**20:06:10:05.01.  Health insurance advertisements or solicitations of benefits payable, losses covered, or premiums payable.** In addition to the requirements of § 20:06:10:05, health insurance advertisements or solicitations must meet the following requirements:

(1)  No advertisement or solicitation may contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help pay your hospital and surgical bills," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "this policy will help to replace your income (when used to express loss of time benefits)," or similar words and phrases in a manner which exaggerates any benefits beyond the terms of the policy;

(2)  An advertisement or solicitation may not contain descriptions of a policy limitation, exception, or reduction worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after two years." Words and phrases used in an advertisement to describe such policy limitations, exceptions, and reductions must fairly and accurately describe the negative features of such limitations, exceptions, and reductions of the policy offered;

(3)  No advertisements or solicitations of a benefit for which payment is conditional on confinement in a hospital or similar facility may use words or phrases such as "tax free," "extra cash," extra income," "extra pay," or substantially similar words or phrases which may mislead the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized;

(4)  No advertisement or solicitation of a benefit for confinement in a hospital or similar facility may advertise that the amount of the benefit is payable monthly or weekly when, in fact, the amount of the benefit payable is calculated daily and is based on the number of days of confinement, unless the monthly or weekly benefit amount is immediately adjacent to and in equal prominence with the daily benefit amount. If the policy contains a limit on the number of days of coverage provided, the limit must clearly and prominently appear in the advertisement or solicitation;

(5)  No advertisement or solicitation of a policy covering only one disease or a list of specified diseases may imply coverage beyond the terms of the policy or imply that current coverage will not indemnify the specific disease so covered. Synonymous terms may not be used to refer to any disease so as to imply broader coverage than is the fact;

(6)  An advertisement or solicitation for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, must clearly and conspicuously in prominent type state the limited nature of the policy. The statement must be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS A CANCER ONLY POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."

Failure to comply with any of the provisions of this section creates a presumption that an advertisement or solicitation is deceptive, misrepresentative, or misleading.

**Source:** 15 SDR 143, effective March 29, 1989; 27 SDR 54, effective December 4, 2000; 38 SDR 116, effective January 10, 2012.

**General Authority:** SDCL 58-33A-7.

**Law Implemented:** SDCL 58-33-5, 58-33-6, 58-33-7, 58-33A-8, 58-33A-10.