

2025

SUPPLEMENTAL HEALTH,  
DI & LTC CONFERENCE

*Expanding Horizons*

# Contestable DI Claims: Best Practices and Insights





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# Agenda

1. Pitfalls in underwriting
2. What is a contestable claim
3. Applicable policy provisions
4. Contestable investigation
5. Underwriting Involvement
6. Concluding a contestability investigation
7. Role of the Legal Department
8. Reformation or Recission
9. Additional considerations
10. Questions

# Avoid the “Gotcha”

Fraud Awareness

Question  
Anything

Amend



# What Is A Contestable Claim?

A claim is considered **contestable** if it is made within a certain timeframe (usually 2 years) after the policy is issued, and is subject to additional scrutiny and investigation by the insurer.

- Importance of effective claim handling and investigation

# Understanding Applicable Policy Provisions

Pre-Existing Condition means a physical or mental condition:

- that was misrepresented or not disclosed in Your application; and
- for which You received professional medical advice, diagnosis or treatment within two years before the Effective Date; or
- that caused symptoms within one year before the Effective Date for which a prudent person would usually seek professional medical advice, diagnosis or treatment

## Time Limit on Certain Defenses

In issuing the coverage(s) under this policy and any attached riders, We have relied on the statements and representations on the application. We have the right to void the coverage(s) due to a material misstatement or omission in the application. However, after two years from the effective date of coverage(s), no material misstatements or omissions, except fraudulent statements or omissions, made by You or the Owner in an application will be used to void the coverage(s).

Applications include, but are not limited to, the initial application(s), applications for reinstatement, benefit update, automatic increase option, and any underwritten adjustment.

No claim for Disability or loss covered by this policy or any attached riders starting after two years from the date coverage has been in effect will be reduced or denied because a Sickness or Injury existed before the effective date of coverage(s) unless the condition is excluded by name or description. Sickness or Injury fully disclosed on the application(s) will be covered, unless excluded by name or description.

# Understanding Applicable Policy Provisions

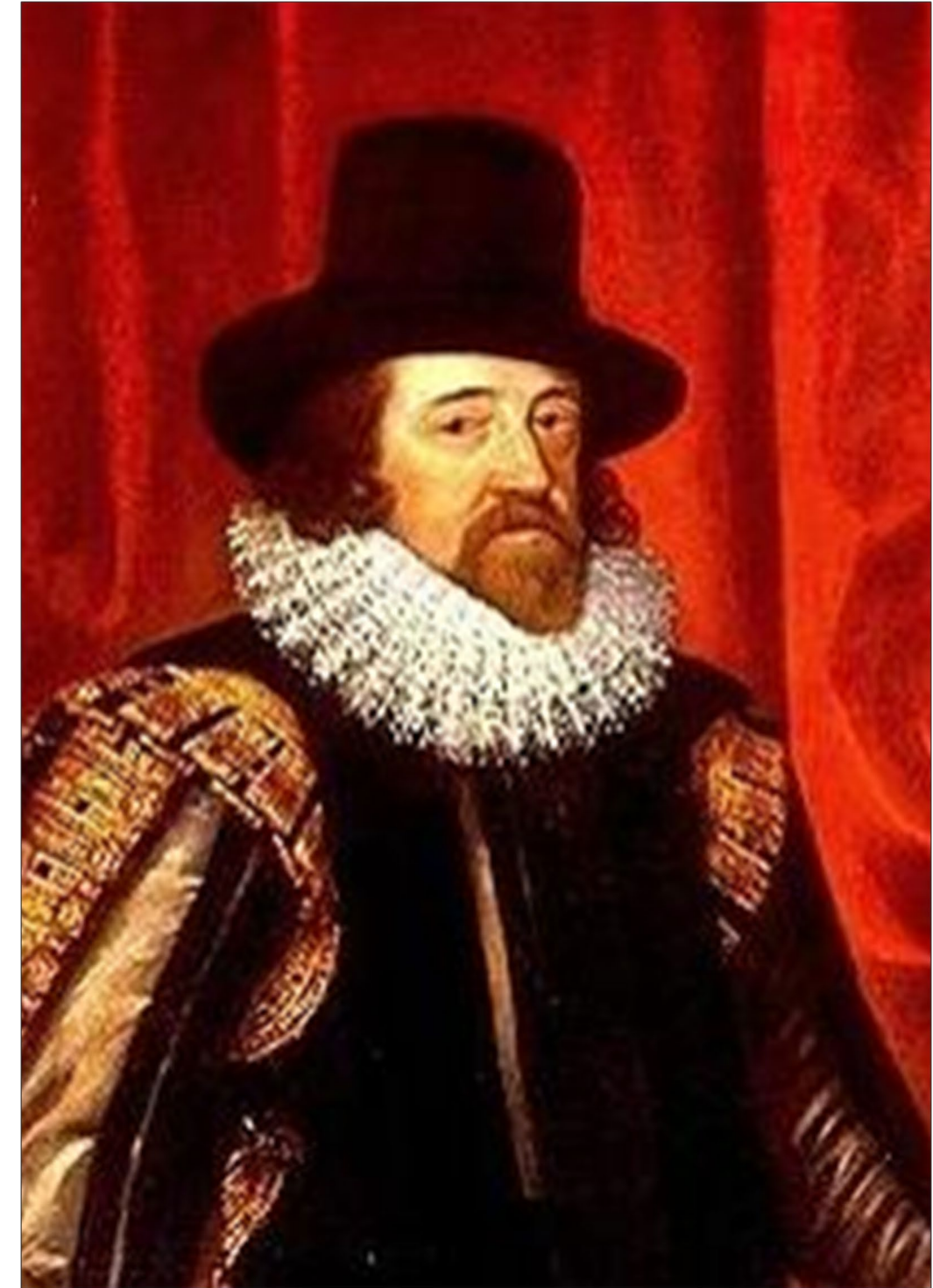
## Incontestable

We will not use any misstatement in the application to void this policy or deny a claim after this policy has been in force for 2 years during your lifetime. We will **not use any misstatement in an adjustment** application to void that adjustment or deny or reduce a claim after that adjustment has been in effect for 2 years during your lifetime.

**We will not deny or reduce a claim for a loss incurred** or a Disability starting after 2 years from the Policy Date or Adjustment Date on the grounds a sickness or physical condition existed before the Policy Date or Adjustment Date (unless excluded from coverage by name or specific description). Disability from a sickness or physical condition fully disclosed on the application for this policy or any adjustment application will be covered (unless excluded by name or specific description).

# Launching A Contestable Investigation

*“Knowledge is Power”*  
*- Sir Francis Bacon*





# Set Expectations

## **Transparency**

- Let the Insured know the policy is contestable up front and set clear expectations
- Outline what a contestable review entails

## **Communication**

- Keep the Insured updated on their status throughout

## **Contemporaneous review**

- A real-time review of the information as it is received



# Policy Application — A Forensic Review

- ? Are the medical questions/statements accurate?
- ? Was there a change in health between application and issue?
- ? Is there a discrepancy in reported income/earnings?
- ? Other Coverage?
- ? Were any other questions answered incorrectly?
- ? Was there ever a lapse and reinstatement of coverage?

# Securing Critical Information

- 1 Insured interview
- 2 Medical/Hospital records
- 3 Prescription drug history and medical claims data
- 4 Financial documentation
- 5 Employment history
- 6 Other coverage verification
- 7 Agent information

# Medical Reviews — A Critical Component





# Refer to UW

What to include:

- Factual narrative
- Erroneous questions/statements
- Entire claim and app file

What to ask:

Misrepresentation – Did the applicant present complete and accurate information on the application????

If not...

- Material misstatements:
  - Would the policy have been issued had the underwriter been aware of the fact(s) misrepresented? How would the policy have been issued, if different?
  - Did the applicant have knowledge of the materiality of the misrepresentation?

Fraudulent misstatements

- Were any statements in the application made with an intent to deceive?



# Underwriting Review

## Guidelines for underwriting notes:

Answer only the  
questions at  
hand

Keep it brief

Keep personal  
comments to  
yourself

If in doubt,  
contact the  
claims dept

Remember:  
anything and  
everything is  
discoverable

# Underwriting Review

## Questions at hand:

1. Did the underwriter follow underwriting guidelines?  
If not, in what way?

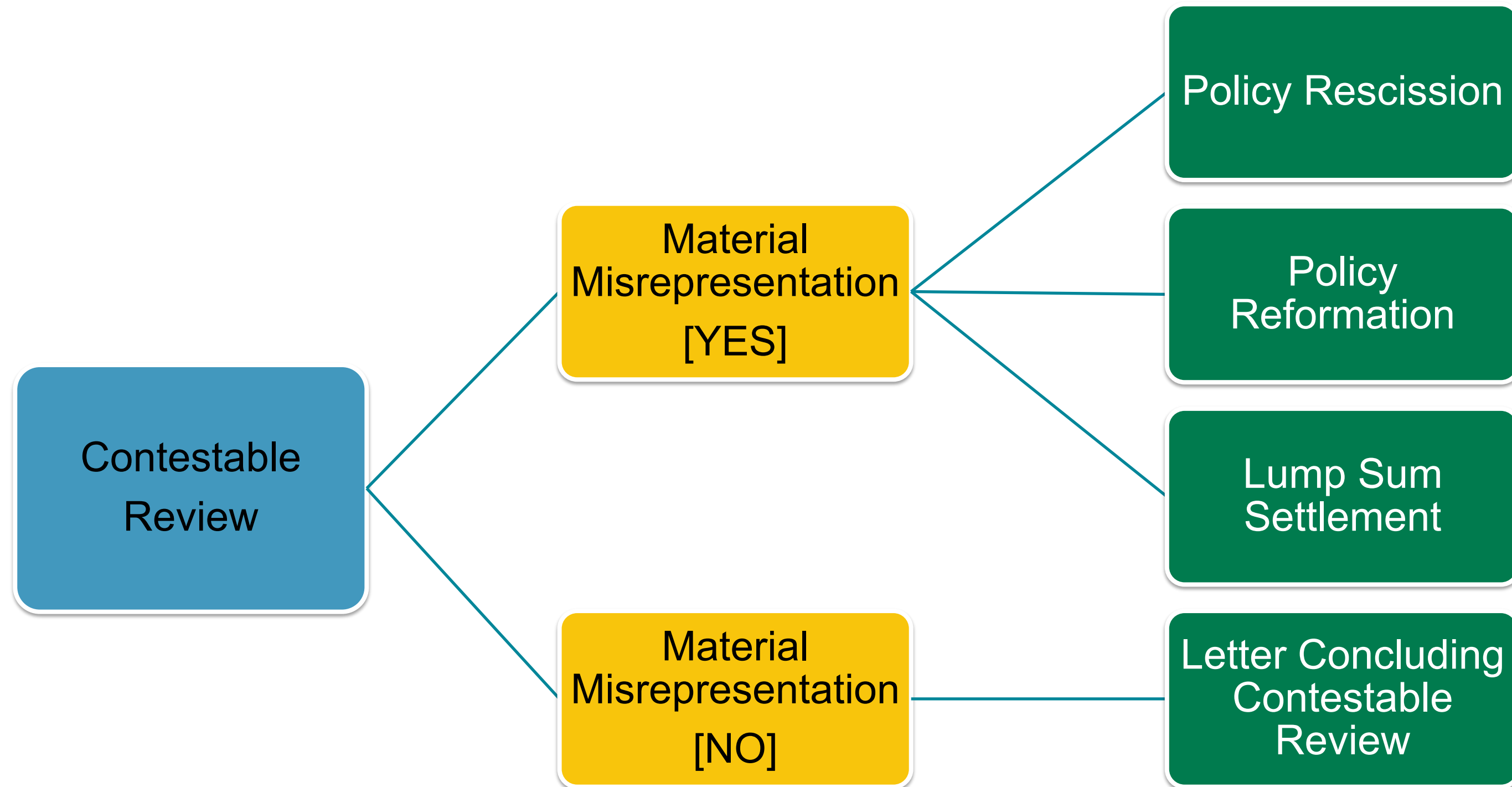
2. Was an amendment(s) needed?  
If so, was it complete and accurate?  
If not, in what way?

5. Please identify the docs that you are using to support your position

3. If UW was aware of the info we now have, would the same decision have been made?  
If not, what action would you have taken?

4. Which question(s) were answered incorrectly OR what info should the UW have developed?

# Possible Outcomes





Any possible rescission should be reviewed by legal to:

- Confirm contestable investigation is thorough and complete
- Provide insight on venue and jurisdiction
- Review potential legal arguments by insured/counsel
- Determine correct course of legal action

***Keep communications with counsel protected!***

# Moving Forward With Rescission

The rescission letter should include the following:

Copy of the signed application

Explanation of the materiality of the misrepresented information

Statement that the policy would not have been issued had this information been known

Details of the investigation findings supporting the decision to rescind

Repayment of the premiums along with interest

Statement of good faith soliciting additional information to reconsider the rescission action

Include “reservation of rights” language

Remember to take appropriate precaution that no additional premiums are accepted.

# Can We Settle?

Would a settlement be a fair and equitable solution for both parties?

The potential benefits include:

- Greater flexibility
- Quicker resolution
- Reduced costs
- Piece of mind

# Case Study #1

60-year-old male electrician

PMH: 5.7.220, hypertension

RX: hypertension

Medical Claims: migraine

UW Action: Exclude headaches/migraines

Claim: r. knee contusion, internal derangement, pain



# Case Study #2

## “Tiny Bubbles”

- Multiple claims
- All seeing the same psychologist
- All have the same diagnosis
- Tele-visits one time per month

*“The only way to stay sane  
is to go a little crazy.”*

Susanna Kaysen  
*Girl, Interrupted*

# We Want to Hear From You. Leave a Rating & Review.



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## Agenda Option

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(no ratings yet)

**Sean O' Donnell, LLIF**

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# Thank You



*Navigate With Confidence*



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