

FSC Standard No. 16

Family Medical History Policy

7 December
2016



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FSC Membership this Standard is most relevant to:

This Standard is relevant to FSC Members broadly. However, it is of particular relevance and binding upon FSC Members who are APRA registered life insurance companies or have a subsidiary that is a registered life insurance company.

Date of this version:

This Standard was issued on 7 December 2016, and commences from 7 December 2016.

History (prior versions) of this Standard:

This Standard was first approved by the FSC Board on 1 December 2005 to take effect from 1 January 2006. The Standard was reviewed and approved by the FSC Board on 1 December 2005.

Main Purpose of this Standard:

The purpose of this Standard is to specify Standards and Policies for the handling of Family History results. The Standards and Policies are to be adopted by a Member in the operation of its life insurance business.

This Standard is to be read in conjunction with the Life Insurance Code of Practice, Standard 11, Standard 21, Standard 24, Standard 25, Standard 26, Guidance Note 11, Guidance Note 32, Guidance Note 33.

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1. Title

- 1.1 This Standard (The “Standard”) may be cited as may be cited as FSC Standard No. 16 ‘Family Medical History Policy’.

2. Standards and Commentary

- 2.1 The standards set out in this Standard are shown in bold print. Commentary is shown in normal print immediately after the standard to which it relates, as an aid to interpretation of the standard.

3. Date of Issue

- 3.2 7 December 2016

4. Effective Date

- 4.1 This Standard should be applied in relation to all FSC Member’s operations on or after 7 December 2016. Earlier application of this Standard is permitted and encouraged.

5. Application of Standard

- 5.1 This revised Standard applies to all FSC Members who are a registered life insurance company or have a subsidiary that is a registered life insurance company.
- 5.2 All life insurance companies registered by APRA who are not FSC Members are encouraged to follow this Standard.
- 5.3 Where there is a conflict between the requirements of this Standard and any relevant legislation or guidance issued by a statutory or regulatory agency, the requirements of this Standard should, having regard to the purpose of the Standard, be modified appropriately so that (as far as is practicable) the Member can comply with the requirements of this Standard.
- 5.4 This Standard should be read in conjunction with FSC Standard No.11 ‘Genetic Testing Policy’ and FSC Standard No.1 ‘Code of Ethics & Code of Conduct’.

6. Statement of Underlying Principles

- 6.1 When developing this Standard, the FSC’s Members abided by the following underlying principles:
- life insurance should remain available to the majority of the insurable population at standard premium rates;
 - risk classification should be allowed to evolve and reflect the continuous development of medical knowledge and technological advances;
 - the average price point (relative to age and other key risk demographics) at which life insurance is offered at standard rates should be affordable for most insurable Australians;
 - given the long term nature of life insurance contracts, the industry must remain sustainable into the future. Sustainability requires constant prudential management, effective management of insurance risks (including minimal cross-subsidisation between customer groups) and delivering viable investment returns to shareholders;
 - FSC Members should maintain consumer confidence and remain accountable and transparent, to help ensure that current and potential customers are not dissuaded from taking a genetic test, undergoing appropriate medical intervention, or participating in medical research.
 - An Insurer must be provided with full disclosure of an Applicant’s Family medical history that is reasonably known to the Applicant so that it can correctly assess the risk for the insurance cover being sought. The requirement to disclose relevant information is in line with the duty imposed by the Insurance Contracts Act 1984.

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- Family medical history, like other information is relevant to an individual's potential future health status.
- Family medical history is only one of many factors used to assess an application for insurance. The following are other important factors used in conjunction with Family medical history in the underwriting process:
 - The age of the Applicant
 - The gender of the Applicant
 - The type of insurance product (eg life insurance is impacted differently to trauma insurance)
 - The Applicant's current and past medical history and whether there are associated risk factors such as their own personal environment, occupation and lifestyle
 - The number of first degree blood relatives affected by the medical condition(s)
 - The age at diagnosis of each of the Applicant's 1st degree blood relative(s)
 - Other relevant risk factors of the Applicant such as smoking or excessive consumption of alcohol

6.2 When developing this Standard, the FSC's Members abided by the following underlying principles.

7. Statement of Purpose

- 7.1 The purpose of this Standard is to specify Standards and Policies for the handling of Family History results. The Standards and Policies are to be adopted by a Member in the operation of its life insurance business;
- 7.2 Existing legislation (e.g. The Privacy Act 1988) already requires Members to comply with specific privacy protection obligations deemed important to customers, Members should also ensure ongoing compliance with the relevant legislative requirements.
- 7.3 In addition to ongoing compliance with legislative and regulatory requirements, there are ethical business principles and practices that should be followed to deliver high standards of individual and collective conduct in the operation and management of a Member's life insurance business.
- 7.4 This Standard aims to facilitate an efficiently-functioning life insurance industry that remains sustainable in the long term, while also recognising the industry's social responsibility to not hinder the ongoing advancement and adoption of new medical knowledge and technologies that could potentially improve individual and public health outcomes.

8. Application of Materiality

- 8.1 The standards in this Standard apply to FSC Members. Failure by a Member to adopt or implement a Standard is material if such a failure has the potential to adversely affect:
 - An insured or potential insured person's confidence in the Insurer; or
 - Another insured person's confidence in the Insurer or insurance.

9. Definitions

In this Standard:

- 'Applicant' means the person to be insured;
- 'APRA' means the Australian Prudential Regulation Authority;
- 'Authorised Representative' means any person or entity authorised by the Insurer to provide information or advice to consumers in respect of the sale of an Insurer's life insurance products;
- Family medical history' means information that can capture the interactions of genetic susceptibility, shared environment and common behaviours in relation to disease risk;

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- 'Genetic Test' means a medical test that identifies changes in chromosomes and genes. These tests incorporate pathogenic variants in DNA. The results of a genetic test may confirm or rule out a suspected genetic condition or help determine a person's chance of developing or passing on a genetic disorder, or risk from that disorder.
- 'Insurer' means a member of the Financial Services Council (FSC); or any non-member operating a life insurance business;
- 'Member' means a member of the Financial Services Council (FSC).

10. Family Medical History Policy

10.1 Insurers will not use an adverse underwriting assessment as a result of Family medical history as a reason for asking an Applicant to undergo genetic testing.

10.1.1 Insurers will respect an Applicant's right not to find out specific information about their own genetic makeup if they choose not to (often referred to as "right not to know"). Members will not, in any circumstances, encourage or coerce an Applicant to undergo a Genetic Test, nor access the results of a Genetic Test previously undertaken where the results of that test have not previously been made known to the Applicant.

10.1.2 Members are obliged in any case to comply with the Genetic testing Policy set out in FSC Standard which sets out much more detail in relation to Genetic Test information which may be provided by Applicants for insurance policies.

10.2 Insurers will not collect Family medical history information in an identifiable format.

10.2.1 Family medical history information will be collected on a de-identified basis, that is name and date of birth of the relative will not be collected.

10.3 An Insurer may only ask questions about Family medical history where medical research has identified a familial link or where there is an identifiable genetic link to a condition or conditions.

10.3.1 Insurers will not ask questions relating to Family medical history on conditions that do not have a familial or genetic link.

10.4 An Insurer will not require an Applicant to supply information in relation to Family medical history if it is not known to the Applicant.

10.4.1 An applicant will not be requested by an Insurer to provide information relating to Family medical history if it is not known to the applicant.

10.5 Family medical history will only be used in the assessment of an insurance application with respect to the Applicant applying for insurance. Family medical history of that Applicant will not be used in the assessment of an insurance application by his or her relatives to the same company.

10.5.1 Insurers will only use the information provided by the Applicant to classify the risk of the Applicant.

10.5.2 The Family medical history supplied by an Applicant will not be used by Insurers to assess applications from any of the Applicant's relatives.

10.6 Insurers will ensure that any information requested from a medical practitioner or other health professional relating to an Applicant's Family medical history is obtained only with the consent of the Applicant.

10.6.1 Insurers will not ask a medical practitioner or other health professional for details of an Applicant's Family medical history without first having obtained the Applicant's consent.

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10.7 Insurers will only ask a medical practitioner or other health professional for those details of an Applicant's Family medical history that are known to the Applicant.

10.7.1 Insurers will only ask a medical practitioner or other health professional for details of an Applicant's Family medical history that the Applicant is aware of.

10.7.2 Insurers will not assume that an Applicant has non disclosed where new Family medical history is disclosed in a medical report.

10.8 When assessing the overall risk associated with a particular Family medical history, Insurers will take into account the benefits of special medical surveillance, early medical intervention and the likelihood of successful treatment.

10.8.1 Insurers will ensure that they have access to appropriately informed experts (either internal or external) to assist in the underwriting assessment where Family medical history is likely to adversely impact the assessment of an application.

10.8.2 Insurers will keep themselves informed of wider developments in genetics and familial disorders likely to affect insurance and risk assessment.

10.8.3 Insurers must incorporate into their procedures new information, which affects the way Family medical history is underwritten as quickly as is practicable.

10.9 Insurers will ensure that strict standards of confidentiality apply to the handling and storage of Family medical history.

10.9.1 Insurers must maintain strict standards of confidentiality in the handling and storage of all medical information including Family medical history.

10.10 Access to details of Family medical history to particular individuals will be restricted to the Insurer's staff and reinsurers. The details will be made available to other parties only with the authorisation of the Applicant or in the normal course of discovery during legal proceedings. Subject to 10.17, data excluding identifying details of Applicants can be made available to the FSC for research purposes.

10.10.1 Insurers will always respect the privacy of the Applicant and family member in any of its dealings.

10.10.2 Insurers will ensure internal policies control access to Family medical history by limiting access to the information to authorised staff.

10.10.3 An Insurer's authorised staff who have access to Family medical history must sign a confidentiality agreement, acknowledging their understanding of the need to keep Family medical history confidential, as with all other client information.

10.11 All underwriting decisions where Family medical history adversely impacted the underwriting decision will be appropriately documented, so that adequate information can be provided to the Applicant or medical attendant on request (subject to 10.12.2)

10.11.1 Insurers will ensure internal processes include appropriate documentation of all underwriting decisions.

10.12 On request by an Applicant, Insurers will provide reasons for offering modifications or rejections due to Family medical history.

10.12.1 Insurers when requested, will inform Applicants of the reasons for their decision in relation to an application where Family medical history was a significant factor in the decision.

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- 10.12.2 Where an Insurer is provided with written authorisation to forward reasons for the decision to the Applicant's own doctor, the reasons will be so provided.
- 10.13 If an Insurer is unable to offer an Applicant the cover applied for due to Family medical history, Insurers will endeavour to offer alternative terms or products, where available.**
- 10.13.1 Insurers will exercise care to ensure they are not providing personal advice contrary to Financial Services Reform Act 2001 (Chapter 7 Corporations Act 2001).
- 10.14 Insurers will have an internal dispute resolution process to deal with complaints relating to underwriting decisions involving Family medical history. Responses to any complaints must include a reference to the legal remedies available to the Applicant.**
- 10.14.1 An Insurer receiving any complaints from an Applicant will refer the complaint to its internal dispute resolution process, which will investigate and deal with the complaint promptly.
- 10.14.2 After an Insurer has considered the complaint lodged by the Applicant, and where the dispute with the Applicant remains unresolved, then the Insurer's response must include a statement on the Applicant's legal rights to further challenge the decision.
- 10.15 Members must provide their employees and Authorised Representatives with sufficient information and training so that those employees and Authorised Representatives can reasonably be expected to understand the content and meaning of this Standard so far as it relates to their particular jobs and responsibilities.**
- 10.15.1 Insurers Authorised Representatives must be aware of the need to seek specialist advice before responding to an Applicant's questions in relation to the potential impact Family medical history may have on the Applicant's application for life insurance.
- 10.16 Members compliance with the Standard must be certified annually according to the terms of FSC Standard No 1 Code of Conduct and Code of Ethics.**
- 10.16.1 Insurers must monitor their employees and Authorised Representatives compliance with this Standard and must take action where there has been a breach.
- 10.17 Subject to compliance with the Privacy Act, Insurers agree to participate in any FSC collection of de-identified data on applications in relation to Family medical History. Further, Insurers agree to allow FSC to make such de-identified data public in order to aid any future research initiative.**