

Insure protection of your client, yourself



**MERRICK
WEALTH**

By
**Peter
Merrick**

When I think about the insurance claim process what immediately pops into my head is John Grisham's bestselling novel, *The Rainmaker* – a modern David versus Goliath story.

The lead character, Rudy Baylor, a recent graduate from law school, is hired to represent his client, 22-year-old Donny Ray Black – who is dying of leukemia – in a civil litigation suit against Black's insurance company. The insurance company had flatly denied paying Black's claim for medical treatment. At the end of the novel, Baylor triumphs and wins against that all-powerful insurance company, but only after his client has succumbed to cancer.

Often at the annual review meeting between a public accountant and his or her client, the conversation turns to the accountant recommending the client purchase life, disability or critical illness insurance to honour shareholder/partnership agreements, to mitigate a client's and their family's income risk, and to reduce or defer taxes that must be paid at death. The client then goes off and, following their accountant's advice, purchases the insurances.

The mystery to most public accountants is this: they don't know if the insurance contracts that their clients sign are worth the paper they are written on. The rubber only meets the road when an insurance claim is actually made, processed, and paid.

In this month's column my primary aim is to demystify the insurance claim process. I will point out some very real hazards and present solutions that will protect your clients from being denied at the time of claim.

Life insurance, disability, critical illness, long-term care, or medical and dental policies are referred to as contracts of 'uberrima fides.' This term means 'in utmost good faith.'

An insurance company depends on the insurance applicant for complete disclosure. The negative consequences that can result from making misrepresentations on an insurance application may range from a delay in approval to voiding the policy.

The final requirement in creating a legal contractual agreement between the policy owner and an insurance company occurs only when the policy is delivered to the applicant.

The policyholder is only bound to the insurance contract after receipt, examination, verification of facts and their acceptance of the policy. The prompt delivery and proof of delivery are very important for insurance policies because a delayed delivery may create danger of a change in insurability of the person between the time of underwriting and when the policy is delivered.

A delivery receipt with a health statement that certifies no change in insurability status must be signed by the insured before the permanent policy is in force.

The agent's role in the insurance claim process is to provide help to the claimant or his or her beneficiaries in preparing and filing the claim. The problem with most insurance contracts that arise at time of claim lies with the selling agent's experience, or lack thereof.

A British study of the insurance industry found that 93 per cent of agents who entered the insurance business had within three years left the profession.

In Grisham's novel the insurance agent who had sold the policy to Donny Ray Black was nowhere to be found when his client was being denied his lifesaving claim.

The agents who sell your clients their insurance policies may not be in the business at the time of claim to help your clients through the process. This reality makes it even more imperative for a client's public accountant to understand the insurance claim process.

In a perfect world the claims process is similar for all types of life, disability, critical illness, long-term care and health insurance. It involves a five-step process.

- Claim forms must be submitted with supporting documentation.
- The claims department at the insurer will review claims for accuracy and completeness.
- The claims staff may contact the claimant and/or physician if more information is needed
- If the claim is approved the insurer must pay the claim within 30 days
- The insurer pays the claim

When a death claim is made by a beneficiary or the trustee of the deceased's estate, some of the typical requirements to process it include the deceased's death certificate, proof of age, beneficiary claim form and the attending physician's statement. There is no time limit for the filing of a life insurance claim. If the claim is not paid for a long period of time, the death benefit is paid with interest.

If the insured dies within two years after the policy had been issued, the insurance company will want information about the cause of death so it can rule out suicide.

Life insurance policies prohibit a benefit being paid out for the first two years after a life insurance policy has been issued when the insured has committed suicide. If this is the cause of death only the premiums will be paid out to the insured's estate or beneficiaries.

To process a disability, critical

illness or long-term care insurance policy claim the information needed by an insurance company includes the nature of disability or illness, the date of disability or illness, the details surrounding disability or illness and the name of the insured's physician.

At your next annual review meeting with a client where you recommend that they purchase an insurance policy, as the client's fiduciary, it is absolutely imperative that your client receive the right advice and be sold the right policy. It is wise that you work closely with a qualified agent who is experienced and has the proper professional designations.

Under federal and provincial statutes and laws an insurance company can possibly deny an insurance claim if it can prove that a material misstatement was made in the application, which if fully and truthfully disclosed would have led to a refusal by the insurer to issue the policy, at least on the terms and conditions it issued the policy.

To mitigate this risk and to make sure that an insurance policy has been properly underwritten so your client receives what they have paid for, it is recommended that a professional who specializes in reviewing insurance contracts scru-

tinize any existing insurance policies to uncover issues that may arise during the claim process.

Imagine you have a client to whom you recommended purchasing a \$10,000,000 life insurance policy for their estate planning needs. The client follows your recommendation and over a 10-year period the client pays over \$400,000 in insurance premiums. At the time of the claim his or her beneficiaries or estate are expecting the \$10 million death benefit, but through an innocent material misstatement of facts the beneficiaries or estate are only entitled to receive the premiums paid.

How much liability might you incur as a result initially advising the client? Ask yourself the following: What am I doing today to protect my client's interests and those of my practice?

Peter J. Merrick, BA, FMA, CFP, FCSI, is the president of Merrick-Wealth.com, a fee-for-service financial planning and executive benefit consulting firm in Toronto. He is the author of "The Essential Individual Pension Plan Handbook" (Lexis-Nexis Canada, 2007). He can be contacted at: (416) 854-1776 or peter@merrickwealth.com.

Chair enjoys leadership books

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at the helm for more than 50 years is not reflective of any anti-East Coast bias, said Poirier. Rather it illustrates the qualified pool of candidates the organization has to choose from. "It just shows how much talent there is. Chairs have come from all over the place. There have been no barriers."

Ironically, while Poirier can bring the Nova Scotia perspective to the table – a perspective, she stresses, that is unique to the province and not necessarily the region – she recognizes that as chair her vision must be much broader.

"It's nice at the board table to

have diverse perspectives, and we can fully debate issues," she said. However, "when you are in the chair, you represent all of the members."

To ensure she could continue listening and responding, Poirier took a leave of absence from her job for three months so she could "really enjoy" her new role and be "fully engaged." The travel schedule in the fall, she noted, was very demanding. It required her to jet across the country and to Asia, where she attended admission ceremonies. The job "has consumed quite a bit of my time, but I am passionate about this."

Poirier's desire to learn more


about her profession and the modern workplace in which it operates is also reflected in one of her pastimes: reading about leadership and the study of people.

One of her recent books was *When Fish Fly: Lessons for Creating a Vital and Energized Workplace – From the World Famous Pike Place Fish Market* by John Yokoyama and Joseph Michelli.

It tells the story of a fish market in Seattle, Washington, that has achieved international acclaim as a top-notch employer – and a hugely profitable business.

For Poirier, it serves as inspiration. "I want," she said simply, "to make CGA known on the international stage."

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