

CHAPTER 46:30:08

COCHLEAR IMPLANTS

Section

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46:30:08:01. Definitions. Terms used in this chapter mean:

(1) "Applicant," a parent or legal guardian of an individual less than 21 years of age or an individual less than 21 years of age;

(2) "Cochlear implant," a surgically implanted device that assists an individual with severe and profound hearing loss to hear sounds;

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

(4) "Initial mapping," the fitting of the external parts of the implant device and programming of the device;

(5) "Profound hearing loss," a hearing impairment of 91dBHL or more;

(6) "Severe hearing loss," a hearing impairment of 71dBHL to 90dBHL;

(7) "Telecommunication fund for the deaf," a fund comprised of the deposit of access fees imposed on local exchange service lines, cellular telephones, and radio pager devices. These funds are used for telecommunication for deaf, severely hearing impaired, and speech impaired individuals.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007; 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:02. Cochlear implant services. Cochlear implant services under this chapter are limited to those covered services in § 46:30:08:03 for an applicant determined eligible pursuant to § 46:30:08:04. Cochlear implant services shall be provided by those providers approved by the division. The division shall maintain a list of approved providers.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:03. Covered services. The fund created by § 49-31-50 may only be used for the following devices and services:

- (1) Cost of implant surgery for one or both ears;
- (2) Cost of two implant devices;
- (3) Surgeon's usual and customary fee;
- (4) Hospital's usual and customary fee;
- (5) Anesthesiologist's usual and customary fee;
- (6) Cost of initial mapping; and
- (7) Cost of follow-up mappings completed within one year after surgery or up to a maximum of 12.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:04. Eligibility criteria. To be eligible for funding for the services described in § 46:30:08:03 the applicant must meet the following criteria:

- (1) Is an individual less than 21 years of age at the time of application;
- (2) Is a resident of South Dakota;
- (3) Has a severe to profound hearing loss as diagnosed by an audiologist; and
- (4) Is medically recommended for a cochlear implant by the individual's cochlear implant surgeon.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007; 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:05. Application. The applicant shall submit a completed and signed application on a form provided by the division and shall include the following information:

(1) Documentation from the applicant's implant surgeon that one or two cochlear implants is medically recommended;

(2) Documentation of a progressive hearing loss which led to deafness, if applicable;

(3) A written quote of the provider's usual and customary charge for services listed in § 46:30:08:03; and

(4) Proof of creditable coverage as defined in SDCL 58-18-44, if any.

The division shall reject an application that fails to provide the required information.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007; 37 SDR 111, effective December 7, 2010.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Creditable coverage defined, SDCL 58-18-44.

46:30:08:06. Notice of ineligibility determination. If the division determines that an applicant is ineligible, the division shall notify the applicant in writing within 60 days of receipt of the completed application. The notice shall include the reason for ineligibility and the process of appeal pursuant to § 46:30:08:13.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:07. Additional information required if eligible. Repealed.

Source: 32 SDR 32, effective August 29, 2005; repealed, 34 SDR 179, effective December 24, 2007.

46:30:08:08. Preauthorization and payment. Any payment for funding of the covered services listed in § 46:30:08:03 must be preauthorized by the division.

The division shall issue payment only after all health insurance payments have been verified. Payment for any service is contingent upon the availability of funds during each fiscal year.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:09. Coverage limits -- Uninsured. An eligible applicant who is not covered by any health insurance plan shall receive coverage for those services listed in § 46:30:08:03.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:10. Coverage limits -- Insured. An eligible applicant who is covered by any health insurance plan or third party payor may only receive funds for those amounts incurred and payable by the covered person under the deductible and coinsurance provisions of a health plan which are for the covered services listed in § 46:30:08:03.

Expenses for any service authorized in this chapter that is not covered or not payable by the applicant's own health insurance plan for some reason other than the deductible and coinsurance provisions in the health insurance plan are not eligible for coverage under this chapter.

The division may not pay for any portion of the costs of covered services listed in § 46:30:08:03 that are covered by a health insurance plan or otherwise covered under another plan of insurance. Payment pursuant to this chapter is secondary to any other insurance covering or providing reimbursement for the covered services listed in § 46:30:08:03.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:11. Billing procedures. The division shall pay the provider after receiving the following pertinent billing information:

- (1) A completed, standardized billing form;
- (2) An itemized statement of preauthorized services rendered; and
- (3) An insurance deduction or rejection shown on the billing form with an attached explanation of benefits from the insurance plan.

This information must be received by the division no later than six months from the service date.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:12. Recovery of overpayments. Any payment made for services because of incorrect information or any other type of error by the applicant or provider shall be considered an overpayment and is subject to recovery by the division.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:13. Appeal of ineligibility. An applicant may appeal the division's decision regarding ineligibility for the services provided pursuant to this chapter. An applicant dissatisfied with the division's determination regarding eligibility of services may request a fair hearing pursuant to SDCL chapter 1-26 by notifying the Department of Human Services in writing within 30 days of receipt of the division's decision.

Nothing in this section may be construed as indicating that the Department of Human Services will pay for legal fees for representing an applicant or provider at a fair hearing pursuant to this section.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Right to judicial review of contested cases -- Preliminary agency actions, SDCL 1-26-30.

46:30:08:14. Time and place of hearing -- Time extension. A fair hearing, pursuant to SDCL chapter 1-26, by an impartial hearing officer, shall be held within 90 days after receipt for a request by the applicant. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. The hearing examiner may continue the hearing at the request of any of the parties involved.

Source: 32 SDR 32, effective August 29, 2005; 34 SDR 179, effective December 24, 2007.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Right to judicial review of contested cases -- Preliminary agency actions, SDCL 1-26-30.