

A photograph of a person from the waist down, wearing a grey t-shirt and dark jeans. They are using a silver walker with both hands. On each wrist, they are wearing a grey wristband with the word 'WAKE' printed on it. The background is a solid light blue.

Disability Insurance: When the Doctor Is the Patient

By Jason Newfield, Esq., and Justin Frankel, Esq.

To run a successful practice, doctors of chiropractic must be able to properly handle health insurance claims. When DCs become disabled and begin the process of filing a claim for disability insurance benefits, they anticipate smooth sailing. After all, they navigate these waters on a daily basis for patients. But then a letter arrives from the disability insurance company asking for more information. Then a second letter arrives, asking for business records, billing information, tax returns and other financial data—and then a denial letter arrives.

Disability insurance claims are simply not the same as health insurance claims. Paying disability claims for a high-earning professional is expensive to an insurance company. Rather than a one-time liability, disability claims are repeating liabilities. A successfully denied claim saves the disability insurance company a lot of money. If the company denies a claim and loses the fight later (typically, in litigation), there are no penalties or damages. It's a no-lose situation for the disability insurance company to deny a claim. But for the doctor of chiropractic struggling to pay bills and maintain a lifestyle when disability strikes, a delay or denial of benefits is a no-win situation.

Here are some pointers for DCs who are considering filing a disability claim,

whose claim has stalled or who have been denied benefits.

Your Policy Is the Contract

Find the original policy, and read it carefully. Determine the policy's definition of "disabled." It may be an "own occupation" or "any occupation" policy. Be prepared to explain how your disability prevents you from performing the material and substantial duties of your occupation. This is the governing document in your fight to protect your disability benefits.

Your Doctor Is a Key Member of Your Team

Discuss your pending claim with your treating physician. Your medical records

must reflect the disability and treatments, as well as the specific tasks of your occupation that you can no longer perform because of the disability. If you can no longer bend over a patient to perform an adjustment, this must be clearly stated. Think of the functional limitations that you are faced with when you go to work, and discuss them in depth with your doctor, so that the record is accurate and thorough.

Be Careful with Claim Kit Forms

The Claim Kit contains a claimant statement, physician's statement and authorization form. These forms will be thoroughly scrutinized by an examiner, so prepare them with great care:

- The claimant statement will ask you for information about your condition, when it began, what your work limitations are and what your work duties are.
- The physician's statement must document your disability in depth. It may be helpful to have your doctor prepare a supplementary narrative to make sure that every detail is covered.
- The authorization form may request information that the insurance company is not entitled to under the terms of your contract. Go back to the contract, and find out what the company is entitled to under the agreement.

Social Networking

DCs tend to be early adopters of marketing tools, including social networking sites such as Twitter and Facebook. Disability insurance companies are also up to date with online media, and today they skillfully mine the Internet for informa-

tion before that information becomes public. Use common sense.

Video Surveillance

You're not paranoid—they really are watching you. Video surveillance is cheap and easy to conduct. It is also open to a great deal of abuse. We have defended many claimants who were videotaped going to the doctor for visits and were told these trips were proof that they were capable of working at highly physical jobs. This tactic can be successfully defended, but it is important to be aware that if you have filed a claim, it is likely that you will be videotaped.

Medical Exams

As part of the claim process, you may be required to undergo actual physical exams. In our opinion, these are never truly unbiased. However, you do not have to travel an unreasonable distance, nor do you have to agree to invasive testing. We tell clients not to go alone. Bring a witness, ask to videotape the exam and do not

Filing a successful disability claim requires knowledge of the potential pitfalls of the claims process. Paying claims is expensive, and disability insurance companies have a vested interest in minimizing their exposure. ■

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tion on claimants. If you have a claim in process and post a video on YouTube that shows you healthy and well, the insurance company will find it and use it against you. Do not count on the Facebook privacy settings to protect your information from being seen by anyone but your friends. If you brag about a ski vacation on Facebook, it is just a matter of time

answer questions that you feel are misleading in nature.

If you are asked to undergo a Functional Capacity Evaluation (FCE), read your contract to see if it is required. An FCE is a controversial test used to measure maximum effort. Do not attempt to do any of the tasks if you think that they may further exacerbate your injury.

