

46:30:01:01. Definitions. Terms used in this article mean:

(1) "Consumer," an individual who has completed an application for rehabilitation services and has been determined to be eligible;

(2) "Department," the Department of Human Services;

(3) "Division" the Division of Rehabilitation Services, a division of the Department of Human Services;

~~(3)~~(4) "Secretary," the secretary of the Department of Human Services.

Source: SL 1975, ch 16, § 1; transferred from § 67:30:01:01, effective July 1, 1977; transferred from § 71:01:01:01, SL 1989, ch 21, §3, effective July 1, 1989; 18 SDR 95, effective December 2, 1991; 21 SDR 45, effective September 15, 1994; 24 SDR 99, effective February 1, 1998; 26 SDR 96, effective January 24, 2000.

General Authority:SDCL 28-9-44.

Law Implemented:SDCL 28-9-44.

46:30:05:02. Right to administrative review. An applicant ~~for~~ or consumer of vocational rehabilitation services who is ~~aggrieved by an action taken with regard to the receipt or denial of such services~~ dissatisfied with a determination regarding eligibility or receipt of services from the division may ~~file~~ submit a written request to the division for an ~~informal~~ administrative review ~~by a representative of the division~~ within 30 days from the receipt of eligibility determination or denial of services. The administrative review is voluntary on the part of the applicant or consumer. This process may not be used to deny or delay a formal fair hearing before an impartial hearing officer pursuant to §46:30:05:05, unless the parties jointly agree to a delay.

Source: SL 1975, ch 16, § 1; transferred from § 67:30:02:01, effective July 1, 1977; 9 SDR 94, effective January 25, 1983; 15 SDR 107, effective January 26, 1989; transferred from § 71:03:02:01, SL 1989, ch 21, § 3, effective July 1, 1989; 18 SDR 95, effective December 2, 1991; 26 SDR 96, effective January 24, 2000.

General Authority:SDCL 28-9-44(7), 28-10-21(7).

Law Implemented:SDCL 28-9-36, 28-10-14.

Cross-Reference: Right to fair hearing, § 46:30:05:05.

46:30:05:05. Right to fair hearing. An applicant ~~for~~ or consumer of vocational rehabilitation services who is dissatisfied with a determination regarding eligibility or the receipt of services from the division may request a fair hearing by an impartial hearing officer by sending a written request to the division within 30 days from the receipt of eligibility determination or denial of services. An applicant or consumer of vocational rehabilitation services dissatisfied with the outcome of the administrative review process pursuant to §46:30:05:02, or the mediation process pursuant to §46:30:05:17, may request a fair hearing. The written request for a fair hearing must be submitted to the division within ten days following mediation or from the date of the receipt of notice of the results of the administrative review pursuant to §46:30:05:04.

Source: 9 SDR 94, effective January 25, 1983; 15 SDR 107, effective January 26, 1989; transferred from § 71:03:02:03.02, SL 1989, ch 21, § 3, effective July 1, 1989; 26 SDR 96, effective January 24, 2000.

General Authority:SDCL 28-9-44(7), 28-10-21(7).

Law Implemented:SDCL 28-9-44, 28-10-21.

Cross-ReferenceReferences: Right to administrative review, § 46:30:05:02;

Notice of results of review, § 46:30:05:04;

Right to mediation, § 46:30:05:17.

46:30:05:17. Right to mediation. An applicant or a consumer of vocational rehabilitation services shall be informed of the right to mediation. Mediation shall be offered as an option when a fair hearing is requested. An applicant or consumer of vocational rehabilitation services may request mediation by sending a written request to the division within 30 days from the receipt of eligibility determination or denial of services. An applicant or consumer of vocational rehabilitation services dissatisfied with the outcome of the administrative review process pursuant to §46:30:05:02, may request mediation. The request for mediation must be submitted to the division within ten days from the notice of the result of the administrative review pursuant to §46:30:05:04. The mediation process is voluntary on the part of the parties and may not be used to deny or delay the right of an individual to a fair hearing before an impartial hearing officer pursuant to §46:30:05:05. Mediation shall be conducted by a qualified and impartial mediator. The division shall maintain a list of individuals who are qualified mediators and knowledgeable in the laws relating to the provision of vocational rehabilitation services. The division shall bear the cost of the mediation process, except for the applicant's or consumer's legal fees.

Source: 26 SDR 96, effective January 24, 2000.

General Authority:SDCL 28-9-44(7), 28-10-21(7).

Law Implemented:SDCL 28-9-44, 28-10-14.

Cross-References: Right to administrative review, § 46:30:05:02;

Notice of results of review, § 46:30:05:04.

CHAPTER 46:30:07
ATTENDANT SERVICES

Section

- 46:30:07:01 Definitions.
- 46:30:07:02 ~~Application~~ Repealed.
- 46:30:07:03 Eligibility.
- 46:30:07:04 Eligibility for other attendant services programs.
- 46:30:07:05 Assessment and service plan.
- 46:30:07:06 Reimbursable services.
- 46:30:07:07 Cost sharing.
- 46:30:07:08 Procedure for obtaining reimbursement.
- 46:30:07:09 Notice of change in income and resources.
- 46:30:07:10 Annual review of service plans, income, and resources.
- 46:30:07:11 Discontinuance of attendant services.
- 46:30:07:12 Notice of appeal.

46:30:07:02. Application. ~~A consumer desiring attendant services must complete and sign an application provided by the department and furnish information necessary for determining eligibility in § 46:30:07:03. Failure to furnish the information will result in the rejection of the application.~~

~~—The department shall determine eligibility within 30 days after receiving the completed application, together with medical statements verifying eligibility requirements in § 46:30:07:03.~~

~~—The department shall place new consumers on a waiting list if the department does not have sufficient funding to add them to the program. Priority for receiving services is determined by the chronological order of the application.~~ Repealed.

Source: 23 SDR 2, effective July 18, 1996.

~~**General Authority:** SDCL 28-8A-6.1.~~

~~**Law Implemented:** SDCL 28-8A-5.1.~~

~~**Cross-Reference:** Notice of appeal, § 46:30:07:12.~~

46:30:07:08. Procedure for obtaining reimbursement. The department shall pay the consumer for approved reimbursable services in § 46:30:07:06. The consumer must submit a monthly bill on a form provided by the department by the 15th of the following month after services are performed. The department may not pay for more than ~~46~~ 42 hours of reimbursable services during a calendar week.

Source: 23 SDR 2, effective July 18, 1996.

General Authority: SDCL 28-8A-6.1.

Law Implemented: SDCL 28-8A-5.1, 28-8A-7.1.

Cross-Reference: Assessment and service plan, § 46:30:07:05.

46:30:07:11. Discontinuance of attendant services. The department may discontinue services for the following reasons:

- (1) The consumer can no longer benefit from attendant services under this chapter;

- (2) The consumer's health or safety would be jeopardized if services were continued;
- (3) The consumer suffers from an uncontrolled infectious disease such as hepatitis and tuberculosis or a condition such as human immunodeficiency virus;
- (4) The consumer is abusing or harassing a person delivering services or a life threatening situation exists for such a person;
- (5) The consumer's living environment presents health and fire hazards or unsafe conditions to any person delivering services;
- (6) the consumer submits fraudulent bills for reimbursement;
- (7) The consumer fails to allow a person delivering services on the premises;
- (8) The consumer or others in the household are under the influence of illegal drugs;
- (9) The consumer becomes eligible for another attendant services program which is more economically beneficial to the state;
- (10) Funds needed for the program under this chapter are not available;
- (11) The consumer is determined incapable by the personal physician or fails an assessment performed by the case manager under chapter 67:54:06;
- (12) The consumer is no longer eligible under § 46:30:07:03; or
- (13) The consumer fails to report income and resources immediately as required by §§ 46:30:07:09 and 46:30:07:10 or reports income and resources fraudulently during the application process or the annual review.

Source: 23 SDR 2, effective July 18, 1996.

General Authority:SDCL 28-8A-6.1.

Law Implemented:SDCL 28-8A-5.1.

Cross-References:

~~Application, § 46:30:07:02.~~

Procedure for obtaining reimbursement, § 46:30:07:08.

Annual review of service plans, income, and resources, § 46:30:07:10.