67:46:01:09. Medical assistance for refugees. Medical assistance ~~shall~~ must be provided to refugees who are eligible for assistance under ~~the provisions of~~ chapter ~~67:12:11~~ 67:46:15.

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; transferred from § 67:16:01:20, effective August 23, 1992.

General Authority: SDCL 28-6-1(1)(4)(6).

Law Implemented: SDCL 28-6-1(1)(4)(6).

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

67:46:04:13. Department to refer certain individuals to Social Security Administration to apply for SSI. The department shall refer an individual to the Social Security Administration to apply for SSI if the individual's income minus $20 is less than one of the following:

(1) The standard $30 SSI payment if the individual is living in a medical or nursing facility; or

(2) The SSI standard benefit amount of ~~$735~~ 783 if the individual is not institutionalized but living in an adult foster care home or an assisted living facility.

Source: 2 SDR 74, effective May 13, 1976; 4 SDR 35, effective December 22, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 170, effective June 21, 1982; 9 SDR 133, effective April 27, 1983; 15 SDR 2, effective July 17, 1988; 16 SDR 203, effective May 27, 1990; transferred from § 67:16:19:08, effective August 23, 1992; 20 SDR 92, effective December 21, 1993; 21 SDR 162, effective March 23, 1995; 22 SDR 188, effective July 8, 1996; 24 SDR 67, effective November 26, 1997; 26 SDR 99, effective January 30, 2000; 28 SDR 178, effective July 3, 2002; 30 SDR 193, effective June 13, 2004; 31 SDR 107, effective February 1, 2005; 33 SDR 124, effective January 2, 2007; 34 SDR 271, effective April 17, 2008; 35 SDR 234, effective April 1, 2009; 38 SDR 123, effective January 23, 2012; 41 SDR 7, effective July 29, 2014; 41 SDR 218, effective June 30, 2015.; 44 SDR 94, effective December 4, 2017

General Authority: SDCL 28-6-1(4)(6).

Law Implemented: SDCL 28-6-1(4)(6).

Cross-References: 42 U.S.C. § 1382(b)(1), 1974; Long-term care residency requirements and beginning of eligibility, § 67:46:03:03.

67:46:05:15. Home property exclusion. If an individual's eligibility for long-term care assistance is based on an application that was received by the department before January 1, 2006, the individual's home property is excluded from assets if it continues to be the individual's principal place of residence or continues to be occupied by and the primary residence of the individual's spouse, child, stepchild, grandchild, parent, stepparent, grandparent, aunt, uncle, niece, nephew, brother, sister, stepbrother, stepsister, half brother, half sister, cousin, or in-law, who is dependent on the applicant or recipient.

The value of the individual's ownership interest in a jointly owned home is an excluded resource for as long as sale of the property would cause undue hardship, due to loss of housing, to a co-owner. In order for undue hardship to be met the individual must provide clear and convincing evidence that the co-owner uses the property as ~~their~~ the co-owner's principal place of residence; would have to move if the property were sold; and has no other readily available housing.

If an individual's eligibility for long-term care assistance is based on an application that was received by the department after December 31, ~~2014~~ 2019, the individual's home property interest, up to an equity value of $~~560,000~~ 595,000, is excluded from the individual's assets if it continues to be the individual's principal place of residence. ~~Beginning with calendar year 2015 and each succeeding year, the department shall increase the amount by the percentage increase in the consumer price index for all urban consumers, rounded to the nearest $1,000.~~

If the equity interest in the home is greater than the amount specified, the individual is ineligible for long-term care medical assistance regardless of whether or not the individual will be returning to the home to live.

The equity limit contained in this section does not apply if the individual's spouse, or child, who is ~~either~~ under age 21 ~~or~~ , is blind or permanently and totally disabled, and is lawfully residing in the home.

Nothing in this rule prevents the individual from using a reverse mortgage or home equity loan to reduce the total equity interest in the home.

Source: 2 SDR 74, effective May 13, 1976; 4 SDR 10, effective August 28, 1977; 5 SDR 109, effective July 1, 1979; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 170, effective June 21, 1982; transferred from § 67:16:20:05, effective August 23, 1992; 33 SDR 44, effective August 31, 2006; 41 SDR 93, effective December 3, 2014; 41 SDR 218, effective June 30, 2015; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL ~~28-6-11(4)(6),~~ 28-6-18(5).

Law Implemented: SDCL ~~28-6-11(4)(6),~~ 28-6-18(5).

Cross-References:

Disqualification for long-term care assistance for individuals with substantial home equity, 42 U.S.C. § 1396p(f).

Period of ineligibility waived under certain circumstances, § 67:46:05:10.

67:46:07:12. Computation of community spouse's maintenance allowance and excess shelter allowance. The community spouse's monthly minimum maintenance allowance is 150 percent of the federal poverty income level, established in accordance with § 67:11:01:03, for two persons, divided by 12.

The excess shelter allowance is determined by subtracting 30 percent of the minimum maintenance allowance from the community spouse's shelter costs. Shelter costs include rent or mortgage costs, trailer parking space fees, taxes and insurance on the premises, and condominium or cooperative maintenance charges for the couple's principal residence. Shelter costs also include the applicable supplemental nutrition assistance program utility allowance pursuant to §§ 67:13:01:02, 67:13:01:05, or 67:13:01:06.

Rent, mortgage, taxes, insurance, and condominium and cooperative maintenance charges paid less frequently than monthly are prorated for the period of intent.

The combined spousal allowances may not exceed ~~$3,023~~ 3,216 unless a greater allowance is provided for under a court order of support or if through the fair hearing process it is determined that a greater amount of need exists because of circumstances resulting in financial duress.

These deductions are not permissible if the institutionalized spouse does not make the income available to the community spouse.

Source: 16 SDR 203, effective May 27, 1990 and July 1, 1990; transferred from § 67:16:32:12, effective August 23, 1992; 19 SDR 141, effective March 25, 1993; 20 SDR 92, effective December 21, 1993; 20 SDR 170, effective April 21, 1994; 21 SDR 162, effective March 23, 1995; 31 SDR 107, effective February 1, 2005; 33 SDR 124, effective January 2, 2007; 34 SDR 271, effective April 17, 2007; 35 SDR 234, effective April 1, 2009; 41 SDR 7, effective July

29, 2014; 41 SDR 93, effective December 3, 2014; 41 SDR 218, effective June 30, 2015; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 28-6-1(4)(6), 28-6-18(4)(6).

Law Implemented: SDCL 28-6-1(4)(6), 28-6-18(4)(6).

67:46:10:09. Scope of services and benefits. Services and benefits ~~which may be paid~~ payable 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 and not covered by other sources; and

(6) Travel ~~expenses~~ expense reimbursements for the recipient ~~are reimbursed according to the provisions of 67:16:25:07.03~~ , in accordance with chapter 67:16:49.

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; 43 SDR 31, effective September 12, 2016.

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

Law Implemented: SDCL 28-6A-2.

67:46:14:02. Eligibility requirements for CHIP-NM. A child is eligible for CHIP-NM if the child ~~meets the following criteria~~:

(1) Does not meet the financial eligibility criteria for the state's Medicaid program;

(2) Is a member of a CHIP-NM family whose income, as defined in 42 C.F.R. § 435.603, does not exceed 209 percent of the federal poverty guidelines;

(3) Is not a member of a CHIP-NM unit in which the child's parent or legal guardian is an employee of a public agency and eligible to participate in the state health insurance benefit plan;

(4) Is not covered under health insurance or a group health plan;

(5) Has not had insurance under a group health plan in the three-month period immediately prior to the date of application for CHIP-NM;

(6) Except for §§ ~~67:46:01:05 and~~ 67:46:01:13, meets the requirements of chapter 67:46:01;

(7) Is not a resident of a public institution or a patient in an institution for mental diseases;

(8) Meets the residency requirements of §§ ~~67:46:03:04~~ 67:46:01:17 through ~~67:46:03:15~~ 67:46:01:28; and

(9) Meets the other requirements of this chapter.

Source: 26 SDR 168, effective July 1, 2000; 28 SDR 4, effective July 1, 2001; 41 SDR 7, effective July 29, 2014.

General Authority: SDCL 28-6-1(1)(4)(6).

Law Implemented: SDCL 28-6-1(1)(4)(6).

Cross-References: Federal poverty level, § 67:11:01:03; Determining size of CHIP-NM family, § 67:46:14:05.