

What You Need to Know About Filing a Claim for Disability Benefits

By Justin C. Frankel, Esq. and Jason A. Newfield, P.C.

This profile will highlight frequently asked questions and frequent claim mistakes as well as explain the process of filing a claim for disability benefits, the issues that often arise during the claim process, and potential problems that must be avoided in order to successfully maintain a claim for disability benefits.



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Claimants going through this process for the first time can be overwhelmed by its complexity. Here are some of the more frequently asked questions about the process.

When must I file my claim?

Most policies require that "proof of loss" be provided shortly after a claim occurs (typically 60 to 90 days).

What role does my physician play in my claim for disability?

The physician is vital to the success of the claim. They are able to provide the clinical and objective support for the claim.

Working closely with the physician in the claim process can be the difference in the claim's success or failure.

How much information should I give my disability income carrier?

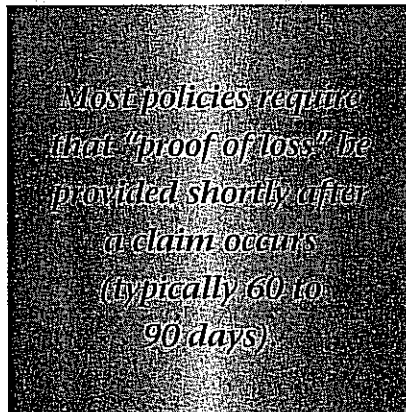
Only as much as is necessary to support the claim. We take the cynical view that the insurer is seeking information to be utilized to deny or terminate benefits.

Thus, we are careful in providing responses to informational requests from the insurer.

Do you need to suffer a loss of income to collect disability income payments?

Usually, if you are unable to perform the substantial and material duties of your occupation, then you do not need to suffer a loss of income in order to qualify for disability benefits.

Under many of these same policies, if you are only residually disabled, as opposed to totally disabled, then you must generally suffer a percentage loss of pre-disabili-



ty income as defined in the policy.

Where the claim is total disability, the eligibility for benefits is determined by a loss of ability to perform work duties.

Where the claim is residual, eligibility for benefits is income related as well.

What are my remedies if my claim is denied or terminated?

Group disability income policies have an internal appeals process when an adverse decision has been made on your claim. If an appeal determination is unfavorable to you, and you have exhausted your administrative process, you may proceed to the appropriate court having jurisdiction of your claim.

Private policies of insurance do not require internal appeals, and you can pursue litigation or other dispute resolution mechanisms immediately.

Claimants often believe that managing their own disability claim is a simple process. All too often, however, the insurer will take advantage of an unrepresented claimant—and the claim will get denied, terminated or negatively impacted. Here are some examples of why engaging counsel at the beginning of the process is wise.



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LTD Claim Mistake Scenario 1

Long term disability insurance claimant submits claim form or gives an interview to the insurer without fully understanding the significance of the statements made. The insurance company utilizes these admissions as reasons for denying claim.

Example: What are all of the activities you perform at your job?

Answer: As a podiatrist, I perform surgery, and I sometimes assist the other podiatrists in their procedures, and submit insurance claims and pay bills.

Problem: The insurer now deems this disabled podiatrist residually or partially disabled, because he/she can perform administrative functions as well as be a "podiatrist assistant."

At Frankel & Newfield, P.C., we guide you through the long term disability claim process, so that the insurer does not determine your occupational duties, we do.

LTD Claim Mistake Scenario 2

Claimant's Attending Physician

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Disability Benefits...

completes claim form without understanding the definition of disability contained in the long term disability insurance policy. The insurance company utilizes this information to deny the claim, gaining plausible rationales from your own physician.

At Frankel & Newfield, P.C., we collaborate with the Attending Physician to ensure that s/he understands the claimant's occupational requirements and restrictions and limitations of the claimant.

LTD Claim Mistake Scenario 3

Claimant attends an IME (Independent Medical Examination) that is anything but independent, or appears for a Functional Capacity Evaluation (FCE) at the request of the insurer. The report prepared by the physician (paid by the insurer or their agent) indicates no limitations on returning to work. The insurer utilizes this report to deny the claim.

At Frankel & Newfield, P.C., our clients appear at IME's and FCE's only after significant negotiations with the insurer regarding the examiner, the testing to be conducted and the scope of the examination. In addition, we often appear at these examinations with our clients to protect their rights.

LTD Claim Mistake Scenario 4

Claimant fails to engage counsel early enough in the process. Often, effective assistance of counsel at the outset of a long term disability claim can prevent many delays in claims processing which would otherwise occur due to what is often a Claimant's lack of understanding of the long term disability claims process. Insurers rely on the relative inexperience of Claimants in order to manipulate and delay the claims process. Many times, administrative appeals are available to Claimants, which, if skillfully used, can lead to getting the claim approved. If the appeals process is not used properly, this can lead to an irreversible claims denial. Under no circumstance should a Claimant pursue an appeal without legal counsel. Although it should go without saying, a Claimant's request for appeal without submitting documentation proving disability under the policy terms is worthless. A Claimant's reliance on the insurer to "review" a denial by requesting an appeal without fully documenting the long term disability claim is nothing less than an opportunity to rubber stamp the original denial and force litigation.

While these are some of the common issues faced by claimants in the process of applying for and receiving disability benefits, there are a number of other issues that are commonly seen. Should a claim issue

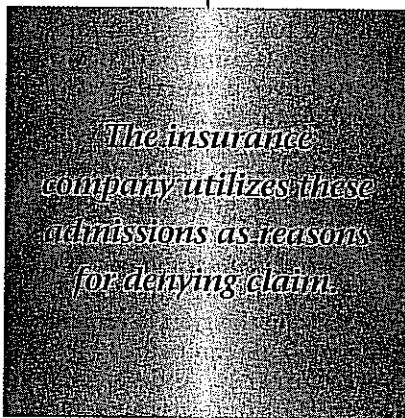
arise, view it from a cynical perspective and try to anticipate the impact of any statements provided or information conveyed.

The information provided in this publication is intended to be for informational purposes only. It is not intended, nor should it be used, as a substitute for legal advice or opinion which can only be rendered when related to a specific fact situation, and on an individual basis.

Justin C. Frankel, Esq. and Jason A. Newfield, P.C. are founders of Frankel & Newfield, a law firm focusing on disability insurance claims and litigation. Their office is located in Garden City, New York and they can be reached with any questions at (516) 222-1600, or by email at JCF@frankelnewfield.com or JAN@frankelnewfield.com. Their web site is www.Frankelnewfield.com

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IS YOUR DISABILITY INSURANCE WORKING FOR YOU?

When you stop working due to injury or sickness, you need your disability insurance to work for you – not against you.

Our law firm represents professionals who need to file disability claims or whose claims have been denied or terminated. We advocate for policyholders throughout the complex process of securing benefits under disability policies.

Visit our website or call us to learn more about how we can assist you – and ensure that your rights are protected.

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