9 TIPS

FOR APPEALING YOUR SHORT OR LONG TERM DISABILITY BENEFITS DENIAL

TSF LAW
PROFESSIONAL CORPORATION

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DISCLAIMER

The information provided in this guide is for informational purposes only and is not intended to constitute legal advice. The author does not make any guarantee or promise as to any results that may be obtained from using the content of this book.

You should never make any legal or medical decisions without first consulting with your own physician and lawyer and conducting your own research and due diligence.

Content contained or made available through this guide is not intended to and does not constitute legal advice and no lawyer-client relationship is formed. The author is providing this book and its contents on an "as is" basis.

INTRODUCTION

Disability insurance is available to those who pay into a private benefit plan or for those who are fortunate enough to have these benefits through their employer. This includes short term and long term disability benefits. These benefits can be accessed when a person is unable to continue their employment due to an injury sustained outside of work (and sometimes while at work).

Applying for short term disability and long term disability once you have passed the mandatory waiting time (called the elimination period under your disability policy), can be very distressing. While you wait for approval your financial commitments such as rent, credit cards and mortgage payments can pile up putting you in a difficult position.

Although you may do everything in your power to receive benefits, your disability benefits provider may still deny your benefits. This guide is meant to assist you through the denial process and also with applying for disability benefits as quickly as possible.

So what happens when the provider of your short or long term disability benefits (Sunlife, Canada Life, Desjardins, Industrial Alliance, Manulife, SSQ, Blue Cross, RBC) decides that your disability is not severe enough to prevent you from working?

This is known as a denial of short term or long term disability benefits. A denial often worsens the mental stress and anguish you may already suffer from due to your disability. Here are 9 things you should do if your short term or long term disability claim has been denied. Read through to the end for an extra tip.

1. REVIEW THE DENIAL

Review the denial letter from your disability insurer to confirm the reason(s) your benefits were denied. The insurance company will usually request more information and the letter should specify what they want to possibly approve your benefits.

2. REQUEST YOUR FILE

Request your complete disability file. This will provide you with a better understanding of your denial and the reasoning behind it. Your file may contain medical opinions from medical personnel, which may help you address the denial and provide you with more guidance when obtaining support from your doctor.

3. OBTAIN WITNESS STATEMENTS

Get supplementary documentation like witness statements from people who have direct knowledge of your disability and inability to work. This can include people you live with or co-workers.

4. SPEAK WITH YOUR DOCTOR

Arguably the most important thing to do when you are denied benefits is seek the assistance and support of your family doctor. They will provide you with medical support and the treatment recommendations you need to feel better and the medical evidence needed to support your application for disability benefits. <u>Request your family doctor's medical records from one year before you applied for disability benefits to the present.</u>

5. FOLLOW YOUR DOCTOR'S RECOMMENDATIONS

Be sure to follow whatever recommendations or treatment plans your doctor makes. Doing otherwise may compromise your entitlement to short or long term disability benefits and more importantly, your health.

6. MAKE A DECISION

Decide if you want to appeal the denial. Most long term disability insurance companies offer claimants the option to appeal the denial. Typically, you should not appeal your denial. These appeals are usually unsuccessful. They tend to be conducted by the same employee or a colleague of the employee who denied your initial application. Appealing a denial is, in theory, the most time efficient way to get your benefits started (or going again). In practice, it is the least successful method and arguably the most frustrating and aggravating way to try and get your benefits. You can also choose to sue the insurance company rather than doing an appeal.

You should know that most denials must be appealed within twelve months. This can vary by company and policy. Generally, Ontario law restricts the time you have to start a lawsuit to two years, if you choose to go that route.

7. GATHER SUPPORT FOR YOUR CLAIM

If you do proceed with an appeal, ensure you gather as much medical documentation as possible before doing so. In addition to getting one year of your family doctor's records, request one year of records for any specialist(s) you have seen and obtain a pharmacy print out of all medications used since you have been unable to work. Lastly, speak to your doctor or specialist about writing a report that explains why you cannot work. There may be fees associated with obtaining medical records and reports.

8. APPLY FOR OTHER PROGRAMS

You should also apply for other private or governmental benefit programs available to you, such as the Ontario Disability Support Program (ODSP), Canada Pension Plan Disability (CPPD) or the Income Replacement Benefit (if your disability was caused by a car accident).

If you are approved for any of the above benefits, it will make it more likely for your disability benefit provider to accept that you should receive short or long term disability benefits. The criteria for each program is different, however there are similarities between these programs in practice. You should request your complete file for any of the above programs you apply for.

There can be consequences if you are entitled to one of these benefit programs and fail to apply for them. Most disability policies allow your insurance company to estimate how much you would get under one of these benefit programs and deduct that estimated amount from your short or long term disability benefits. This is typically known as an “offset”.

9. REQUEST THE APPEAL

Lastly, if you do decide to appeal, draft an appeal letter enclosing the above listed documents you were able to obtain. We do not recommend appealing the denial given the low rate of success. However, if you are unsure about how to draft an appeal letter, we are more than happy to provide you with a sample letter free of charge. Simply email info@tsflaw.ca and write “sample denial letter” in the subject line.

BONUS CONSULT A DISABILITY LAWYER

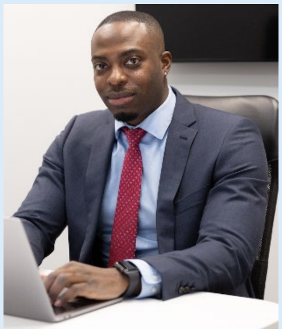
It is recommended that you speak with a disability lawyer sooner than later (even before your benefits are denied). You may also lose your right to sue if you wait too long to speak with a lawyer or appeal your claim. Many disability law firms offer free consultations and handle your case without charging you until your case settles.

Going it alone may seem like a viable option, however, like most people, you may be unfamiliar with how insurance companies operate. This lack of familiarity can lead to you unintentionally hurting your claim and jeopardize your disability benefits.

TSF Law offers a free 60 minute strategy session where a lawyer will walk you through every step of the lawsuit process and answer any questions you may have. We will also develop a plan outlining how we will work with you to ensure you receive the settlement you deserve and/or get your benefits reinstated.

Give us a call at 905-218-3668 or send an email to info@tsflaw.ca and include "strategy session" in the subject line.

CONCLUDING REMARKS FROM THE AUTHOR



Thank you for downloading this guide and reading the information contained within it. I hope that this guide has provided you with valuable information to assist you in handling your disability claim denial. While success is never guaranteed, in my experience, your appeal may be more likely to succeed when you apply the tips offered within this guide.

I understand the confusion, uncertainty, frustration and anxiety that comes with trying to regain a sense of normalcy following a collision. After being involved in a serious collision in 2010, I was unable to work and received disability benefits. After several months, my benefits were stopped and I was given an ultimatum; return to work in pain or lose my job. I was unaware that I could appeal the denial or file a lawsuit. There are thousands of people out there right now, including you, who are just like I was.

My accident and subsequent disability denial are the reasons we help the injured who have been denied benefits. It is the motivation behind TSF Law and this guide.

As someone who's been denied disability benefits during a time of need, I am genuinely pleased to have put something together that truly acts as a blueprint for dealing with a short/long term disability denial. I recommend coming back to this guide and re-reading it throughout the duration of your disability claim.

We look forward to hearing from you all about your success and any questions or concerns you may have regarding the steps in this book or your disability claim.

Keep fighting and never give up! You are not alone.

Terio Francis

Disability Lawyer