

Module 9

HIV/AIDS and

Insurance

Introduction

- This module gives participants an understanding of what insurance is, the different types of insurance and the approach of insurance companies towards HIV and AIDS. It looks at the various legal issues that arise, such as the duty to disclose all relevant information when applying for insurance, HIV testing and related rights, and breaches of confidentiality.
- Have you read the section on Using this Trainer's Manual?

REMEMBER:

- You can find words in **bold** in the Key Words section in the Resource Manual.
- TM stands for Trainer's Manual.
- RM stands for Resource Manual.

TIME IT WILL TAKE

4 hours

Preparation

- Plan the workshop. Remember:
 - You do not have to do all the sessions in the module. You can do parts of a session or leave the session out altogether
 - Decide which sessions, or parts of sessions, are most *important* for your participants and adapt the times for those sessions to fit with the times you have available for the workshop.
 - If participants are not getting a copy of the Resource Manual, make copies of the chapters in the Resource Manual on The Rights of Lesbians and Gay Men as well as Future Planning and The Constitution and Bill of Rights
 - If *participants* are not getting a copy of the Resource Manual, make copies of the chapters dealing with *The Rights of Women, Customary Law and Criminal Law and Procedure*
- The basic materials and equipment you will need for the workshop include overhead projector, newsprint, kokis, flipchart, prestick, name-stickers, refreshments, chairs, tables. If you have to make copies of cards (case-studies, pictures etc) for the workshop, make sure you keep the originals in your file.
- The additional materials for each session are written at the top of each session.
- Read through all the sessions a day or two before the workshop. Make sure you have all the correct materials for the numbers of people who will attend the workshop. Also read through the appropriate chapters in the RM to familiarise yourself with the content.

SESSION	METHOD	TIME	PAGE
1: Welcome & introduction	Select your own	5 min	189
2: Group Introductions & Expectations	Select your own	30 min	189
3: Groundrules	Select your own	5 min	189
4: Explaining the outline of the Workshop	Input	5 min	189
5: What is insurance?	Input Overheads	20 mins	190 (191-192)
TEA BREAK			
6: Taking Out Insurance	Input Overhead	1 hr 30 mins	193 (195)
7: Exclusion Clauses And Confidentiality	Cards	1 hour	196 (197-199)
8: Reflection on the Workshop	Input	10 mins	201
References & Resources			202
TOTAL TIME		4 HOURS	

1-3: Introductions, expectations, groundrules

TIME IT WILL TAKE

40 minutes



Trainer's notes

- Only do these sessions if this module is run as a separate workshop.
- There are guidelines on running these sessions in the Trainer's Manual.

4. Explaining the outline of the workshop

TIME IT WILL TAKE

5 minutes



Trainer's notes

- Have the outline of the workshop ready on newsprint. Briefly go through the outline with participants.

5: What is insurance?

PURPOSE OF THE SESSION

- To build an understanding of what insurance is and the different types of insurance

TIME IT WILL TAKE

20 minutes

MATERIALS

- Make transparencies of the following overheads
 - . Overhead 29 *What is insurance?* on page 191 of the TM
 - . Overhead 30 *Types of insurance* on page 192 of the TM

PROCEDURE:

Step 1:

- Give an introductory input on insurance
- Use overhead 29 *What is Insurance?* to help with the input

Step 2:

- Tell the following story to the participants to show very simply how life insurance works

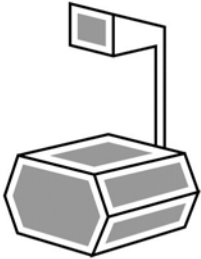
Step 3:

- Explain what the different types of insurance are
- Use Overhead 30 *Types of Insurance* to help with the input
- Take questions and have a discussion in the big group
- Explain what the approach of most insurance companies is towards people with HIV



CASE STUDY:

Siphiwe has 3 children. She has a good job, but she is worried that if she dies unexpectedly, her children will be left without any financial support. She decides to insure her life for R200 000. She goes to an insurance company and they agree to insure her if she pays them a premium of R200 per month. This means that if she dies, be it 10 years or even 2 months later, her children will get the R200 000. This will help them to continue with their studies and their lives.



Overhead 29: What is insurance?

- **INSURANCE IS A CONTRACT BETWEEN**
 - **THE INSURED** (the person who takes out insurance) AND
 - **THE INSURER** (the insurance company eg Metropolitan)

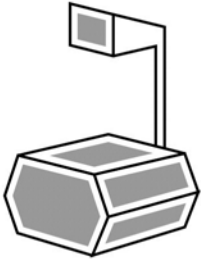
- **THE PREMIUM** is the money you pay every month to the insurance company to pay for your insurance policy

- **THE RISK** is the possibility of some even taking place in the future, eg
 - . The death of the person who is insured
 - . Theft of property owned by the insured
 - . Damage to a car in a car accident

- **THE POLICY** is what the insurance contract is called

- **MATERIAL FACTS** is information which the insurance company has to obtain in order to assess the risk

- **AUTHORISATION FORM** is a form that the insurance company uses to obtain certain information from the insured's doctor



Overhead 30: Types of insurance

• INDEMNITY INSURANCE

The insurance company agrees to pay the insured whatever amount he or she lost.

EXAMPLE:

Joshua has insured his car. If his car is damaged and it will cost R10 000 to repair, then the insurance company will pay this amount. If it will cost R20 000, then they will pay this amount.

• NON-INDEMNITY INSURANCE

The insurance company agrees to pay the insured a fixed amount if a certain event happens.

EXAMPLE:

Francina takes out a life and disability insurance policy for R50 000. If Francina dies or is disabled and cannot work, the insurance company will pay out R50 000.

6: Taking out insurance

PURPOSE OF THE SESSION

- To make participants aware of the procedures that are followed after a person applies for an insurance policy
- To understand when there can be breaches of rights in this process

TIME IT WILL TAKE

1 hour 30 minutes

MATERIALS

- Make a transparency of the overhead 31 on *Taking out Life or Disability Insurance* on page 195 of the TM

PROCEDURE:

Step 1:

- Explain the procedures involved in taking out an insurance policy
- Use Overhead 31 *Taking out Life or Disability Insurance* to help with this input

Step 2:

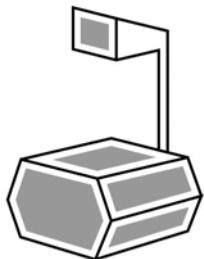
- Ask participants to work in 6 small groups for the next step.
- Give each group one stage during the procedure of taking out an insurance policy (eg Stage 1: Completing the application form) to focus on, out of stages 1-6.
- Ask the groups to look at that stage of the procedure and to answer the following questions:
 - . *What rights can be breached at this point?*
 - . *What can be done to protect rights?*
- Ask groups to feed back their answers and have a big group discussion after each group reports back.
- Ask the group whether they think any rights can be breached during Stage 7
- Use the Trainer's Notes to help you.



Trainer's notes

- At Stage One participants may answer that the right to privacy / confidentiality is breached by questions about your medical history and lifestyle. The insurance company asks these questions in order to assess the risk involved in insuring you. They get most of this information from your answers to the questions on the application form. In fact, you have a legal duty to disclose all 'material facts' (including HIV status) which may affect the company's assessment of your risk – in other words, you must mention all facts that can influence the company's decision to grant you insurance. The results of non-disclosure can be serious – you can be charged with fraud, or your contract could be cancelled (even though you may have been paying premiums for some time).
- At Stage 2 the right to be tested only on the basis of voluntary, informed consent may be breached. The Life Office Association (LOA) Agreement on HIV/AIDS says that no person may be tested for HIV without giving free and informed consent. A person who does not understand the consent form, or who simply signs the form without reading it properly, may not be giving free and informed consent to the HIV test. People should be encouraged to read through the form carefully, and to discuss the information with the doctor doing the HIV test.
- At Stage 3, people may be tested without informed consent, and without pre-test counselling. The LOA Protocol on HIV/AIDS says that the insurer must cover the costs of pre-test counselling. People should be advised of their right to be tested only on the basis of informed consent, and with pre-test counselling.

- At Stage 4, there is the possibility of breaches of confidentiality. Insurance companies need to follow strict procedures to ensure that confidential information, such as your HIV status, cannot be accessed by other people.
- At Stage 5, there is the possibility of a breach of privacy / confidentiality, as well as the possibility of unfair discrimination, because all insurance companies can access information about your failure to get life insurance. However, the information about your HIV status is put 'in code' so that only people who know what the code is, can access information about your HIV status.
- At Stage 6, there is the possibility that you will not receive post-test counselling. You may understand from your broker's news of your failure to get life insurance, that you are HIV positive. Or you may not get post-test counselling from your doctor. The LOA Protocol on HIV/AIDS says that an insurance company should pay for at least one session of post-test counselling. People should be advised of their rights to post-test counselling.
- At Stage 7, it's likely that you will not receive post-test counselling. Post-test counselling is important even for those who receive a negative test result.



Overhead 31: Taking out life or disability insurance?

- Complete the insurance application form. The form asks you to disclose information about your medical history, and your lifestyle. It may also ask you to give permission for the company to contact your doctor for information.
- Complete the Life Offices' Association (LOA) HIV test consent form. You will also need to give details of your own doctor. The test results will be sent to your doctor.
- Go for the HIV test (usually at the doctor or laboratory advised by the insurance company)
- The test result goes to the Chief Medical Officer of the insurance company. He opens a file with all the necessary medical details, including your HIV test results.
- If the result is positive, your name will be put on the Life Offices' Association (LOA) Life Register as someone who has been refused insurance. All insurance companies can access information from the Life Register.
- Also, if the result is positive, the results will be sent to your doctor. You will be told by your broker that you can not get insurance. You will also be advised to speak to your doctor.
- If the result is negative (and all the other conditions are satisfied) you will be told by your broker that your can get insurance.

7: Exclusion clause and confidentiality

PURPOSE OF THE SESSION

- To make participants aware of ways in which rights can be limited by insurance policies, through exclusion clauses and breaches of confidentiality

TIME IT WILL TAKE

1 hour

MATERIALS

- Make copies of the Exclusion Clause and Confidentiality Cards on pages 197-199 of the TM

PROCEDURE

Step 1:

- Divide participants into 8 groups
- Give each group one of the *Exclusion Clause and Confidentiality Cards*
- Ask them to discuss the case study on the card and answer the questions at the end of each case study. The Trainer's Notes at the end of this module will assist them and they can consult the relevant chapter in the Resource Manual.

Step 2:

- Ask for feedback on the case studies from the groups

Step 3:

- Summarise what exclusion clauses are.
- Have a general discussion on whether they should be included in insurance policies.
- Summarise confidentiality and the Life Register
- Explain the meaning of *surrendering* (giving up) a policy. Link each summary to the relevant case studies.



Cards 11:
Exclusion clause and confidentiality

CARD 1

Peta takes out a life insurance policy. Part of the contract says that the company will not pay her out if she is HIV positive or has AIDS at the time her death. Peta is killed in a car accident. At the time of her death, blood tests show that she was HIV positive.

- *Will the insurance company pay out her insurance?*
- *Do you think it is fair for Peta?*

CARD 2

Thulani takes out life and disability insurance. Part of his contract says that the insurance company will not pay him out if they decide that his death or disability is caused by HIV or AIDS. Thulani dies of pneumonia. At the time of his death, blood tests show he was HIV positive.

- *Do you think the insurance company will pay out the insurance?*
- *What is fair for Thulani?*

CARD 3

Ronald takes out a life insurance policy. This contract says that the insurance company will not pay him out if he dies of AIDS or an AIDS-related illness. Ronald tests positive for HIV after many years of paying out his insurance premiums. Ronald dies of a heart attack.

- *Do you think the insurance company will pay him out?*

CARD 4

Tinyiko takes out a life insurance policy. The contract says the insurance company will not pay her out if she dies of AIDS. Tinyiko later tests positive for HIV and dies of an AIDS-related illness.

- *Will the insurance company pay her out?*



Cards 11: Exclusion clause and confidentiality

CARD 5

Johannes takes out a life insurance policy. Part of this contract says that the company will not pay him out if he is HIV positive or has AIDS at the time of his death. Years later, Johannes tests positive for HIV. After 10 years, he dies of an AIDS-related illness. Only his doctor knows that he was HIV positive. The insurance company wants to find out whether he died of AIDS. They contact Johannes's doctor and ask her this question. She tells them that he was HIV positive at the time of his death.

- *Has the doctor breached confidentiality by telling the insurance company?*
- *If Johannes had signed a client authorisation form (which gave the insurance company permission to approach his doctor after his death) would the doctor be allowed to tell the insurance company?*

CARD 6

John applied for life insurance and was turned down. Later he found out that the person who tried to sell him the policy (the broker) had told other people at their local football club that John's insurance application had been refused because he had AIDS.

- *Does John have a claim against the broker for breaching confidentiality?*
- *Discuss and make a list of the number of ways that confidentiality is or can be breached when an insurance application is being processed.*

CARD 7

Bongi has found out that she has HIV. She has had an insurance policy for five years, but knows that the policy does not pay for people who die of AIDS. She wants to know what to do?

- *What would you advise her to do?*
- *If Bongi had been paying R60 a month for 2 years, what could she claim?*

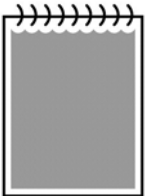


Cards 11: Exclusion clause and confidentiality

CARD 8

Laverne wants to take out a bond to buy a house. Laverne has not big assets like a car or a piece of land. So the bank asks her to take out a life insurance policy and transfer this to them. This means that if Laverne dies before paying off her home loan, the bank will be able to recover the value of the loan by claiming the insurance policy. But the insurance company refuses to insure Laverne because her medical tests show that she is HIV positive. So the bank refuses to give her a loan for her house

- *Is it discrimination for the bank to refuse someone a loan because they are HIV positive?*
- *What are other ways for a bank to recover its money if a person is refused life cover?*
- *What can we do to challenge these policies of the bank?*



Trainer's notes

Card 1

Peta will not be paid out her insurance claim.
It is Peta's duty to read the policy completely and to understand all exclusion clauses prior to signing the document.

Card 2

Thulani dies of an AIDS related illness and the insurance company will not pay out his insurance claim.

Card 3

Despite paying his premiums, if Ronald dies of an AIDS related condition, he will not be paid out by the insurance company.

Card 4

No

Card 5

The doctor cannot provide the insurance company with information unless the insured has given permission for this information to be given out.

Card 6

Yes he can claim against the broker.
There are many people who deal with the documentation dealing with the HIV status such as the Medical Officer, filing clerk, administration staff and all these persons could reveal the HIV status of the insured.

Card 7

Bongi can cancel her policy and claim the value of her contributions. She needs to be cautioned regarding the canceling of a policy. The calculations are: the total premiums paid to date (R60 per year x 2 years), excluding administrative costs.

Card 8

Yes the bank is being discriminatory.
The bank can repossess the house and recover the outstanding monies /loan.

8: Reflection on the workshop

PURPOSE OF THE SESSION

- To give participants a chance to reflect on the workshop – in other words, to look back at how the workshop helped them.

TIME IT WILL TAKE

10 minutes

Step 1:

- Give a brief summary of what the group has covered in the session.

Step 2:

- If this is the end of the workshop, do a go-around and ask people whether their expectations were met.
- Compare these to the expectations that were expressed at the beginning of the workshop
- You can ask the following questions as part of the process of reflection:
 - . What will you remember most from the workshop?
 - . What can you do to change the things in the community around you?
 - . In what ways has the workshop helped you to change your ideas?

References & resource materials



POLICY DOCUMENTS

Life Offices' Association (LOA), Protocol on HIV/AIDS, October 2000

Department of Health: HIV/AIDS Policy Guideline – Testing for HIV, August 2000 (based on National Policy)

REPORTS, MANUALS & OTHER MATERIALS

AIDS Law Project and Lawyers for Human Rights: HIV/AIDS and the Law: A Trainer's Manual (First Edition) 1997

WEBSITES

Aids Law Project: www.alp.org.za

AIDS Legal Network: www.redribbon.co.za/legal

Life Offices' Association: www.loa.co.za