

New insurance policies

Information for people affected by cancer

Many people with cancer have concerns about insurance. They may wonder if they can claim on an old policy or take out a new policy.

This fact sheet explains the law in relation to getting insurance. It sets out your rights and responsibilities when you apply for an insurance policy, and when you can lawfully be refused insurance. It also explains what you can do if you think you have been treated unfairly.

Q: When I apply for insurance, do I have to tell the insurer that I have had cancer?

A: Yes. The law says you must tell the insurer anything that may be relevant, and this includes current and previous health conditions. Usually, you would disclose your cancer diagnosis on the policy application form.

If you don't disclose something and you later want to make a claim, the insurer can use that as a reason to refuse your claim and/or your coverage may be restricted or subject to an exclusion.

Q: When I apply for insurance, do I have to disclose my genetic test results?

A: Yes. You must tell the insurer about any genetic tests you have had. This is usually disclosed on the application form. The insurer's decision may depend on your results.

- **Positive result (i.e. you're more likely to get cancer)** – You may still be able to buy income protection or life insurance, but your premiums will probably be higher.

- **Negative result** – The insurer may decide you are no more likely to get cancer than anyone in the normal population and you'll probably be

able to buy insurance. Insurers can't use your genetic test results to refuse insurance to other people in your family, or to charge them higher premiums – it's only relevant to your application.

- **Unknown result (e.g. you have had the test but have chosen not to know the result)** - the insurer is bound to respect your right "not to know" the result and as such, the insurer's decision whether you can get insurance should depend on the other relevant disclosures noted in your application.

If the insurer asks in the application for insurance whether or not you had genetic testing and you have, even though you do not know the result, you will have to answer yes to that question.

Q: I have been refused insurance. Is that lawful?

A: It depends on the circumstances. The general rule in the law is that you cannot discriminate against someone because they have cancer. This means that a person with cancer should be able to buy the same goods and services at the same price as a person who has never had cancer.

However, there are exceptions to this rule that apply to insurance. Insurers are allowed to refuse insurance to a person with cancer if the insurer can show, through statistical evidence, that providing insurance would be an unacceptable risk because the person is more likely to require medical treatment.

To decide if you're an unacceptable risk, the insurer considers whether:

- you are having treatment
- you are in remission
- they can charge you a higher premium
- they can exclude cover for certain things, rather than refusing you insurance altogether.

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In general, you should be able to buy insurance for things that are not related to your cancer (like travel insurance for lost luggage, or life insurance for accidental death).

Case study

A court found that an insurer unlawfully discriminated against a woman with cancer by refusing to provide her with travel insurance. The court said the insurer should have considered whether they could exclude costs related to her cancer, but still insure her for other things, such as lost luggage.

Q: I was diagnosed with cancer after I took out insurance. Do I have to notify the insurer?

A: No. Unless there is a specific obligation in the insurance contract to do this, you do not have to tell the insurer about anything that happens after you take out the policy. This includes a cancer diagnosis or a genetic test result.

If you need to renew your policy, or you change your level of cover, you will need to tell the insurer about your diagnosis (or genetic test result) then.

Q: I think I have been treated unfairly. What can I do?

A: If you're refused insurance or if you have a policy and your claim is rejected, delayed or reduced, the first step is to complain to your insurer and specify the outcome you would like. The insurer will have to prove its decision is based on medical or statistical evidence.

If you aren't satisfied with the insurer's response, there are a number of steps you can take:

- Appeal to the Financial Ombudsman Service.

Call 1300 780 808 or visit fos.org.au.

- Complain to the Northern Territory Anti-Discrimination Commission or the Australian Human Rights Commission if you feel you have been discriminated against. Contact the Australian Human Rights Commission on 1300 656 419 or humanrights.gov.au.

- Talk to a lawyer, who can help you decide who you should complain to. For more information, call Cancer Council 13 11 20.

- Think about where else you might be able to get insurance from. Does your credit card offer travel insurance for holidays paid for using that card? Does your workplace offer automatic travel insurance for leisure travel?
- If you are travelling to countries where Australia has a Reciprocal Health Care Agreement, you can get free emergency medical treatment. Show the hospital your valid Medicare card and passport, and tell them that you want to be treated under the Reciprocal Health Care Agreement with Australia. For more information and a list of countries, see humanservices.gov.au/customer/services/medicare/reciprocal-health-care-agreements.
- Check if you can get insurance through your superannuation fund. Sometimes, if you start a new job and join the employer's default fund, you can get income protection or total and permanent disability cover without completing any forms. You have to join the superannuation fund within three months of starting the job.
- Be careful about changing or cancelling your cover, as it may be difficult to get cover again. Always read the fine print of any new insurance policy to make sure you will be covered before you cancel the old policy. If in doubt, ask the insurer.

Note to reader

This fact sheet provides general information relevant to the Northern Territory only and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.

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For information and support on cancer-related issues, call Cancer Council **13 11 20**. This is a confidential service.