

RETURN TO WORK IN LONG TERM DISABILITY (LTD) CASES

Frequently Asked Questions

✚ *When should I consider returning to work after being on LTD?*

You should only consider returning to work (full time or gradually) when two things happen: First, you feel that you are ready to try to return to work, and second, when your doctor(s) clears you to try and return to work. If you do not feel ready or your doctor(s) do not feel that you are ready to return to work, you should not attempt to return to work or else you may cause yourself harm.

✚ *Can my insurer force me to return to work?*

No. There are no “ifs” “ands” or “buts” to this question. Your insurer can not put a gun to your head and force you to go back to work. The most they can do is threaten to stop your benefits. They may tell you that your benefits will end if you do not try to go back, but they cannot physically force you to go back to work.

It is absolutely crucial to understand that you must not give in to your insurer’s return to work demands if you do not feel ready to go back and/or if your doctor(s) have not cleared you to try to go back to work.

If you do not feel ready to go back to work, or if your doctor(s) have not cleared you to go back, you should advise your insurance adjuster of this in writing (via email). Simply state that you would like to go back as soon as you feel ready and as soon as your doctor(s) clear you to go back, but right now you are not ready and you are concerned that this request by the insurer is premature and could cause you harm. Ask your doctor(s) to provide you with a letter confirming their opinion that you are not ready to go back to work and include that with your letter/e-mail to your adjuster.

Remember – your insurer can not force you to go back to work before you are ready. If they continue pressuring you, harassing you and bullying you to return to work before you are ready, contact us immediately.

If your insurer tells you that you must return to work (before you are ready) or else your benefits will end on a specific day, you should contact us immediately because the insurer is in breach of the insurance policy and you need legal advice immediately on how to proceed in order to protect yourself and ensure that they pay you the LTD benefits you are owed.

✚ *What happens if I return to work and I realize that this attempt was premature and I am still disabled?*

Most LTD insurance policies contain a “recurrence clause” that allows you to go back on claim if your return-to-work attempt has failed. In such cases you need to do 3 things to ensure that your LTD claim is reinstated:

First, make sure that your failed return-to-work attempt is recorded by your employer/HR department. It is important that you are communicating with your employer regarding the issues you are experiencing when you return to work (i.e. any symptoms, pains and limitations that prevent you from performing your work duties).

Second, follow up with your doctor(s) about your return-to-work attempt and any issues you experienced as a result. It is very important that your doctor is aware of these issues because if you need to go back on LTD, you will need your doctor’s support for that move.

Third, communicate to your adjuster (in writing – i.e. via email) what happened when you tried to go back to work and why you feel that the attempt has failed and you need to be placed back on LTD. Enclose any letter(s) from your employer and/or doctor(s) in this regard. It is especially important to provide a letter from your doctor(s) supporting the reinstatement of your LTD claim.

✚ *When can I ask to go back on LTD if my return-to-work attempt has failed?*

Under most LTD policies you have a limited amount of time to trigger the “recurrence clause”. Typically, it is within 6 months of your initial attempt to return to work. That means that if you return to work and need to go back on LTD after the expiry of the allowable time period, you may have to submit a new disability claim (STD or LTD). You should review your own specific LTD policy for the time limit in this regard.

✚ *What can I do if my insurer refuses to reinstate my LTD after a failed return-to-work attempt?*

You should contact us immediately so that we can advise you on your legal options. This is very important because your insurer will likely not back down or change its mind without legal action. The longer you wait or try to “appeal” the insurer’s denial/refusal to reinstate your LTD claim, the longer it will likely take to resolve your claim and have your benefits paid to you.

Remember as well that once you receive a denial from your insurer, you have up to two (2) years to start a legal claim to recover the benefits owed to you. After the two year mark, you will likely be unable to force your insurer to pay you what you are owed.

✚ *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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