



2024 South Dakota Legislature

House Bill 1207

Introduced by: **Representative Healy**

1 **An Act to create requirements for the disclosure of certain information relating to**
 2 **health care sharing arrangements.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 58-1-3.3 be AMENDED:**

5 **58-1-3.3.** A health care sharing ~~ministry arrangement~~ may not be considered to
 6 be engaging in the business of insurance under Title 58.

7 For purposes of this section, a health care sharing ~~ministry arrangement~~ is a faith-
 8 based, nonprofit organization that is tax exempt under the Internal Revenue Code and:

- 9 (1) Limits its participants to those who are of a similar faith;
- 10 (2) Acts as a facilitator among participants who have financial or medical needs and
 11 matches those participants with other participants with the present ability to assist
 12 those with financial or medical needs in accordance with criteria established by the
 13 health care sharing ~~ministry arrangement~~;
- 14 (3) Provides for the financial or medical needs of a participant through contributions
 15 from one participant to another;
- 16 (4) Provides amounts that participants may contribute with no assumption of risk or
 17 promise to pay among the participants and no assumption of risk or promise to
 18 pay by the health care sharing ~~ministry arrangement~~ to the participants;
- 19 (5) Provides a written monthly statement to all participants that lists the total dollar
 20 amount of qualified needs submitted to the health care sharing ~~ministry~~
 21 ~~arrangement~~, as well as the amount actually published or assigned to participants
 22 for their contribution; and
- 23 (6) Provides a written disclaimer on or accompanying all applications and guideline
 24 materials distributed by or on behalf of the organization that reads, in substance:
 25 "Notice: The organization facilitating the sharing of medical expenses is not an insurance
 26 company, and neither its guidelines nor plan of operation is an insurance policy.

1 Whether anyone chooses to assist you with your medical bills will be totally
2 voluntary because no other participant will be compelled by law to contribute
3 toward your medical bills. As such, participation in the organization or a
4 subscription to any of its documents should never be considered to be insurance.
5 Regardless of whether you receive any payments for medical expenses or whether
6 this organization continues to operate, you are always personally responsible for
7 the payment of your own medical bills."

8 **Section 2. That a NEW SECTION be added to title 58:**

9 To provide services in the state, a health care sharing arrangement, as defined in
10 § 58-1-3.3, must:

- 11 (1) Annually submit to the division a disclosure of financial and appeals information;
12 and
13 (2) Provide to each individual seeking to enroll and to each participant enrolled in the
14 arrangement a disclosure of information to prospective and current participants.

15 **Section 3. That a NEW SECTION be added to title 58:**

16 A disclosure of financial and appeals information by a health care sharing
17 arrangement, as referenced in section 1, subdivision (1) of this Act, must state:

- 18 (1) The amount of financial reserves held by the arrangement;
19 (2) The ratio of the amount of money that is expended by the arrangement for the
20 purpose of reimbursing participants for the preceding year to the total amount of
21 money collected for the preceding year;
22 (3) The number of participants enrolled in the arrangement;
23 (4) The total amount paid by participants enrolled in the arrangement for coverage
24 under the arrangement over the preceding year;
25 (5) The total amount paid by the arrangement for items and services for which benefits
26 were available under the arrangement over the preceding year;
27 (6) The average out-of-pocket expenses incurred by participants enrolled under the
28 arrangement for items and services for which benefits are available under the
29 arrangement over the preceding year;
30 (7) The percentage of claims made under the arrangement during the preceding year
31 that were denied;
32 (8) Contact information for the operator or a representative of the operator of the
33 arrangement;

1 (9) A specification of each health care provider with which the arrangement has a
2 contractual relationship for furnishing items and services under the arrangement;
3 and

4 (10) The average amount of time the arrangement took to reimburse a claim once
5 submitted to the arrangement during the preceding year.

6 **Section 4. That a NEW SECTION be added to title 58:**

7 The director shall publish the disclosure of financial and appeals information to the
8 division's website.

9 **Section 5. That a NEW SECTION be added to title 58:**

10 As referenced in section 1, subdivision (2) of this Act, the health care sharing
11 arrangement must share with each individual seeking to enroll and to each participant
12 enrolled in the health care sharing arrangement:

13 (1) How a participant may file a complaint or appeal a coverage determination,
14 including a disclaimer that appeals may not be available to any entity other than
15 the arrangement;

16 (2) Whether a participant must use arbitration in appealing a coverage determination
17 or has other legal recourse;

18 (3) An explanation that, unlike a group health plan or health insurance coverage, there
19 is not a guarantee that a participant will be reimbursed for any portion of claims
20 submitted to the arrangement;

21 (4) A specification of whether any lifetime caps on health care sharing participants are
22 imposed under the arrangement;

23 (5) The average out-of-pocket expenses incurred by participants enrolled under the
24 arrangement for items and services for which benefits are available under the
25 arrangement over the preceding year;

26 (6) The average amount paid per participant to the arrangement for membership
27 under the arrangement over the preceding year;

28 (7) The total amount paid by the arrangement for claims made during the preceding
29 year for items and services for which benefits were available under the
30 arrangement and the total amount for which participants enrolled under the
31 arrangement were responsible in cost-sharing;

32 (8) A list of all items and services for which reimbursement is not available under the
33 arrangement;

- 1 (9) A specification of any condition that would render an item or service ineligible for
2 reimbursement; and
3 (10) A list of any other requirement imposed on claims submitted for health care sharing
4 under the arrangement.

5 **Section 6. That a NEW SECTION be added to title 58:**

6 The information to be disclosed to each individual seeking to enroll and to each
7 participant enrolled in the health care sharing arrangement, pursuant to section 4 of this
8 Act, must be provided immediately before enrollment.

9 **Section 7. That a NEW SECTION be added to title 58:**

10 The director may impose a civil penalty on the health care sharing arrangement
11 for failure to meet a requirement under this Act. The amount of the penalty may not
12 exceed one hundred dollars for each day for each individual with respect to which a failure
13 occurs.

14 The director shall forward any civil penalty collected under this section to the state
15 treasurer for deposit in the state general fund.