

New insurance policies



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 around 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.

When I apply for insurance, do I have to tell them that I have had cancer?

Yes. The law says that you must tell the insurer anything that may be relevant, and this includes current and past 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.

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

Yes. You must tell the insurer about any genetic test you have had. This is usually disclosed on the application form. Their decision may depend on your results.

- **Positive result (i.e. you're more likely to get cancer)**—you may still be able to get 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 get 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.

I have been refused insurance. Is that lawful?

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 as a person who has never had cancer, at the same price.

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

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

- are you having treatment
- are you in remission
- can they charge you a higher premium
- can they exclude cover for certain things, rather than refusing you insurance altogether. In general, you should be able to get 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 that 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.



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

No.

Unless there is a specific obligation to do this in the insurance contract, 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 them about your diagnosis (or genetic test result) then.

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

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 want. The insurer will have to prove its decision is based on medical evidence.

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

- Complain to the SA Equal Opportunity Commission, or to the Australian Human Rights Commission if you feel you've been discriminated against. Contact the Australian Human Rights Commission on 1300 656 419 or www.hreoc.gov.au.
- Appeal to the Financial Ombudsman Service. Call 1300 780 808 or visit www.fos.org.au.
- Talk to a lawyer, who can help you decide where you should make your complaint. For more information, call Cancer Council Helpline 13 11 20.

- Think about where else you might be able to get insurance. Does your credit card offer travel insurance for holidays paid for on the card? Does your workplace offer automatic travel insurance for leisure travel?
- If 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 www.medicareaustralia.gov.au/public/migrants/travelling/index.jsp.
- Check if you can get insurance through your superannuation fund. Often, 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 health 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, contact the insurer and ask.

This fact sheet provides general information, which may be relevant to SA only, and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.