How to Read an Insurance Policy

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Resource Type: Articles

Topic: Insurance and Risk Financing

Reading a commercial insurance policy is not an intuitive practice and most people find insurance policies difficult to comprehend. Unlike a good book, it is not a document you can curl up with and casually read from beginning to end. Policies are known for being confusing and complicated, and sections frequently cross-reference other sections of the policy, often in a convoluted way. Ironically, insurance companies strive to make their policies as clear as possible, because when coverage is subject to a legal challenge, ambiguity in the language will always be interpreted in a way that favors the insured, not the insurer.

Why Me?

There are several reasons that it is important for you to read and understand your public entity's insurance policies. First, each insurance policy is a contract between your organization and the insurance company. Second, you want to ensure that the policy is covering what you need and expect it to cover, including specific activities and operations, as well as key personnel associated with the organization. Third, if there are special reporting provisions or requirements that apply after your entity faces a loss, you want to make sure that you are aware of what needs to be done, and when it must be done. Claims are paid and defended in strict compliance with your written insurance policies. Don't be naïve in believing that a carrier will make an exception if you fail to live up to a policy's strict claims reporting requirements.

So I Have Insurance, Now What?

This article offers five steps to untangle the complex web that is your insurance policy. Many policies are based on *standardized forms* drafted by insurance industry organizations that specialize in drafting. The *standardized forms* are written broadly so they can be used in most or all states for various different types of organizations. Sometimes multiple forms are combined into a single policy, resulting in a very lengthy policy form.

Keep in mind that all insurance policies have certain basic components, usually in the following order:

- Declarations Page
- Insuring Agreements
- Exclusions
- Conditions
- Definitions

Liability policies will also have a “Who Is Insured” section, and almost all insurance policies also have at least a few automatic endorsements amending coverage.

1. Confirm the Essentials

The first page of your insurance policy is the *Declarations*, or *dec page*. This section of the policy, which could be longer than a page in length, summarizes important information about the particular policy at hand. This should include:

- the name or type of the coverage provided under the policy
- the name of your organization, and an indication that it is the “Named Insured,” or the subject of the coverage
- the duration of the policy
- the names or numbers of endorsements that are included in the policy
- the dollar limits of coverage and associated deductibles

Starting with a close review of the *dec page* can be especially useful, because it offers an overview or sneak peak of the content to come in the narrative sections of the policy. Before moving on to the narrative, make certain that your entity is listed properly in the Named Insured section. Next, confirm that the coverage limits and deductibles are per the instructions provided to your agent or broker when you requested that the policy be “bound” on your organization’s behalf. If the specific details listed on the *dec page* are inaccurate, or you believe that the coverage is less than what you requested or need, contact your agent or broker immediately. It is not uncommon for a policy to contain one or more mistakes that may affect coverage.

Remember that the policy is a contract, and until mistakes are corrected and confirmed in writing, the language in the policy governs.

2. Read the Policy Definitions

No matter how common a word might be in everyday language, if it is narrowly defined within a particular insurance contract, the narrow definition will be applied in the event of a dispute over whether your nonprofit is covered. The evolution of the *Definitions* section in commercial insurance policies is attributable, in part, to doctrine of “contra proferentem,” a Latin phrase meaning “against the offeror.” The doctrine provides that when a term in a standardized contract is ambiguous and there is unequal bargaining power, the courts will favor the interpretation of the non-drafting party. For example, in a 2013 case involving an insurance company that failed to carefully define the term “occupant,” the court determined that an “occupant” of a vehicle included a pedestrian who was struck by a car while walking her dog (*See Bennett v. State Farm Mutual Automobile Ins. Co.*, No. 13-3047 (6th Cir. 2013)).

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Since carriers are not content to rely on the common and potentially ambiguous meaning of terms used in commercial insurance contracts and risk a court ruling based on “contra proferentem,” every commercial insurance policy contains a Definitions section. Defined terms are generally easy to spot, as they tend to be Capitalized, and/or appear in **bold-faced** font, *italics*, or “quotation marks.”

Generally, if a word isn’t defined within the policy, it is defined in everyday language, and may be open to interpretation. However, if a word is defined in the policy, make sure you understand exactly what it covers, and especially what it leaves out. The bottom line is that reading a commercial insurance policy without first taking time to understand the meaning of defined terms can be a huge mistake.

3. Analyze the Policy’s Insuring Agreements

In the *Insuring Agreements* section, the insurer is essentially telling the reader what the policy covers. The insuring agreements define the scope of coverage, which is then narrowed by the policy exclusions. Certain policies, such as General Liability and Directors’ and Officers’ Liability, have very broad insuring agreements.

For example the typical D&O policy's insuring agreement states the policy will cover any "wrongful act." Other policies, such as automobile liability, have more specific insuring agreements, with coverage limited to the ownership and use of an automobile.

A policy with multiple coverage parts will have a separate insuring agreement for each coverage part. For example, standard Commercial General Liability (CGL) policies contain a separate insuring agreement for each of its three coverage parts: bodily injury & property damage, personal and advertising injury, and medical payments.

Keep in mind that your policy's *Insuring Agreements* may have a different name, such as *Policy Coverages*. *Insuring Agreements* frequently contain emphasized words—often in **bold-faced** font, *italics*, or "quotation marks." This emphasis indicates that those words are specially defined for purposes of the policy, and should not be interpreted to mean something different. In order to understand the meaning of those words as you read the insurance agreements, keep a copy of the Definitions section of the policy close at hand.

The following is an example of an Insuring Agreements section of a public entity directors' and officers' liability policy:

1. The **Underwriter** will pay on behalf of the **Individual Insured**, **Loss** from **Claims** made against **Individual Insureds** during the **Policy Period** (or, if applicable, during the Extension Period), and reported to the **Underwriter** pursuant to the terms of this Policy, for **D&O Wrongful Acts**, except to the extent the **Organization** has indemnified the **Individual Insureds** for such Loss.
2. The **Underwriter** will pay on behalf of the **Organization**, **Loss** from **Claims** made against **Individual Insureds** during the **Policy Period** (or, if applicable, during the Extension Period), and reported to the Underwriter pursuant to the terms of this Policy, for **D&O Wrongful Acts**, if the **Organization** has indemnified such **Individual Insureds** for such **Loss**.
3. The **Underwriter** will pay on behalf of the **Organization**, **Loss** from **Claims** made against the **Organization** during the Policy Period (or if applicable, during the Extension Period), and reported to the **Underwriter** pursuant to the terms of this Policy, for a **D&O Wrongful Act**.

SOURCE: PI-NPD-2 (/1/02) 0 Flexi Plus Five, Not-For-Profit Organization Directors & Officers Liability Insurance

In the above Insuring Agreements there are seven defined terms: 1. Underwriter; 2. Individual Insured; 3. Loss; 4. Claims; 5. Policy Period; 6. Organization; and 7. D&O Wrongful Acts. In this example, the *Insuring Agreements* tell the reader that the company (Underwriter) will pay losses from claims made against the entity, or losses from claims made against Individual Insureds that have been indemnified by the nonprofit, for "D&O Wrongful Acts." The subsequent section of this particular policy is the "Definitions," section, which contains a definitions of three terms contained in the policy, including one term (D&O Wrongful Act) that appears in the *Insuring Agreements*.

4. Closely Review the Exclusions, Limitations and Conditions

After the *Insuring Agreements* you're likely to find a section titled *Exclusions*. The *Exclusions* section tells you what is not covered under the policy. Interestingly, many commercial policies have important exclusions that are listed elsewhere! For example the general liability exclusion for fines and penalties is usually found under the definition of "loss" in the definitions section. Other exclusions can usually be found under the Policy Conditions section.

Many policies also provide *Exceptions* to the Exclusions, which may seem strange. However, this is often done to avoid an incredibly long laundry list of all possible exclusions and coverages. Policy *Limitations* will provide the limit of dollar reimbursement available under the policy. In some cases, instead of a specific dollar amount, limits may be in the form of a percentage of the total loss, or a combination of the two forms.

Many policies also include *Conditions*, which are provisions that qualify or limit the insurer's promise to pay. The *Conditions* section will state the policy provisions and duties required of the insured. For example, duties in the event of a claim, how the policy will respond if there is other insurance, whether the policy is auditable, and under what conditions the policy can be cancelled.

Conditions may be found throughout the policy and are important areas to highlight for reference in the case of

a loss, because they often outline exactly what requirements must be met in order to ensure coverage. Common conditions in a policy include providing notice to the insurer within a defined period of time, and protecting property after a loss to ensure that more loss isn't incurred.

5. Don't Skip the Small Stuff

Even seemingly minor details of your policy can be very important. When reading a section that references another section, take note. Immediately refer to the referenced section to ensure that the current section hasn't been changed significantly.

Also pay specific attention to absolute language (always, never), or inclusive language (and, or). A requirement that a loss be reported to law enforcement and the insurer within 24 hours is not the same as a requirement that loss be reported to law enforcement or the insurer within 24 hours. Misreading this provision could cause a loss of coverage.

Bridging the Gaps

There are people who claim to enjoy reading insurance policies. You may not be one of them, but hopefully your insurance agent or broker is! The chances are pretty good that you'll be involved in a claim at some point; don't wait to take the time needed to understand the role of your insurance coverage as a financing tool for those future risk events you were unable to avoid.

The Center is deeply grateful to Board Member David Szerlip of Arthur J. Gallagher & Co., for his invaluable advice and assistance on the content of this article. *Emily Stumhofer is Staff Attorney and Project Manager at the Nonprofit Risk Management Center. She welcomes your questions about the topics covered in this article at Emily@nonprofitrisk.org or 703.777.3504.*