

Risk Matters Oceania



Dear Reader,

Two articles this month give you insight into the fresh thought leadership Gen Re people strive to deliver to clients every day. Viviane Murphy and Grant Tritton take a granular approach to policy wording, illustrating key principles in construction with a deafness claim they assessed. Nowadays insurance cover is more accessible – Lindsay Cross reports on a case of an HIV positive applicant underwritten on special terms. These stories remind us of the raison d'être of life insurance.

Compounding the world's economic woes has been the Swine Flu outbreak. Fortunately, it appears not to be as devastating as initially feared. Should the situation deteriorate, we will alert you with another Special Bulletin.

As always, we welcome your feedback on our articles, suggestions and general comments about our publications.



Best wishes,
Adrian Mak
 Account Executive
 Editor Risk Matters Oceania
 Tel. +61 2 8236 6203
 adrian.mak@genre.com

ANNUAL SEMINAR 2009 “The Year of Living Differently” SAVE THE DATE

Save the date for the Gen Re Annual Seminar to be held at a location near you.

- Sydney – 18 August**
- Melbourne – 20 August**
- Auckland – 24 August**
- Wellington – 26 August**

This year's theme “The Year of Living Differently” brings together topics spanning across underwriting, claims, product, pricing including: teleunderwriting, durations management, alternative disability products, carcinoma in situ, and New Zealand trauma experience.

Dr Ian Cox, Chief Medical Officer, Gen Re LifeHealth International Research & Development is our special guest presenting on Blood Pressure, Chronic Lymphocytic Leukaemia and the Critical Illness definitions – Have We Got It Right?

Programme details available closer to the time.

Gen Re Sponsors Insurance Industry Awards 2009

Gen Re is very pleased to be sponsoring the Australia and New Zealand Insurance Industry Awards – Life Company of the Year 2009. This is our third year of association with these awards.





Sounds of Silence

A guide to understanding policy wording with deafness case study

Interpretation and construction of terms and conditions in insurance contracts give effect to the intended rights and obligations of both policy owners and insurance companies when they agreed to enter the contract. Key principles of interpretation and specialist support of the Gen Re Claims Advisory Service are demonstrated in a claim for deafness under a critical illness insurance contract.

Facts

The claimant suffered a reaction to medication administered following a post operative infection. The medical diagnosis was 'profound bilateral deafness' secondary to a combination of Gentamicin and Vancomycin. He was left with what was described as "profound" hearing loss, and was referred to various medical specialists in an attempt to restore his hearing. Initial trials of hearing aids were unsuccessful. Subsequently, a decision was made to insert bilateral cochlear implants.

The prevailing policy definition of "Deafness" is as follows:

"Deafness Means the complete and irrecoverable loss of hearing of both ears, whether aided or unaided, as a result of Sickness or Injury."

Evidence and assessment

During the early stages of claims assessment, focus was given to the meaning of the words "aided or unaided". The insurer ruled the definition had not been met due to the use of hearing aids and the insertion of cochlear implants. The claimant argued to the contrary that the aids failed and the implants were not an aid.

The next step of claim assessment addressed "loss of hearing of both ears" which instigated further exploration into the meaning of single words appearing in the policy definition and the dynamics of hearing of the inner ear. According to research into the subject, hearing means organic normal hearing as distinct from synthetic or artificial sounds heard using an aid or an implant.

The policy wording was silent on what constitutes "loss of hearing". Prior to the trial of hearing aids or insertion of cochlear implants, medical assessment had concluded the claimant suffered "profound deafness in both ears" and so had reasonable grounds to make a claim. Both an independent Otolaryngologist and the claimant's own medical specialist were of the opinion that the medication had destroyed the hairs in the cochlear. This meant the auditory nerves would no longer be stimulated, resulting in a complete irreversible loss of hearing.

Suited to persons who are completely or almost completely deaf in both ears receiving little or no benefit from using hearing aids, cochlear implants are electronic devices directly stimulating any remaining hearing nerves using electrical impulses to enable the brain to perceive sound.¹ The subsequent auditory sense gained is actually not organic normal hearing and necessarily requires the person to undertake significant training in using the implant.

Decision

The insurer reconsidered their initial determination, accepting the claim as valid because the claimant had satisfied the requirement to have complete and irrecoverable hearing loss in both ears prior to and irrespective of hearing devices.

Conclusion

In summary, this case illustrates several important principles in constructing wording in policy documents:

- Definitions using concise, unambiguous language and objective clinical measures of impairment give policy holders the certainty they expect from their contracts
- Consider definitions in their entirety and do not construe words out of context
- In the absence of specific technical qualifications, words may be subject to their ordinary and natural meaning
- Where policy provisions do not stipulate time frames for assessing claims, the claimant can satisfy the event definition at any point in time irrespective of current treatment available or undergone
- When seeking opinion from independent medical specialists, the insurer should obtain all primary evidence from the treating doctor (claimant's full medical history including chronology of events, clinical information and any other evidence). This expedites the claims assessment process and gives secondary evidence more weight when assessing against wording contained in the policy terms and conditions
- Current technology may be argued to restore some level of hearing, be it natural/organic or artificial. On the strictest application of the deafness policy wording no claims would be payable. Insurers may wish to review their policy wording by clearly specifying clinical thresholds such as those of binaural hearing loss existing in government compensation schemes.

With her legal professional qualifications, Viviane Murphy brings experience in litigated and disputed life insurance claims to assist insurers in understanding the legal risks of policy wording. A member of the Gen Re Claims Advisory Service, Grant Tritton provides technical support in managing claims.

Viviane Murphy
Principal Claims Advisor
Tel. +61 2 8236 6211
viviane.murphy@genre.com

Grant Tritton
Claims Advisor
Tel. +61 2 8236 6213
grant.tritton@genre.com

¹ Cochlear Implant Club and Advisory Association <http://www.cicida.org.au>

Reinsurance You Can Count On

Underwriting life cover for a HIV positive customer

Not everyone who applies for insurance cover is insurable depending on their personal circumstances. Being able to offer cover to an applicant with a chronic illness creates enormous goodwill in the relationship between the client, advisor and insurer.

While there is not yet a cure for HIV or AIDS, ongoing medical research and advances in treatment over the past two decades for people diagnosed as HIV positive have significantly improved survival rates following seroconversion. Certain HIV+ lives who were previously declined insurance can now be granted cover. A recent case demonstrates Gen Re's appetite in underwriting special risks.

The applicant sought life insurance cover and is self-employed as a manual worker in mineral exploration. He requested A\$500,000 of Term Life cover with a limited term to 5 years (with benefit indexation).

Details of the applicant's medical history were as follows: his infection with HIV in 1996 was medically-acquired as a result of a poor quality health care system in which he received stitches for an accident whilst working in a third world country. Treatment with HAART (anti-retro virals) commenced in 2005. Full documentation of his medical care and serial bloods were made available for underwriting assessment.

The PMAR stated that the applicant had been a patient of the same practice since 1996. He had remained in good health since the original diagnosis apart from one episode of shingles in 1997. The decline in CD4 cell count in 2005 led to the anti-retro viral therapy commencing. The applicant had



experienced no other medical problems since that time. Medical results and examination indicated that, apart from his HIV status, he was remarkably healthy and all investigations including CD4, viral load, FBC, U&Es, LFTs, GFR, Thyroid, lipids/glucose, B12 and folate remained within normal limits. Bilirubin was mildly elevated as a result of treatment but of no clinical significance. The Hepatitis A, B and C results were also negative.

After careful consideration of the profile of this risk, Gen Re made an offer to our treaty client to accept the applicant under a life insurance policy subject to a 5 year term and at 100% extra mortality. This example shows that Gen Re creates tailored insurance solutions for high-risk groups for our clients.

Lindsay Cross transferred from the Gen Re office in South Africa to Sydney in July 2008 and brings a depth of underwriting, training, product development, portfolio management and marketing experience.

Lindsay Cross
Senior Underwriter
Tel. +61 2 8236 6227
lindsay.cross@genre.com

Gen Re Expands Medical Services

We are pleased to announce that following the retirement of Dr Patrick O'Brien, we have expanded our Medical Panel to include two additional Specialist General Physicians.



Dr John Cummins and Dr Laura Pearce join us to deliver and further grow our COMET Medical Training with Core and Elective Workshops, and to assist with our COMET Correspondence Course.

John and Laura will also support our local team with Medical Research and Development. They will work with our

International Research and Development Team in the U.K. and Germany further enhancing our Evidence Based Underwriting (EBU) projects.

Our Medical Panel now comprises five highly experienced Medical Specialists, Dr Richard Mulhearn Chief Medical Officer, Dr John Burgess, Dr Stuart Mitchell, Dr John Cummins and Dr Laura Pearce.

We have also transferred the coordination of COMET and Gen Re's Client Training Services into our Client Service Team. Head of Client Services, Jane Dorter will assume responsibility for the continued growth and development of all Client Training. Please continue to contact Kim Elvidge regarding administrative matters.

Michael Molesworth
Managing Director
Tel. +61 2 8236 6200
michael.molesworth@genre.com

COMET

PROGRAM 2009

Life Matters.

Upcoming Core Workshops

Sydney

Haematology, Respiratory & Inherited disorders

Monday 13 July 2009 9am – 4.30pm

Renal, Hepatic & Endocrine Disorders

Tuesday 14 July 2009 9am – 4.30pm

Risk Fundamentals

Tuesday 21 July 2009 9am – 4.30pm

Wednesday 22 July 2009 9am – 4.30pm

Male & Female Oncology

Monday 7 September 2009 9am – 4.30pm

General Oncology

Tuesday 8 September 2009 9am – 4.30pm

Wednesday 9 September 2009 9am – 12.30pm

Advanced Claims Management Principles

Tuesday 22 September 2009 9am – 4.30pm

Wednesday 23 September 2009 9am – 4.30pm

Auckland

Haematology, Respiratory & Inherited disorders

Monday 6 July 2009 9am – 4.30pm

Renal, Hepatic & Endocrine Disorders

Tuesday 7 July 2009 9am – 4.30pm

Risk Fundamentals

Tuesday 14 July 2009 9am – 4.30pm

Wednesday 15 July 2009 9am – 4.30pm

Male & Female Oncology

Monday 14 September 2009 9am – 4.30pm

General Oncology

Tuesday 15 September 2009 9am – 4.30pm

Wednesday 16 September 2009 9am – 12.30pm

An investment in human capital is one of the few remaining low risk, high returning investments companies can make in these bleak economic times. Take advantage of our year round Financial Crisis Specials on COMET.

Take advantage of 2009 Financial Crisis Specials

New Business Clients

1-3 participants: Free

4 or more: Buy one, Get one Free

Other Clients

Buy one, Get one Free

Discover for yourself how COMET can meet your team's needs for continuing professional development through the market leading education and training program for life risk insurance professionals.

Registrations and Information

Kimberly Elvidge

Tel. +61 2 8236 6201

kimberly.elvidge@genre.com



General Reinsurance Life Australia Ltd.

Angel Place, Level 24

123 Pitt Street

Sydney NSW 2000

Tel. +61 2 8236 6201

Fax +61 2 9222 1540

www.genrelifehealth.com/au

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