



COVERAGE INSIGHTS



Provided by SCS Agency Inc

How Businesses Can Navigate Insurance Coverage Disputes

Insurance plays a crucial role in a business's risk management strategy, offering financial assistance after covered losses to ensure continuity in their operations and minimize disruptions. However, disagreements can arise between businesses and insurers over what a policy covers or how much an insurer should pay on a claim, potentially leading to financial strain and operational challenges. To mitigate these risks, business leaders must know how to navigate these disputes efficiently and implement measures to prevent them.

This article explores common causes of insurance coverage disputes and outlines effective steps to resolve them, including alternative dispute resolution (ADR) options and litigation. It also offers practical strategies to help businesses avoid disputes altogether.

Common Causes of Insurance Coverage Disputes

There are several reasons why a coverage dispute may arise, including:

- **Denied claims**—Disputes can occur if the insurer determines the policy does not cover a loss. Common reasons for denial include procedural errors, insufficient documentation or a belief that the loss falls outside the policy's coverage.
- **Disagreements over policy limits and exclusions**—Differing interpretations of policy language related to limits and exclusions can lead to disagreements. These can include disputes over the maximum amount payable for a claim or specific events or scenarios not covered.

- **Timing and scope of coverage issues**—Disagreements about when the policy was in effect and the extent of coverage provided can result in disputes over whether the insurer improperly denied coverage, underpaid a claim or did not provide timely payments.
- **Misunderstanding of policy language or terms**—Ambiguities or inconsistencies in policy language or terms can lead to differing interpretations between the insurer and the policyholder regarding what coverage must be provided.

Navigating Coverage Disputes

Coverage disputes can be expensive, time-consuming, stressful and confusing. The following measures can help businesses navigate these challenges effectively:

- **Thoroughly review insurance policies.** Business leaders should carefully review their insurance policies and ensure they understand key terms, exclusions, coverage periods, premium payment timelines and other obligations. Understanding the scope of coverage and any limitations can help avoid misunderstandings.
- **Document everything.** Insureds need to maintain a thorough record of a loss, including how the loss occurred, the nature and extent of the damage or loss, and details of the claim submission. Documentation can be crucial in demonstrating that a claim is valid.



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- **Use supporting evidence.** Photos, expert reports, videos and other documentation can strengthen a claim and clarify the submission, making it more difficult for an insurer to dispute.
 - **Utilize the insurance broker or agent.** Brokers and agents can act as valuable intermediaries with the insurer, helping to clarify coverage details and advocating on behalf of the insured. They can also provide guidance on submitting claims and appealing denied claims, drawing on their expertise.
 - **Communicate clearly and promptly with the insurer.** Clear communication from the start can lessen the chances of misunderstandings. Such communication includes setting expectations and timelines for resolving the dispute. Keeping all communications documented in writing is essential, as it can serve as evidence in case the dispute escalates.
 - **Consider hiring legal counsel.** Experienced insurance attorneys can assist in interpreting the policy language, negotiating with the insurer and guiding businesses through complex claims. Legal counsel is particularly valuable when a dispute involves significant amounts of money or complicated policy language.
- **Arbitration** is a more formal proceeding where the business and the insurance company present their arguments to an agreed-upon arbitrator, who ultimately renders a decision on the matter. Arbitration can be voluntary or mandatory, and the decision can be either binding or nonbinding. In binding arbitration, the decision is legally enforceable and final, with limited options for appeal. Nonbinding arbitration, however, allows the parties to pursue further legal action if they are unsatisfied with the outcome.
 - **Negotiation** is the most flexible and informal form of ADR. It involves direct communication between the parties as they attempt to settle. This process can be handled directly by the business and insurer or involve attorneys or other representatives. Negotiation allows the parties to retain control over the outcome without involving third-party decision-makers.

ADR offers the parties more autonomy in the dispute resolution process, allowing them to select the procedure and who will conduct the proceedings. It can often be less adversarial, allowing the parties to maintain their relationship after the dispute is settled.

However, ADR does have disadvantages. The dispute may still escalate to litigation if a settlement is not reached. Additionally, ADR processes lack some of the legal protections present in court trials, such as formal rules of evidence. While binding arbitration provides a conclusive outcome, it generally does not allow for appeals, making it difficult to challenge a decision. Moreover, enforcing an ADR outcome, especially in nonbinding cases, may present challenges if one party does not adhere to the agreement.

ADR Options for Business

ADR provides an avenue for businesses to resolve insurance coverage disputes. It is generally a faster and more cost-effective option than litigation.

Common types of ADR are:

- **Mediation** is a proceeding where a mutually agreed-upon third-party mediator facilitates communications between the insurance company and the insured. It is a nonbinding process, meaning the mediator does not issue a final ruling but instead helps the two parties reach a voluntary agreement. Mediation allows for creative solutions and



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Litigation

If ADR methods fail and the two parties are unable to reach a satisfactory agreement, litigation may become necessary to resolve the dispute. Through litigation, courts can review the policy language, interpret its language, determine the intent of the contract and rule on what is legally required under the terms of the policy. Going through the legal system also ensures the right to appeal exists.

Before business leaders escalate the dispute to this level, they should carefully consider the time, cost and potential operational impacts of the litigation process. Working with legal counsel is crucial in this stage, as an experienced attorney can advise them on whether litigation is in the business's best interest and help navigate the complexities of the court process.

Avoiding Coverage Disputes

It is often beneficial for businesses to implement strategies to avoid coverage disputes altogether. Business leaders can take the following measures to help accomplish this goal:

- **Proactively review insurance policies.** Employers and business leaders should ensure coverage aligns with current business risks, especially after growth or operational changes. It's crucial to seek clarifications regarding any uncertainties or ambiguities before a loss occurs and a claim needs to be filed.
- **Build a strong relationship with insurers.** Open communication can help avoid conflicts, and transparency during the policy application and renewal process can reduce the likelihood of disputes. A good relationship with the insurer can also facilitate smoother claim handling.
- **Thoroughly vet insurance providers.** Before selecting an insurer, it's vital to review their reputation and track record for handling and paying claims. Choosing an insurance company known for fair and responsive

claims handling can prevent issues down the road.

- **Maintain active policies.** Premiums must be paid on time to avoid lapses in coverage. A lapse could result in uncovered claims and disputes about reinstating coverage.
- **Improve internal risk management.** Business leaders should conduct regular risk assessments to identify potential exposures and implement measures to minimize losses.

Conclusion

Insurance coverage disputes can be time-consuming and costly, and business leaders must be prepared to effectively and efficiently address them. To ensure the best outcome possible, they must know how to navigate these disputes and be aware of the options they have to resolve them. However, businesses are often best served by taking steps to avoid these disputes and strengthening their risk management practices. This allows them to reduce the likelihood of filing a claim that can potentially lead to a dispute.

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