**20:06:21:46.  Minimum standards for home health and community care benefits.** The following minimum standards for home health and community care benefits must be complied with for long-term care policies, as well as for any policies or certificates that contain stand-alone home health care benefits or home health care benefits issued in conjunction with coverage for long-term care services, other than institutional based long-term care:

 (1)  If it provides benefits for home health care or community care services, a long-term care insurance policy or certificate may not limit or exclude benefits in any of the following ways:

 (a)  By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided;

 (b)  By requiring that the insured or claimant first or simultaneously receive nursing, therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered;

 (c)  By limiting eligible services to services provided by registered nurses or licensed practical nurses;

 (d)  By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of licensure or certification;

 (e)  By excluding coverage for personal care services provided by a home health aide;

 (f)  By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the service eligible for coverage;

 (g)  By requiring that the insured or claimant have an acute condition before home health care services are covered;

 (h)  By limiting benefits to services provided by Medicare-certified agencies or providers; or

 (i)  By excluding coverage for adult day care services;

 (2)  If it provides benefits for home health care or community care services, a long-term care insurance policy or certificate, must provide total home health or community care coverage that is equivalent in dollars to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities;

 (3)  Home health care coverage may be applied to the maximum health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate;

 (4)  If home health coverage is provided, the coverage must provide benefits for at least one year in daily amounts not less than half of the daily benefit for nursing facilities. If the daily benefit for home health care is less than that for nursing facilities, the insurer may only deduct the pro-rata difference from the lifetime maximum;

 (5)  The home health care benefit must contain at least 365 benefit days and at least a $25 daily maximum benefit. This subdivision does not apply to long-term care benefits which are provided through a life insurance policy or certificate.

 **Source:** 23 SDR 55, effective October 20, 1996; 28 SDR 157, effective May 19, 2002.

 **General Authority:** SDCL 58-17B-4.

 **Law Implemented:** SDCL 58-17B-4.