

Speak up and take action to reduce discrimination in insurance

In Australia, people with an experience of mental illness may not be able to access insurance in the same way as the rest of the population. A prior history of mental illness can mean that someone is denied insurance cover, asked to pay a higher premium, or has their claim rejected. This is particularly the case in relation to travel insurance, life insurance, total and permanent disability insurance and income protection insurance.

For the past ten years, *beyondblue* and Mental Health Australia have been working hard to encourage the insurance industry to change their policies and practices to improve access to insurance for people who have experienced mental illness.

Unfortunately, change has been slow to happen, and we need to do more to get a fair deal for people who experience mental illness. *beyondblue* and Mental Health Australia are now building an awareness and advocacy campaign, and **we need your support.**

How insurance companies potentially discriminate against people with mental illness

Generally, under state and federal anti-discrimination legislation, insurance companies can legally discriminate against someone with a disability if their actions are reasonable, having regard to actuarial or statistical data on which it is reasonable to rely. At federal level and in some states if there is no such actuarial or statistical data, insurers can rely on 'other relevant factors', which may be particular to the individual. These factors could include medical opinion, opinions from other professional groups, actuarial opinion and commercial judgment. Some states only permit discrimination if it is reasonable, having regard to actuarial or statistical data.

Unfortunately, *beyondblue* and Mental Health Australia regularly hear stories from people which suggest that insurance companies are not using the right data or considering the full range of relevant factors in dealing with people who disclose an experience with mental illness.

For example:

- A history of one mental illness can mean that people are refused insurance for another, unrelated mental illness. It is hard to imagine someone with a history of (say) stomach problems being excluded from cover associated with a broken leg, yet insurers regularly treat people with mental illness in ways that would be unacceptable for people with physical ailments.
- A person who has a history of depression may be refused increased coverage for an income protection insurance policy, even though they have never taken a day off work because of their mental illness, and have a doctor's opinion stating that their mental illness will not impact on their performance at work.
- Policy wording commonly refers to symptoms of and risk factors for mental illness (e.g. 'stress', 'insomnia') as substitutes for mental illness.
- Insurers have been known to attribute a mental illness to a person in the absence of a diagnosis, such as when someone has seen a counsellor or psychologist.

These kinds of practices demonstrate a basic misunderstanding of mental illness on the part of the insurance industry and we think it is unlikely that there is reliable statistical evidence to support them. However, the commercial nature of actuarial judgments (decisions made by the insurance company about the risks posed by people in different categories) means the data is not accessible, which makes it hard to determine whether insurers are using data upon which it is reasonable for them to rely.

Many people also report that insurers have not considered their personal circumstances when assessing applications and claims. In our experience, this suggests that 'other relevant factors', such as the type of illness, its severity, the individual's treatment or recovery plan and/or effects on income-earning capacity, are often not taken into account in such decisions.

Some of the practices of the insurance industry contradict their stated policies or protocols. While insurers might assert that they do not reject applicants or claimants solely on the basis of having a mental illness, in our opinion the experiences of individual people demonstrate that such discrimination is common.

Some insurance companies allow people with a mental illness to purchase cover if they have been without symptoms or have not sought treatment for a given time period. Unfortunately, this can serve as a disincentive for people to report mental health problems to a health professional or to change their treatment so that they can qualify for insurance. Such practices in fact promote poorer mental health by discouraging early identification and treatment of mental illness.

What can we do about it?

beyondblue and Mental Health Australia believe that much needs to be done to ensure that people with a mental illness can enjoy fair access to the insurance market. For example:

- An independent study on the data that the insurance industry currently holds about the risks associated with mental illness for different kinds of insurance
- Training for insurance workers so they can deal effectively with people who disclose a mental health issue and assess risk appropriately
- A guide to insurance policies for people with a mental illness that are mental health-friendly
- Changing underwriting practices to reflect a more accurate understanding of mental illness
- Removing inaccurate and misguided clauses relating to mental illness in insurance policy documents

While these are all important, **the most important thing in achieving change right now is for as many people as possible to come forward** and tell their stories about ways in which insurance companies may have discriminated against them because of their experience of mental illness.

How can you get involved?

If you have a complaint about an insurance policy or claim, or wish to appeal a decision made by an insurance company, there are several options available:

- Lodge a complaint or appeal with the insurance company's customer complaints section, seeking a review of their decision.
- If contacting the insurance company directly does not lead to a satisfactory resolution of your complaint, you can make a complaint to the relevant industry complaints body. This would most likely be one of the following:
 - Financial Ombudsman Service www.fos.org.au
 - Superannuation Complaints Tribunal www.sct.gov.au

- If you believe you may have been discriminated against because of your experience of mental illness, you can make a complaint of disability discrimination to one of the following:

- Australian Human Rights Commission, www.humanrights.gov.au
- Your state or territory based human rights, anti-discrimination, or equal opportunity body.

If you wish to obtain some legal advice about your options, you can contact:

Laura Lombardo
Senior Solicitor
Public Interest Advocacy Centre (PIAC)
Phone: (02) 8898 6526
Email: llombardo@piac.asn.au

PIAC can provide you with free **legal advice** and, if appropriate, legal representation in relation to your complaint. Legal advice may include advice on the best place to make a complaint for your particular case.

If you would like to tell your story or to stay informed about the campaign, please email your contact details and a brief explanation of your experience regarding discrimination and insurance to theinsuranceproject@beyondblue.org.au

Where to find more information about anxiety and depression

beyondblue

www.beyondblue.org.au

Learn more about depression and anxiety, or talk it through with our Support Service.

☎ 1300 22 4636

✉ Email or 💬 chat to us online at www.beyondblue.org.au/getsupport