Genetic information and private insurance

Belgium: absolute prohibition

- Any use of genetic information for insurance purposes is forbidden.

- Article 58 of the Insurance law (Wet betreffende de verzekeringen, 2014):
  "genetic data may not be communicated"

- Article 95 of the Insurance law:
  "no genetic testing may be used when examining a (candidate-) insured"

The Netherlands: relative prohibition

Art. 5, eerste lid Wet op de medische keuringen (1997):

Bij een keuring in verband met het aangaan of wijzigen van een verzekering mogen geen vragen worden gesteld over […] ziekten, voor zover die op <u>erfelijkheid</u> betrekking hebben, bij de <u>bloedverwanten van de aspirant-verzekerde</u> en, tenzij de ziekte manifest is, bij de <u>aspirant-verzekerde zelf</u> en over onderzoek bij de aspirant-verzekerde en bij diens bloedverwanten gericht op <u>de erfelijke aanleg voor ziekte</u> en de resultaten van dergelijk onderzoek, <u>**indien de te sluiten verzekering de vragengrens niet overschrijdt**</u>. […]

The Netherlands: relative prohibition

Art. 5, tweede lid Wet op de medische keuringen (1997):

Voor arbeidsongeschiktheidsverzekeringen […] bedraagt de vragengrens € 36.249,– [Red: per 29 december 2015: € 38.877,–] voor het eerste jaar van arbeidsongeschiktheid en € 24 267,– [Red: per 29 december 2015: € 26.026,–] voor de daaropvolgende jaren van arbeidsongeschiktheid. Voor levensverzekeringen bedraagt de vragengrens € 250.000 [Red: per 29 december 2015: € 268.125,–] .

United Kingdom: concordat and moratorium

Concordat (2005) and Moratorium (2001) on Genetics and Insurance

The Government and the Association of British Insurers agree that the Concordat and Moratorium ensures fair rights of access.

- To insurance for consumers – by allowing people to take out substantial amounts of cover without having to disclose the results of predictive genetic tests.

- To relevant information for insurance companies – to enable fair assessment and risk pricing in the interests of all past, present and future customers.

United Kingdom: concordat and moratorium

Concordat (2005) and Moratorium (2001) on Genetics and Insurance

Customers will not be required to disclose the results of predictive genetic tests for policies:

- up to £500,000 of life insurance,
- up to £300,000 for critical illness insurance,
- paying annual benefits of £30,000 for income protection insurance.

Over these financial limits insurers can only ask about predictive tests that have been approved by the Genetics and Insurance Committee (GAIC). The only disease currently on the approved list is Huntington’s disease (life insurance only).

United Kingdom: which predictive genetic tests (GAIC)?

- Is the test technically reliable? Does it accurately detect the specific changes sought for the named condition? This is the **technical relevance** of the test.

- Does a positive result in the test have any implications for the health of the individual? This is the **clinical relevance** of the test.

- Do these health implications make any difference to the likelihood of a claim under the proposed insurance product? This is the **actuarial relevance** of the test.

Arguments pro absolute prohibition

- Genetic data
    - highly personal, unchangeable information,
    - about the life of the individual but also about the life of his ancestors, descendants and other relatives.

- A division between the "genetic good" and the "genetic bad" in society.

- Confronting a person with information about his future might be hard to cope with for that person and his relatives.

Arguments pro relative prohibition

- “A burning house cannot be insured”

Key element in insurance = uncertainty about the realization of the risk.

- Adverse selection

- Would it be desirable from a societal point of view that a person, who knows that he will die within 5 to 10 years time, can take out a €1,000,000 life insurance contract while withholding this information from his insurer?

Actuarially sound decisions

- Richard Ashcroft, biomedical ethicist, Queen Mary, University of London (2008): “it is important to note how genetic information can be misunderstood, or its importance overestimated, and therefore used in discriminatory ways that would no be justified on sound actuarial grounds”

- E.g. BRCA1 gene in breast cancer:
  - Little difference to a woman’s life expectancy
  - Cave interpretation as a grave risk of early death by an insurance company

Insurability of risks

- When a positive test for a “disease gene” does not imply that the illness is certain
  - → uncertainty about the manifestation of the risk
  - → is the risk insurable?
  - → yes

- When a positive test for a “disease gene” implies that the illness is certain
  - → certainty about the manifestation of the risk
  - → is the risk insurable?
  - → no

Genetic versus medical information

- Distinction
  - Insurers are allowed to use medical information
  - Insurers are not allowed to use genetic information

- Example
  - Smoking: 10-20% life time risk of developing lung cancer (nonsmokers: 1.4%)
    → used by health insurers
  - BRCA1+2 genes: 60-80% risk to develop breast cancer before age 70 (6 to 8 times higher risk)
    → not used by health insurers

Nature versus nurture

- Quid higher premiums for “bad risks”?

- Quid higher premiums for “bad behaviour”?

- Quid stimulating prevention?