Tips for Dealing With Your Insurance Company

TAYLOR & BLAIR LLP

Experienced Vancouver Lawyers

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Chapter 1:
Yes, 'Your' Insurance Company Would Do That To You

One way or another, almost everyone pays for one form of insurance or another. Insurance policies are something that we pay into to ensure that if disaster strikes, we will have monetary help at the times we really need it. Whether it's coverage for long-term disability insurance, life insurance, critical illness insurance, mortgage protection insurance, accidental death & dismemberment insurance, or any other type of insurance, we pay for it for peace of mind knowing that it will be one less worry at a time when we'll need all the help we can get.

The unfortunate reality is many legitimate insurance claims are denied every year. The statistics show that around 60% of long-term disability claims alone are denied on a yearly basis in Canada.

Often when clients call our firm, they can't believe that *their* insurance company would do that to them. The truth is your insurance company doesn't care about you as an individual no matter how long you've been paying your policy premiums on time. All they care about is how they can ensure their company has to pay as little out on your insurance policy as possible. End a claim early? Great! Deny it entirely? Even better.

When rightful insurance claims are denied the insurance denial lawyers at Taylor & Blair LLP work hard to ensure our clients get a fair deal and the insurance benefits they deserve. We have over 30 years of experience fighting insurance companies and bring that experience to bear for each client we take on. But the purpose of this book is to try to help make sure you don't need to become one of our clients in the first place by giving you some of the information you need to deal with your insurance company on your own.

Chapter 2:
Getting Ahead Of The Curve

THE APPLICATION

Most insurance denials are based on misrepresentations or fraudulent statements made on insurance applications. For many insurance denial claims it doesn't matter if there was an intent to mislead the insurance company, it just matters that you gave them the wrong information.

Giving an insurance company the wrong information is much easier than you may think as most people don't have an encyclopedic memory of what their doctor has written down in their clinical records. What did you tell your doctor seven years ago about your health? How many alcoholic beverages did you tell your doctor you had a week 5 years ago? The reality is most people don't know the answer to these questions, but when it comes time to make a claim on your insurance the very first thing your insurance company will do is get your doctors clinical records and comb through them to try and find inconsistencies with your answers in your insurance application and if they find them, they'll use them to void your insurance coverage.

The most infuriating part of all this is that doctors' clinical records are not taken for purposes like this and are often taken in note form without context or nuance. A common example of this is having a doctor's clinical records noting down "alcohol counseling". Does this mean that the doctor had a talk with their patient about alcohol consumption and noted it down as "alcohol counseling"? Does it mean that the doctor made a recommendation for the patient to attend alcohol counseling? Or perhaps it means the patient was attending counseling for issues with alcohol? It is almost impossible to tell without context, but you can be guaranteed that your insurance company will construe it in whatever way is most

disadvantageous to your insurance claim. These types of denials are difficult to fight as the insurance company will adopt the position that anything you have to say to explain such a notation is self-serving and the chances of your doctor remembering one notation in context from potentially years ago is slim to none. So how can you guard against this?

DO YOUR HOMEWORK

There is a simple, cheap way to ensure you answer correctly when filing out the application for your insurance policy that almost no one thinks of and could save you a ton of headaches and legal fees in the future: review your clinical records.

Your doctor's clinical record regarding you may be stored at your doctor's office but they are your records, and you are entitled to a copy of them. Some doctor's offices will give you a copy, while others will make you pay a fee for the staff time and overhead (papers, photocopier/printer ink, etc.) but for what is usually a nominal price.

Once you have a copy of your clinical records (it's usually advisable to get records going back at least 10 years), take some time to go through them and look for anything that may be a red flag for an insurance company. These are things like notations relating to drug or alcohol use, significant pre-existing medical issues, whether currently symptomatic or not, especially more subjective issues like anxiety or depression. For any concerns, **talk about it with your doctor** to make sure they are on the same page as you.

So long as your answers on your insurance application coincide with what's written down in your doctor's clinical records, you will be ahead of 99% of people when it comes to stopping insurance companies from denying your legitimate claims.

Chapter 3:
Doctors & Definitions

When the time comes and you must make a claim for benefits under your insurance policy, if it is an insurance claim for anything relating to health/illness/injury it is incredibly important to have your doctor on your side as every insurance policy will require a medical report. However, most doctors feel like their word alone is enough to confirm a disability and assume an insurance adjuster will show deference to their opinion on the functionality of their patient and the degree of disability. However, this is often based on a doctor's general overview of their patient's ability to carry on with their activities of daily living, not on the language of their patient's insurance policy.

Unlike medicine, the realm of insurance is a purely contractual one and being disabled and being disabled according to the terms of your insurance policy can be two very different things.

KNOW YOUR DEFINITION

While many are similar, every insurance contract has a specific definition as to what triggers insurance coverage. If your insurance claim is for long-term disability you need to know the **definition of disabled** under your policy. If your insurance claim is for critical illness coverage, make sure you know the definition of a covered illness. If you're making a claim under an accidental death or dismemberment policy, make sure you understand those definitions as well. These definitions are the bar you need to meet to get your insurer to pay out benefits and understanding the terminology is incredibly important.

Not only is it important for you to understand the definitions of your policy, but it's important for your attending doctor(s) to understand them as well. It is good practice to print up a copy of the relevant sections of your insurance policy and highlight the important definitions for your doctor(s) before you make the initial application. Make sure the language of your doctor's medical report tracks the language of your insurance policy as closely as possible. This is another step that will take a little bit of time on the front end of your claim and can potentially save you a huge amount of hassle down the line.

Chapter 4:
The Importance Of Faith

Good faith are two very important words in the insurance world. At the end of the day your insurance company stands in an important position relative to you. You pay them monthly or yearly premiums to make sure that if you ever need to, they will insure your losses in a variety of different situations depending on the insurance policies you have in place. While you have a contractual relationship, they enjoy the power in the relationship which puts them in a special

position relative to you and that position demands various things from your insurer, the most important being that they adjudicate any of your claims with the utmost good faith. This of course begs the question; how do you deny someone's legitimate insurance claim in good faith? The answer requires fancy footwork by insurance adjusters to ensure that when they deny a claim, they never do so in such a way where bad faith can be alleged as that alone can be a basis for a significant lawsuit against your insurer. The fear of these types of lawsuits can make the two words "good faith" your best friends when you're pursuing a claim for insurance benefits.

As discussed previously, insurance companies don't want to pay your claim and if they can think of a way to avoid doing so they will, but they need to find a reason for doing so that doesn't look like bad faith. Often this leaves them having to take medical records out of context and cherry pick facts. That's when you want to bring up the words "good faith". The insurance adjusters know they owe you an obligation of good faith and if you catch them walking the line they often soften their stance giving you a better chance to have your claim approved.

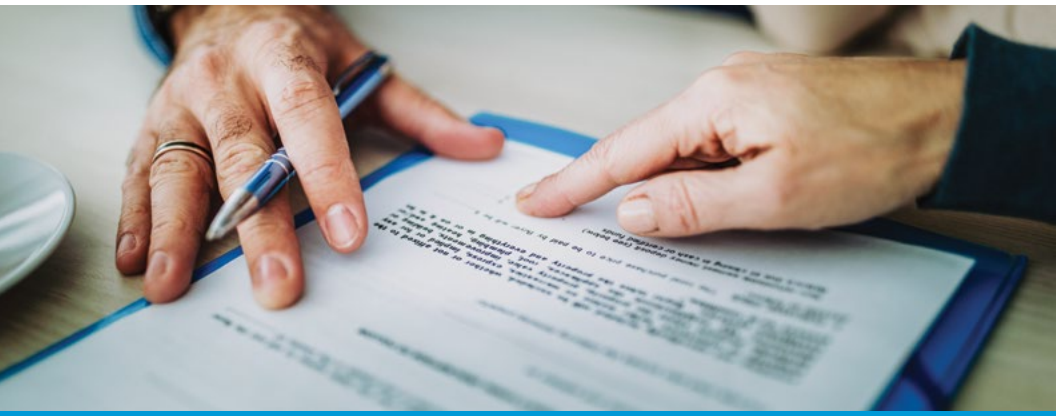
ADVOCATE FOR YOURSELF

Don't be afraid to stand up for yourself. Tell your adjuster that you know they owe you a duty of good faith and that includes an obligation to fairly adjudicate your claim and to do so in a timely fashion. If you feel that your insurance adjuster is ignoring an important piece of information or documentation, call them out on it. More often than not this will help get you the result you're looking for. Even if it doesn't it will set you up to be in a good position if you have to sue for denied insurance benefits after the fact, which leads us to the next chapter about how to ensure you're best suited for an appeal or lawsuit.

Chapter 5:
If It's Not In Writing It Never Happened

You may notice that insurance adjusters prefer to communicate with you over the phone. Occasionally they'll send you letters but, unlike almost any other industry, there will be no mailing address or email address for the specific insurance adjuster you've been talking to. There's a reason for this. The insurance companies don't want a paper trail of what was said by their representatives because they know at the end of the day their representatives' statements can be used against them.

One of the most useful tricks for dealing with an insurance company is to make sure you have an email address to communicate with your handling insurance adjuster. If they are reluctant to give it to you tell them that the whole insurance process is overwhelming for you, and you have a hard time understanding what they're saying and ask them to email it to you so you can have time to digest what they're saying. If they say they can't do it ask them why and remind them they have a duty to act in good faith in their dealings with you. If they keep refusing, ask to speak to a manager until you get an email address. There is no insurance adjuster on the face of the planet that doesn't have their own email address.



ALWAYS CONFIRM IN WRITING

Even if you get a hold of your insurance adjusters' email address they will more than likely still attempt to communicate with you via telephone calls to keep the paper trail to a minimum. There is an easy way of dealing with this and that's by following up with an email to the adjuster to confirm what was said in writing. It's as easy as this:

Dear _____,

I'm just writing to confirm what was said in our telephone conversation today. You advised me that:

• xxxxxxx

• yyyyyyy

• zzzzzzz

I asked ••••• and you answered •••••. I confirmed I would get you the further information that you asked for.

If you feel any of this is incorrect, please let me know. I will provide you the information when I receive it.

Thanks,

_____

If your insurance agent doesn't deny what you've laid out in your email at the time you send it, they will have a hard time doing so at a later date.

This is a simple and effective way to deal with your insurer and to make sure they give you a fair deal.

Chapter 6:
Warning Signs

If you're currently receiving insurance benefits for an ongoing issue, such as long-term disability or mortgage protection insurance, an insurance company can deny further coverage. There are **warning signs** that a denial can be coming.

THE INDEPENDENT MEDICAL EVALUATION

Your insurance company can request you attend an independent medical evaluation (or IME) to confirm an ongoing inability to work due to illness or injury. An insurance company will often frame this as a standard step in the insurance process, but there is no reason for an insurance company to spend the money to hire an independent medical examiner, which often cost many thousands of dollars, unless they are looking to end your ongoing insurance benefits.

While most insurance contracts have a provision that requires you to participate, keep in mind that the medical examiner is not your friend and is likely hired often by insurance companies and makes a great deal of money from them. As such it's in the medical examiner's interests to keep their client, your insurance company, happy. Often this means throwing you under the proverbial bus.

If you have to attend an independent medical evaluation for your insurer, don't lie to them, but also don't downplay your injuries. Think about the questions being asked and answer them the best you can to shed a realistic light on your daily struggles.

THE DAILY SCHEDULE

One of the biggest red flags is if your insurer asks you to do a daily/weekly diary of your activities. The insurance adjuster may give you any number of reasons as to why they need you to fill one of these out for them (usually a generic "to evaluate your continued

entitlement to benefits"), but the real reason is to try to disentitle you to ongoing insurance benefits. They will use the information you provide in your diary to try to find a way to cut off your benefits by saying that what you're able to do establishes that you have a residual ability to work. Or even worse, they will try to say you've been lying about what you are able to do because when you're filing out the activity diary for your insurer, they have a private investigator following you.

PRIVATE INVESTIGATORS & INDEPENDENT INSURANCE ADJUSTERS

Insurance companies commonly hire private investigators (PIs) or independent adjusters (IAs) to assist them in field work. Sometimes this means interviewing collateral witnesses like friends, family, workmates, etc. and other times it means taking surveillance video footage and photographs of their insureds.

When you've made a daily diary for your insurer, they will have a PI or IA follow you around to confirm that is actually what you do in a given day. If the information you give your insurer is drastically different than what their PI or IA records, you could end up having your policy voided for lying to your insurer.

As with your doctor's clinical records, insurance companies will construe any potential issue against your interests to try to deny your ongoing insurance benefits.

If you believe you are being followed by a PI or IA, the easiest way to deal with them is to take down their license plate number and do what you would do with any suspicious individual following you: report them to the police. What they are doing isn't illegal, but it will put a damper on their surveillance operation.

Chapter 7:
Your Insurance Has Been Denied

Despite doing everything you were told to do and being honest with your doctor(s) and your insurance company, your legitimate insurance claim has been denied. Whether the claim was denied at the outset, or your ongoing benefits were terminated in the middle of a claim, the effect is the same. You are without the benefits you paid for so you could rely on them when you needed this the most.

You normally have two routes to pick from at this stage:

1. the internal appeal; or
2. starting a lawsuit to enforce your rights.

THE INTERNAL APPEAL

The internal appeal is the process whereby you appeal the insurance company's decision to deny your insurance benefits to the insurance company that just denied you your insurance benefits.

The insurance company's internal appeal process often asks you to submit any new information or documentation that you think may make the insurance company change their mind about denying your benefits. The insurance company already likely has access to all your medical records, so one has to question what else you can really provide that they haven't already seen.

Suing over denied insurance claims have very strict deadlines and internal appeals are often long and drawn-out affairs which can eat into the time you have to prepare to sue for your benefits while you're trying to convince the insurance company that has already decided you aren't entitled to benefits that you are.

If you are going to attempt an internal appeal, it is best practice to get your insurance adjuster to describe in very specific detail why your benefits were denied so you know the precise argument you're appealing against.

It is extremely important to keep your insurer to a timeline for them to make the appeal decision. DO NOT let the appeal drag out. Many individuals have waited for the internal appeal to be rendered before deciding to take legal action, only to find out their limitation period had already expired.

STARTING A LAWSUIT TO ENFORCE YOUR INSURANCE BENEFITS

When all else fails you can hire an experienced insurance denial lawyer to start a lawsuit to enforce your rights to your insurance benefits.

Your ability to sue to enforce your insurance contract will depend on the terms of the contract. Some policies require a lawsuit to be started within 1 year of the denial, while others allow 2 years if not longer. Many union insurance contracts specifically don't allow for lawsuits and require any dispute to insurance entitlement to go before a committee who will decide the issues.

If you have to start a lawsuit to enforce your rights under your insurance policy an experienced insurance denial lawyer will be able to explain the process to you in plain language and use the proper evidence and expert witnesses to get you the insurance benefits you are entitled to.

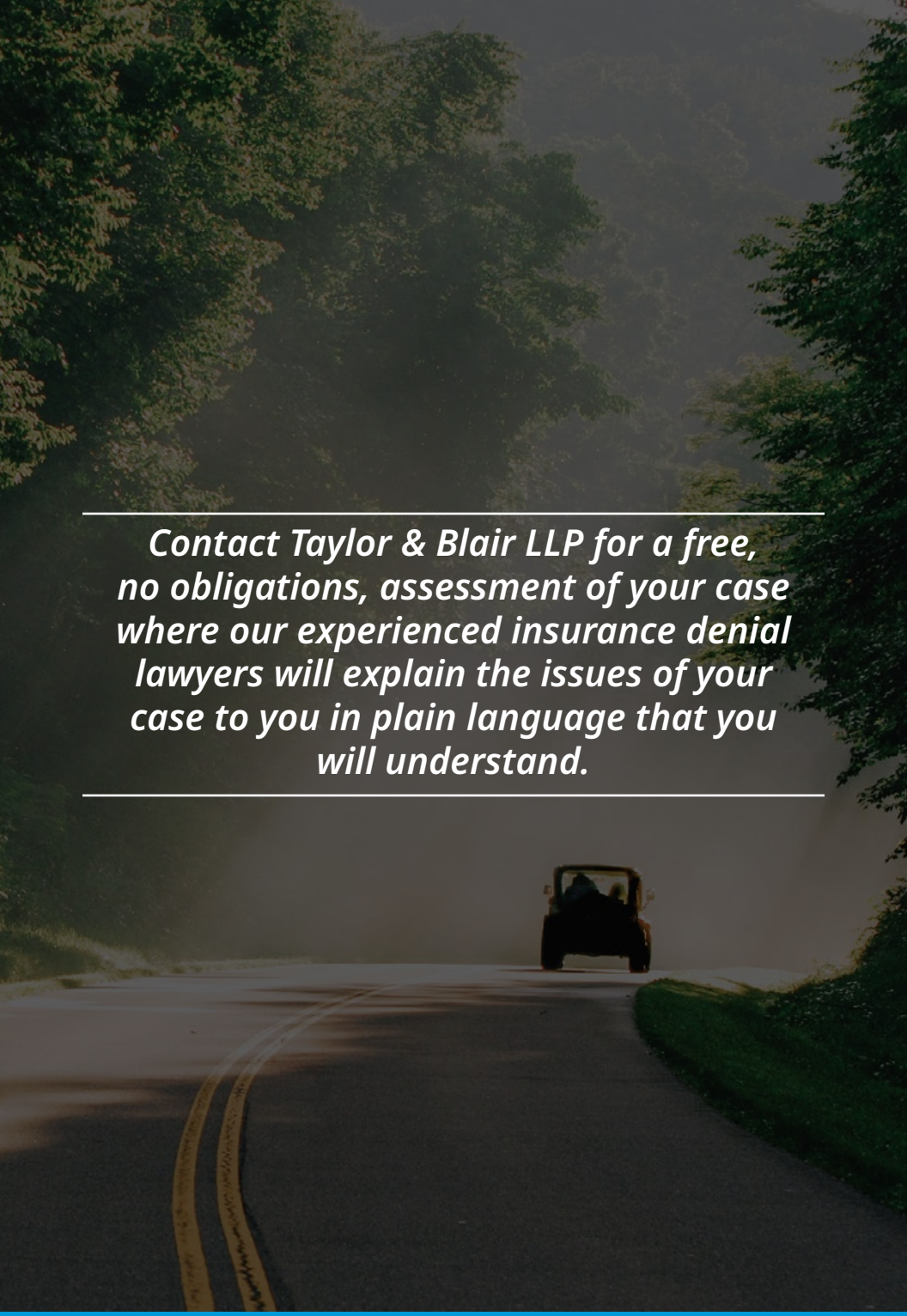
GET THE FILE

Regardless of whether you want to try the internal appeal route or if you want to start a lawsuit right away, the best tip on dealing with insurance companies for both choices is the same: request a copy of your entire file.

While many people lose sight of this when their insurance claim is denied, even if you feel like your insurance company is now the "enemy", they're still your insurance company and still owe you a duty of good faith. More importantly, your insurance file with them is still your file and your information. Your insurance company is obligated to provide you with a copy of your insurance file when you request one. Usually, the process takes about 30 days.

Your insurance file will have all the information the insurance company has on you, and it is necessarily the information they used to deny your claim. By requesting the file at the moment of the initial denial of benefits you have a nice package of information to use to pick apart their decision and prevent them from adding new information/documentation into the mix. After acquired evidence will not matter. What will matter is what information the insurance company had when they chose to deny your rightful insurance claim.

Another reason your insurance file is helpful is because if your appeal fails your only choice will be to start a lawsuit to enforce your rights and your lawyer will need the information in your insurance file to run your claim effectively.



Contact Taylor & Blair LLP for a free, no obligations, assessment of your case where our experienced insurance denial lawyers will explain the issues of your case to you in plain language that you will understand.

Summary

To sum it all up, know your policy language, know your medical history, document everything, don't be afraid to advocate for yourself and don't let your insurance company intimidate you.

If, despite your best effort, you still end up getting denied your insurance benefits, the insurance denial lawyers at Taylor & Blair LLP are here to help. With 7 convenient locations in the lower mainland and able to intake clients remotely from the rest of British Columbia, the Yukon, and all other provinces of Canada, we are here to serve you.

Our fees are contingency based, which means we don't get paid unless we are successful in getting your insurance benefits paid.

We have expertise in claims involving:

- Short-term Disability Claims
- Long-term Disability Claims
- Critical Illness Claims
- Life Insurance Claims
- Mortgage Insurance Claims
- Accidental Death & Dismemberment Claims
- And other types of insurance claims

There are time limits for bringing claims for denied insurance claims. Once your time limit has passed even the best lawyer cannot help you. Make sure you contact the experienced insurance denial lawyers at Taylor & Blair LLP today.

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We can also intake clients remotely through teleconference, video conference or mail.