

APPEALS IN LONG TERM DISABILITY (LTD) CASES

Frequently Asked Questions

✚ *What is an LTD appeal?*

When your application for LTD is denied, or when your insurer decides to cut off your LTD benefits, the letter or email advising you of the denial or stoppage of benefits will likely have a paragraph or two at the bottom explaining that you can “Appeal” the insurer’s decision. It is very important to understand what this appeal means. An appeal of an LTD denial is not a formal, objective and legal ruling on your right to LTD. It is not decided by a neutral third party (like a judge or an arbitrator), but rather by the same insurance company (sometime the person or group of people) who denied you in the first place.

Appeals of LTD denials are, in our experience, useless. That is not to say that appeals never succeed. After all, some people win the lottery or get struck by lightning. In our experience, appeals *rarely* work, because the insurance company that decides the fate of your appeal has an incentive to reject it. The more appeals they reject, the higher the likelihood that claimants, such as yourself, may walk away from their LTD benefits, thus leaving money in the insurance company’s pockets.

Many insurers will allow you to appeal, re-appeal, and re-appeal again their rejection of your LTD claim. The more times they reject your claim, the more likely it is that you will get frustrated, angry and feel like there is no possibility of making your insurer pay the LTD benefits that you are owed. It may also cause you to miss a very important deadline: the 2 (two) year limitation period for starting a legal claim to force your insurer to pay you what you are owed. **Do not miss this limitation period under any circumstances.** If you do, you will likely be statute-bared from recovering the LTD benefits owed to you by law.

✚ *What are the pros and cons of an LTD appeal?*

The only pro is that, if you succeed, you will not need a lawyer to represent you. However, again, in our experience LTD appeals *rarely* work.

There are 3 (three) major cons for an LTD appeal.

First, you will be playing the insurer's "game", which means that the decision-making power about the fate of your LTD claim rests with your insurer. That is not good because the insurer has a very big incentive to not approve your claim. Remember that by denying your appeal, your insurer saves money because they do not have to pay your LTD benefits.

Second, your appeal is not being adjudicated by a neutral third party. It is done internally, which means that the insurer can reject your claim at will, without any negative repercussions or penalties. Again, they have no incentive whatsoever to approve your claim on appeal.

Third, and most importantly, by appealing your denial, again and again and again, you are wasting valuable time, sometimes months or even years. In some cases, when appeals drag out over a 2 year+ timespan, claimants lose their legal right to pursue legal claims against their insurers. This means that the insurer has escaped liability and cannot be legally forced to pay the benefits they owe claimants.

Do you have to appeal your LTD denial?

Generally, the answer is no. You should **always** seek legal advice **before** appealing. We provide this advice and review cases where claimant have been denied or cut off LTD benefits **free of charge**.

Should you appeal your LTD denial?

Again, the answer is no if you can avoid it. In most cases you can avoid it. Again, we provide **free consultations** on all cases where a claimant has been denied or has been cut off (or advised that they *would* be cut off LTD benefits) **free of charge**.

What happens if you do not appeal an LTD denial?

That depends. If you do not appeal an LTD denial and do not pursue legal action against your insurer for failing to pay your LTD benefits, then your insurer will not pay you what they owe you. We always advise claimants to pursue their LTD benefits by way of a legal claim. It is the most efficient way to force an insurer to comply with the law and pay what they owe legally.

✚ *What is the alternative to an appeal of an LTD denial?*

The alternative is a legal claim. That means that we start a legal action against the insurer through the court system. This is a much more powerful and efficient way to force your insurer to pay what you are owed. Why? Because once we start the legal process, the insurer must appoint a defence lawyer to defend the legal claim, which means that the insurer must pay their lawyer. Insurers, in our experience, hate paying their lawyers, especially when they know that they will likely need to settle your case at some point. Moreover, once we start the legal process, insurers understand that if your claim ever went to court, a judge could easily order that they pay what you are owed, plus a portion of your legal fees, plus, in some cases, additional extra-contractual damages (i.e., punitive and aggravated damages) against them.

The reality is that the vast majority of cases do not go to court. They settle. Legal claims force insurers' hands and that is the best and most efficient way, in our experience of getting insurers to the negotiating table, and forcing them to pay what they owe.

✚ *Questions? Concerns? Contact us!*

Toll Free: 1-855-821-5900

Email: help@disabilityrights.ca

www.Disabilityrights.ca

or

Post your question and get an answer from one of our disability lawyers at

www.MyDisabilityQuestions.com

FREE CONSULTATIONS

The information provided in this FAQ document is for general purposes only and should not be relied upon in specific cases without consulting a legal team member at Samfiru Tumarkin LLP. For more information, please contact us at:

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