67:10:05:03. Payment standard -- Assistance unit includes parent -- Independent or shared living arrangement. Based on the number of ~~members~~ eligible persons 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	$~~488~~ 512	$~~302~~ 317
2 persons	~~597~~627	~~411~~432
3 persons	~~668~~701	~~483~~507
4 persons	~~738~~775	~~553~~581
5 persons	~~808~~848	~~623~~654
6 persons	~~878~~922	~~693~~728
7 persons	~~949~~996	~~762~~800
8 persons	~~1,019~~1,070	~~833~~875
9 persons	~~1,087~~1,141	~~904~~949
10 persons	~~1,155~~1,213	~~971~~1,020
11 persons	~~1,226~~1,287	~~1,041~~1,093
12 persons	~~1,296~~1,361	~~1,111~~1,167

For a unit size greater than ~~12~~ twelve, add ~~$53~~ fifty-three dollars 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; 48 SDR 131, effective July 4, 2022.

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 that does not meet the criteria contained in either § 67:10:05:03 or 67:10:05:04 is:

UNIT SIZE	PAYMENT STANDARD
1 child	$~~411~~432
2 children	~~483~~507
3 children	~~553~~581
4 children	~~623~~654
5 children	~~693~~728
6 children	~~762~~800
7 children	~~833~~875
8 children	~~904~~949
9 children	~~971~~1,020
10 children	~~1,041~~1,093
11 children	~~1,111~~1,167
12 children	~~1,183~~1,242

For a unit size greater than ~~12~~ twelve children, add ~~$53~~ fifty-three dollars 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; 48 SDR 131, effective July 4, 2022.

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

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

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

(1) A ~~parent/caretaker relative~~ parent or other caretaker relative of a dependent child 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~~ supplemental security income program;

(3) A person under age ~~21~~ twenty-one who would be a recipient of a money payment under the ~~SSI~~ supplemental security income program if not subject to ~~paragraphs~~ subparagraphs (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~~ supplemental security income program upon leaving the facility;

(5) A person under ~~the~~ age ~~of 21~~ twenty-one 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~~ twenty-one who meets the income ~~requirements~~ limits 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~~ supplemental security income concurrently after April 1977, who was

terminated from ~~SSI~~ supplemental security income, and who currently would be eligible for ~~SSI~~ supplemental security income if the social security cost of living allowances back to the time of ~~SSI~~ supplemental security income 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~~ three hundred and sixty-five days after the pregnancy ends~~. Coverage is limited to postpartum care and family planning services~~;

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

(14) A child under age ~~19~~ nineteen who is eligible for the ~~nonmedicaid~~ non-Medicaid 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)~~(16) A person determined to be a ~~Special Low-Income~~ special low-income Medicare beneficiary under the provisions of chapter 67:46:11 whose income is at least ~~100~~ one hundred

percent, but less than ~~120~~ one hundred and twenty percent of the federal poverty level. Benefits are limited to payment of part B Medicare premiums;

~~(18)~~(17) A person determined to be a qualified Medicare beneficiary under the provisions of chapter 67:46:11 whose income is at least ~~120~~ one hundred and twenty percent, but less than ~~135~~ one hundred and thirty-five 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)~~(18) 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)~~(19) A disabled widow or a disabled widower who is at least age ~~50~~ fifty but less than age ~~65~~ sixty-five, who was terminated from ~~SSI~~ supplemental security income due to receipt of social security benefits under Title II of the Social Security Act, as amended to January 1, 2016, who is not on Medicare part A, and who would continue to be eligible for ~~SSI~~ supplemental security income if the Title II benefits are disregarded;

~~(21)~~(20) A disabled adult who became disabled or blind before age ~~22~~ twenty-two and was terminated from ~~SSI~~ supplemental security income due to entitlement to social security benefits as an adult disabled child, but who would ~~remain SSI-eligible~~ continue to be eligible for supplemental security income if the social security benefits are disregarded;

~~(22)~~(21) 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)~~(22) A child under age ~~21~~ twenty-one 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)~~(23) A child under age ~~26~~ twenty-six who, on the child's eighteenth birthday, was in foster care under the responsibility of the state;

~~(25)~~(24) A woman over age ~~29~~ twenty-nine and under age ~~65~~ sixty-five 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)~~(25) 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)~~(26) A working individual with a disability who has a net income below ~~250%~~ two hundred and fifty percent of the federal poverty level and who, except for earned income, meets all criteria for receiving benefits under the supplemental security income program; and

(27) A person over age eighteen and under age sixty-five who meets the income requirements in chapter 67:46:12.

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; 43 SDR 31, effective September 12, 2016.

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~~ chapter 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~~Deemed newborn children, 42 C.F.R. § 435.117.

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

~~Definition of "public institution,"~~Definitions relating to institutional status, 42 C.F.R. § 435.1010.

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

Residential treatment centers, ~~ch~~ chapter 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,"~~Prohibition of preexisting condition exclusions or other discrimination based on health status, 42 U.S.C. § 300gg-3(c).

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

CHAPTER 67:46:04

LONG-TERM CARE INCOME REQUIREMENTS

Section

67:46:04:17 Repealed.

67:46:04:18 Repealed.

67:46:04:19 Repealed.

67:46:04:20 Absence of an income regulation.

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

(1) The standard ~~$30 SSI~~ thirty-dollar supplemental security income payment, if the individual is living in a medical or nursing facility; or

(2) The ~~SSI~~ supplemental security income standard benefit amount of ~~$841~~ nine hundred and fourteen dollars, 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; 48 SDR 131, effective July 4, 2022.

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

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

Cross-References:

Eligibility for benefits, 42 U.S.C. § 1382(b)(1), 1974~~;~~.

Long-term care residency ~~requirements~~ requirement and beginning of eligibility, § 67:46:03:03.

67:46:04:14. Ineligibility when income exceeds ~~300~~ three hundred percent of maximum ~~SSI~~ supplemental security income standard. An individual who is in a medical or nursing facility or is participating in a home and community-based waiver program is ineligible to receive assistance under this article when the individual's monthly income exceeds ~~300~~ three hundred percent of the maximum ~~SSI~~ supplemental security income standard benefit amount.

Source: Transferred from § 67:46:04:13, 20 SDR 92, effective December 21, 1993; 41 SDR 193, effective December 3, 2014.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

Cross-References:

Long-term care residency ~~requirements~~ requirement and beginning of eligibility, § 67:46:03:03~~;~~.

~~SSI standard benefit amount, § 67:46:04:13;~~Department to refer certain individuals to Social Security Administration to apply for supplemental security income, subdivision 67:46:04:13(2).

Medicaid income trust, § 67:46:05:33.01~~;~~.

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-brother, ~~half-sister~~ 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~~ 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, ~~2021~~ 2022, the individual's home property interest, up to an equity value of ~~$636,000~~ six hundred and eighty-eight thousand dollars, 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~~ twenty-one, 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; 48 SDR 131, effective July 4, 2022.

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

Law Implemented: SDCL 28-6-18(5).

Cross-References:

~~Disqualification for long-term care assistance for individuals with substantial home equity~~ Liens, adjustments and recoveries, and transfers of assets, 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~~ one hundred and fifty percent of the federal poverty income level, established in accordance with § 67:11:01:03, for two persons, divided by ~~12~~ twelve.

The excess shelter allowance is determined by subtracting ~~30~~ thirty 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 ~~$3,435~~ three thousand seven hundred and fifteen dollars and fifty cents, 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~~ allowances 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; 48 SDR 131, effective July 4, 2022.

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).

CHAPTER 67:46:12

MODIFIED ADJUSTED GROSS INCOME ~~(MAGI)~~ MEDICAID

ELIGIBILITY STANDARDS

Section

67:46:12:11. Income limit -- Pregnant woman. To be eligible for assistance under this chapter, a pregnant ~~woman's~~ woman may not have income~~, based on family size, may not exceed the following amounts:~~

~~(1) For limited coverage for a pregnant woman as defined in ARSD~~ subdivision ~~67:46:01:02(17)~~(11) ~~138%~~ which exceeds one hundred and thirty-eight percent of the federal poverty guidelines based on family size, for the current year~~;~~.

~~(2) For a pregnant woman as defined in ARSD 67:46:01:02(11) the following amounts plus five percent of the current year's federal poverty guidelines for that family size:~~

~~FAMILY SIZE~~	~~MONTHLY GROSS INCOME LIMIT~~
~~1~~	~~$ 358~~
~~2~~	~~448~~
~~3~~	~~507~~
~~4~~	~~563~~
~~5~~	~~622~~
~~6~~	~~680~~
~~7~~	~~738~~
~~8~~	~~795~~
~~9~~	~~852~~
~~10~~	~~910~~

Source: 41 SDR 7, effective July 29, 2014.

General Authority: SDCL 28-6-1.

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

Cross-Reference: Application of modified adjusted gross income (MAGI), 42 C.F.R. § 435.603 ~~(July 15, 2013)~~, in effect on November 30, 2016.

67:46:12:16. Medicaid eligibility -- Adult group. An individual may be eligible for Medicaid if the individual:

(1) Is over age eighteen and under age sixty-five;

(2) Is not pregnant;

(3) Is not entitled to or enrolled to receive Medicare benefits;

(4) Is not otherwise eligible for and enrolled to receive mandatory coverage under the state Medicaid plan; and

(5) Has a household income that is at or below one hundred and thirty-three percent of the federal poverty level for the applicable family size.

Source:

General Authority: SDCL 28-6-1.

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

67:46:12:17. Income limit -- Adult group. To be eligible for assistance under this chapter, an individual eligible for Medicaid under § 67:46:12:16, based on family size determined under the provisions of 42 C.F.R. § 435.603, may not exceed one hundred and thirty-three percent of the federal poverty level, plus five percent of the federal poverty guidelines based on family size for the current year.

Source:

General Authority: SDCL 28-6-1.

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

Cross-References:

Application of modified adjusted gross income (MAGI), 42 C.F.R. § 435.603, in effect on November 30, 2016.

Definitions and use of terms, 42 C.F.R. § 435.4, in effect on November 3, 2022.

Federal poverty level, § 67:11:01:03.