**20:06:21:02.  Minimum standards for long-term care insurance policies.** Long-term care insurance policies shall contain benefits that are reasonable in relation to the premium charged. Long-term care insurance policies that require prior hospitalization or institutionalization as a condition of coverage may not require that the present hospitalization or institutionalization be for the same condition for which the insured was previously hospitalized or institutionalized. Long-term care insurance policies may not require, as a condition of coverage, that rehabilitation received by the insured demonstrably improve the insured's condition. The elimination period for any one confinement may not exceed 100 days for a long-term care insurance policy or one year for a long-term care insurance rider.

An insurer may make application for an elimination period in excess of 100 days, provided that specific suitability criteria or underwriting procedures are filed with the application. If the director finds that the procedures or criteria provide adequate protection for consumers, the director may approve the application.

Long-term care policies which condition payment of benefits on the inability to perform activities of daily living (ADLs) may not be so restrictive that they exclude coverage of services provided at least at the level of intermediate care and may not be used to restrict coverage for organic brain disorders, including Alzheimer's disease and senile dementia. This paragraph also applies to policies basing benefits on functional incapacity. Long-term care policies or portions thereof that condition the receipt of benefits on ADLs or functional incapacity may not also condition benefits on a certain level of care.

**Source:** 16 SDR 208, effective June 3, 1990; 28 SDR 157, effective May 19, 2002.

**General Authority:** SDCL 58-4-1, 58-17B-4, 58-17B-15.

**Law Implemented:** SDCL 58-17B-3, 58-17B-6, 58-17B-7.

**Cross-Reference:** Intermediate care services, § 67:16:04:18.