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MAXIMIZE CHANCES OF WINNING LONG TERM DISABILITY CLAIMS

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A claim for Long Term Disability (LTD) benefits can be a confusing process. Often, when you are too sick to work, you are also too sick to effectively fight the insurance company for your benefits.

Most individuals filing LTD claims are covered by ERISA (Employee Retirement Income Security Act, 29 C.F.R. §2560). ERISA requires that you build a winning record before the Insurance Company because, most of the time, court review does not allow the introduction of new evidence. That is why it is important to find an experienced disability practitioner to guide you through the claims process and advocate on your behalf from the beginning of these claims.

Whether you go it alone or hire legal representation, there are several keys to maximize your chances of winning.

I. Obtain and study the plan documents. Normally, that should include a complete copy of the insurance policy. Do not just rely on a summary. Some of the important provisions you need from the insurance policy and/or plan document are:

1. The definition of disability - i.e., whether you must be disabled from any occupation or your own occupation;
2. Does the definition change over time - commonly the definition of disability changes to any occupation after 24 months;
3. Any limitations on benefits - many policies limit benefits to 24 months for mental impairments, and other illnesses such as chronic fatigue syndrome;
4. Offsets – most policies offset worker compensation benefits and Social Security disability benefits, among other sources of income; and
5. Time limits related to filing and processing your claim.

II. On appeal, get the claim file. If your claim is denied and you are preparing for an administrative appeal, you need to obtain a copy of the claim file from the insurance company. This allows you to review documents that should explain why the insurance company made their determination to deny your claim and what information you need to submit to overcome the denial. Below are examples of what you should request from the insurance company:

1. A complete copy of the plan, summary plan description, insurance policy, and any and all attachments and amendments to these documents;
2. All of your medical records;
3. Excerpts from the claims manual, guidelines, protocol or other written criteria that were utilized in the evaluation of this claim;

4. All correspondence to and information from third-party sources, such as doctors or vocational experts that were consulted;
5. All reviews conducted by the insurer's medical or vocational personnel;
6. All surveillance and investigative reports and the actual tapes, film, or DVDs;
7. Any and all other relevant documented information that may or may not have influenced the insurer's decision to deny benefits to your claim.

III. Submit evidence to win your case. After you have the denial decision and the file you are ready to analyze what evidence you need to overcome the denial. Remember to make sure not to miss the deadline to file an appeal. If the policy is covered by ERISA, you have 180 days to file an appeal. It is best to wait on filing the appeal until after you have gathered the additional evidence you want to submit to win your claim.

It is vital to determine what evidence you need to overturn the denial. Most often you will need medical evidence, as disability determinations are based on your medical conditions. You may also need additional information from family members, employers, and vocational experts.

In regard to the medical evidence, you should have a complete copy of the treating physicians' medical records and a curriculum vitae. Upon careful review of those records, decide what additional information you need. Often you will want the doctor to provide more detail on the restrictions and limitations on your activities in order to overcome the reasons for the denial and establish eligibility for benefits.

Insurance companies love "objective" tests. You may want to discuss with your doctor if there is additional testing that can be performed to help overcome any objections of the insurance company. Similarly, consider with your treating physician whether you should be sent out to a specialist for further examination or a second opinion, which may help establish eligibility for benefits.

Beyond medical evidence, consider whether the employer may have records or evaluations that could assist your claim. Also, consider providing sworn statements from witnesses such as supervisors, coworkers, spouses, family members, or friends. These statements may include information on your restrictions and limitations, and the effect of the illness/disability on your daily activities as well as ability to work.

All of this evidence should be timely submitted to the insurance company with argument that is tailored to meet the definitions of the policy and the reasons given by the carrier for the denial.

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