

# Educate Your Clients: Why Late Reporting Matters (A LOT)

Could your client's procrastination lead to the rejection of their insurance claim? It's possible.

Unfortunately, many policyholders put off reporting claims, often because of a misguided fear that it will make them look worse in the eyes of their insurer. In the best-case scenario, this delay can make the situation more difficult than it needs to be. In a worst-case scenario, the delay may result in a lack of coverage. Here's what you and your clients need to know.

## Policy Types: Claims-Made vs. Occurrence

To understand why timely claim reporting matters, it's helpful to understand how different policies work.

Some policies function on an occurrence basis. This means that a claim will be covered if the event occurs while the policy is active, regardless of when the claim is made. Other policies function on a claims-made basis, which means that a claim is only covered if both the event and claim occur while the policy is active.

Professional liability policies tend to be written on a claims-made basis. Although a pure claims-made policy may provide coverage as long as the claim is reported as soon as is practicable, a claims-made and reported policy requires the claim to be both made and reported during the policy period. This latter requirement is common, and it means that claims that would otherwise be covered may be denied due to delayed reporting.

## Notice Provisions and Late Reporting

Insurance policies often include provisions that require the policyholder to notify the insurer of a claim in a timely manner. The insurer needs to know about a claim as soon as possible so it can be properly investigated. To comply with this provision, and to help the claim go smoothly, the policyholder should contact the insurer about a claim as soon as possible.

This doesn't sound like an issue in theory, but in practice, policyholders sometimes take their time with reporting. This may happen because the policyholder doesn't think the incident is significant. Perhaps the policyholder receives a demand letter or a notice of administrative action but dismisses it as meritless. Maybe the policyholder intends to contact the insurer, but it is not considered a priority, and the task gets forgotten among all the other seemingly more pressing matters. Sometimes multiple people are involved, and because of miscommunication, the person who knows about the reporting requirements does not know about the claim, and vice versa.

For whatever reason, the issue is forgotten—until a lawsuit is filed. At that time, the claim is reported to the insurer. However, it may be argued that the delay in reporting is grounds for denial of coverage. The situation will be especially complicated if the claimant has switched carriers in the meantime. The new policy may not provide coverage because the event occurred before the period of coverage, and the old policy may not provide coverage because the claim was not reported during the period of coverage.

## Notice of Potential Claim Provision

In addition to notice of claim provisions, many policies include provisions related to possible claims. This may be called a Notice of Potential Claim provision, and it typically requires the insured to provide written notice as soon as they first become aware of a circumstance which could give rise to a claim. If the insured has knowledge of a potential claim, and fails to report it until later, the insurer could potentially have a basis for denial.

## How Insurers View Claims

In some cases, policyholders may delay reporting a claim or potential claim because they are worried that they will be penalized for contacting the insurer. When it comes to personal auto and homeowners insurance, this line of reasoning can be valid, but professional liability is different.

In professional liability lines, prompt reporting of issues, or even of potential issues, demonstrates that the policyholder is taking active responsibility. Underwriters are likely to view this favorably.

## Play It Safe

Tell your clients to contact you as soon as they learn about a claim, or even a potential claim, so that you can guide them in proper, timely insurer notification. Don't assume that the issue will go away on its own. Our position is that it's best to get the insurer involved early so they can investigate, assess the situation and mitigate any potential damage.