

CHAPTER 67:12:01

ASSISTANCE APPLICATIONS AND ELIGIBILITY

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67:12:01:01. Definitions. ~~Words defined in SDCL 28-7-1 have the same meaning when used in this article. In addition, abbreviations and terms~~ Terms used in this article mean:

(1) "1115 waiver group," those assistance units participating in the demonstration project conducted under the waiver provisions contained in § 1115 of the Social Security Act as in effect on April 1, 1994;

~~(2) "AFDC," aid to families with dependent children;~~

~~—— (3) "AP," the Office of Assistance Payments, Department of Social Services;~~

~~—— (4) "Applicant," an individual who has directly or through an authorized representative applied for AFDC Aid to Families With Dependent Children from the department and whose application has not been terminated;~~

~~(5)(3) "Assistance unit," an individual a recipient or a group of related recipients within a household whose needs are recognized in one AFDC Aid to Families With Dependent Children grant;~~

~~—— (6) "BIA," the Bureau of Indian Affairs;~~

~~(7)(4) "Caretaker relative," a parent or relative with one of the specific degrees of relationship found specified in § 67:12:01:27 who lives in the home and has the actual care and control of the child;~~

~~(8)(5) "Control group," those assistance units not participating in the demonstration project conducted under the waiver provisions contained in § 1115 of the Social Security Act as in effect on April 1, 1994;~~

~~(9)(6)~~ "Deeming," the process in which income and resources are attributed to another person whether or not the income and resources are actually available to the ~~second~~ other person;

~~(10)(7)~~ "Department," the Department of Social Services;

(8) "Dependent child," an individual who:

(a) Is under the age of eighteen, or age eighteen if a full-time student in a secondary school, or in the equivalent level of vocational or technical training program, and reasonably expected to graduate or complete the program before reaching age nineteen;

(b) Is living in the home of a parent or a caretaker relative; and

(c) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent;

~~(11)(9)~~ "Earned income exemption," ~~or "exemption,"~~ the amount determined according to § 67:12:05:14 ~~which is used to offset the individual's earned income and is considered an incentive for working;~~

~~(12) "Income exclusions," or "exclusions," income which is never considered in determining eligibility or the amount of the AFDC grant;~~

~~(13) "JOBS," job opportunity and basic skills training program;~~

~~(14) "JTPA," Job Training Partnership Act of 1982;~~

~~(15) "OASDI," old age survivors disability insurance program;~~

~~(16) "OCSE," the Office of Child Support Enforcement, Department of Social Services;~~

———(17) "~~OCYFS,~~" ~~the Office of Children, Youth, and Family Services in the Department of Social Services;~~

(18)(10) "Medical-only," a medicaid coverage group for an individual who is ineligible for an Aid to Families With Dependent Children cash payment but is eligible for medicaid coverage under article 67:46 because they meet certain other criteria;

———(11) "Parent caretaker relative," a natural parent, adoptive parent, or stepparent who lives in the home and has the actual care and control of a child for whom AFDC Aid to Families With Dependent Children is applied for or received, except for an Indian stepparent in Indian country, as defined in SDCL 1-1-12, who is under the exclusive jurisdiction of a tribe for purposes of determining the domestic relations rights of the family;

———(19) "~~Participating in a strike,~~" ~~actual refusal, in concert with others, to provide services to one's employer;~~

(20)(12) "Recipient of AFDC Aid to Families With Dependent Children," an individual eligible for AFDC Aid to Families With Dependent Children assistance under article 67:12 whose needs are budgeted to determine the amount of the AFDC Aid to Families With Dependent Children cash payment;

———(21) "~~Recipients of AFDC medical only,~~" ~~individuals who are ineligible for an AFDC cash payment but are eligible for Medicaid coverage under article 67:16 because they meet certain other criteria;~~

———(22) "~~SMI,~~" ~~supplemental medical insurance;~~

~~(23)~~(13) "Sponsor," a person, agency, or organization that executed an affidavit of support or similar agreement ~~in~~ on behalf of an alien as a condition of the alien's entry into the United States;

———~~(24)~~ "SSI," ~~supplemental security income;~~

~~(25)~~(14) "Standard earned income deduction," or "deduction," the deduction for personal expenses according to § 67:12:05:18 associated with employment;

~~(26)~~(15) "Strike," a work stoppage, including a work stoppage due to the expiration of a collective bargaining agreement, or deliberate slowdown or interruption of operations by a body of workers to enforce compliance with demands made on an employer; and

~~(27)~~(16) "Student's income," either the earned income of a child who is at least a part-time student attending a school, college, or university or a course of vocational or technical training designed to fit the child for gainful employment or the earned income of a child who is a participant in the job corps program under ~~JTPA;~~ and

———~~(28)~~ "VR," ~~vocational rehabilitation~~ the Job Training Partnership Act of 1982.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 3 SDR 40, effective November 30, 1976; 4 SDR 10, effective August 28, 1977; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, 7 SDR 120, effective July 1, 1981; 8 SDR 82, effective January 13, 1982; 8 SDR 95, effective February 18, 1982; 8 SDR 174, effective June 28, 1982; 9 SDR 24, effective September 2, 1982; 9 SDR 42, effective October 10, 1982; 9 SDR 148, effective May 26, 1983; 10 SDR 144, effective July 1, 1984; 12 SDR

112, effective January 16, 1986; 17 SDR 53, effective October 16, 1990; 20 SDR 196, effective May 23, 1994.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-2~~ 28-6-1.

Collateral Reference: Indian stepparents, Arlis Iron Heart v James Ellenbecker and Otis R. Bowen, M.D., U.S. District Court for the District of South Dakota, Central Division, Civil Action No. 86-3057.

67:12:01:02. Application -- Inquiry. ~~An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance. Such inquiry may be followed by a written application pursuant to SDCL 28-7-5~~ Repealed.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

~~———— **General Authority:** SDCL 28-7-2.~~

~~———— **Law Implemented:** SDCL 28-6-5, 28-7-5.~~

67:12:01:03. Signed application. ~~In addition to SDCL 28-7-5, the~~ The department shall require an application for assistance, signed under a penalty of perjury. The application ~~shall~~ must be signed by the applicant or the applicant's authorized representative or, if the applicant is incompetent or incapacitated, by someone acting for the applicant.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL 28-6-1, 28-6-5, ~~28-7-5~~.

Cross-Reference: Application signed under penalty of perjury, 45 C.F.R. § 206.10(a)(1)(ii).

67:12:01:03.01. Client has right to be assisted or represented. The applicant or recipient may be assisted or represented by an individual of the applicant's or recipient's choice during the application process, redetermination of eligibility, and any other contacts with the department.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2, 28-7-5~~ 28-6-1.

67:12:01:05. Method of determining initial and continuing eligibility. Initial and continuing eligibility for assistance payments ~~shall be~~ is based on factual statements submitted by the assistance unit. Verification through personal contacts or home visits is required for ~~selected items such as~~ living arrangements, family composition, school enrollment, resources, and all income. Initial or continued eligibility may also depend on a professional or administrative determination of incapacity and whether training, employment, or cooperation with ~~OCSE~~ the Office of Child Support Enforcement was refused for good cause. The department shall also maintain a ~~system of~~ quality control ~~which shall~~ system to sample ~~case actions to determine~~ completed initial and continuing eligibility ~~and shall test the reliability of determinations to verify~~ client information, review agency actions, and ensure conformity with the state plan.

Source: SL 1975, ch 16, § 1; 1 SDR 53, effective January 22, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 204, effective July 1, 1986.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2, 28-7-7, 28-7-9~~ 28-6-1.

Cross-References:

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

Applicant or recipient to establish good cause, § 67:12:01:66.02.

~~—— Job opportunities and basic skills, ch 67:12:09.~~

67:12:01:06. Determination of eligibility within-45 forty-five days. ~~A decision shall be made~~ The department shall make an eligibility determination as soon as possible on applications; ~~however, the~~ The period between the date of the signed application and the date that the assistance check or notification of denial of assistance is mailed to the applicant ~~shall~~ may not exceed ~~45 calendar~~ forty-five days, except in ~~situations defined~~ circumstances described in § 67:12:01:08.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-7~~ 28-6-1.

67:12:01:06.01. Applicant to provide information promptly. Information and verifications needed to determine initial eligibility must be provided by the applicant no later than ~~35~~ thirty-five days from the date of the signed application, except in ~~situations defined~~ circumstances described in § 67:12:01:08.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: ~~28-7-2~~ SDCL 28-6-1.

Law Implemented: ~~28-7-7~~ SDCL 28-6-1.

Cross-Reference: Cooperation of applicant or recipient, § 67:12:01:70.

67:12:01:07. Prompt determination of continuing eligibility. ~~Circumstances which affect eligibility or extent of entitlement shall be promptly reflected in a terminated or adjusted~~ The department must terminate or adjust a payment no later than the second month following the month ~~in which~~ when the change of circumstances ~~occurred~~ that affects eligibility or extent of entitlement occurs, unless a hearing has been requested.

Source: SL 1975, ch 16, § 1; 2 SDR 62, effective April 5, 1976; 2 SDR 88, effective July 1, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-18~~ 28-6-1.

Cross-Reference: Continuance of aid pending hearing decision, § 67:12:02:09

67:12:01:08. Proper application of time standards. Time standards set by §§ 67:12:01:06 ~~and to 67:12:01:07 shall, inclusive~~ apply when determining ~~AFDC Aid to Families With Dependent Children (AFDC)~~ eligibility or AFDC continuing eligibility for services. ~~The administration of time standards does~~ do not apply ~~in when~~ circumstances ~~which beyond the control of the applicant, recipient, or the department~~ prevent the department from reaching a prompt decision on AFDC eligibility or AFDC continuing eligibility ~~and which are beyond the control of the applicant, recipient, and the department. These~~ The department shall record the circumstances ~~shall be recorded~~ in the case record. ~~The department's standard for promptness for acting on applications or redetermining eligibility shall~~ time standards for determining AFDC eligibility or AFDC continuing eligibility may not be used as a waiting period before granting aid, or as a basis for denial of an application or for termination of assistance.

Source: SL 1975, ch 16, § 1; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL 28-7-9~~ 28-6-1.

Cross-Reference: Cooperation of applicant or recipient, § 67:12:01:70.

67:12:01:09. Case record to contain facts on eligibility decisions. The department shall note the applicant's or recipient's case record ~~shall contain~~ of supportive facts for each decision regarding eligibility or ineligibility. ~~The only exceptions to this requirement are in the application process~~ except when:

(1) The applicant voluntarily withdraws the application, and there is an entry in the case record that a notice has been sent to confirm the applicant's notification to the agency that the applicant ~~does not desire to pursue~~ has withdrawn the application; or

(2) There is an entry in the case record that the applicant died or could not be located and ~~that the application has consequently been disposed of~~ is deemed withdrawn.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-9, 28-7-18~~ 28-6-1.

67:12:01:10. Applicants to be informed in writing and orally. ~~Applicants~~ The
department shall be informed inform an applicant about eligibility requirements and
conditions, coverage, scope of program, related services available, and the rights and
responsibilities of applicants and recipients. This information ~~shall~~ must be given in
written form and orally, as appropriate, and ~~shall~~ must be publicized in pamphlets or
bulletins.

Source: SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66,
7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-9~~ 28-6-1.

67:12:01:11. Date entitlement for financial assistance begins. Entitlement for financial assistance may not begin before the date of application. ~~Payment~~ The department shall issue a payment for the remainder of the month ~~shall be made~~ if the assistance unit meets all eligibility conditions.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 9 SDR 72, effective December 14, 1982; 21 SDR 172, effective April 3, 1995.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-9~~ 28-6-1.

Cross-References:

Signed application, § 67:12:01:03.

Application, determination of eligibility and furnishing assistance, ~~45 C.F.R. § 205.10(e)(6)~~ 45 C.F.R. § 206.10.

General provisions regarding coverage and eligibility, 45 C.F.R. § 233.10(b)(3).

Determination of initial month's benefits, § 67:12:06:38.01.

67:12:01:12. Recipient to report change of circumstances. The recipient ~~must~~ shall report any material change of circumstances affecting eligibility to the department within ~~10~~ ten days after the date the change occurred. In addition, a recipient ~~must~~ shall report to the department any anticipated material changes as soon as the recipient becomes aware of them. The recipient ~~must~~ shall also report these changes on the next monthly report required by § 67:12:06:34.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 4 SDR 10, effective August 28, 1977; 7 SDR 30, effective October 5, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 8 SDR 125, effective April 4, 1982.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-4, 28-7-9~~ 28-6-1.

~~**Cross-References**~~ **Cross-Reference:** ~~Completed monthly report form required, § 67:12:06:34;~~ Timely and accurate reporting of changes, 45 C.F.R. § 206.10(a)(2)(ii).

67:12:01:13. Full determination of continuing eligibility. The department shall make a full determination of continuing eligibility and extent of entitlement at least once every ~~12~~ twelve months for those ~~ADC recipients~~ Aid to Families With Dependent Children (AFDC) assistance units who are required to report monthly under § 67:12:06:34 and at least once every ~~6~~ six months for those ~~ADC recipients~~ AFDC assistance units who are exempt from monthly reporting under § 67:12:06:34.01.

Source: SL 1975, ch 16, § 1; 3 SDR 40, effective November 30, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 9 SDR 24, effective September 2, 1982; 10 SDR 144, effective July 1, 1984; 12 SDR 204, effective July 1, 1986; 15 SDR 203, effective July 2, 1989.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-18~~ 28-6-1.

67:12:01:14. Citizenship and alienage. In addition to meeting the eligibility criteria under this article, a person must be a resident of the United States and either a citizen or national or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Aliens granted lawful temporary resident status are ineligible for ~~AFDC~~ Aid to Families With Dependent Children (AFDC) for a period of five years from the effective date of ~~such~~ the status. This period of ineligibility continues throughout the five-year period even if the temporary status changes to permanent status.

Effective October 1, 1988, as a condition of eligibility for AFDC, an individual must declare in writing whether the individual is a citizen or national of the United States. If the individual is not a citizen or national of the United States, the individual must declare in writing whether the individual is in satisfactory immigration status and provide the department with documents that confirm the immigration status.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 95, effective February 18, 1982; 15 SDR 67, effective November 6, 1988.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2~~ 28-6-1.

Cross-Reference: Citizenship and alienage, 45 C.F.R. § 233.50.

67:12:01:14.01. Deeming of sponsor's income and resources to alien when sponsor is an individual -- Cooperation of sponsor is condition of eligibility. If the alien's sponsor is an individual, the income and resources of the sponsor and the sponsor's spouse, if any, are deemed to be the unearned income and resources of the alien.

The alien must obtain the cooperation of the sponsor for purposes of determining the income and resources that can be available to the alien. An alien who is unable to obtain this cooperation is ineligible for assistance.

This section applies to an alien whose first application for assistance is received after September 30, 1981, and applies for a period of three consecutive years following the date the alien entered the United States.

Source: 8 SDR 95, effective February 18, 1982; 12 SDR 112, effective January 16, 1986.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-4~~ 28-6-1.

Cross-References:

_____ ~~Deeming of sponsor's income and resources to the sponsored alien~~ Eligibility of sponsored aliens, 45 C.F.R. § 233.51;

_____ Aliens exempt from sponsor deeming, § 67:12:01:14.02.

67:12:01:14.02. Aliens exempt from sponsor deeming.~~Aliens~~ An alien who ~~meet~~ meets the following requirements—~~are~~ is exempt from complying with §§ 67:12:01:14.01 and 67:12:01:14.03:

(1) ~~An alien who has been granted asylum~~ asylee or admitted as a refugee under sections 203(a)(7), 207(c), 212(d)(5), or 208 of the Immigration and Nationality Act: of 1952, Pub. L. No. 82-414, § 101, 66 Stat. 163, 167 (1952) (codified as amended at 8 U.S.C. § 1101);

(2) A Cuban or Haitian entrant, as defined in ~~section 501(e)~~ of the Refugee Education Assistance Act of 1980 ~~(, Pub. L. No. 96-422), § 501(e), 94 Stat. 1809 (1980);~~
or

(3) The dependent child of the sponsor or the sponsor's spouse.

Source: 8 SDR 95, effective February 18, 1982; 9 SDR 114, effective March 6, 1983; 12 SDR 112, effective January 16, 1986.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-4~~ 28-6-1.

Cross-Reference: ~~Deeming of sponsor's income and resources to the sponsored alien~~ — ~~Certain aliens exempt from complying~~ Eligibility of sponsored aliens -- exemptions, 45 C.F.R. § 233.51(g).

67:12:01:14.03. Eligibility of alien sponsored by public or private organization or agency -- Cooperation of sponsor is condition of eligibility. If the alien's sponsor is a public or private agency or organization, the alien is ineligible for assistance for a period of three consecutive years following entry for permanent residence into the United States, unless the department determines that the agency or organization no longer exists or has become unable to meet the alien's needs.

The alien is responsible for providing the information and documentation necessary for the department to determine eligibility and for obtaining the cooperation of the sponsor, if necessary. An alien who is unable to obtain the sponsor's cooperation is ineligible for assistance.

This section applies to an alien whose first application for assistance is received after September 30, 1984.

Source: 12 SDR 112, effective January 16, 1986.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-4~~ 28-6-1.

Cross-References: ~~Deeming of sponsor's income and resources -- Sponsor is a public or private agency or organization~~

_____ Eligibility of sponsored aliens, 45 C.F.R. § 233.51(e);

_____ Aliens exempt from sponsor deeming, § 67:12:01:14.02.

67:12:01:15. Determination of residence of child in ~~AFDC~~ Aid to Families With Dependent Children program. For the ~~AFDC~~ Aid to Families With Dependent Children program, a child is a resident of the state ~~in which~~ where the caretaker relative is a resident. The caretaker relative is considered a resident of the state of South Dakota when physically present in the state with an expressed intent to remain, when entering the state with a job commitment, or when seeking employment in the state, whether or not currently employed in the state ~~of South Dakota~~.

Source: SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-3~~ 28-6-1.

Cross-Reference: ~~Residency requirements, 45 C.F.R. §§ 233.40(a)(1)(i) and 233.40(a)(1)(i) Residence, 45 C.F.R. § 233.40(a)(1).~~

67:12:01:16. Residence determination for applicants or recipients who leave the state. The following circumstances ~~shall~~ must be considered when determining the residence of, and the conditions of payments for, ~~applicants or recipients~~ an applicant or recipient who ~~leave~~ leaves the state:

(1) An applicant or recipient who leaves the state voluntarily is considered a resident of the state ~~to which~~ where the applicant or recipient moves, unless the applicant or recipient declares an intention to return to South Dakota. An applicant or recipient who leaves ~~the state~~ South Dakota involuntarily, such as ~~an incompetent~~ a person with an intellectual disability or a child, ~~shall be regarded as retaining~~ retains residence in South Dakota until eligibility is established for assistance in another state;

(2) If a recipient meets residence requirements in another state but delays unreasonably in applying for assistance or if the recipient meets residence requirements of and applies in another state but the application is rejected, assistance from South Dakota ~~shall~~ must be terminated;

(3) If the recipient expects to be ~~outside the state for a temporary period of time~~ temporarily absent from the state, the provisions of § 67:12:01:50 apply; and

(4) If a recipient has lived ~~long enough~~ in another state long enough to indicate that the absence is not temporary and ~~is coupled with a declaration of the recipient~~ declares an intent to make that state the recipient's home, the caseworker ~~shall request that~~ must refer the recipient ~~contact~~ to the other state agency ~~for the purpose of applying to apply~~ for assistance. Assistance from South Dakota ~~shall~~ must be continued, ~~if necessary, for not more than up to three months after the referral is made to give the other state ample time to process an application for assistance.~~

Source: SL 1975, ch 16, § 1; 3 SDR 52, effective January 27, 1977; 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-3, 28-7-9~~ 28-6-1.

67:12:01:17. Eligibility of applicant or recipient who receives assistance from another state. An applicant or recipient who receives assistance from another state ~~which covers for~~ the same need is not ~~considered a resident of South Dakota. This individual is not~~ eligible for ~~AFDC~~ Aid to Families With Dependent Children from the department in any period for which assistance is received from the other state.

Source: SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 112, effective January 16, 1986; 13 SDR 193, effective June 22, 1987.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-9, 28-7-18~~ 28-6-1.

67:12:01:18. Termination to result if caseworker cannot locate recipient or applicant. If the caseworker cannot locate a recipient, assistance—~~shall~~ must be terminated. If the caseworker cannot locate an applicant, the application—~~shall~~ must be rejected.

Source: SL 1975, ch 16, § 1; 4 SDR 10, effective August 28, 1977; 7 SDR 30, effective October 5, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-18~~ 28-6-1.

67:12:01:19. Age requirements for ~~AFDC~~ Aid to Families With Dependent Children. A child may be eligible for ~~AFDC~~ Aid to Families With Dependent Children if the child is a dependent ~~according to SDCL 28-7-1(2)~~. The department shall consider that a child has advanced one year in age at 12:01 a.m. on the anniversary of the child's birth.

Source: SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 68, effective January 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:21. "Regularly attending school" defined. A child may be considered a student regularly attending a school or training course if:

(1) The child is enrolled in and physically attending a full-time ~~(as certified by the school or institute attended)~~ program of study or training leading to a certificate, diploma, or degree, as certified by the school or institute attended;

(2) The child is enrolled in and physically attending at least ~~half-time (as certified by the school or institute attended)~~ half-time a program of study or training leading to a certificate, diploma, or degree, as certified by the school or institute attended, and is regularly employed in or available for and actively seeking part-time employment; or

(3) The child is enrolled in and physically attending at least ~~half-time (as certified by the school or institute attended)~~ half-time a program of study or training leading to a certificate, diploma, or degree, as certified by the school or institute attended, and is precluded from full-time attendance or part-time employment because of a verified physical-handicap disability.

A child is considered in regular attendance in ~~the months in which~~ when the child is not attending because of official school or training program vacation if there is an intent and a plan to attend an educational institute within the next three months; and in the months when the child is unable to attend because of illness, convalescence, or family emergency; ~~and~~ A child is also considered in regular attendance for the month the child discontinues school or the training program.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:22. "Full-time" and "half-time" student defined. Full-time and half-time attendance are defined as follows:

(1) In a trade or technical school, ~~in a program involving shop practice,~~ full time is ~~30~~ thirty clock hours per week and half time is ~~15~~ fifteen clock hours;

(2) In a trade or technical school program without shop practice, full time is ~~25~~ twenty-five clock hours per week and half time is ~~12~~ twelve clock hours per week;

(3) In a college or university, full time is ~~12~~ twelve semester or quarter hours and half time is ~~8~~ eight semester or quarter hours;

(4) In a secondary school, full time is ~~25~~ twenty-five clock hours per week or ~~4~~ four Carnegie units per year and half time is ~~12~~ twelve clock hours or ~~2~~ two Carnegie units; and

(5) In a secondary education program of cooperative training or in apprenticeship training, full-time attendance ~~shall be~~ is as defined by the ~~division of elementary and secondary education regulation or policy~~ Department of Education.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:23. Medical-only coverage for certain children and pregnant women. The following individuals are eligible for ~~AFDC~~ Aid to Families With Dependent Children (AFDC) medical-only services provided under article ~~67:16~~ 67:46:

(1) A pregnant woman who meets the AFDC income and resource requirements of an assistance unit composed of the pregnant woman, her unborn child, and, if living in the home, the pregnant woman's spouse and any other family member who is applying for or receiving medical-only assistance under this section. At the family's option, any other household member who could be included in an AFDC assistance unit may be included in the determination. The pregnancy must be verified by a licensed or certified physician, physician's assistant, nurse practitioner, nurse midwife, community health nurse, or family planning nurse. Eligibility continues throughout the pregnancy without regard to income changes;

(2) A woman who applied for ~~Medicaid~~ medicaid while pregnant and who was eligible for and received ~~Medicaid~~ medicaid on the date the pregnancy ended. Eligibility continues to the end of the month ~~60~~ sixty days after the pregnancy ends if the AFDC resource limit is not exceeded. Coverage is limited to postpartum care and family planning services;

(3) A child under age seven, if the AFDC assistance unit meets the AFDC income and resource requirements. The AFDC assistance unit ~~includes~~ comprises the child, the child's parents living in the home, and any other family member who is applying for or receiving medical-only assistance under this section. At the family's option, any other household member who could be included in an AFDC assistance unit may be included in the determination;

(4) A dependent child of a minor parent who is ineligible for AFDC because of the deeming of the income of the minor parent's parent or the income of a sibling of the child;

(5) A child under age six, whose family income is up to ~~133~~ one hundred thirty-three percent of the federal poverty level established in § 67:11:01:03. Eligibility continues up to age six as long as the family income remains below one hundred thirty-three percent of the federal poverty level. Persons considered in the determination ~~include~~ are the child and any parents of the child living in the household as well as any other family member who is applying for or receiving medical-only assistance under this section. At the family's option, any other household member who could be included in an AFDC assistance unit may be included in the determination. Income is determined according to AFDC eligibility criteria;

(6) A pregnant woman whose family income is up to ~~133~~ one hundred thirty-three percent of the federal poverty level established in § 67:11:01:03. Eligibility continues throughout the pregnancy and to the end of the month ~~60~~ sixty 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. The pregnancy must be verified by a licensed or certified physician, physician's assistant, nurse practitioner, nurse midwife, community health nurse, or family planning nurse. Persons considered in the poverty level determination include the pregnant woman, her unborn child, and, if living in the home, the pregnant woman's spouse and any other family member who is applying for or receiving medical-only assistance under this section. At the family's option, any other household member who could be included in an

AFDC assistance unit may be included in the income determination. Income is determined according to AFDC eligibility criteria;

(7) A child who is age ~~6~~ six but not yet age ~~19~~ nineteen, whose family income is up to ~~100~~ one hundred percent of the federal poverty level established in § 67:11:01:03. Persons considered in the determination ~~include~~ are the child and the child's parents living in the home and other family members in the household who are applying for or receiving medical-only assistance under this section. At the family's option, any other household member who could be included in the AFDC assistance unit may be included in the income determination. Income is determined according to AFDC eligibility criteria; and

(8) A child born ~~after December 31, 1990~~, to a woman eligible for and receiving ~~Medicaid~~ medicaid on the date of the child's birth. Eligibility continues for up to one year as long as the child is in the mother's household and the mother remains a resident of the state.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 8 SDR 82, effective January 13, 1982; readopted, 8 SDR 174, effective June 28, 1982; 12 SDR 4, effective July 21, 1985; 12 SDR 112, effective January 16, 1986; 13 SDR 193, effective June 22, 1987; 15 SDR 2, effective July 17, 1988; 15 SDR 171, effective May 15, 1989; 17 SDR 8, effective July 23, 1990; 17 SDR 200, effective July 1, 1991; 19 SDR 68, effective November 9, 1992; 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.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-2~~ 28-6-1.

Cross-References:

Medicaid coverage for children and pregnant women, Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 2361, 98 Stat. 1104 (1984).

Individuals who must be included in assistance unit, § 67:12:01:69.

Consideration of income of parent of minor parent, § 67:12:05:52.01.

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

67:12:01:25. Beginning of eligibility when only year of birth known. If the age verification establishes the year but not the month and day of birth, the applicant is eligible for payment effective July 1 first. If the applicant claims a birth date after July 1 first, eligibility for payment begins the first day of the month following the stated month of birth.

Source: SL 1975, ch 16, § 1; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:27. Specific degree of relationship between child and parent or relative. There shall be a specific degree of relationship between a child and a parent or relative in order to be eligible for assistance. This does not include emergency protective or foster care payees. Acceptable degrees of relationship are as follows:

(1) Father, mother, brother, sister, uncle, aunt, first cousin, nephew, or niece, including those of ~~half blood~~ half-blood; relatives of the preceding generation denoted by the prefixes of grand, great, or great-great; first cousin once removed; and great-great-great grandparent;

(2) Stepfather, stepmother, stepbrother, or stepsister;

(3) A person who achieves the degree of relationship specified in subdivisions (1) or (2) by the process of legal adoption; and

(4) Spouses of any of the relatives specified in subdivisions (1), (2) or (3), even though the marriage is terminated by death or divorce.

Source: SL 1975, ch 16, § 1; 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 19 SDR 68, effective November 9, 1992.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL 28-7-1, 28-7-2~~ 28-6-1.

Cross-Reference: ~~Specified~~ Requirement of living with a specified relative, 45 C.F.R. § 233.90(c)(v)(2) 45 C.F.R. § 233.90(c)(1)(v).

67:12:01:29. Deprivation of parental support or care because of continued absence from the home. Continued absence of the parent from the home is regarded as deprivation of parental support ~~pursuant to SDCL 28-7-1~~ or care according to the following criteria:

- (1) The parent is physically absent from the home;
- (2) Facts exist supporting the presumption that the absence will continue for a period longer than ~~30~~ thirty days; and
- (3) ~~The nature of the absence constitutes family dissociation which refers to a substantial severance of marital and family ties and responsibilities resulting~~ results in the child losing or having a substantial reduction of physical care, communication, guidance, and support by at least one of the child's parents, either natural, adoptive, or stepparent.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL 28-7-1~~ 28-6-1.

67:12:01:30. Absence of parent because of employment, seeking employment, or attending school. The absence of a parent from the home for the purposes of seeking employment, actual employment, or attending school is not considered as deprivation of parental support or care unless ~~estrangement from the spouse and children has also occurred to disrupt the family as defined~~ the criteria in § 67:12:01:29 are met.

Source: SL 1975, ch 16, § 1; 4 SDR 60, effective March 26, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:31. Absence of parent due to hospitalization, imprisonment, and deportation. In accordance with the ~~guidelines of~~ criteria in § 67:12:01:29, hospitalization ~~(general or mental)~~, imprisonment, and deportation ~~will be~~ is considered deprivation of parental support. A parent who is a convicted offender serving a court-imposed sentence but permitted to live at home while earning no income and performing unpaid public work or unpaid community service during the work day is considered absent from the home.

Source: SL 1975, ch 16, § 1; 7 SDR 53, effective December 11, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Continued absence of the parent from the home, 45 C.F.R. § 233.90(c)(1)(iii).

67:12:01:32. Absence of parent due to uniformed service. A child who has a parent gone from the home only because the parent is performing active duty for the United States uniformed services is not considered deprived of parental support or care. ~~In this situation, the parent is not considered absent from the home.~~

For purposes of this section, "uniformed services" consist of the ~~army~~ United States Army, ~~navy~~ Navy, ~~air force~~ Air Force, ~~marine corps~~ Marine Corps, ~~coast guard~~ Coast Guard, ~~national oceanographic and atmospheric administration~~ National Oceanographic and Atmospheric Administration, and ~~public health service of the United States~~ Public Health Service.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 144, effective July 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Continued absence of the parent from the home, ~~45 C.F.R. § 233.09(c)(1)(iii)~~ 45 C.F.R. § 233.90(c)(1)(iii).

67:12:01:33. Absence of parent if mother not married to father of child.

When the mother of the child is not and has not been married to the father of the child, ~~the child may be considered deprived of parental support or care by reason of continued~~ absence of either parent from the home may be considered deprivation of parental support or care if the criteria of § 67:12:01:29 are met.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:34. Absence of parent due to divorce or separate maintenance decrees. ~~In accordance with § 67:12:01:29, A divorce or separate maintenance decrees~~
~~constitute~~ decree constitutes deprivation of parental support by continued absence of the
parent from the home if one of the parents leaves the marital home and the criteria of §
67:12:01:29 are met. ~~If, however, both parents continue to live in the home during or~~
~~following the divorce or separate maintenance proceeding, eligibility based on the~~
~~absence of the parent from the home will not exist.~~ If financial need exists while awaiting
a divorce or separate maintenance decree, approval of the application ~~shall~~ may not be
held up pending the completion of ~~such~~ the court actions.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:35. Absence of parent by mutual agreement of separation.~~In~~
~~accordance with § 67:12:01:29, a~~ A mutual agreement of separation shall constitute
deprivation of parental support if the criteria of § 67:12:01:29 are met.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-1~~ 28-6-1.

67:12:01:37. Absence of parent in unstable family situation.~~In accordance with~~ Notwithstanding § 67:12:01:29, in unstable family situations where the absent parent is in and out of the home intermittently and does not function as the provider of maintenance or fails to provide physical care and guidance for the child on a relatively permanent and continuing basis, the child involved is considered ~~dependent~~ deprived of parental support or care within the meaning of the ~~AFDC~~ Aid to Families With Dependent Children program.

Source: SL 1975, ch 16, § 1; 4 SDR 60, effective March 26, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1, 28-7-2~~ 28-6-1.

67:12:01:39. Deprivation of parental support or care because of physical or mental incapacity of parent. Sections 67:12:01:40 to 67:12:01:48, inclusive, implement the ~~SDCL 28-7-1~~ 45 C.F.R. § 233.90(c) (May 19, 1994) eligibility requirement of deprivation of parental support or care by reason of the mental or physical incapacity of parent.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 53, effective October 16, 1990.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL 28-7-1~~ 28-6-1.

67:12:01:40. Determination of incapacity by ~~disability/incapacity~~ disability incapacity consultation team. ~~Determination of~~ The disability incapacity consultation team shall determine eligibility on the basis because of incapacity ~~shall be made by the disability/incapacity consultation team~~ on the basis of medical evidence supplemented by a social history and work history completed by the caseworker. Medical evidence may be a physician's report from the physician's records, a copy of records, or if necessary, the findings of an examination completed for this purpose.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 18 SDR 67, effective October 13, 1991.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Definition of "disability/incapacity consultation team", § 67:16:01:01(7).

67:12:01:41. Definition of "physical or mental incapacity." "Physical or mental incapacity" of a parent exists when one parent has a physical or mental defect, illness, or impairment. The incapacity ~~shall~~ must be supported:

(1) Supported by competent medical testimony ~~and shall be of such a~~;

(2) So debilitating ~~nature~~ as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child; ~~and shall be expected~~

(3) Expected to last for a period of at least ~~30~~ thirty days.

Source: SL 1975, ch 16, § 1; 1 SDR 30, effective October 13, 1974; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:42. Patient's consent for release of medical information. No medical information ~~shall be sought~~ is obtainable without the patient's written consent. The caseworker shall obtain ~~such~~ the consent for release from the patient.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:43. Medical examinations if information not available -- Choice of examiners.~~A~~ The department may request a medical examination of the applicant or recipient may be requested only when medical information is not available from physicians' records and other medical sources to establish mental or physical incapacity. This If requested, the examination, when requested, shall must be completed by a licensed physician, physician's assistant, or nurse practitioner of the applicant's or recipient's choice.~~This can be any physician, physician's assistant, or nurse practitioner licensed in the state of South Dakota or in another state.~~

Source: SL 1975, ch 16, § 1; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-1~~ 28-6-1.

67:12:01:44. Psychiatric reports and records from mental hospital may be sufficient. ~~Psychiatric~~ The department may determine whether an individual is disabled upon review of psychiatric reports and records from a mental hospital ~~may be sufficient for determination of disability without additional medical reports.~~ However, if the patient also has a physical disability, the department must obtain a medical report ~~on this shall also be obtained.~~ If a disability is based on intellectual disability, ~~it is necessary to have a medical report in addition to the~~ and evidence of an intellectual disability ~~for the are necessary for the department to determine initial determination of eligibility.~~ Specific information on mental ability ~~shall~~ must be obtained in all cases ~~in which~~ where the question of mental inadequacy may have a bearing on the eligibility determination. Likewise, copies of records from a mental hospital or reports from mental health clinics ~~shall be considered~~ are important sources of information, and ~~shall~~ must be obtained ~~even though there are additional physical reasons for the application. The exception to this is unless the individual who~~ applicant is so severely physically disabled that eligibility ~~seems to be without question~~ is apparent.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 40 SDR 122, effective January 8, 2014.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:45. Basis for payments for medical examinations and reports --

Authorization required for intensive procedures. Payments for ~~medical~~ medically necessary examinations, x-rays, laboratory tests, and reports ~~shall~~ must be made in compliance with chapter 67:16:02, ~~Physician and other health services.~~ Routine X-ray and laboratory procedures ~~deemed necessary for the disability determination may be included.~~ ~~Prior authorization from the department will be needed to determine if additional X-rays, laboratory tests, or admission to a hospital is~~ The provider shall obtain prior authorization approval from the department if additional services are necessary to determine a disability before supplying services.

Source: SL 1975, ch 16, § 1; 1 SDR 53, effective January 22, 1975; 2 SDR 88, effective July 1, 1976; 17 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

~~———~~ **Reference:** 1965 Relative Value Study and Procedure Nomenclature, prepared by the South Dakota State Medical Association, Sioux Falls, South Dakota (Third Edition January, 1968).

67:12:01:46. Incapacity related to ability to carry full-time job. Incapacity ~~shall~~ must be related to the ability to carry a full-time job ~~which~~ that might reasonably be expected to provide a living for a family. When incapacity permits part-time work only, ~~AFDC shall~~ Aid to Families With Dependent Children (AFDC) may be granted only if there is need and if the family is otherwise eligible. In the case of incapacity when full-time work does not provide fully for the needs of the family group, ~~ADC shall~~ AFDC must be granted for supplementation.

Source: SL 1975, ch 16, § 1; 1 SDR 53, effective January 22, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:48. Parents receiving disability payments under other programs. A parent under the age of sixty five who receives a disability payment through social security disability insurance or ~~SSI under age 65 shall be~~ supplemental security income is regarded as meeting the requirements for incapacity for ~~AFDC~~ Aid to Families With Dependent Children. Before assistance may be granted to children of parents over the age 65 of sixty-five, ~~it shall be necessary to~~ the department must determine that the children are deprived of parental support or care because of the death, continued absence from the home, or physical or mental incapacity of a parent, ~~as in any other application.~~

Source: SL 1975, ch 16, § 1; 1 SDR 53, effective January 22, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:48.01. Eligibility of parents participating in vocational rehabilitation training programs. An incapacitated recipient who is a parent receiving training under the programs offered by the ~~department of vocational rehabilitation~~ Department of Human Services meets the continued incapacity requirements for ~~AFDC~~ Aid to Families With Dependent Children. ~~When such~~ The disability incapacity consultation team shall redetermine a recipient parent's incapacity when the training ceases program ends, a recipient parent's incapacity shall be redetermined based on the criteria established using the sources specified in § 67:12:01:40.

Source: 5 SDR 48, effective December 19, 1978; 5 SDR 102, effective June 6, 1979; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2, 28-7-4~~ 28-6-1.

67:12:01:49. Cessation of incapacity. If the department determines that financial need exists but the disability incapacity consultation team has determined that an incapacity no longer exists, assistance payments may continue for not more than three months. If the previously incapacitated recipient obtains employment during this three-month period, the department ~~shall~~ must apply the earned income exemption according to § 67:12:05:14.

Source: SL 1975, ch 16, § 1; 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; repealed, 17 SDR 53, effective October 16, 1990; readopted, 21 SDR 172, effective April 3, 1995.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1, 28-7-4~~ 28-6-1.

Cross-Reference: Definition of "physical or mental incapacity," § 67:12:01:41.

67:12:01:50. Temporary absence of child or payee relative.~~AFDC~~ Aid to Families With Dependent Children eligibility is not affected if either the child or the payee relative is temporarily absent from the home ~~for the purposes of attending school, visiting, or the like,~~ as long as the payee relative continues to ~~provide;~~

(1) Provide a home to which where the child can return at any time; ~~and the payee also continues to have~~

(2) Have primary responsibility for the major decisions as to the child's discipline and welfare.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:51. Emergency payee. ~~In more~~ the case of a sudden death, desertion, imprisonment, mental health commitment, or other traumatic emergency situations, such as, but not limited to, sudden death, desertion, imprisonment, or commitment to a hospital for the mentally ill of the relative acting as payee, AFDC situation of the relative payee, the Aid to Families With Dependent Children may be continued for a temporary period to persons acting ~~in the emergency~~ for the relative with whom the child was living, provided the following criteria are met:

(1) ~~Payments~~ Payment is on behalf of ~~children~~ a child for whom no relative is immediately responsible ~~shall be made only for children who are recipients of AFDC at the time the emergency occurs and the payment is expended for the child;~~ and

(2) ~~Payments~~ The department shall be made make payments for a temporary period necessary to make and carry out plans for the continuing care and support of the child, ~~including the transfer of responsibility for the child to OCYFS or another agency.~~

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-14~~ 28-6-1.

Cross-Reference: Payments made in emergency situations, 45 C.F.R. § 233.90(c)(2)(iv).

67:12:01:52. Unsuitable home. ~~Payment of AFDC shall not be denied, either initially or subsequently, The department may not deny an Aid to Families With Dependent Children payment because of the conditions~~ condition of the home ~~in which~~ where a child resides unless a court of competent jurisdiction has declared the home unsuitable and provision is made for the care and assistance of the child. When the department has reason to believe that the home ~~in which~~ where a relative and child receiving aid reside is unsuitable because of the neglect, abuse, or exploitation of the child, it will bring the condition to the attention of ~~OCYFS~~ the Division of Child Protection Services.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2~~, 42 U.S.C. § 404(b) 28-6-1.

67:12:01:53. Man not married to mother and living in household. Eligibility for ~~AFDC shall~~ Aid to Families With Dependent Children (AFDC) may not be affected because a man who is not married to the mother is living in the household, unless the man is the acknowledged father of the child or children included in the AFDC grant.

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: "Substitute parent" or "man in the house," 45 C.F.R. § 233.90(a)(1).

67:12:01:54. Inclusion of caretaker relative other than parent in ~~AFDC~~ Aid to Families With Dependent Children grant.

A caretaker relative other than the parent may be included in the grant if the caretaker relative meets the following conditions:

- (1) The caretaker relative is not receiving ~~an SSI~~ a supplemental security income payment or state supplement;
- (2) The caretaker relative's income and that of ~~a~~ the caretaker relative's spouse, if any, is insufficient to meet needs; and
- (3) The caretaker relative and the caretaker relative's spouse do not own real or personal property ~~which~~ that exceed department limits.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 54, effective October 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-References:

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

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

Individuals who must be included in assistance unit, § 67:12:01:69.

67:12:01:55. Eligibility of second parent in ~~AFDC~~ Aid to Families With Dependent Children grant. ~~A~~ The department must include the second parent ~~shall be included~~ in the ~~AFDC~~ Aid to Families With Dependent Children (AFDC) grant if the AFDC household meets all of the following qualifications:

- (1) The second natural or adoptive parent or stepparent is living in the home;
- (2) ~~Eligibility is based on the~~ The incapacity of the natural or adoptive parent or stepparent of one or more of the eligible children or the family is receiving ~~benefits under the unemployed parent program~~ benefits under chapter 67:12:18; and
- (3) The second natural or adoptive parent or stepparent is not excluded from the assistance unit under § 67:12:05:51.

Source: SL 1975, ch 16, § 1; 2 SDR 88, effective July 1, 1976; 3 SDR 52, effective January 27, 1977; 5 SDR 48, effective December 19, 1978; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 21, 1985; 17 SDR 53, effective October 16, 1990.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Needy child deprived by reason of, ~~45 C.F.R. § 233.90(c)(i)~~ 45 C.F.R. § 233.90(c)(1)(i).

67:12:01:57. Confidentiality of client's records. In addition to the South Dakota statutes on confidentiality, a client may request, either personally or by an authorized representative, any information from records pertaining to the client ~~which~~ that the client has given directly to the department ~~directly~~. Information ~~which~~ that has been supplied and obtained by the department from other sources may not be released to the client, unless the person, agency, or organization furnishing the information to the department consents in writing to the release.

For purposes of an ~~AFDC~~ Aid to Families With Dependent Children fair hearing, a claimant or a representative of the claimant must have an opportunity, before the date of the hearing and during normal office hours, to examine the contents of the claimant's case record and all documents and records to be used by the department at the hearing ~~before the date of the hearing as well as during the hearing.~~

Source: SL 1975, ch 16, § 1; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-1-50~~ 28-1-32.

Law Implemented: SDCL 28-1-32.

67:12:01:60. Date of entitlement for medical coverage. Medical assistance may begin as early as the first day of the third month prior to the month of application for ~~AFDC~~ Aid to Families With Dependent Children (AFDC) in accordance with ~~§ 67:16:01:03~~ 67:46:01:03. Determination of AFDC eligibility for possible retroactive medical assistance ~~shall~~ must be in accordance with the guidelines established in chapters 67:12:01, 67:12:04, and 67:12:05.

Source: 1 SDR 53, effective January 22, 1975; 4 SDR 60, effective March 26, 1978; 7 SDR 66, 7 SDR 89, 7 SDR 120, effective July 1, 1981.

General Authority: SDCL 28-6-1, ~~28-7-2~~.

Law Implemented: SDCL ~~28-6-4~~ 28-6-1.

Cross-Reference: Determination of Medicaid eligibility -- Effective date, ~~42~~ C.F.R. § 435.914 42 C.F.R. § 435.915.

67:12:01:61.01. Continued medical coverage -- Child support. ~~Recipients~~ A recipient who ~~become~~ becomes ineligible for financial assistance because of child or spousal support collected by ~~OCSE in the department on~~ behalf of a member of the assistance unit ~~continue,~~ continues to be eligible for ~~AFDC~~ Aid to Families With Dependent Children (AFDC) medical only services provided under article ~~67:16~~ 67:46 if AFDC has been received in at least three of the six months preceding ineligibility. Eligibility for medical services continues for a period of four ~~calendar~~ months beginning with the month of ineligibility.

Source: 12 SDR 4, effective July 21, 1985; 15 SDR 67, effective November 6, 1988.

General Authority: SDCL 28-6-1, ~~28-7-2~~.

Law Implemented: SDCL 28-6-1, ~~28-7-2~~.

Cross-Reference: Extension of eligibility under Title XIX when support collection results in termination of AFDC eligibility, Child Support Enforcement Amendments of 1984, Pub. L. No. 98-378, § 20, 98 Stat. 1322 (1984).

67:12:01:62. Incapacity based on blindness or visual impairment -- Medical findings required. ~~Aid to families with dependent children~~ Families With Dependent Children assistance may be granted to a child whose parent suffers from physical incapacity because of blindness or visual impairment. ~~Physical incapacity because of blindness or visual impairment shall be supported by professional medical findings. The physician's report and evaluation and a complete social and work history shall point out~~ To conclude the parent suffers from a physical incapacity, the disability incapacity consultation team must, based upon a review of sources described in § 67:12:01:40, find that the incapacity is of such a so debilitating degree that it reduces substantially or eliminates the parent's ability to support or care for the otherwise eligible child. A determination of incapacity shall be made by the disability/incapacity disability incapacity consultation team as provided in § 67:12:01:40. ~~Any~~

Notwithstanding this section, any parent who meets the definition of blindness a blind individual as defined under the SSI supplemental security income, social security disability insurance, or supplemental security income disability program has established conclusive proof of physical incapacity due to blindness.

Source: 1 SDR 66, effective April 3, 1975; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 18 SDR 67, effective October 13, 1991.

General Authority: ~~SDCL-28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL-28-7-1~~ 28-6-1.

Cross-References:

Definition of ~~blindness~~ a blind individual, 42 U.S.C. § 1382c(a)(2).

Definition of terms, ~~42~~ 45 C.F.R. § 233.80.

Physical or mental incapacity, ~~42 C.F.R. § 233.90(6)(iv)~~ 45 C.F.R. § 233.90(c)(1)(iv).

67:12:01:66. Cooperation of caretaker relative as condition of eligibility.

Applicants for, or recipients of, ~~AFDC~~ Aid to Families With Dependent Children shall cooperate with the department in identifying and locating the absent parent or parents of, obtaining child support payments for, or establishing paternity of a dependent child, or obtaining any other payments or resources legally due to the applicants or recipients. Refusal by the caretaker relative to comply with this requirement renders the caretaker relative ineligible for assistance. However, the children are eligible to receive assistance payments under a protective payee arrangement as defined in chapter ~~67:12:08~~ 67:10:07.

Source: 2 SDR 2, effective July 16, 1975; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:66.01. Cooperation of applicant or recipient not required.~~The~~
~~provision of §~~ Section 67:12:01:66 ~~shall~~ does not apply to an applicant or recipient who
can establish good cause for refusing to cooperate with the department in identifying and
locating the absent parent or parents, obtaining support payments, establishing paternity,
or obtaining any other payments or resources legally due the applicant or recipient.

Source: 12 SDR 4, effective July 21, 1985; 15 SDR 67, effective November 6,
1988.

General Authority: SDCL 28-6-1,~~28-7-2~~.

Law Implemented: SDCL 28-6-1,~~28-7-2~~.

67:12:01:66.02. Applicant or recipient to establish good cause. For the purposes of § 67:12:01:66.01, the applicant or recipient may establish good cause when evidence of one or more of the following situations is presented to the department and the department decides that it would not be in the best interest of the child or caretaker relative to require compliance with § 67:12:01:66:

(1) The child for whom support is sought was conceived as a result of incest or forcible rape;

(2) Legal proceedings for the child's adoption are pending in court;

(3) ~~Physical or emotional harm can reasonably be expected to come to the~~ The child for whom support is being sought can reasonably be expected to experience physical or emotional harm from the absent parent or parents if cooperation with § 67:12:01:66 is required;

(4) ~~Physical or emotional harm can reasonably be expected to come to the~~ The mother or other caretaker relative with whom the child is living which can reasonably be expected to experience physical or emotional harm from the absent parent or parents if cooperation with § 67:12:01:66 is required that would significantly reduce her the caretaker's capacity to care for the child; or

(5) A licensed public or private social agency is currently assisting the applicant or recipient to decide whether a child should be kept or relinquished for adoption and this assistance has not exceeded three months.

Source: 5 SDR 48, effective December 19, 1978; 5 SDR 102, effective June 6, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-6~~ 28-6-1.

67:12:01:66.03. Applicant or recipient to provide timely evidence -- Extensions -- Failure to respond. An applicant or recipient who submits a written good cause claim shall provide confirming evidence within ~~20~~ twenty days after the day the claim was made to the department. An extension of time ~~shall be~~ is allowed if the department determines that the applicant or recipient requires the extension because of difficulty in obtaining evidence. If the ~~client~~ applicant or recipient does not respond within ~~20~~ twenty days or within the extension period, when allowed, the department ~~shall~~ must determine that good cause does not exist and the notice requirements of § 67:12:01:66.08 shall apply.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:66.04. Evidence of good cause. To meet the requirements of § 67:12:01:66.02, the department shall accept any of the following as evidence of good cause:

(1) Birth certificates or medical or law enforcement records ~~which~~ that indicate ~~that~~ the child was conceived as a result of incest or forcible rape;

(2) Court documents or other records ~~which~~ that indicate ~~that~~ legal proceedings for adoption are pending in court;

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records ~~which~~ that indicate that the alleged or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(4) Medical records ~~which~~ that indicate the emotional health history and present health status of the caretaker relative or the child for whom support should be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child would be negatively affected by compliance with § 67:12:01:66;

(5) A written statement from a public or private agency confirming that the caretaker relative is being assisted in ~~resolving the issue of whether to keep or give the child~~ deciding whether a child should be kept or relinquished for adoption; or

(6) Sworn statements from individuals, other than the applicant or recipient, with knowledge of the circumstances ~~which~~ that provide a basis for the good cause claim.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-6~~ 28-6-1.

67:12:01:66.05. Department to investigate good cause claims. The department may investigate any good cause ~~claims; however, the~~ claim. The department shall investigate ~~all~~ any good cause ~~claims~~ claim believed to be credible based on anticipated physical harm ~~whenever the following circumstances exist:~~

———~~(1) The~~ if the claim of physical harm cannot be supported by the evidence; ~~and~~

———~~(2) The department believes the claim is credible.~~

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:66.06. Additional evidence may be required. If the department ~~decides to request~~ requests additional evidence ~~as of the types~~ specified in § 67:12:01:66.04 to determine good cause, the department ~~shall~~ must promptly notify the applicant or recipient and shall specify the types of documents needed. Upon request, the department shall ~~provide advice to~~ assist the applicant or recipient ~~on~~ by advising how to obtain the documents, and ~~the department shall~~ attempt to obtain documents the applicant or recipient ~~is~~ cannot reasonably ~~unable to~~ obtain without assistance.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:66.07. Departmental contact with absent parent. ~~While conducting~~
In a good cause investigation, ~~the department may determine that it is necessary to~~
~~contact the absent parent. Before~~ before contacting the absent parent, the department shall
notify the applicant or recipient of its intention to contact the absent parent ~~and shall~~
~~allow.~~ After notice, the department may not contact the absent parent if the applicant or
recipient ~~to~~:

- (1) ~~Present~~ Provides additional information or evidence that good cause exists;
 - (2) ~~Decide~~ Decides not to receive assistance;
 - (3) ~~Withdraw~~ Withdraws the good cause claim;
 - (4) ~~Request~~ Requests a hearing; or
 - (5) ~~If~~ Removes the child from the application if the child is not required to be a
part of the assistance unit according to § 67:12:01:69, ~~have the child removed from the~~
~~application.~~
- ~~—— The department shall not contact the absent parent if the applicant or recipient~~
~~chooses to exercise any of the above options.~~

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective
July 1, 1981; 8 SDR 58, effective November 29, 1981; 11 SDR 54, effective October 3,
1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:66.08. Department to determine good cause and notify applicant or recipient -- Contents of notice. Based on the evidence supplied by the applicant or recipient under § 67:12:01:66.04, or the department's own investigation as specified in § 67:12:01:66.05, or a combination of both, the department shall determine whether good cause exists. If the department determines that good cause does not exist, ~~the client shall~~ applicant or recipient must be notified according to §§ 67:12:02:01 and 67:12:02:02. The notice ~~shall~~ must afford the ~~client~~ applicant or recipient the opportunity to agree in writing to cooperate; withdraw the application; have the case closed; request a hearing; or, if the child is not required to be a part of the assistance unit according to § 67:12:01:69, have the child removed from the application. The notice ~~shall include~~ must contain a statement that the ~~client's~~ applicant or recipient's refusal to cooperate will result in ineligibility for assistance.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 11 SDR 54, effective October 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

Cross-Reference: Cooperation of caretaker relative as a condition of eligibility, § 67:12:01:66.

67:12:01:66.09. Appeal of good cause determination. If the applicant or recipient disagrees with the ~~department~~ department's determination arrived at under § 67:12:01:66.08, the applicant or recipient may appeal the ~~department's~~ determination by requesting a fair hearing under the provisions of chapter 67:17:02.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-6.

67:12:01:66.10. Criteria for basing good cause on emotional harm.~~A~~ The department may make a finding of good cause based on emotional harm~~shall be determined~~ upon a demonstration of emotional impairment that substantially affects the applicant's or recipient's functioning. The following~~shall~~ must be considered in determining emotional harm:

- (1) The present emotional state of the applicant or recipient subject to harm;
- (2) The emotional health history of the applicant or recipient subject to harm;
- (3) The intensity and probable duration of emotional impairment;
- (4) The degree of cooperation required~~as set forth~~ in § 67:12:01:66; and
- (5) The degree of involvement of the applicant or recipient in establishing paternity or enforcement activity.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-6~~ 28-6-1.

67:12:01:66.11. Biannual redetermination of good cause -- Notice of rescindment. The department shall ~~have a biannual~~ biannually review ~~of~~ all approved good cause claims ~~which are~~ established on circumstances that are subject to change. If the department determines that good cause no longer exists, it ~~shall~~ must rescind the original good cause determination and ~~shall~~ notify the recipient of ~~this fact and the reasons for~~ the rescindment and reasons therefor. The notice ~~shall~~ must afford the ~~client~~ applicant or recipient the opportunity to ~~agree~~ agree:

_____ (1) Agree in writing to cooperate; ~~have~~

_____ (2) Have assistance terminated or, if the child is not required to be a part of the assistance unit according to § 67:12:01:69, remove the specific child from the grant; ~~reestablish~~

_____ (3) Reestablish the good cause claim; or ~~appeal~~

_____ (4) Appeal the department's determination by requesting a fair hearing under chapter 67:17:02.

Source: 5 SDR 48, effective December 19, 1978; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 8 SDR 58, effective November 29, 1981; 11 SDR 54, effective October 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-6~~ 28-6-1.

67:12:01:69. Individuals who must be included in assistance unit. Unless specifically excluded under § 67:12:05:51, 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 parent of the dependent child; and

(2) The dependent child's brothers and sisters ~~who except for being needy meet the requirements of SDCL 28-7-1(2). This includes, whether~~ blood-related or adoptive ~~brothers and sisters.~~

Source: 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 54, effective October 1, 1984; 13 SDR 193, effective June 22, 1987; 20 SDR 144, effective March 10, 1994.

General Authority: ~~SDCL 28-7-2~~ 28-6-1.

Law Implemented: ~~SDCL 28-7-2, *Gorrie v Bowen*, 809 F.2d 508 (8th Cir. 1987)~~ 28-6-1.

~~———— **Cross Reference:** Individuals excluded from assistance unit — Nondependent household members, § 67:12:05:51.~~

67:12:01:70. Cooperation of applicant or recipient. ~~Refusal on the part of the~~
If an applicant or recipient fails to provide the department with the necessary
verifications to establish initial or continuing eligibility ~~shall result in the rejection of, the~~
department must reject the initial application or ~~in the termination of~~ terminate the
present benefits.

Source: 3 SDR 52, effective January 27, 1977; 7 SDR 66, 7 SDR 89, effective
July 1, 1981.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2~~ 28-6-1.

67:12:01:71. Denial of ~~AFDC~~ Aid to Families With Dependent Children

benefits to strikers. ~~AFDC~~ Aid to Families With Dependent Children (AFDC) benefits in the payment month ~~shall be~~ are affected if an eligible household member or a nonrecipient parent is participating in a strike on the last day of the payment month. If the participating striker is the parent, the department must deny benefits ~~shall be denied to~~ the entire household.

_____ If the participating striker is someone other than the parent, only the participating striker's needs will be removed from the AFDC grant, unless the participating striker is the only child in the AFDC grant. In this case, benefits ~~shall~~ must be denied to the entire household.

_____ AFDC eligibility ~~shall~~ is not be affected if the participating striker returns to work by the last day of the payment month.

For purposes of this section, "parent" means that parent with whom the dependent child is living.

_____ For purposes of this section, "participating in a strike" means actual refusal, in concert with others, to provide services to one's employer.

Source: 8 SDR 82, effective January 13, 1982; 10 SDR 144, effective July 1, 1984.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-2~~ 28-6-1.

Cross-References:

_____ Denial of AFDC benefits to strikers, 45 C.F.R. § 233.106;

_____ Recovery of overpayments, § 67:12:06:01.

67:12:01:72. Pregnant women referred to Department of Health. The department shall refer a pregnant applicant ~~and~~ or recipient ~~women~~ to the Department of Health for the women, infants, and children ~~(WIC)~~ nutrition program and for case management services.

Source: 15 SDR 2, effective July 17, 1988.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:73. Assistance unit randomly assigned to groups. ~~Beginning May 15, 1994, the~~ The department shall randomly assign ~~AFDC~~ Aid to Families With Dependent Children assistance units either to the control group or the 1115 waiver group. Once the assistance unit is assigned, the parent caretaker relative remains in the assigned group as long as the parent caretaker relative resides in South Dakota or until notified otherwise by the department.

Source: 20 SDR 196, effective May 23, 1994.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

67:12:01:74. Eligibility determinations for assigned groups. For a family assigned to the control group, the department determines eligibility and benefit levels according to article 67:12, except for §§ 67:12:05:76,~~67:12:05:77, 67:12:05:78,~~ to 67:12:05:79, inclusive, 67:12:06:42.01, 67:12:06:42.02, and 67:12:06:43.01,~~and chapters 67:12:20 and 67:12:21.~~

For a family assigned to the 1115 waiver group, the department determines eligibility and benefit levels according to article 67:12.

Source: 20 SDR 196, effective May 23, 1994.

General Authority: SDCL~~28-7-2~~ 28-6-1.

Law Implemented: SDCL~~28-7-1~~ 28-6-1.

67:12:01:75. Eligibility restrictions for a parent under the age-18 of eighteen.

Eligibility for a parent who is under the age-18 of eighteen and not married is limited to an individual who ~~meets all of the following criteria~~:

(1) Is living with a parent, legal guardian, or adult relative who meets the requirements of § 67:12:01:27;

(2) Has a child in the individual's care; and

(3) Has completed high school or its equivalent or is participating in educational activities directed toward the attainment of a high school diploma or its equivalent.

Source: 23 SDR 152, effective March 14, 1997.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-References:

_____ No assistance for teenage parents who do not attend high school or other equivalent training program, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 408(a)(4) (110 Stat. 2135 (1996));

_____ No assistance for teenage parents not living in adult-supervised settings, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 403(a)(5) (110 Stat. 2136 (1996)).

67:12:01:76. Exceptions to eligibility requirements for parents under the age 18 of eighteen. The department shall waive the requirement contained in subdivision 67:12:01:75(1) if ~~one of the following conditions exists:~~

- (1) There is no living adult relative;
- (2) No living adult relatives will allow the minor parent and child to live with them; or
- (3) The department determines ~~that it is not in the best interests of the minor parent and child to live with an adult relative.~~

~~———The determination made in subdivision (3) of this section is, based on evidence such as police reports, physician statements, and school records, which indicates, that the minor parent and child would be subjected to serious physical or emotional harm if they were to live with an adult relative.~~

If the department determines that it is not in the best interests of the minor parent and child to live with an adult relative, the department may require the minor parent and child to live in an adult-supervised living arrangement. The adult-supervised living arrangement must be approved by the department and must provide ~~parenting skills, including~~ child development, family budgeting, ~~and~~ health and nutrition, and other parenting skills to promote the minor parent's long-term economic independence and the well-being of the child.

Source: 23 SDR 152, effective March 14, 1997.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Exceptions to living arrangements, No assistance for teenage parents not living in adult-supervised settings--Exception, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 408(a)(5)(B) (110 Stat. 2136 (1996)).

67:12:01:77. Denial of assistance for fugitive felons and probation and parole violators. An individual is ineligible for assistance under this article if the individual is fleeing to avoid prosecution, custody, or confinement for committing or attempting to commit a felony, or for violating a condition of probation or parole.

Source: 23 SDR 152, effective March 14, 1997.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Denial of assistance for fugitive felons and probation and parole violators, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 408(a)(9) (110 Stat. 2139 (1996)).

67:12:01:78. Denial of assistance for fraudulently misrepresenting place of residence. An individual is ineligible for assistance under this article if the individual is convicted in a federal or state court of having made a fraudulent statement or representation regarding the individual's place of residence in order to receive ~~Medicaid~~ medicaid, food stamps, supplemental security income, or benefits under this article from two or more states simultaneously.

The period of ineligibility is ten years and begins with the date of the conviction.

Source: 23 SDR 152, effective March 14, 1997.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-Reference: Denial of assistance for ten years to a person found to have fraudulently misrepresented residence in order to obtain assistance in two or more states, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 408(a)(8) (110 Stat. 2138 (1996)).

67:12:01:79. Assistance unit ineligible after ~~60~~ sixty months. An assistance unit which includes an adult who has received assistance for ~~60~~ sixty months is ineligible for assistance under this article. The ~~60~~ sixty months do not have to be consecutive and do not begin to count until December 1996.

In determining the number of months the adult received assistance, the department shall disregard ~~any~~:

_____ (1) Any months during which the individual was a minor child and not the head of a household or married to the head of the household; and ~~any~~

_____ (2) Any months during which the adult lived on an Indian reservation or in an Alaskan native village if, during the month, at least ~~1,000~~ one thousand individuals were living on the reservation or in the village and at least ~~50~~ fifty percent of the adults living on the reservation or in the village were unemployed.

Source: 23 SDR 152, effective March 14, 1997.

General Authority: SDCL ~~28-7-2~~ 28-6-1.

Law Implemented: SDCL ~~28-7-1~~ 28-6-1.

Cross-References:

_____ No assistance for more than five years, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.104-193, § 408(a)(7) (110 Stat. 2137 (1996));

_____ Disregard of months of assistance received by adult while living on an Indian reservation or in an Alaskan native village with ~~50~~ fifty percent unemployment, Personal

Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193,
§ 408(a)(7)(D) (110 Stat. 2138 (1996)).