



## 2020 South Dakota Legislature

# House Bill 1239

Introduced by: **Representative** McCleerey

1 **An Act to require the costs of nursing homes to be rebased every five years for**  
 2 **purposes of Medicaid reimbursement.**

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

4 **Section 1.** That § 28-6-1 be AMENDED:

5 **28-6-1. Provision of medical services and remedial care authorized--**

6 **Promulgation of rules.**

7 The Department of Social Services may provide medical services and medical or  
 8 remedial care on behalf of persons having insufficient income and resources to meet the  
 9 necessary cost thereof, if the person has exhausted all other possible public and private  
 10 medical and remedial care programs, income, or benefits, with the exception of county  
 11 poor relief, in accordance with rules which the secretary of social services shall promulgate  
 12 pursuant to chapter 1-26. The rules shall specify the individuals and services for which  
 13 state funds or federal financial participation are available and may include:

- 14 (1) The amount, scope, and duration of medical and remedial services;
- 15 (2) The basis for and extent of ~~provider~~ payments to a provider other than a nursing  
 16 facility, as defined in § 28-6-28, on behalf of an eligible person;
- 17 (3) The establishment and collection of copayments, premiums, fees, or charges for  
 18 sharing the cost of risk protection or services provided to persons. All such  
 19 collections shall be remitted to the general fund;
- 20 (4) Methods of administration found necessary for the operation of the medical  
 21 assistance program;
- 22 (5) Safeguards against the disclosure or improper use of information, required by  
 23 statutory law to be held confidential, concerning applicants for or recipients of  
 24 medical assistance; and
- 25 (6) Such other requirements as may be necessary to obtain federal financial  
 26 participation in the medical assistance program.

1 **Section 2.** That § 28-6-1.1 be AMENDED:

2 **28-6-1.1. Fees--Establishment--Posting--Promulgation of rules.**

3 The Department of Social Services and the Department of Human Services, in  
4 performing their respective functions, may establish or amend fee schedules used to pay  
5 for items and services covered by the medical assistance program under the provisions of  
6 this chapter without following the procedures set forth in §§ 1-26-4 to 1-26-6, inclusive.  
7 ~~The~~ A department acting under this section shall post the fee schedules on the  
8 department's website and shall notify website users of pending changes by posting a  
9 notice of the pending changes on the website at least forty-eight hours before the changes  
10 are made. Fee schedules posted on ~~the~~ a department's website must be in accordance  
11 with the ~~department's~~ provisions of this chapter, including administrative rules  
12 ~~promulgated under the provisions of chapter 1-26 which establish the reimbursement~~  
13 ~~provisions for medical services thereunder.~~

14 **Section 3.** That a NEW SECTION be added:

15 **28-6-1.2. Rebasing of payments to nursing facilities--Promulgation of rules-**  
16 **-Definitions.**

17 For the fiscal year beginning on July 1, 2021, and for each fiscal year commencing  
18 every five years thereafter, the Department of Human Services shall rebase the payments  
19 made on behalf of an eligible person to a nursing facility using cost report data that  
20 captures all of the nursing facility's allowable costs from the nursing facility's fiscal year  
21 that was completed most recently at least twelve months prior to the fiscal year being  
22 rebased, subject to and limited only by any ceiling amount established pursuant to rules  
23 promulgated under this section.

24 The Department of Human Services shall promulgate rules, pursuant to chapter 1-  
25 26, that provide the basis for and extent of payments to a nursing facility that are  
26 consistent with the provisions contained in this section.

27 For purposes of this section, the term, allowable costs, means those costs  
28 satisfying the allowable cost criteria contained in the most current version of the Medicare  
29 Provider Reimbursement Manual.

30 For purposes of this section, the term, nursing facility, has the same meaning as  
31 provided in § 28-6-28.