

## Bulletin 12-01

To: Credit Insurers  
From: Merle Scheiber, Director  
Date: January 13, 2012  
Re: Preexisting Condition Exclusions for Credit Disability

This Bulletin is intended to provide guidance to credit disability insurance carriers with respect to the administration of preexisting condition provisions. It has come to the Division's attention that confusion as to the administration of these provisions may have arisen. Some credit health policies, including credit disability, contain preexisting condition provisions which exclude coverage if the disability commenced during the waiting period for preexisting conditions. These provisions are compliant with ARSD 20:06:06:04.02. However, ARSD 20:06:06:04.02 has not been revised to conform to the language in SDCL §§ 58-17-97 and 58-18-86. To clarify the standard to be applied to these provisions, effective immediately, policies containing preexisting condition exclusions should be administered consistent with language in SDCL §§ 58-17-97 and 58-18-86 and the content of this Bulletin, 12-01.

Current statutes do not allow for any preexisting condition exclusion beyond the statutory waiting period regardless of when a disability may have commenced. Thus, a disability that is incurred during the waiting period and arises from a preexisting condition may be excluded only during the preexisting condition waiting period. Coverage for such a disability may not be denied after the preexisting condition period concludes. For the purposes of a benefit calculation, if a disability due to a preexisting condition continues after the end of the condition waiting period, benefits for that preexisting condition then commence at the end of the waiting period.

Any policy or certificate in force that contains language allowing the preexisting condition exclusion to apply beyond the waiting period based upon when the disability is incurred must be administered so that the exclusion is limited to the waiting period in accordance with SDCL § 58-17-97 or SDCL § 58-18-86 rather than ARSD 20:06:06:04.02 or the policy language. Any new policies or certificates with preexisting condition exclusions must contain provisions providing that the exclusion only applies during the waiting period and providing that coverage commences once the period concludes.

The Division intends to proceed with a change to ARSD 20:06:06:04.02 in 2012 so that its content is consistent with SDCL §§ 58-17-97 and 58-18-86 and this Bulletin, 12-01.