

Health Disclosure

When you apply for health, life or disability insurance, the information you provide in the application becomes the basis of the **policy**. A policy is a legal contract of insurance. The insurer relies on and uses the information you provide, to make its decision about whether to accept the insurance and, if so, on what terms. Because the insurer relies on it, it is very important that the information you provide in the application is complete and correct. Providing complete and correct information is called your **duty of disclosure**.

What do I need to disclose?

The law says, in the application, you must inform the insurer about any facts, which may be material to the insurance cover sought, such as pre-existing health conditions, medical advice, treatment, medication or symptoms. Information is **material** and must be disclosed, if it would influence the mind of a prudent insurer in deciding whether to accept an application for insurance and, if so, on what terms.

Most insurers ask a range of questions in the application, to prompt you to disclose the information they need. However, you cannot rely on the questions asked to provide limits on the information required by the insurer. **The law says that any information which may be material to a prudent insurer must be disclosed.**

However, you cannot disclose information that you do not know about, or of which you could not reasonably be aware.

How do I know what is material to a prudent insurer?

Unless you are an experienced **underwriter**, whose job it is to calculate the risks associated with providing insurance, you will not know what is material to a prudent insurer. Therefore, your safest course of action when completing the application is to disclose everything you know about your health and leave the insurer to decide what information is material.

If I have authorised the insurer to get my medical records from my doctor, have I fulfilled my duty of disclosure?

There is no requirement for an insurer to automatically access your medical records. Insurers do not usually access applicants' medical records, unless the insurer is alerted by something disclosed in the application about which it might need more information than you have provided.

What could happen if I do not disclose some material information?

If you do not disclose material information, you have breached your legal obligation, whether the non-disclosure was intentional or not. Any non-disclosure of material information gives the insurer the right to avoid the policy **ab initio**, from the start date. The reasoning is that the contract was not properly made and, therefore, never existed.

The insurer will not pay the claim and, depending on the wording of the policy, may be entitled to keep all the premiums you have paid and obtain a refund for any valid claims already paid.

Can my insurer avoid the policy because I didn't disclose something unrelated to my claim?

All an insurer needs to prove is that the information which was not disclosed would have been material to the underwriting of the risk when the policy started, to be able to avoid the policy. The non-disclosure does not have to relate to the claim which resulted in the non-disclosure being discovered.

Tips

1. Always be sure to disclose everything you know about your health. Do not rely on anyone else's opinion about what is material. Unless the someone else is an experienced underwriter, he/she is no more likely to know what is material than you are. Remember, it is better to be safe than sorry and end up with no policy!
2. If you are thinking of changing your health or disability insurance, make sure you fully disclose all of your medical history when you complete the application. Then, wait until you know and are satisfied with the terms of the new policy and you have accepted it, before you cancel your existing policy. This is particularly important for older applicants and those who have experienced sickness or accidents, who may find that conditions they have cover for under their current policy, are not covered under the new policy. Think very carefully before changing your health, life or disability cover – only do so if you make absolutely sure you will be in a better position with the new cover.

Cheaper premiums may end up costing you more, if your policy is avoided for non-disclosure.

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