



Preexisting condition exclusions

Their effect on group disability claims

Many group disability policies contain a preexisting condition exclusion provision commonly referred to as **3/12**.¹

In this instance:

The “**3**” refers to the number of months before the effective date of coverage during which a carrier may review a claimant’s medical records to determine whether treatment was received. This is generally referred to as the look-back period.

The “**12**” refers to the number of months a claimant must be continuously insured under the policy to avoid a preexisting condition review. This is commonly referred to as the continuously insured or exclusionary period.

Group disability insurance policies typically contain policy provisions that exclude coverage—or limit the payment of benefits for claims—based upon certain medical conditions that existed before an individual is covered under the plan. Designed to prevent anti-selection, such policy provisions are commonly referred to as preexisting condition exclusions or preexisting condition limitations.

When considering disability insurance coverage, it’s important to understand how preexisting condition exclusions will affect your business and your employees.

What’s a preexisting condition?

Most group disability insurance policies define a preexisting condition as one for which an individual received treatment during a specified period of time immediately before the date on which the individual’s coverage became effective. Some policies also include “prudent person” language in the definition of a preexisting condition. A prudent person is viewed as a person exhibiting good or “reasonable” judgment regarding medical treatment for a condition. Treatment could include medical care or services, diagnostic measures, consultation and any prescriptions received and taken. The time component in the policy definition (e.g., 3, 6 or 12 months) is often referred to as the look-back period.

When does it apply?

Carriers will generally initiate a preexisting condition review when a covered employee submits a claim for a disabling condition. The preexisting condition exclusion limits or excludes coverage during a specified period of time following the date on which the individual’s coverage became effective (e.g., 12 or 24 months). This period of time is sometimes referred to as the continuously insured or exclusionary period. At the end of this period, a carrier will not deny a claim based upon the presence of a preexisting condition.

In other words:

- If a claimant was covered under the policy and the continuously insured period was satisfied (e.g., 12 months) before the date of disability, the policy’s preexisting condition provision does not apply.
- If the claimant’s date of disability occurs before the end of the continuously insured period, the carrier will conduct a review to determine whether or not the claim is subject to the policy’s preexisting condition exclusion. Disabilities caused by other conditions that are not considered to be preexisting conditions are not subject to the preexisting condition exclusion.

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The preexisting condition exclusion may also apply to any added benefits or increases in benefits. Please refer to your policy for more information.

Preexisting condition exclusions may also apply when there is an increase in coverage. In some cases, the provision may not apply to the initial amount of coverage, but it may be considered for the portion in excess of the original amount.

It's important to note that preexisting condition exclusions can vary among states. In particular, preexisting conditions are typically administered differently in the state of New York. This article does not address state-specific provisions or requirements in New York or elsewhere. Please refer to applicable state laws and regulations for more details.

Investigating preexisting conditions

Typically, when a carrier reviews a claim to determine whether or not it's subject to the policy's preexisting condition exclusion, the carrier will collect the claimant's medical records—including pharmacy documents—to determine if the claimant received treatment for a preexisting condition during the look-back period.

- If the claimant **received treatment** for the condition for which a disability is being claimed, the individual is considered to have a preexisting condition and the claim will be subject to the preexisting condition exclusion.
- If the claimant **did not receive treatment** for the condition for which a disability is being claimed, the individual is not considered to have a preexisting condition and the claim review continues.

Example

"John" is hired on Dec. 20, 2021, and is covered under his company's group disability insurance policy effective Jan. 1, 2022. He becomes disabled on Jan. 15, 2022, after emergency bypass surgery. The policy contains a preexisting condition exclusion, which provides that if a claimant has not been covered under the plan for 12 months (the continuously insured period), the carrier reserves the right to review the claimant's medical records for the 3-month period prior to the effective date of coverage (the look-back period).

Since John was not covered under the policy for 12 months as of the date of disability, the carrier will evaluate the claim to determine whether John received treatment for the medical condition that caused or contributed to his disability and therefore meets the definition of a preexisting condition.

The carrier reviews John's medical records for the 3-month period immediately before his coverage effective date of January 1, 2022 (i.e., Oct. 1, 2021–Dec. 31, 2021). The records reveal that John received treatment for chest pain and high blood pressure on Nov. 10, 2021. In addition, he was taking prescribed anticoagulants and high blood pressure medication throughout this 3-month period.

Because John received treatment and took prescribed medications during the 3-month period before the effective date of coverage for the condition for which a disability is being claimed (heart disease), the policy's preexisting condition exclusion provision would apply and the claim would be denied.

Exceptions to the preexisting condition exclusion

Despite the existence of a preexisting condition, some employees may receive coverage through exceptions to the policy's preexisting condition exclusion. These may include:

Continuity of coverage

Some policies contain a continuity of coverage provision that grants a time credit from the prior disability insurance coverage after a change in carrier. This provision helps ensure that employees are not penalized by the transition to a new policy.

Example

“Jane’s” company changes disability insurance carriers effective Jan. 1, 2022. Jane was hired 10 years ago and was covered by the previous carrier for the past five years. She becomes disabled on Feb. 1, 2022, due to a long-standing medical condition.

To the new insurance carrier, Jane’s medical condition is considered a preexisting condition. However, if the policy includes a continuity of coverage provision, Jane may still be eligible for benefits, so long as (1) she satisfies the prior policy’s eligibility requirements, and (2) the prior policy’s preexisting condition exclusion would not have applied to Jane’s claim, had that policy remained in effect.

In some cases, the new carrier may compare the current and previous coverage and pay either the same or the lesser benefit of the two policies.

Complex preexisting condition provisions

Some policies are issued with complex—or two-prong—provisions that allow payments for preexisting conditions. These provisions allow benefits to be paid if an individual was treatment-free for a preexisting condition for a set period of time while covered under the plan (e.g., for six months).

In other words, if a claimant has a preexisting condition but did not receive treatment for that preexisting condition during a continuous 6-month coverage period from the effective date of the claimant’s coverage, then benefits may still be payable.

Preexisting condition limitation vs. exclusion

Some policies may include a preexisting condition limitation instead of an exclusion. In general, a preexisting condition limitation provides a limited disability benefit (usually a lesser benefit for a shorter period of time) for a preexisting condition instead of excluding the claim altogether and denying payment of benefits.

Helpful hints

Understanding the basic tenets of preexisting condition exclusion provisions will be helpful as you evaluate coverage options for your business. Here are some tips to remember:

- Review the policy terms as they relate to preexisting condition exclusions and continuity of coverage.
- Confirm your effective date of coverage under the current policy, check the policy's eligibility waiting period for new hires, and compare your coverage period against the preexisting condition exclusion's coverage period.
- Note that an individual does not need to be considered disabled—or diagnosed with or treated for a disabling medical condition—during the look-back period to have a preexisting condition according to the provision. The provision only requires that one receive treatment for a medical condition that caused, contributed to, or resulted in the disability.
- Keep a copy of your prior carrier's coverage to understand its terms and the effect on benefits that may be payable for a preexisting condition.
- Be sure employees are prepared to provide a list of all treating providers, treatment facilities and pharmacies where they received treatment and/or medications prior to the date when a preexisting condition evaluation is necessary. Allow additional time for the carrier to gather the information needed to make an accurate claim determination.

Although it may be determined that the policy's preexisting condition exclusion provision does not apply to a claim, individuals must still satisfy all other policy requirements—including the definition of disability—to qualify for benefit payments.

For more information on preexisting condition exclusions and group disability insurance, talk with your group benefits representative.



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¹ Preexisting condition exclusion provisions can vary for each policy.