

Long Term Disability



A Consumer's Guide to non-ERISA Long-term
Disability Insurance in Virginia and West Virginia



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THIS BROCHURE is to help employers, employees, medical doctors, their loved ones and dependants better understand long-term disability insurance issues.

What you need to know before and after a denial or when payments are terminated by your long-term disability insurance company. Many Pastors, Doctors, Dentists, Lawyers, and other Professionals are unsuspecting and ill-informed about the common pitfalls with long-term disability claims. Unfortunately, many false assumptions and misunderstandings exist concerning how individual and group long-term disability coverage works for the insured.

Roger "Skip" Ritchie, Jr. can help you if you are thinking about going out on disability, and need advice. Consults are done on an hourly basis and the fee is \$250.00 per hour. You should first read this brochure.

Please note: This document and brochure contains general discussions regarding very complex legal issues. This is not legal advice for your specific legal issue or claim advice. There is no attorney client relationship between you and Roger Ritchie, Jr. Firm by using this document. A competent insurance agent who considers your assets, goals, needs and particular circumstances should be consulted.

WHEN SHOULD I GET LEGAL ADVICE REGARDING MY DISABILITY CLAIM?

You definitely need an attorney at the earliest possible time to help you with your long-term disability case. Too often we are contacted by people who have filed claims and exhausted their administrative appeal rights.

If you have been denied non-ERISA LTD benefits, I will review that denial letter for no charge and suggest an appropriate course of action or refer you to an attorney in your area.

I want you to know your rights and understand the insurance company tactics.

THIS BROCHURE WILL SHOW YOU

- Words you don't want to see in your long-term disability insurance policy.
- Your beliefs about Virginia disability insurance might be wrong.
- Health conditions that may lead to Virginia disability claim denials.
- Frequent questions for disability insurance claims.

WORDS YOU DON'T WANT TO SEE IN YOUR LONG-TERM DISABILITY INSURANCE POLICY

If you see the phrase, “**we have discretion to determine benefits,**” in your policy, you need to recognize that these are dangerous words.



If you are looking to file a claim for long-term disability benefits in Virginia, you need to keep in mind that you are not on a level playing field with the insurance company. This discretionary clause is not required by the law and unfortunately, many employers do not understand the impact it has on their employees. Employers need to insist that these clauses are not in their long-term disability policies. “**Any occupation**” is a much easier standard for the insurance company to terminate your benefits. Typically after 24 months any occupation definition will most likely mean a termination notice from the insurance company.

YOUR BELIEFS ABOUT DISABILITY INSURANCE MIGHT BE MISSING IMPORTANT INFORMATION

Below is a list of common misconceptions about disability insurance claims.

- Your employer will fill out and file your claim for you. You must file your claim.
- It is too late to fill out your claim form for LTD benefits. Rather, it is recommended you always fully fill out and file your claim. Typically, the insurance will provide you a claim form. Use it and file it with the insurance company's claim office. Keep your proof and copies.
- You won't be denied LTD benefits, when you have been awarded Social Security Disability benefits.
- Your denial letter is not important and you don't have to save it. Rather, it is recommended you always keep your denial letter and a copy of your LTD policy.
- Your employer and insurance company will work together to make sure all information is provided to the claims department.
- The medical staff at your work place will help you fill out and file your claim form.

HEALTH CONDITIONS THAT MAY LEAD TO VIRGINIA DISABILITY CLAIM DENIALS

Disability claims are denied on a regular basis. One of the largest insurance companies, Unum Group, has admitted that it denies nearly ten percent of the claims it receives. While you can be denied disability benefits for just about any ailment, some health conditions appear to be rejected more often than others.

Fibromyalgia and Depression

Physical and mental illness and conditions that are supported by unverifiable complaints and involved primarily subjective complaints can receive denials or have payment terminated.



Back Pain

Typically, a diagnosis of back pain is not fully investigated by physicians. Insurer will deny your claim if there is a lack of objective medical evidence (ie. MRI, X-ray, SEMG, ant Discogram) Insurers have even been known to use video surveillance on claimants to show they are capable of doing a full range of regular activities.

Complications from Pregnancy/Birth

Many of these claims are denied, including those associated with complications that require extensive bed rest.

Carpal Tunnel Syndrome

This condition is incredibly painful and often requires surgery. However, when people elect not to have surgery, insurers will sometimes deny their benefits, saying they are ineligible.

Mental Health

People who are receiving disability benefits due to a mental health condition have to be careful about what they say to their therapists, since insurers are allowed to review the notes made by these medical professionals. If someone says that he or she has had a few good weeks, it could be interpreted the wrong way and benefits could stop.

FREQUENT QUESTIONS FOR DISABILITY INSURANCE CLAIMS

MEDICAL RECORDS CONFIDENTIALITY: I would like to apply for disability benefits through my employer's insurance plan. I am concerned about my security clearance. Will my employer find out about the medical details of my disability?

The health information you supply to your employer's disability insurance company should not make its way back to you employer. This would be a violation of confidentiality laws. In my experience, most disability insurance companies are very good at making sure this private information does not go to the employer.

UPDATING INSURANCE FORMS I've heard that insurance companies continue to check on your status. Do I have to keep having my doctors fill out forms confirming my sickness?

While the insured must cooperate with the insurance company's investigation, the insured does not have to prove continued disability. To the contrary, the insurance company must prove a substantial change in condition which warrants termination of benefits.

In many cases, the insurance company denies the disability claim from the beginning. Other times, the disability insurer approves a claim only to terminate benefits later. As a lawyer for the disabled, I can help you with claims that are denied at the outset as well as claims where the insurance company initially approves the insurance benefits and later terminates the benefits.

CRITERIA FOR DISABILITY: I would like to know exactly what the insurance company says my disability is, because I want to make sure the insurance company and I have the same criteria for my disability. Will they send me this information? Can I request a copy of the policy that pertains to my disability?

Yes, you should request a copy of the policy that was in force at the time of disability. Long-term disability (LTD) policies provide coverage for longer periods than short term policies do. Policies vary, but a typical LTD policy will pay you for the entire period of disability or until a particular age, say 62 or 65.

There are two types of disability policies – “own-occupation” and “any-occupation.” Own-occupation policies generally define disability as the inability to perform the material duties of your own occupation at the time you become disabled. Any-occupation policies generally define disability as the inability to perform any occupation.

Many insurance companies have tried to equate the term “totally disabled” with “totally helpless.” In effect, they will argue that you are not totally disabled unless you are totally helpless. This is not the law.





Skip Richie is a civil lawyer and consumer advocate who has litigated hundreds of injury cases. He has extensive experience enforcing the provisions of insurance policies and/or take legal action for improper denials by insurance companies. Skip has been successful obtaining compensation for injured parties from many of the world's largest insurance companies and corporations.

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