

ABOUT THAT CREDIT LIFE POLICY...

Credit life or credit protection plans are insurance policies that afford cover to consumers of credit to provide assurance that in the event of their death, disability, terminal illness, or retrenchment that the outstanding credit or finance charges will be taken care off. All these events are risks that are likely to impair one's ability to earn an income and in so doing prevent one from servicing the outstanding credit or finance charges in terms of a personal loan, bond, vehicle financing agreement, credit card, in-store credit or any other credit related transaction. Whilst these policies do cover the outstanding credit or finance charges in the event of death, permanent disability and or terminal illness, it must be highlighted that in the case of temporary disablement and or retrenchment, these policies only provide for the payment of the monthly instalments for a limited period, normally 6 months.

Retrenchment itself presents a unique challenge, in that this Office receives a number of complaints where claims in respect of retrenchment have not been honoured by the insurer as the claimant was at the time of the claimed event

either self-employed or employed in terms of a contract. *Retrenchment* is a form of dismissal due to no fault of the employee, and it is a process whereby the employer reviews its business needs in order to increase profits or limit losses, which leads to

reducing its employees. There is a specific process that must be followed in the event of retrenchment, and unless this process has been followed there can be no valid claim. There is however relief for those self employed or contract workers who have been sold credit life or credit protection plans which include retrenchment, as this would represent mis-selling. The General Code of Conduct for Authorised Financial Services Providers and Representatives ('the Code.') requires that a financial service provider ('FSP') obtains all relevant and available information to ensure than any recommendation made is appropriate to the clients needs and circum-

stances. It would therefore be required from an FSP to have knowledge of the nature of your employment, notwithstanding the fact that it would have been information disclosed during the credit application, and therefore, the provision of a retrenchment

benefit to a self-employed individual or contract worker would be inappropriate and would be a matter for investigation by the FAIS Ombud.

Unlike your more traditional life assurance policies, these policies do not conduct medical underwriting at the inception of the policy, and so all applications are accepted irrespective of the risk posed to the insurer. This is important to understand, as a traditional life cover policy will require that one be subjected to a number of questions surrounding your medical history and where necessary you may be required to undergo medical underwriting in the form of various medical tests. This

underwriting process is utilised by the insurance company to establish the risk presented by you, which will determine not only the premium payable and terms offered, but whether or not the insurer is prepared to accept you as a client. Credit life or credit protection plans manage the risk by introducing various exclusionary clauses such as those that deny cover in respect of any pre-existing medical condition that was diagnosed or for which one received treatment for prior to the conclusion of the transaction. This type of exclusion also differs

between insures, with some applying the exclusion as a general exclusion for the term of the policy, normally the duration of the finance agreement, and others only applying the exclusion during the initial 24 months of the policy. Therefore, anyone who may have or is suffering from a medical condition or who received or is receiving treatment for a medical condition prior to the inception of such a policy, may want to consider applying for a more traditional life cover policy. This will see one undergo the underwriting process to ensure that when accepted by the insurer that any future claims will not be affected by your medical history. The Code however does



require that any material terms of the policy inclusive of exclusions and instances in which cover will not be provided be disclosed to you at the inception of the policy, to allow you to make an informed decision. Failure by the FSP to disclose this and or any other exclusion will result in a complaint justiciable by the Office of the FAIS Ombud as detailed in the highlighted case below.

The complainant had purchased a credit protection policy with the respondent, subsequent to having purchased a motor-vehicle. The vehicle had been financed by the respondent and this policy was to have provided cover in the event that the complainant was unable to make the monthly payments as a result of death, permanent disability or retrenchment. Following a stroke, the complainant had been rendered disabled and his subsequent claim had been rejected as the cause of the disability was directly linked to a condition that had been diagnosed prior to the commencement of the policy. The policy, as the complainant found out, included a 24-month waiting period and the complainant claimed that no disclosures had been made to

him regarding the exclusion of any pre-existing condition let alone the 24-month waiting period applicable thereto.

Upon receipt of the complaint the matter was directed to the respondent, where this Office had requested that it show compliance with the Code in having obtained all relevant and available information to ensure that not only was the recommendation appropriate to the needs and circumstances of the client, but that all material disclosures had been made which would have allowed the client to make an informed decision. The respondent upon receipt of the correspondence from this Office revised its decision honoured the claim in full by settling the outstanding finance on the vehicle in the amount of R 115 240.00.

Points to Ponder:

When applying for any form of credit you may be provided with the option or in fact be required to apply for a policy to provide protection in terms of the outstanding finance in the event of death, disability, terminal illness or retrenchment. It is important that the FSP inform you that you have the freedom to source an alternative policy of your choice

as a substitute to the policy provided.

When a financial service is rendered that encompasses advice, this would require the FSP to obtain all relevant and available information to ensure that any recommendation made is appropriate to your needs and circumstances. Ensure that prior to the conclusion of a transaction you are satisfied that the FSP is able to provide details of why the recommended product is appropriate to your needs and circumstances..

At the very least the information collected by the FSP would allow him/her to disclose concise details of any material terms of the contract such as the existence and nature of any exclusionary clauses which would see any future claims rejected. This would include any exclusions for pre-existing medical conditions and the duration of the exclusion and or any applicable waiting periods. You must be satisfied that you have been placed in a position to make an informed decision before concluding any transaction.

Should you be self-employed or employed on a contract basis the provision of a retrenchment benefit as part of a credit life or credit protec-

tion plan may not be appropriate.

There are different types of pre-existing condition clauses, which may see the exclusion only applicable for a reduced period of say 24 months or in some cases the exclusion may be a blanket exclusion for the duration of the policy.

Should it be that you were previously diagnosed with any sort of medical condition, or whether you have previously received treatment for any medical condition, then having knowledge as to the existence, and type of exclusion will allow you to determine whether the policy recommended to you is the best possible solution to your needs and circumstances.

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