider.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 21 SDR 162, effective March 23, 1995; 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(2).

Law Implemented: SDCL 28-1-60.

Cross-References: Federal poverty level, § 67:11:01:03; Adjustment to gross income, § 67:47:01:05.01.

67:47:01:10.02. Maximum rates payable for family day care provider choosing to care for infants and toddlers and limit the number of children in care to six or less. A family day care provider who chooses to care for infants and toddlers up to age three and limit the number of children in care to six or less may receive a rate of reimbursement that is 25 percent higher than the family day care rates established under § 67:47:01:10. The maximum rate of reimbursement is available on the department's website: <http://www.dss.sd.gov/childcare/subsidyprogram/>. The provider must inform the department so the provider's registration certificate may be adjusted to reflect the reduced number of children.

~~If a child is not in care because the child is ill or on vacation or because the child's parent failed to report an absence, the department may reimburse the child care provider for a maximum of 36 hours a month, for the time the child is not in care. If a child is not in care because the child is attending Head Start or a preschool operated by or under contract with a school district, the department may reimburse the child care provider up to four hours a day for the time the child is not in care. In no case may the department reimburse a provider for more than 210 hours a month for each child in care.~~

Source: 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; 33 SDR 152, effective April 4, 2007; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(2).

Law Implemented: SDCL 28-1-60.

67:47:01:11. Provider eligibility. Except for an in-home provider, an informal provider, or a relative provider, a provider of services under this chapter must meet the applicable licensing or registration requirements of article 67:42.

A relative provider must meet the requirements of §67:47:01:13.

An in-home provider, or an informal provider, ~~or a relative provider~~ must meet the requirements of § ~~67:47:01:13~~ 67:47:01:13.01.

A provider registered under the requirements of chapter 67:42:03 may not receive child care assistance payments for children who reside in the provider's household.

A provider under this chapter must submit to the department a completed and signed Internal Revenue Service W-9 form.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(1)(11).

Law Implemented: SDCL 28-1-60.

Cross-Reference: Deadline for determining eligibility -- Beginning date of eligibility, § ~~67:47:01:08~~ 67:47:01:06.

67:47:01:11.01. Time limits for meeting provider eligibility requirements --

Beginning date of payment. ~~Except for an in-home provider, an informal provider, or a relative provider, a provider not licensed or registered has ten working days from the date the department sends the notice to the recipient to begin the licensing or registration process and must complete the process within 120 days. Delays caused by the department are not counted in the 120-day limit.~~ Payment of benefits begins with the date the department receives the completed application if the provider is licensed or registered or in the process of being licensed or registered. The department shall discontinue payments if the required license or registration is not obtained within the 120-day limit.

~~An in-home provider, an informal provider, or a~~ A relative provider has ten days to complete, sign, and return the home health and safety checklist, the ~~self-declaration~~ child care services authorization form, and the Internal Revenue Service W-9 form required in § 67:47:01:13. The home health and safety checklist must also contain the applicant's signature. The signatures of the provider and the applicant on the home health and safety checklist are acknowledgements that the provider has fulfilled the requirements of the health and safety checklist. The completed forms must be postmarked within ten days from the date the department mailed the forms to the provider. The provider has 30 days to send to the department a verification that the children in care meet the Department of Health's immunization standards. The verification must be postmarked within 30 days from the date the department mailed the forms to the provider. Payment to ~~an in-home provider, an informal provider, or~~ a relative provider may begin as early as the first day of the 30-day period if the completed and signed forms are returned within the specified time limits.

An in-home or informal provider must ~~submit to the department the request for screening for substantiated reports of abuse or neglect form within 30 days after the date the form was mailed to the provider~~ comply with the requirements of §67:47:01:13.01 in order to receive payment. ~~Payments to the provider will cease if this information is not provided within the required time or the central registry screening results in a finding of child abuse or neglect.~~

Source: 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(1),(4).

Law Implemented: SDCL 28-1-60.

67:47:01:13. Requirements for ~~in-home, informal, or~~ relative provider. ~~An~~
~~in-home, informal, or~~ A relative provider must meet the following requirements:

- (1) Be at least 18 years old;
- (2) Have completed, signed, and returned to the department the health and safety checklist provided by the department;
- (3) Have completed, signed, and returned to the department the form which verifies that the children in care meet the Department of Health's immunization standards;
- ~~(4) Except for a relative provider, have completed and returned to the department a request for a central registry screening for child abuse and neglect under the provisions of chapter 67:14:39. If the screening results in a finding of child abuse or neglect, the provider is ineligible to receive reimbursement under this article;~~
- ~~(5)~~ (4) Except for an aunt, uncle, grandparent, or great-grandparent of the child, reside separately from the family receiving child care assistance;
- ~~(6)~~ (5) Have completed, signed, and returned to the department an Internal Revenue Service W-9 form; and
- ~~(7)~~ (6) Have completed, signed, and returned to the department the form that certifies the provider has read the provider manual, has shared the information concerning child immunizations with the parents, is at least 18 years old, and is providing child care services only for the children from one particular family.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996;

24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; 40 SDR 229, effective June 30, 2014.

General Authority: SDCL 28-1-61(1)(11).

Law Implemented: SDCL 28-1-60.

67:47:01:13.01. Requirements for in-home or informal provider. An in-home

or informal provider shall:

(1) Be at least 18 years old;

(2) Submit to a background check and comply with the requirements of 67:42:16:03 for any individual who cares for or supervises a child, or has unsupervised access to a child;

(3) Have documented orientation training within 90 days after the receipt of the application in at least the following areas:

(a) Prevention and control of infectious diseases;

(b) Prevention of sudden infant death syndrome and use of safe sleep practices;

(c) Administration of medication;

(d) Prevention of and response to an emergency due to food or allergic reaction;

(e) Building and physical premises safety;

(f) Prevention of shaken baby syndrome and abusive head trauma;

(g) Emergency preparedness and response planning for an emergency resulting from a natural disaster or man-caused event;

(h) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(i) Precautions in transporting a child;

(j) Recognition and reporting of child abuse and neglect;

(k) First aid and;

(1) Cardiopulmonary resuscitation (CPR). CPR shall include hands-on skill testing as part of the training. CPR certification must remain valid at all times.

(4) Submit to an annual inspection and meet health and safety standards included in the topics listed above;

(5) Complete a minimum of three hours per year of on-going training and provide verification of completion. Training may include any of the orientation training categories and may include requirements relating to: nutrition; access to physical activity; caring for a child with special needs; any other subject area determined to be necessary to promote child development or to protect a child's health and safety.

Source:

General Authority: SDCL 28-1-61(1)(11).

Law Implemented: SDCL 28-1-60.

67:47:01:15. Provider's portion of child care certificate -- Completion of request for payment form required for payment -- Provider to bill usual and customary charge. When the recipient has selected a qualifying provider, ~~the recipient must present the provider's portion~~ a copy of the child care certificate will be sent to the provider. To receive payment, the provider ~~must~~ shall complete the request for payment form ~~which is available from the department and return it to the department~~ within 60 days following the expiration date contained on the child care certificate. The unit price billed for the child care services provided must be the provider's usual and customary charge for the same services provided on the same date to the general public.

When the recipient has changed providers, the department shall notify the previous provider in writing and shall indicate on the notice the revised expiration date.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61.

Law Implemented: SDCL 28-1-60.

67:47:01:17. Change in child care provider. ~~A recipient may change child care providers at any time; however, the recipient must notify the department in writing in a notice postmarked within ten working days after the recipient changes providers. If the department receives the notice within the ten working day period and the new provider meets the eligibility criteria, the change is effective as of the date the recipient changed providers. If the recipient fails to notify the department within the ten working day period, the change is effective the date the department receives the written notice of change~~ Repealed.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 37 SDR 236, effective June 28, 2011; 40 SDR 229, effective June 30, 2014.

General Authority: ~~SDCL 28-1-61.~~

Law Implemented: ~~SDCL 28-1-60.~~

Cross Reference: ~~Provider eligibility—Exemptions, § 67:47:01:11.~~

67:47:01:18. Household to report change in circumstances. A household ~~must~~ shall report any change of circumstances which may affect its eligibility for child care services to the department when they experience any of the following changes:

(1) A permanent change in employment or school status;

(2) A change in child care provider;

(3) An address change; or

(4) If the monthly household gross income exceeds 175 percent of the federal poverty level or 85 percent of the state median income.

The All changes ~~must~~ shall be reported to the department in writing. If the change positively affects the household's level of assistance, the change in circumstances is effective the date the change occurred if the notice is postmarked within ten working days after the date of the change. If the notice is postmarked more than ten working days after the change occurred, the change is effective the date the change of notice is received.

If a family has a permanent change in employment or school status, care may be extended three months from the last date of employment or school attendance to allow the recipient time to meet the minimum work and/or school requirements.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1992; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61.

Law Implemented: SDCL 28-1-60.

67:47:01:19. Redetermination of eligibility and copayment. The department shall determine a recipient's eligibility for child care assistance and the amount of the recipient's copayment once every ~~six~~ twelve months ~~unless the recipient's child is attending a full day, full year Head Start Program at a licensed child care facility.~~ If during the ~~six~~ twelve-month period one of the following situations occurs, the department shall re-evaluate program eligibility ~~redetermine eligibility and the amount of the copayment:~~

- (1) The recipient failed to make the required copayment;
- (2) The recipient failed to pay back an over-issuance;
- (3) The recipient failed to cooperate with the Division of Child Support;
- (4) The recipient failed to report or reported incorrect information relating to a change in the recipient's circumstances;
- (5) The recipient's provider failed to submit to the department required documentation;
- (6) The recipient's provider failed to obtain a license or registration certificate or failed to initiate an application for licensure or registration;
- (7) The recipient is receiving assistance from another program;
- (8) The department has information which verifies that the assistance paid exceeded the amount of benefits payable;
- (9) The TANF recipient receiving child care assistance becomes ineligible for TANF; ~~or~~ .
- (10) ~~For recipients receiving TCC benefits, the department has information which verifies that the recipient is eligible for TANF.~~

~~The department shall determine a recipient's eligibility for child care assistance and the amount of the recipient's copayment once every 12 months if the recipient's child is attending a full day, full year Head Start Program at a licensed child care facility and the Head Start Program has a signed agreement with the department.~~

A household that reapplies for child care assistance within 30 days immediately following a month of eligibility and whose income now exceeds 175 percent of the federal poverty level may receive up to an additional two months of child care assistance.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61.

Law Implemented: SDCL 28-1-60.

Cross-References:

Application for child care services, § 67:47:01:02.

Ineligibility when household fails to make copayments, § 67:47:01:09.

Cooperation with Division of Child Support as condition of eligibility, § 67:47:01:09.01.

Provider eligibility, § 67:47:01:11.

Time limits for meeting provider eligibility requirements -- Beginning date of payment, § 67:47:01:11.01.

Requirements for in-home, informal, or relative provider, § 67:47:01:13.

Requirements for in-home or informal provider, § 67:47:01:13.01.

Recovery of overpayments, § 67:47:01:22.

Department may withhold payments, § 67:47:01:24.

Department to investigate report -- Notice of action -- Review -- Final
determination, § 67:47:01:25.

CHAPTER 67:47:03

TRANSITIONAL CHILD CARE ASSISTANCE

(Repealed)

Section

~~67:47:03:01 — Definitions.~~

~~67:47:03:02 — Redetermination of eligibility and copayment.~~

~~67:47:03:03 — Written request required.~~

~~67:47:03:04 — TCC benefit limits.~~

~~67:47:03:05 — Repealed.~~

~~67:47:03:06 — Required verification of income and TCC costs.~~

~~67:47:03:07 — Consideration of income.~~

~~67:47:03:07.01 — Repealed.~~

~~67:47:03:08 — Repealed.~~

~~67:47:03:09 — Repealed.~~

~~67:47:03:10 — Repealed.~~

~~67:47:03:11 — Repealed.~~

~~67:47:03:12 — Repealed.~~

~~67:47:03:13 — Repealed.~~

~~67:47:03:14 — Repealed.~~

~~67:47:03:15 — Repealed.~~

~~67:47:03:16 — Repealed.~~

~~67:47:03:17 — Voluntarily quitting employment and failure to cooperate results in
ineligibility.~~

~~67:47:03:18~~ Repealed.

~~67:47:03:19~~ Repealed.

~~67:47:03:20~~ Repealed.

~~67:47:03:21~~ Repealed.

~~67:47:03:22~~ Repealed.

~~67:47:03:23~~ Repealed.

~~67:47:03:24~~ Repealed.

~~67:47:03:25~~ Repealed.

~~67:47:03:26~~ Repealed.

~~67:47:03:27~~ Repealed.

~~67:47:03:28~~ Repealed.

~~67:47:03:29~~ Repealed.

~~67:47:03:30~~ Repealed.

~~67:47:03:31~~ Repealed.

~~67:47:03:32~~ Applicable provisions of this chapter 67:47:01.

~~67:47:03:01. Definitions.~~ Terms used in this chapter mean:

- ~~(1) "Child with special needs," a child as defined in § 67:47:02:01;~~
- ~~(2) "Family," an individual or a group of related individuals living in the same home whose needs would be recognized in one TANF grant if the individual or group were eligible for and receiving TANF;~~
- ~~(3) "TANF," temporary assistance to needy families;~~
- ~~(4) "Transitional child care" or "TCC," child care services which allow a family member to accept or retain employment; and~~
- ~~(5) "Transitional child care benefits" or "TCC benefits," payments made to a day care provider on behalf of a family eligible for TCC under this chapter..~~

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.~~

~~General Authority:~~ ~~SDCL 28-1-61(1)(11).~~

~~Law Implemented:~~ ~~SDCL 28-1-60.~~

~~67:47:03:02. Redetermination of eligibility and copayment.~~ ~~A family who becomes prospectively ineligible for TANF may be eligible for TCC if the family was receiving TANF in the immediately preceding month but becomes prospectively ineligible because of increased income from child support, earnings, or increased hours of employment. The department shall determine a recipient's eligibility for transitional child care benefits and the amount of the recipient's copayment once every 12 months. If~~

~~during the 12-month period one of the following situations occurs, the department shall redetermine eligibility and the amount of the copayment:~~

- ~~(1) The recipient failed to make the required copayment;~~
- ~~(2) The recipient failed to cooperate with the Division of Child Support;~~
- ~~(3) The recipient failed to report or reported incorrect information relating to a charge in the recipient's circumstances;~~
- ~~(4) The recipient's provider failed to submit required documentation to the department;~~
- ~~(5) The recipient's provider failed to obtain a license or registration certificate or failed to initiate an application for licensure or registration;~~
- ~~(6) The recipient is receiving assistance from another program;~~
- ~~(7) The assistance paid exceeded the amount of benefits payable;~~
- ~~(8) The provider is serving a disqualification penalty under the provisions of chapter 67:48:05;~~
- ~~(9) The recipient's provider is not entitled to receive child care benefits;~~
- ~~(10) The recipient's provider failed to fulfill the requirements of a grant awarded under the provisions of chapter 67:47:04; or~~
- ~~(11) The department has information that verifies that the recipient will no longer be employed.~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; 33 SDR 152, effective April 4, 2007; 37 SDR 236, effective June 28, 2011.~~

General Authority: ~~SDCL 28-1-61(1).~~

Law Implemented: ~~SDCL 28-1-60.~~

Cross-References:

~~Written request required, § 67:47:03:03.~~

~~Voluntarily quitting employment and failure to cooperate results in ineligibility,
§ 67:47:03:17.~~

67:47:03:03. Written request required. ~~The parent must request TCC benefits by
completing and returning an application which is available from the department.~~

~~The parent and child must reside in South Dakota.~~

~~An application and required verification for TCC benefits must be provided to the
department within 90 days after the child care need in order to receive benefits from the
date the services are provided. Eligibility for TCC benefits is limited to the 12 months
immediately following TANF ineligibility.~~

Source: ~~24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28,
2011.~~

General Authority: ~~SDCL 28-1-61(1).~~

Law Implemented: ~~SDCL 28-1-60.~~

67:47:03:04. TCC benefit limits. ~~Transitional child care may begin as early as the
first month of TANF ineligibility but is limited to the 12 consecutive months immediately~~

~~following TANF ineligibility. Transitional child care covers only those times during which a family member is unavailable to care for the child because of employment or because the employed family member is traveling to or from the employment site.~~

~~Transitional child care benefits are limited to services provided for the care of a child under age 13 who would be a dependent child if needy or who is receiving SSI or TANF foster care. Transitional child care may include care services for a child with special needs. If the child is considered a child with special needs because of a physical or mental incapacity, the recipient must supply a document from a physician, physician's assistant, nurse practitioner, psychologist, psychiatric social worker, special education teacher, physical or occupational therapist, or social worker which attests to the child's incapacity and documents the need for special accommodations. If the child is considered a child with special needs because the child is under court supervision, the recipient must supply a copy of the court order requiring the child care.~~

~~Transitional child care benefits are not allowed for those child care services provided by the dependent child's parent.~~

~~Except for a child who is a recipient of SSI or who is a TANF foster care child, the dependent child must meet a specific degree of relationship as listed in § 67:10:01:06.~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.~~

~~**General Authority:** SDCL 28-1-61(1)(2).~~

~~**Law Implemented:** SDCL 28-1-60.~~

~~67:47:03:05. TCC benefits for parent working at night.~~ Repealed.

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:06. Required verification of income and TCC costs.~~ The parent must provide verification of income, circumstances, and TCC costs. As proof of income, the parent must provide either copies of the last two pay stubs or employer verification of current wages. A parent who is self-employed must provide a copy of the parent's most recent income tax return. The verification must be attached to the written request for services required in § 67:47:03:03. Based on the parent's income, circumstances, and TCC costs, the department shall determine the need for child care and the amount of TCC assistance within ten working days after receiving the completed application and verification.

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28, 2011.~~

~~General Authority:~~ ~~SDCL 28-1-61(1)(2)(5).~~

~~Law Implemented:~~ ~~SDCL 28-1-60.~~

~~67:47:03:07. Consideration of income.~~ When determining eligibility for TCC benefits, the department considers income prospectively based on the verification required in § 67:47:03:06.

~~When determining the amount of TCC benefits, the department considers all earned and unearned income, including child support, social security income, rental or lease income, interest income, work study, tips, retirement, unemployment benefits, wages, veterans benefits, and workers' compensation. A recipient who is self-employed must provide a copy of the recipient's most recent income tax return. Depreciation is not an allowable expense and will be added to the recipient's net profit or loss.~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.~~

~~**General Authority:** SDCL 28-1-61(1)(2).~~

~~**Law Implemented:** SDCL 28-1-60.~~

~~**67:47:03:07.01. Adjustment to gross income.** Repealed.~~

~~**Source:** 27 SDR 43, effective October 26, 2000; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:08. Maximum rates payable for child care service costs.** Repealed.~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:09. Maximum child care service costs recognized by department—~~

~~Family day care.~~ Repealed.

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; repealed, 33 SDR 152, effective April 4, 2007.~~

~~67:47:03:10. Maximum rates payable for family day care provider choosing to care for infants and toddlers and limit the number of children in care to six or less.~~
~~Repealed.~~

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:11. Maximum child care service costs recognized by department—~~

~~Children with special needs.~~ Repealed.

~~Source:~~ ~~24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; repealed, 33 SDR 152, effective April 4, 2007.~~

~~67:47:03:12. Maximum child care service costs recognized by department—~~

~~In-home, relative, and informal providers.~~ Repealed.

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; repealed, 33 SDR 152, effective April 4, 2007.~~

~~**67:47:03:13. Family required to participate in TCC costs. Repealed.**~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:14. Family pays costs when lump sum income exceeds federal poverty level. Repealed.**~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:15. Failure to contribute to costs — Ineligibility. Repealed.**~~

~~**Source:** 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 36, effective June 28, 2011.~~

~~**67:47:03:16. Payment of benefits. Repealed.**~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:17. Voluntarily quitting employment and failure to cooperate results in ineligibility.** If the parent voluntarily quits employment without good cause or fails to cooperate in establishing payments and enforcing child support obligations, the family is ineligible for TCC benefits for any remaining portion of the 12 month period.~~

~~Source: 24 SDR 30, effective September 14, 1997.~~

~~General Authority: SDCL 28-1-61(1).~~

~~Law Implemented: SDCL 28-1-60.~~

~~**67:47:03:18. Notice to parent — Issuance of child care certificate.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:19. Provider eligibility.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:20. Requirements for in-home, informal, or relative provider.~~

~~Repealed.~~

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:21. Tuberculin test requirements.~~ Repealed.

~~**Source:** 24 SDR 30, effective September 14, 1997; repealed, 33 SDR 152, effective April 4, 2007.~~

~~67:47:03:22. Time limits for meeting provider eligibility requirements —~~

~~**Beginning date of payment.**~~ Repealed.

~~**Source:** 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 33 SDR 152, effective April 4, 2007; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:23. Provider's portion of child care certificate — Completion of request for payment form required for payment — Provider to bill usual and customary charge.**~~ Repealed.

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:24. Parent to report change in circumstances.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:25. Status review form required every six months.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 33 SDR 152, effective April 4, 2007.~~

~~**67:47:03:26. Access of parent to child.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~**67:47:03:27. Verification.** Repealed.~~

~~Source: 24 SDR 30, effective September 14, 1997; repealed, 37 SDR 236, effective June 28, 2011.~~

~~67:47:03:28. Department to investigate report — Notice of action.~~ Repealed.

~~Source:~~ 24 SDR 30, effective September 14, 1997; 28 SDR 111, effective February 20, 2002; repealed, 37 SDR 236, effective June 28, 2011.

~~67:47:03:29. Department may withhold payments.~~ Repealed.

~~Source:~~ 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 23, 2000; 28 SDR 111, effective February 20, 2002; repealed, 37 SDR 236, effective June 28, 2011.

~~67:47:03:30. Recovery of overpayments.~~ Repealed.

~~Source:~~ 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 28 SDR 111, effective February 20, 2002; repealed, 37 SDR 236, effective June 28, 2011.

~~67:47:03:31. Overpayments — Hearings — Payments made pending hearing.~~
Repealed.

~~Source:~~ 24 SDR 30, effective September 14, 1997; 28 SDR 111, effective February 20, 2002; 35 SDR 166, effective December 24, 2008; repealed, 37 SDR 236, effective June 28, 2011.

~~67:47:03:32. Applicable provisions of chapter 67:47:01. The following provisions of chapter 67:47:01 apply to recipients receiving TCC benefits: § 67:47:01:03.02, § 67:47:01:05.01; §§ 67:47:01:07 to 67:47:01:09, inclusive; §§ 67:47:01:10 to 67:47:01:16, inclusive; and §§ 67:47:01:22 to 67:47:01:26, inclusive.~~

~~Source: 37 SDR 236, effective June 28, 2011.~~

~~General Authority: SDCL 28-1-61.~~

~~Law Implemented: SDCL 28-1-60.~~