

WHAT ARE LONG-TERM DISABILITY INSURANCE BENEFITS?

Long-term disability (LTD) insurance benefits are payments made by an insurance company pursuant to a disability insurance policy, to a qualified participant to replace lost income during a period when the insured can document the existence of a qualifying disability. Depending on the policy, a covered insured may receive 50-70% of their basic monthly earnings, less social security income.

A person may have LTD benefits as part of an employer's benefit package or by participation in an organization (employer or group sponsored policies). Individuals also can purchase LTD insurance directly from an insurance company.

WHEN ARE YOU ELIGIBLE TO APPLY FOR LTD BENEFITS?

If you are determined to be disabled, and you have LTD insurance coverage, benefits should be paid to you pursuant to the policy (after a short waiting period). To be disabled, you have to provide documentation of a medical or psychological impairment, or both. Many policies will limit LTD benefits to two years or less if your disability is based on mental illness (e.g., depression). Also, most policies do not provide benefits for pre-existing conditions or self-inflicted injuries. If you are not sure whether your medical condition is covered by your policy, an attorney can review your policy and the facts of your case to determine whether your disability may be covered. To receive LTD benefits you must prove that you are "disabled" according to the definition in the insurance policy.

WHAT CONSTITUTES A DISABILITY?

"Disability" is often defined as the inability to perform the material duties of your regular occupation on a full-time basis. The definition of *disability* varies from policy to policy, thus, if you want to seek LTD benefits, you should carefully read the language in your policy before applying.

HOW DO YOU APPLY FOR LTD BENEFITS?

If you have LTD benefits through your employer, consult your employee benefits office or supervisor. They should provide you with the forms and procedures to file a claim. Also, you should read carefully the insurance policy, which your employer must make available to you.

If you bought the LTD policy on your own, the policy should describe the procedure that you need to follow to file a claim. If you have lost the policy, contact the insurance agent or company who sold you the policy. But remember, to get benefits, you must apply, and your claim may be denied if you wait too long.

WHEN SHOULD YOU SEEK THE ASSISTANCE OF AN ATTORNEY?

The process of applying for and obtaining LTD benefits has become much more difficult than you may believe. An attorney knowledgeable in disability insurance benefits law can provide valuable assistance at any stage in the application process. Consulting an attorney early in the application process can substantially increase your chances of proving your disability and getting LTD benefits.

However, as discussed below, if you choose to apply on your own, and your LTD benefits are denied, the assistance of an attorney may be crucial for the appeal process.

Some insurance companies discourage policy participants from seeking the assistance of a qualified attorney. Realistically, your chances of receiving LTD benefits are reduced if you do not understand clearly the definitions, requirements, and limitations of your policy. Also, you are less likely to be approved for LTD benefits if you do not gather, organize, and present to the insurance company, in a logical manner, the medical records that support your claim.

A disabled person often lacks the energy to devote sufficient time to meeting the procedural requirements of the LTD claim process, and a qualified attorney can provide valuable assistance under such circumstances.

Remember, if you want to obtain LTD benefits, it is your job, and not that of the insurance company or your physicians, to establish that you meet the policy's definition of disability. Insurance companies often require that you provide objective medical documentation of your disability.

HOW DO YOU APPEAL DENIAL OF LTD BENEFITS?

If you are denied LTD benefits, it is crucial that you seek legal assistance immediately because you need to protect your rights, and the appeal process can be a trap for the inexperienced. The insurance company ordinarily allows only 60 days to appeal an initial decision to deny benefits.

As part of the appeal process, you may submit additional documents and arguments that support your claim and address the concerns raised by the insurance reviewers. You should provide, as well, medical literature supporting your claim.

Further, you should determine whether the insurance company had available to it all of the medical records that substantiate your disability. Thus, it is important that before you file an appeal, you request and evaluate all of the records in the possession of the insurance company, as these are the basis for the initial denial of your claim.

The strict standard of review used in the appeal process is such that a letter of support from a physician, by itself, is usually NOT sufficient to win the appeal of the denial of benefits. Logical arguments supported by objective medical findings and medical literature may also be presented to address all of the concerns raised in the denial of benefits letter. An attorney's assistance is frequently helpful in this regard.

If you appeal on your own and lose once again, your only recourse is often limited to filing a suit in federal court (if your policy falls under certain federal laws). In court, the only evidence that may be considered by the Judge is what was previously submitted to the insurance company (if your policy was provided by an employer's sponsored plan). Litigation is a costly process; frequently not likely to yield satisfactory results. It is much wiser to focus your efforts in submitting a well-documented appeal package, even if this involves seeking the assistance of an attorney.

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The purpose of this publication is to provide information of a general character regarding long-term disability benefits. The information presented does not represent legal advice. For legal advice and assistance with your LTD claim, you should seek the services of an attorney experienced in health benefits law.