

In Australia genetic health information, which includes your personal medical history and results of genetic tests and information about the health of your first degree relatives (parents, children, brothers, sisters) can have implications for life insurance policies.

**The Moratorium on Genetic Tests in Life Insurance came into effect on 1 July 2019 and will be in place until at least 30 June 2024; at which time there will be a decision about continuation. The word Moratorium means a freeze or temporary suspension. The Moratorium on Genetic Tests in Life Insurance means that up until 2024, life insurance companies will not be able to use genetic test results as part of insurance applications up to the cover limit amounts of \$500,000 (for death and total permanent disability), \$200,000 for trauma and \$4,000 a month for income protection.**

#### **In summary**

- **Private health insurance is not based on a risk assessment of your health.**
  - **You will not be asked about genetic test results or your family history of health conditions.**
- **Most life insurance products such as cover for death, permanent disability, trauma and income protection are based on a risk assessment (underwritten contracts). This may impact on the cost or terms of the policy**
  - **You are not required to have a genetic test as part of the risk assessment when applying for life insurance**
  - **If you do have a genetic test, your life insurance company must not use your genetic test results (up to the financial limits set above) unless you choose to declare them.**

#### **You may be asked**

- **Your age, gender, current health and medical history, including any signs, symptoms and any diagnosed conditions you have had or continue to have, even if diagnosed through a genetic test**
- **Your results of medical tests you have had**
- **Any health conditions that you are aware of in your first degree relatives (parents, children, brothers, sisters) only and the age they were diagnosed.**

**You are not required to provide any other information about your first degree relatives including their genetic/genomic test result(s) if known to you, their name or date of birth.**

- **Most life insurance products are long term or guaranteed renewable**
  - **As long as the premiums are paid, you do not have to notify the insurer of any change in your health or of the results of any medical or genetic/genomic test taken after your policy has started.**
- **A genetic/genomic test undertaken after a policy has been secured that shows you have not inherited the faulty gene in the family, and you choose to declare the results, means that the impact of a family history may be offset from your risk assessment that informed the cost and terms of the contract. Contact your insurer to discuss.**
- **The Moratorium does not apply to any existing life insurance policies.**
- **Involve your family doctor, medical or genetics specialist if necessary, in negotiations with the insurance company.**

**A reminder that the Moratorium applies to life insurance applications up to \$500,000 (for death and total permanent disability), \$200,000 for trauma and \$4,000 a month in total of income protection. For more information: <https://www.fsc.org.au/policy/life-insurance>**

## INSURANCE IN AUSTRALIA

When you take out insurance that is related to your current or future health, you are entering a contract with the company. Companies that provide life insurance or sickness and accident insurance, base an offer and cost of the policy on the level of the risk that is being taken on. These are risk-rated insurance policies. Underwriting is the term insurers use to describe their risk assessment.

**Private Health Insurance** premiums are not risk rated (underwritten), so that everyone pays the same premiums for the same policy, regardless of their age or health status. You do not have to provide any genetic/genomic test information to the company when applying. Private health insurers can impose waiting periods for pre-existing conditions.

A person who has a genetic/**genomic** test result indicating susceptibility to a condition but does not have any signs or symptoms, does not have a pre-existing condition and so waiting periods should not be imposed.

### RISK-RATED INSURANCE POLICES

#### (A) LIFE INSURANCE FROM A LIFE INSURANCE COMPANY

Life insurance products include cover for life and living benefit policies such as permanent disability, trauma, income protection insurance and those taken out for business and bank loans.

A life insurance policy is a contract between you (the policyholder) and the insurer that requires an assessment of the risk that you will make a claim. Living Benefit policies are associated with different chances of making a claim than policies for death and so higher premiums may be charged.

Based on the level of risk and the type of policy applied for, the insurer will decide the level of premium to charge, might impose limitations on the cover or might even decline to insure you.

The *Insurance Contracts Act 1984* (Cth) sets out requirements for the insurer and the applicants. Further, the Financial Services Council (FSC) provides Standards of Practice (called "Standards") for life insurance companies operating in Australia.

All companies offering new life insurance policies in Australia are currently members of the FSC and subject to the Life Insurance Code of Practice and the FSC Standards. The Act and the Standards define responsibilities on both the insurer and the applicant. FSC members are listed at

<https://www.fsc.org.au/about/fsc-members>

#### Applying for life insurance

##### (a) Where a genetic/genomic test result has been received before securing insurance cover:

In regard to the use of genetic information in the risk assessment, there are two FSC Standards:

- [Standard No. 11 Moratorium on Genetic Tests in Life Insurance](#)
- [Standard No. 16 Family Medical History Policy.](#)

##### What the insurer should do:

- Assess your risk using statistical, actuarial data or other factors where that is available or other appropriate information
- Take into account any screening, treatment or preventive health strategies adopted to reduce the risk
- Do not require a genetic test be undertaken as part of the application process.

##### What you may be asked:

The application form may ask about:

- Your age
- Your gender
- Your current health
- Your past medical history, including any signs, symptoms and any diagnosed conditions you have had or continue to have, even if diagnosed through a genetic test
- Results of your medical test(s) undertaken
- Information about health condition(s) affecting your first degree relatives only (mother, father, brother, sister, children)
  - The number of these relatives who have been diagnosed with the condition(s); i.e. have signs and symptoms of the condition
  - The age at diagnosis of the condition(s) of each relative(s).

- **Note: Standard 16 does not require you to provide any other information about your first degree relatives including their genetic test result(s) if known to you, their name or date of birth**
- Other risk factors such as your personal environment, occupation, smoking or excessive consumption of alcohol and lifestyle.

**Document any screening, treatment or preventive health strategies you have or are taking.**

In meeting your duty of disclosure, you also have to disclose any risk factors or changes in circumstances that happen after completing an application until the policy starts.

**(b) Where you have a family history of a condition but you do not have any signs or symptoms of the condition and you have not had a genetic/genomic test before securing insurance cover:**

You must disclose all information known to you about the health of your first degree relatives but not about any other relatives.

However, depending on the condition, your family history may impact on how your risk is assessed and affect the cost of premiums or the terms of the policy or even being able to access insurance.

Securing a policy could take several weeks or more.

**(c) Where a blood sample for a genetic/genomic test has been taken before securing insurance cover that is higher than the financial limits set out in the Moratorium:**

- *A test sample has not yet been analysed by the laboratory:*

As with all types of medical treatment, you can withdraw your consent for a sample being analysed at any time prior to the laboratory starting the process. If you withdraw, you will not know the result so you do not need to disclose that you have had the test.

Sometimes a person will give a sample for testing to be done in the future for the benefit of family members. This is sometimes called **DNA banking**. If you provide a sample for DNA banking you have not undergone a genetic/genomic test.

- *A laboratory has analysed your sample and a result is pending:*  
The insurer will ask you to tell them this.
- *The laboratory has analysed your sample but you have chosen not to know your result:*  
There may be a number of reasons why you might choose not to have your genetic/genomic test result. In these circumstances you do not know your result and so do not have to disclose that a genetic test has been undertaken. The insurer should then underwrite the risk only on the basis of your family history and the other respective disclosures made in your application.

**After a policy has been obtained**

Most insurance policies offered by life insurance companies in Australia are **long term** or **guaranteed renewable**. This means that as long as the premiums are paid, you do not have to notify the insurer of any change in your health or of the results of any medical or genetic/genomic test or a change in any other relevant circumstance.

However, if you wish to alter the policy, the insurer will need to reassess the risk at this time if the risk to the insurer has increased, so all the information above will need to be provided.

Importantly, a genetic/genomic test undertaken after a policy has been secured that shows you have not inherited the faulty gene in the family, and you choose to declare the results, means that the impact of a family history may be offset from your risk assessment.

Of course, other factors that affect your risk may also now be present but if the family history is the only factor that you believe impacted on the decision to offer a policy on non-standard terms, you should contact your insurer to discuss. You may wish to involve your doctor, geneticist or genetic counsellor in this process.

## **(B) SICKNESS AND ACCIDENT POLICIES**

These insurance policies are usually renewable, often annually, unlike life insurance policies. At every renewal period, you must tell the insurer of any information that you now have, including any change in genetic information (family medical history or genetic/genomic test results).

## **INSURANCE POLICIES THAT DO NOT ASSESS YOUR RISK**

### **(A) PRIVATE HEALTH INSURANCE**

See above

### **(B) GROUP INSURANCE (OFTEN OBTAINED THROUGH SUPERANNUATION PLANS)**

Life insurance cover for a limited amount (up to a predetermined limited level) might be available, for example, as part of a superannuation plan. This is called 'group insurance'.

As group insurance provides a limited cover, no individual or family health information or genetic/genomic testing results is requested. A number of life insurance products can be obtained via this insurance option for most employees in Australia.

Your employer might be able to assist you with this. Eligibility to obtain such insurance requires you to be working and carrying out your usual duties at the time of the application. If you are a sole proprietor of a business, you should consult your insurance broker or agent for advice.

If you leave your employer and your group insurance cover is still in place, you should talk to your current and prospective employer about your options with regard to carrying your insurance cover into your superannuation plan with your new position.

If you need or want life insurance for a higher amount, the requirements for application outlined above for policies from life insurance companies apply.

## **GENETIC/GENOMIC TESTING IN RESEARCH PROJECTS**

The Moratorium applies equally to research and other genetic tests, unless you are not going to get the test result.

Below are several scenarios of how a genetic research project could be conducted and whether or not you need to disclose that you have had the genetic test.

1. ***You will not receive any personal or family information from the research.***

You do not need to disclose that you have had the genetic/genomic test.

2. ***You will not be given a personal genetic test result but you might be contacted by the researchers at a later date and told that the research has indicated that a family test result could be important to your future health.***

If you have not been contacted at the time of application, you do not need to disclose that you have had the genetic test as you do not know of any personal result.

However if at the time of application you have been advised that there is an opportunity to investigate options further through a specialist service, you are now aware of a matter that an insurer might consider relevant, and are therefore expected to disclose the information in an application for a policy.

If you choose to undergo a further genetic test in a clinical setting, obligations to disclose any new information that you now have will apply above the financial limits set.

3. ***You will receive a personal result from the research.***

This is treated as no different to having the test conducted in a clinical setting. Your life insurance company must not use your genetic test results (up to the financial limits set above) unless you choose to declare them.

## **DEALING WITH INSURANCE COMPANIES**

If the insurance company is a member of FSC, it will be bound by the FSC standards described above. If you receive an offer at a non-standard rate, the insurer is required under the Life Insurance Code of Practice to provide the reason/s for the decision.

If however this has not been provided and you think that the risk assessment has been inappropriate or has not taken into account any strategies or treatment you are doing, you should contact the insurance company's underwriter and request a reason for the decision in writing.

A genetics specialist may be able to explain the reasons for a decision, and if necessary might discuss the decision with the company's Chief Underwriter or Chief Medical Officer.

If advised by an agent/broker that an insurance offer might be declined, deferred, offered at non-standard rates or impacted on the basis of a particular genetic test result you should check that this advice was received from the company's underwriter in writing and request a copy.

If there are difficulties with an insurance company over an application or renewal, it is possible to follow the Internal Disputes Resolution process

that each company has documented in their product disclosure statement (this is also known as a PDS and is the brochure that comes with the application form). Alternatively, assistance can be sought from the Australian Financial Complaints Authority (AFCA; [www.afca.org.au](http://www.afca.org.au)), the Australian Human Rights Commission ([www.humanrights.gov.au](http://www.humanrights.gov.au)), and the Courts.

**Consider including your family doctor, medical or genetics specialist in negotiations with the insurance company. Document your relevant screening, treatment and preventive health strategies.**

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