

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 that includes at least one parent of a dependent child is as follows:

PAYMENT STANDARD		
UNIT SIZE	INDEPENDENT LIVING ARRANGEMENT	SHARED LIVING ARRANGEMENT
1 person	\$ 460 <u>488</u>	\$ 285 <u>302</u>
2 persons	563 <u>597</u>	388 <u>411</u>
3 persons	630 <u>668</u>	456 <u>483</u>
4 persons	696 <u>738</u>	522 <u>553</u>
5 persons	762 <u>808</u>	588 <u>623</u>
6 persons	828 <u>878</u>	654 <u>693</u>
7 persons	895 <u>949</u>	719 <u>762</u>
8 persons	961 <u>1,019</u>	786 <u>833</u>
9 persons	1,025 <u>1,087</u>	853 <u>904</u>
10 persons	1,090 <u>1,155</u>	916 <u>971</u>
11 persons	1,157 <u>1,226</u>	982 <u>1,041</u>
12 persons	1,223 <u>1,296</u>	1,048 <u>1,111</u>

For a unit size greater than 12, add \$53 for each additional member.

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; 43 SDR 31, effective September 12, 2016; 47 SDR 138, effective July 1, 2021.

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

Law Implemented: SDCL 28-7A-3, 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 that does not meet the criteria contained in either § 67:10:05:03 or 67:10:05:04:

UNIT SIZE	PAYMENT STANDARD
1 child	\$ 388 <u>411</u>
2 children	456 <u>483</u>
3 children	522 <u>553</u>
4 children	588 <u>623</u>
5 children	654 <u>693</u>
6 children	719 <u>762</u>
7 children	786 <u>833</u>
8 children	853 <u>904</u>
9 children	916 <u>971</u>
10 children	982 <u>1,041</u>
11 children	1,048 <u>1,111</u>
12 children	1,116 <u>1,183</u>

For a unit size greater than 12, add \$53 for each additional child.

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; 43 SDR 31, effective September 12, 2016; 47 SDR 138, effective July 1, 2021.

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

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

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:

(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 ~~\$794~~ 841, 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; 47 SDR 24, effective September 10, 2020; 47 SDR 138, effective July 1, 2021.

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

Law Implemented: SDCL 28-6-1.

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 is 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 a sale of the property would cause undue hardship, due to loss of housing, to a co-owner. In order to show an undue hardship, the individual must provide clear and convincing evidence that the co-owner uses the property as 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, ~~2020~~ 2021, the individual's home property interest, up to an equity value of ~~\$603,000~~ 636,000, is excluded from the individual's assets if it continues to be the individual's principal place of residence.

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 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 under age 21, 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; 47 SDR 24, effective September 10, 2020; 47 SDR 138, effective July 1, 2021.

General Authority: SDCL 28-6-18(5).

Law Implemented: SDCL 28-6-18.

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 ~~\$3,259.50~~ 3,435 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; 47 SDR 24, effective September 10, 2020; 47 SDR 138, effective July 1, 2021.

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

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