**20:06:10:07.  Preexisting conditions in health insurance policies.** Preexisting conditions in health insurance policies are treated as follows:

(1)  An advertisement or solicitation of health insurance which is subject to the requirements of this chapter shall, in negative terms, disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. The term "preexisting condition" without a definition or description may not be used;

(2)  If a policy does not cover losses resulting from preexisting conditions, no advertisement or solicitation of the policy may state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim under it. This subdivision prohibits the use of the phrase "no medical examination required" and similar phrases, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement or solicitation must disclose that a medical examination is required;

(3)  If an advertisement or solicitation contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, the application form must contain a question or statement which reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. The question or statement must be substantially as follows:

(a)  "Do you understand that this policy will not pay benefits during the first \_\_\_\_\_ year(s) after the issue date for a preexisting medical condition which you now have or have had in the past?"

\_\_\_\_\_YES; or

(b)  "I understand that the policy applied for will not pay benefits for any loss incurred during the first \_\_\_\_\_ year(s) after the issue date because of a preexisting medical condition which I now have or have had in the past."

**Source:** 4 SDR 6, effective August 9, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 143, effective March 29, 1989; 27 SDR 54, effective December 4, 2000; 38 SDR 116, effective January 10, 2012.

**General Authority:** SDCL 58-33A-7.

**Law Implemented:** SDCL 58-33-5, 58-33-6, 58-33-7; 58-33A-8, 58-33A-10.