**20:06:39:21.  Definition of ordinarily prudent person in preexisting condition clauses.** For diseases that include symptoms of denial or failure to recognize the disease or illness, a carrier shall define an ordinarily prudent person within the definition of a preexisting condition in terms of the claimant's health-related circumstances and how a similarly situated person would be expected to act in seeking medical treatment or advice for that disease or illness. Nothing in this section prohibits a carrier from investigating the existence of denial symptoms or failure to recognize such disease or illnesses on a case by case basis. This section applies to the definition of an ordinarily prudent person within the preexisting condition clauses in SDCL 58-17-84 and 58-17-97 and does not apply to the contestability clause of a contract.

**Source:** 25 SDR 90, effective January 3, 1999.

**General Authority:** SDCL 58-17-87(3)(4)(11)(15).

**Law Implemented:** SDCL 58-17-84, 58-17-97.