

**67:16:01:08. Services not covered.** In addition to items and services specified as not covered in other sections of this article, the following items and services are not covered under the medical assistance program:

(1) Items or services which have been determined by the state dental or medical consultant or through peer reviews to be not medically necessary, safe, or effective;

(2) Items or services for which the recipient has no legal obligation to pay or which are charges imposed by immediate relatives or members of the recipient's household;

(3) Over-the-counter drugs, home remedies, food supplements, nutritional items, vitamins, or alcoholic beverages, except as covered under chapter 67:16:14 or 67:16:42;

(4) Diagnosis or treatment given in the absence of the patient;

(5) Cosmetic surgery to improve the appearance of an individual, if not incidental to prompt repair following an accidental injury or any cosmetic surgery that goes beyond that which is necessary to improve the functioning of a malformed body member;

(6) Items or services provided by practitioners or agencies in the employ of or under contract with the federal, state, or local government, except state institutions for the developmentally disabled that are certified as skilled nursing or intermediate care facilities, the state psychiatric hospital, the public health service, or the national health service;

(7) Organ transplants, except as authorized under chapter 67:16:31;

(8) Acupuncture;

(9) Biofeedback;

(10) Chronic pain rehabilitation program services or chronic pain management services, except as allowed under chapter 67:16:14;

(11) Alcohol and drug rehabilitation therapy, except for services provided under chapter 67:16:48;

(12) Procedures for implanting an embryo;

(13) Gastric bypass, gastric stapling, gastroplasty, any similar surgical procedure, or the associated conservative weight loss management unless prior authorized;

(14) Self-help devices, exercise equipment, protective outerwear, personal comfort services or environmental control equipment, such as air conditioners, humidifiers, dehumidifiers, heaters, or furnaces;

(15) Medical equipment for a resident in a health care facility, except as authorized under chapter 67:44:03;

(16) Autopsies;

(17) Custodial care, except as authorized under chapter 67:44:03;

(18) Nursing facility services for individuals age 21 and over and under age 65 in institutions for mental disease;

(19) Broken appointments;

(20) Reports required solely for insurance or legal purposes unless requested by the department, the Department of Health, or the Department of Human Services;

(21) Concurrent care by more than one provider of the same discipline for the same diagnosis without a medical referral detailing the medical necessity of the concurrent care. For concurrent care without medical referral, the department will pay only the first claim submitted;

(22) A health service that is not documented in the recipient's medical record as required by chapter 67:16:34;

(23) Vocational training, educational activities, teaching, or counseling, except outpatient diabetes self-management education programs covered under chapter 67:16:46;

(24) Record keeping, charting, or documentation related to providing a covered service, unless specifically allowed in this article;

(25) Payment of mileage unless specifically covered under this article;

(26) Drugs and biologicals, which the federal government has determined to be less than effective, as listed in § 67:16:14:05;

(27) Services, procedures, or drugs, which are considered experimental by the United States Department of Health and Human Services or another federal agency, not including services, procedures, or drugs approved by the Federal Drug Administration under an emergency use authorization that are being utilized in accordance with the emergency use authorization;

(28) Procedures and services to reverse sterilization;

(29) Computers, computer hookups, or computer printers, unless prior authorized;

(30) Gambling addiction services or therapy; and

(31) Penile implants.

**Source:** SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 9 SDR 11, effective August 1, 1982; 9 SDR 164, effective June 30, 1983; 10 SDR 79, effective February 1, 1984; 11 SDR 26, effective August 21, 1984; 11 SDR 86, effective December 30, 1984; 15 SDR 204, effective July 6, 1989; 17 SDR 4, effective July 16, 1990; 17 SDR 184, effective June 6, 1991; 17 SDR 194, effective June 24, 1991; 18 SDR 98, effective December 9, 1991; 19 SDR 26, effective August 23, 1992; 19 SDR 165, effective May 3, 1993; 20 SDR 144, effective March 10, 1994; 22 SDR 32, effective September 11, 1995; 28

SDR 166, effective June 12, 2002; 35 SDR 88, effective October 23, 2008; 40 SDR 122, effective January 7, 2014; 43 SDR 80, effective December 5, 2016; 46 SDR 50, effective October 10, 2019.

**General Authority:** SDCL 28-6-1(1)(2).

**Law Implemented:** SDCL 28-6-1~~(1)~~(2).

**Cross-Reference:** Covered services must be medically necessary, § 67:16:01:06.02.

**67:16:14:05. Items and services not covered.** In addition to the items and services not specifically listed in § 67:16:14:04, the following items and services are not covered under this chapter:

(1) Nonlegend prescription drugs and over-the-counter items and medical supplies except for those items covered under § 67:16:14:04;

(2) Medical supplies or delivery charges;

(3) Legend oral vitamins except for legend vitamins prescribed for the prenatal care of pregnant women covered under § 67:16:14:04;

(4) Nicotine patches and other nicotine replacement products;

(5) Agents to promote fertility or treat impotence;

(6) Agents used for cosmetic purposes;

(7) Hair growth products;

(8) Items or drugs manufactured by a firm that has not signed a rebate agreement with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;

(9) Items which exceed a 34-day supply, except for family planning items and prenatal vitamins;

(10) Services, procedures, or drugs which are considered experimental, not including services, procedures, or drugs approved by the Federal Drug Administration under an emergency use authorization that are being utilized in accordance with the emergency use authorization;

(11) Drugs and biologicals which the federal government has determined to be less than effective according to Pub. L. No. 97-35, § 2103 (August 13, 1981), 95 Stat. 787; and

(12) Drugs that did not receive prior authorization from the department under the provisions of this chapter.

**Source:** SL 1975, ch 16, § 1; 1 SDR 77, effective May 29, 1975; 4 SDR 10, effective August 28, 1977; 4 SDR 35, effective December 22, 1977; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 8, effective August 3, 1986; 14 SDR 46, effective September 28, 1987; 15 SDR 2, effective July 17, 1988; 16 SDR 234, effective July 1, 1990; 17 SDR 200, effective July 1, 1991; 22 SDR 32, effective September 11, 1995; 22 SDR 93, effective January 7, 1996; 28 SDR 166, effective June 12, 2002; 31 SDR 214, effective July 6, 2005; 32 SDR 129, effective February 1, 2006.

**General Authority:** SDCL 28-6-1(1)(2).

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

**Cross-Reference:** Reimbursement for prescribed drugs -- Signed rebate agreement required, Pub. L. No. 101-508, § 4401.

**Notes:** A list of the drugs which have been determined to be less than effective is available at <http://new.cms.hhs.gov/MedicaidDrugRebateProgram/downloads/desi.pdf>.

A list of drugs that require prior approval is available at <http://www.hidsdmedicaid.com/>.