



COMBINED

COMBINED INSURANCE COMPANY OF AMERICA

ACCIDENT AND SICKNESS INSURANCE

THE IMPORTANCE OF STATUTORY CONDITIONS

BACKGROUND

All Accident & Sickness policies sold by Combined Insurance Company of America in the common law provinces (All the provinces and the territories with the exception of Quebec) contain what are known as Statutory Conditions, conditions which must be included in the contract.

The purpose of this module is to look at each of the 12 conditions in depth and details, as well as offer comments after each condition.

Finally, we will look at specific contracts sold by Combined and dialogue why some of these conditions are omitted/excluded in our contracts.

All representatives should have a comprehensive understanding of these conditions and be able to answer any questions asked by prospects, policyholders or any interested person.

STATUTORY CONDITIONS

Statutory Conditions are deemed to be a part of all **individual** accidents and sickness contracts, and generally are either included in or attached to an **individual** contract under the heading **Statutory Conditions**. Three significant points should be clearly understood.

- The A&S part of the Insurance Act allows the insurer to **OMIT** some of the **12 conditions** when a condition is not applicable to a specific contract.
- The Act allows the insurer to vary certain parts of the Statutory Conditions. However, if an omission or a variation of a condition makes the contract less favourable to the insured (owner), person who is insured (person on whom the coverage is based on), or beneficiary (if an accidental death benefit is included in the contract), automatically the Statutory Conditions are deemed to take precedence.
- The Act also permits an insurer to omit all the Statutory Conditions if the contract is of an extremely short term duration such as a ticket or travel contract, or if the contract is a non-renewable accident insurance policy of under six months.

However, the above contracts must carry a statement similar to the following in bold print.

“Notwithstanding any other provision herein contained, this contract is subject to the Statutory Conditions in the Insurance Act respecting contracts of accident insurance.”

The 12 Statutory Conditions are outline as follows:

1. (1) The Contract

The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or any of its provisions.

(2) Waiver

The insurer shall be deemed no to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

(3) Copy of Application

The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

1. (1) The Contract

This policy, the Act or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has the authority t change the contract or waive any of its provisions.

2. Material Facts

No statement made by the insured person or insured at the time of application for this contract shall 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.

Analysis:

As previously indicated, some of the Statutory Conditions can be varied or omitted when the condition is not relevant to a particular contract.

However, Statutory Conditions 1 and 2 cannot be altered. They must be included in every individual Accident and Sickness contract.

Statutory Condition No. 1 includes conditions that can be found in the ENTIRE CONTRACT PROVISION. This provision states that all Accident and Sickness contracts must include:

- The application
- Any document attached to the policy when issued
- Any amendment to the contract agreed to in writing after the policy is issued.

Statutory Condition No. 2 dealing with Material Facts simply clarifies that everything pertaining to the policy must be in writing and contained in the application.

3. Changes in Occupation

- (1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as most hazardous than that stated in this contract, liability under this contract is limited to the amount that the premium paid would have purchased for the most hazardous occupation according to the limits, classification or risks and premium rates in use by the insurer at the time the person engaged in the more hazardous occupation.
- (2) If the person insured changes his or her from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,
 - (a) Reduce the premium rate; or
 - (b) Issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

According to the limits, classification of risks and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

Analysis

During the course of one's working career, it is not unusual to change occupation. Statutory 3 addresses occupational changes.

If a person changes to a more hazardous occupation (i.e. was classified as a 4A when policy was purchased, changed occupation, and is now classified as a 2A), the insurer's liability is limited to the amount of coverage the premium would have purchased for the more hazardous activity.*

On the other hand, if a 2A changed occupations and is now classified as a 4A, on advising the insurer in writing, the premium rate will be reduced.

As previously mentioned, some of the Statutory Conditions can be omitted or altered.

This condition is found in very few contracts today as most insurers OMIT it.

Accordingly this can be favourable to a person classified as a 4A who changes to a more hazardous occupation but unfavourable for example to a 2A who changes to a less hazardous occupation.

However, as indicated earlier, any provision making the Statutory Condition less favourable to any party to the contract results in the Statutory Conditions taking precedence.

*In classifying occupations, most insurance companies use the following system. The best risk is classification as a 4A and the higher the risk of being disabled, the lower the classification (i.e. 4A, 3A, 2A, A, B, R). R stands for reject.

4. Relation of Earnings to Insurance

Where the benefits for loss of time payable hereunder; either alone or together with benefits for loss of time under another contract, including a contract of group accident or group sickness insurance or of both and a life insurance contract providing disability insurance exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any paid by the insured shall be returned to him by the insurer.

Analysis

An extremely important condition that covers a number of important issues.

(1) When an agent takes an application for a Disability Income policy, the answer to three questions must be obtained.

- What amount of individual disability income does the individual currently have?
- What amount of group disability coverage is currently provided?
- Does an existing life insurance policy owned by the individual provide any disability income coverage?

In essence, the agent has to relate the individual earnings to the amount of insurance he can own.

Consider the following:

Allan Bishop, employed as a lithographer in a small printing shop, currently owns a disability income policy that will pay him \$600 per month.

His monthly income from employment is \$4000 per month and his agent has informed him that the maximum amount of disability insurance that he can purchase is 65% of his “earned income” or \$2600 per month. As Allan already owns \$600 per month, the agent has to take this into account. Accordingly, Allan is eligible for an additional \$2000 per month.

If Allan’s employer provided disability income through a group benefit package, the amount would also have to be taken into consideration.

(2) It should be noted that in determining the maximum amount of disability income benefits that can be sold, disability benefits from government plans such as Employment Insurance, Canada Pension Plan and Worker’s Compensation do not have to be taken into account.

However, some individual contracts integrate government plans, what this means is benefits could be reduced.

(3) When a claim is submitted, the claims department before paying any benefit will always determine what the disabled person is eligible to receive from other insurers. If the individual is over-insured, the amount of disability benefits could be reduced and a portion of the premiums paid for the coverage could be reduced.

5. Termination by Insured

The insured may terminate this contract at any time by giving written notice of termination the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Analysis

If the owner decides to cancel an individual policy, written notice of termination is required to be submitted to the insurer. When the insured has paid premiums in advance, administrative charges will be applicable and the owner will receive a lesser amount than expected upon cancellation. All insurers have what are known as short rate tables.

If the owner is paying premiums by Automatic Premium Withdrawal from his bank account, in all probability he or she will not inform the insurer in writing, rather instruction will be given to the bank not to withdraw the funds.

6. Termination by Insurer

- (1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the pro rata premium for the expired time.
- (2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.
- (3) Where the notice of termination is delivered to the insured five days notice of termination shall be given: where it is mailed to the insured, ten days notice shall begin on the day following the date of mailing of notice.

Analysis

This Statutory Condition is only applicable if the policy purchased is one, which can be cancelled by the insurer.

An examination of most policies issued by insurance companies would find this Statutory Condition omitted, as the policy sold cannot be terminated by the insurer.

7. Notice and Proof of Claim

- (1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall
 - (a) give written notice to the insurer,
 - (i) by delivery thereof, or by sending it by registered mail to the head office or chief agency or the insurer in the Province, or
 - (ii) by delivery thereof to an authorized agent of the insurer in the Province, not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;
 - (b) within ninety days from the date a claim arises under the contract on account of accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and
 - (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract and as to the duration of such disability.
- (2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notices or proof is given or furnished as soon as reasonably possible, an in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

8. Insurer to Furnish Forms for Proof of Claim

The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms with that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Analysis

Statutory Conditions 7 to 12 deals with the Claims procedure when the person insured is disabled due to an accident or sickness, or dies with an Accidental Death Benefit.

Briefly, these conditions provide a time sequence regarding the claim process.

<p><i>30 days to notify Insurer</i></p>	<ul style="list-style-type: none"> • The insured, person insured, beneficiary or representative of any of the above must first notify the insurance company that a claim is going to be submitted. <p>This should be done no later than 30 days from the date a claim arises.</p>
<p><i>When notified, Insurer Should provide necessary forms within 15 days.</i></p>	<ul style="list-style-type: none"> • Upon notification that a claim is pending, the the necessary forms to the appropriate party Within a period of 15 days after receiving notice, so proof of claim can be submitted.
<p><i>Proof of claim should be submitted within 90 days.</i></p>	<ul style="list-style-type: none"> • Proof of claim should be submitted within a period of 90 days from the date a claim arises.

Failure to give notice of claim or proof of claim does not invalidate the claim.

In unusual circumstances, the insured cannot be held to the above time limits, but the insurer has the right to deny a claim when notice or proof of claim is submitted more than one year after the accident or sickness.

9. Rights of Examination

As a condition precedent to recovery of insurance money under this contract,

- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending; and
- (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

Analysis

This Statutory Condition is straightforward. If the insurer suspects the person insured is not injured or sick within the terms and conditions of the contract, the insurer has the right to request a medical exam.

If the person insured dies and an accidental death benefit is payable, the insurer has the right to request an autopsy to determine whether death was a direct result of an accident, when the insurer suspects that this might not be the case.

10. When Moneys Payable Other Than for Loss of Time

All money payable under this contract, other than benefits for loss of time, shall be paid by the insurer within 60 days after it has received proof of claim.

11. When Loss of Time Benefits Payable

The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim and any payments shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

Analysis

It is important to distinguish between Loss of Time and Other Than Loss of Time.

The term Loss of Time refers to disability income payments resulting from an accident or sickness.

As previously mentioned, these payments are generally made on a monthly basis.

The term Other Than Loss of Time refers to capital payments such as an accidental death or a dismemberment payment, or reimbursement under an individual extended health care or dental plan as an example.

12. Limitations of Actions

An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

Analysis

This condition is straightforward. If any party wishes to contest a claim, generally legal action should be commenced within one year from the date the insurance claim would have become payable.

A Final Word

Examine any Combined Accident and Sickness Policy and you will find the Statutory Conditions contained in the contract.

The following example comes from Combined's Critical Conditions policy. Please note that Statutory Conditions 3, 4, 6 and 11 are not included, as they are not applicable to this contract. If you look at other Combined Contracts, you will find some Statutory Conditions are excluded.

STATUTORY CONDITIONS

1. (1) The Contract: The application, this policy, and document attached to this policy when issued, any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.
 - (2) Waiver: The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.
 - (3) Copy of Application: The insurer shall, upon request, furnish to the Insured or to a claimant under the contract a copy of the application.
2. Material Facts: No statement made by the Insured or person insured at the time of application for this contract shall 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.
3. (This condition is not applicable to this contract and is omitted pursuant to statute.)
4. (This condition is not applicable to this contract and is omitted pursuant to statute.)
5. Termination by Insured: The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the insurer in the Province, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.
6. (This condition is not applicable to this contract and is omitted pursuant to statute.)
7. (1) Notice and Proof of Claim: The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them shall
 - (a) give written notice of claim to the insurer,
 - (i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Province, or
 - (ii) by delivery thereof to an authorized agent of the insurer in the Province, not later than thirty days from the date a claim arises under the contract on account of a covered condition.
 - (b) within ninety days from the date a claim arises under the contract on account of a covered condition, furnish to the insurer such proof as is reasonably possible in the circumstances of the commencement of the loss, the right of the claimant to receive payment, his or her age, and the age of the beneficiary if relevant; and
 - (c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the loss for which claim may be made under the contract and as to the duration of the loss.

- (2) Failure to Give Notice or Proof: Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date a claim arises under the contract on account of a covered condition if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.
8. Insurer to Furnish Forms for Proof of Claim: The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time the claimant may submit his or her proof of claim in the form of a written statement of the cause or nature of the loss giving rise to the claim and of the extent of loss.
9. Rights of Examination: As a condition precedent to recovery of insurance moneys under this contract,
- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending, and
 - (b) in the case of death of the person insured, the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.
10. When Moneys Payable Other Than for Loss of Time: All money payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.
11. (This condition is not applicable to this contract and is omitted pursuant to statute.)
12. Limitation of Actions: An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than one year after the date the insurance money became payable or would have become payable if it had been a valid claim.

IN WITNESS WHEREOF, Combined has caused this policy to be executed by its Chairman and Chief Executive Officer and its Secretary, but the same shall not be binding upon Combined until countersigned by a licensed agent of Combined.



Chairman and
Chief Executive Officer



Secretary