**20:06:47:02.  Establishment of claims procedures.** Any plan providing disability benefits shall establish and maintain reasonable claim procedures. The procedures shall include the following:

(1)  A description of all claim procedures including, but not limited to, any procedures for obtaining prior authorization as a prerequisite for obtaining a benefit and adverse determination review procedures;

(2)  Applicable time frames;

(3)  Administrative processes and safeguards to ensure consistent benefit determinations for similar situations;

(4)  In regard to voluntary appeal:

(a)  The plan waives any right to assert that a covered person has failed to exhaust administrative remedies because the claimant did not elect to submit a benefit dispute to any such voluntary level of appeal provided by the plan;

(b)  The plan agrees that any statute of limitations or other defense based on timeliness is tolled during the time that any such voluntary appeal is pending;

(c)  The plan provides that a covered person may elect to submit a benefit dispute to such voluntary level of appeal only after the exhaustion of the appeals; and

(d)  The plan provides to any covered person, upon request, sufficient information relating to the voluntary level of appeal to enable the covered person to make an informed judgment about whether to submit a benefit dispute to the voluntary level of appeal, including a statement that the decision of a covered person as to whether or not to submit a benefit dispute to the voluntary level of appeal will have no effect on the covered person's right to representation, the process for selecting the decision maker, and the circumstances, if any, that may affect the impartiality of the decision maker, such as any financial or personal interests in the result or any past or present relationship with any party to the review process.

**Source:** 30 SDR 39, effective September 28, 2003; 37 SDR 241, effective July 1, 2011.

**General Authority:** SDCL 58-17H-49.

**Law Implemented:** SDCL 58-17H-49.