

Insurance 101: Don't Forget the Policy Conditions

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Policy conditions are the provisions in an insurance policy that often require the insured to comply with certain requirements to obtain coverage under the policy. Policy conditions can be overlooked because they are not in the insuring agreement, the exclusions, or the definitions. Instead, the conditions are provisions that might appear at the end of the policy. Insurance policy conditions are important, however, because they address a wide variety of issues including how or if other insurance contributes, how and when the insured must give notice of a claim, the insured's duties after a loss or occurrence, the insurer's subrogation and other rights, and what happens in cases of fraud or misrepresentation by the insured.

Historically, the insured's failure to comply with policy conditions, unless waived or substantially complied with, resulted in a forfeiture of coverage under the policy. But the modern trend embraced by courts has been to balance the insurer's and insured's interests in interpreting and enforcing policy conditions. Accordingly, failure to strictly comply with policy conditions might not always preclude coverage.

This article discusses some important policy conditions that affect claims under many types of insurance policies. Although this article is not a 50-state survey, it provides an overview of the common issues and majority and minority trends for courts in different jurisdictions interpreting and applying policy conditions.