



“One Strike And You’re Out” Travel Insurance Clause

Bruce H. Cappon

How to avoid “Claim Denied” on Individually Issued Travel Health Insurance?

Have you ever made a mistake?

An error on a travel insurance application could render the policy null and void. If this occurs, the insurer will pay none of your emergency medical expenses.

When purchasing a travel insurance policy, you are agreeing to the terms and understanding of that specific contract. A potentially punitive escape clause in most contracts could read as follows: The contract will be null and void if any answer in the medical questionnaire is incorrect. More explicit policies will clearly disclose that even if the erroneous response is unrelated to the claim reported, you will be solely responsible for all expenses relating to your claim: It’s “one strike and you’re out”! With up to \$10,000 a day in a USA hospital, high costs for medical procedures and \$20,000 for an air ambulance back to Canada, hundreds if not hundred of thousands of dollars could be at risk.

**How to recognize a policy,
which includes this penalty clause?**

Depending on the policy wording, you’ll usually find it listed under the heading of : “Misrepresentation And Non-Disclosure” or “Medical Declaration” or “What Else You Need To Know”.

Let’s be very clear here. Deliberate misrepresentation and fraudulent acts would be penalized but so would honest human error:

While, in all fairness, we shouldn’t expect insurance companies to provide coverage for a house that’s “already ablaze”. On the other hand, be extremely wary of travel insurance contracts, which severely penalize claimants for

relatively minor misstatements.

Most Snowbird applications contain what’s known as “Gateway” or “Eligibility” questions. I can appreciate the insurer’s position in voiding the contract if an applicant made a serious mistake. In other words, if the applicant would NOT have been eligible for acceptance into the policy had the question been answered correctly at application time. But doesn’t it seem overly harsh to have the policy entirely voided where a single misstatement occurred beyond the Gateway questions? The good news is that there are insurers who take a less punitive approach and do provide coverage even if you make a mistake.

**The most vulnerable to having
this clause invoked are seniors:**

Approximately 85% of Snowbirds over age 60 must complete a medical declaration in order to purchase travel insurance. They also have the most complex medical conditions. This is a risky combination leading to the possibility of an inadvertent error on their medical questionnaire.

The potential flaw with the questionnaire format is that designers of policy wording creating lengthy, ambiguous questions and poorly defined conditions could escape responsibility for claims.

Bear in mind that travel insurers do NOT verify the accuracy of the medical information until the point of claim. This process is known as “post claim underwriting”, a riskier purchase for the applicants as it puts 100% of the onus for accuracy on the insured.

Travelers who purchase insurance are risk adverse. They don’t want to take any chances with their assets. Yet with policies that include the “one strike and you’re out” clause, seniors may actually be rolling the dice on whether their claim

could be denied. I recently interviewed seven Snowbirds who experienced that shock. The average age was 75 and their claims averaged \$107,000. In almost all cases, the misstatement clause was invoked. Moreover, their medical claims were unrelated to the questions answered incorrectly on their medical declarations.

Know that if you've agreed to this provision with your insurer, do not expect a more favourable outcome at claim time.

Assuming my correct understanding of the medical conditions, the policy with a compassion clause would have honoured their claims (less \$10,000) for all but one of these Snowbirds. There is a standard exclusion relating to medical expenses incurred where the insured departed prior to receiving results of investigative tests. In this case, the diagnosis would have indicated the insured had congestive heart failure consequently claims would not have been covered for expenses related to heart attack.

Alexander Pope, the famous poet, wrote: "To err is human, to forgive, divine".

The rationale offered by insurers for voiding entire contracts based on a single error can be summed up as follows: "the medical cause for claim is irrelevant to the issue of the medical disclosure at the time of the application. It is precisely the answers an applicant provides upon which the insurer bases its assessment of a risk and to ultimately accept and assume that risk". Essentially, insurers are saying that they depend on the accuracy of the applicant's answers to medical questions in their entirety!

Positive steps insurers could adopt to protect themselves while marketing a more consumer friendly product:

- Restrict the misstatement clause to acts of fraud or deliberate misrepresentation thereby providing leniency for honest mistakes; and/or
- Eliminate the need for a medical declaration. This would be no different from the method now utilized to sell travel insurance to younger clientele. Restrictions, limitations and exclusions would still apply. The major difference being that it would be virtually impossible for a contract to be voided due to an error on the part of an applicant; and/or
- Restrict the misrepresentation clause to those

errors/mistakes that become material to the medical claim reported. For example, an error to a gastrointestinal question would NOT void a contract for medical claim expenses related to a heart attack; and/or

- Cap financial penalties for minor inadvertent errors or omissions to less punitive amounts.

Steps you can take to limit the risk in having your travel policy declared null and void:

Kudos to the various media outlets for reporting on Snowbirds' stories dealing with the harsh realities of "claims denied". Toronto Star, Moneyville section, CBC "Go Public" and "Marketplace". Also, the *Canadian Moneysaver* who collectively raise public awareness of the pitfalls in certain travel insurance policies.

STEP #1

Consider a policy offering a "compassion clause":

One such policy has a provision offering protection even if the insured failed to disclose medical conditions on the questionnaire. The insured remains eligible for up to \$5 million in medical costs less a \$10,000 deductible. Essentially, the deductible is increased by this amount. While admittedly this is not a perfect scenario, it certainly beats having the insurance company pay absolutely nothing!

STEP #2

Consult your doctor before completing your medical declaration:

- Know your existing health conditions, medications and treatments;
- Learn the correct medical terms for your conditions;
- Obtain a list of medications and the reason(s) prescribed;
- Know if you have had abnormal test results;
- Record dates and modification of medication(s) or treatment;
- Be sure you know precisely what's in your doctor's file. In the event of a claim, this information will be compared to the accuracy of your medical declaration;

Tip ➔ Examine the specific policy definition of "pre-existing condition". Language that states "medical conditions, illness, or injury known to you", is preferable to the usual wording making you responsible for information in your

doctor's records of which you may have no knowledge.

I strongly advise against having your doctor actually complete the medical declaration. Doing so may provide a false sense of security. Although your doctor is your best reference for medical information and care, he/she will not understand your particular insurance policy and limitations.

The right answers will depend entirely on the specific policy wording and interpretation of the insurer. Your doctor will NOT have access to every insurer's detailed questionnaire guide nor expanded policy definitions.

What your doctor will NOT know:

I could provide many pages of examples but here are just a few:

Is a stent and pacemaker considered as treatment? Are "investigative tests" considered as treatments? Does intestinal bleeding include haemorrhoids? Is passing a kidney stone considered kidney disease? Is aspirin taken for preventative measures included in "medication"? Are physical and chiropractic therapies considered to be medical treatment? Does ongoing testing count as medical treatment? Is asthma a lung condition? Is blood pressure medication considered treatment for a cardiac condition? Is diet and exercise considered medical treatment? What is a terminal condition? Does the applicant need to answer "yes" to chronic asthma if they were prescribed a puffer for allergies only? Does the applicant need to answer "yes" to chronic bowel disease if they were diagnosed with or treated for diverticulosis or diverticulitis...?

Tip ➔ Pay close attention to your answers to gastrointestinal questions. Misstatements can often lead to voided contracts.

Far better that you gather your medical history. If you then have the slightest doubt as to how to interpret your answer to the medical question, obtain written clarification from the insurance company. Alternatively, insist that the information in question be added to the note section on the application. Don't settle for anything less. Know that under the statutory condition section of every policy, the following clause applies:

"Material Facts: A statement made by insured or person at the time of application for this contract must not be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability".

STEP #3

Consult a travel insurance broker:

This is crucial particularly if you have complex medical conditions. The "Yes/No" questionnaire format often requires additional expertise to correctly interpret how your personal medical information should be disclosed to the Insurer.

Lately, I've noticed a trend where certain insurers restrict their agents from completing the medical forms on their clients' behalf. Again, this puts the onus directly on their clients' shoulders.

STEP #4

A brief, concise medical declaration is desirable:

The shorter the medical questionnaire, the less chance for error. I've seen applications ranging from a few brief questions to those, which ask for your medical information back to birth. One such questionnaire asks whether you've been diagnosed or treated for 20+ conditions "more than 10 years ago". This format exposes the applicant to errors over a lifetime of medical history.

The preferred format will place you in a risk classification as you proceed through the medical form. Through the process of elimination, those with complex medical histories do NOT risk errors in having to complete the balance of the questionnaire.

Conclusion:

Shop wisely for quality travel insurance. Where possible, select policies, which offer:

- coverage for **unstable** pre-existing conditions;
- lock-in coverage at the point of application;
- have the least exclusions and restrictions;
- have a "compassion clause" offering coverage even if you make a mistake on the medical declaration;
- Re-read the January 2012 issue "Will That Be Swiss Cheese Or Travel Insurance?".

Challenge your knowledge with a quiz on travel insurance in an upcoming issue.

Travel well!

Bruce Cappon, Travel Insurance specialist, President, First Rate Insurance Inc., Ottawa, ON (800) 884-2126, info@firstrateinsurance.com, www.firstrateinsurance.com