**20:06:13:22.05.  Discontinuance of availability.** An issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this rule that has been approved by the director, unless the issuer notifies the director of its discontinuance in accordance with this section. A policy form or certificate form is not considered to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months.

An issuer may discontinue the availability of a policy form or certificate form if the issuer provides notice of its decision to do so to the director in writing at least 30 days prior to discontinuance. After receipt of the notice by the director, the issuer may no longer offer for sale the policy form or certificate form in this state.

An issuer that discontinues the availability of a policy form or certificate form pursuant to the notice procedure in this section may not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for five years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced by the director at the director's discretion.

The sale or other transfer of Medicare supplement business to another issuer is considered a discontinuance for the purposes of this section.

A change in the rating structure or methodology is considered a discontinuance under the first paragraph of this section unless the issuer provides an actuarial memorandum describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates; and the issuer does not subsequently put into effect a change of rates or rating factors that would cause a change in the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum. The director may approve a change to the differential which is in the public interest.

**Source:** 18 SDR 225, effective July 17, 1992.

**General Authority:** SDCL 58-4-1, 58-17A-2, 58-17A-5.

**Law Implemented:** SDCL 58-17A-2, 58-17A-5.