

Delayed and Denied: When the Unexpected Happens

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No matter how up to date and ergonomically correct your office equipment may be, dentists tend to have back, shoulder, arm, wrist, hand, head and neck problems as a direct result of years of repetitive movements and maintaining awkward positions. Dentists protect their ability to earn a living by purchasing long-term disability insurance policies. But unlike home or auto insurance, disability insurance is a field where the claims process is deliberately complex and there are pitfalls in the claims process.

Addressing the potential pitfalls in a disability claim beforehand could make the difference between a successful claim where benefits are paid and a series of delays and denials that can wreak financial and emotional havoc on your professional and personal life. The following fundamentals are key components to a successful disability insurance claim.

The Policy

The original copy of your disability policy is a legal contract between you and the insurance company. If you cannot locate the original policy, contact the agent who sold you the policy and ask for the exact policy that was issued. If the broker tells you they are all the same, you already have a serious problem. The language and clauses in the policy determine everything, from the time that you need to notify the disability insurance company that you intend to file a claim to the type of medical and financial records you are required to provide, etc.

Your Medical Records

At the very least, the insurance company will require a complete set of all medical records concerning the treatment for your disability. They will be searching for physician notes and test results that can be interpreted to mean that you are not disabled.

The treating physician is key to the success of your claim. Their notes must support not only the symptoms of your disability, but must clearly outline the restrictions and limitations that resulted from the illness or injury. A clear definition of the dentist's professional tasks and the physical limitations of the disability must be incorporated into the medical records. Standing for extended periods of time, leaning at awkward angles, all must be clearly described with as much detail as possible in the physician's narrative.

Practice and Financial Records

The language of the policy must be closely examined to determine what records the insurance company is entitled to review. The insurance company is evaluating not just income

and assets, but the contribution the dentist makes to the practice and the value of the practice. The first step is to review the policy and ensure that you are only providing documents that the insurance company is entitled to, as specified in the language of the contract.

Own Occupation or Any Occupation Disability Policies

Own occupation, or "own occ" disability is defined as the inability to perform the material and substantial duties of your own occupation. Insurance companies will also define an individual's own occ as how the job is performed in the national economy as opposed to how you actually perform your own job. An own occ policy is of great value, as it insures your ability to be a dentist and perform all of the tasks associated with being a dentist without any restrictions or limitations.

Any occupation, known as "any occ," presents a whole different set of challenges. An any occ policy considers whether the dentist can perform any occupation for which you are reasonably qualified by education, training and experience. A dentist may be told that even though they are no longer capable of practicing dentistry, they could go into sales, teach or become the administrator of a dental practice, whether or not there are jobs available, and regardless of the difference in compensation.

Medical Examinations - IME and FCE

Two methods used to evaluate claims are IMEs (independent medical examinations) and FCEs (functional capacity evaluations). Most policies require claimants to undergo an IME. As a result of a United States Supreme Court decision that was reinforced by a court decision from a case within our law firm, Courts are taking a closer look at inherent conflicts in the structure of disability insurance claims: how can the insurance company be completely objective about evaluating a claim when it has to pay disability benefits, and how can a doctor be completely objective about evaluating a patient for a disability claim when the entity paying the doctor and sending the doctor referral patients, is the insurance company? This legal battle will not likely be resolved any time soon, and these inherent conflicts must be kept in mind during the entire disability claim process.

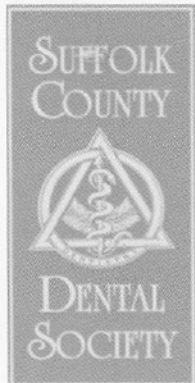
Most contracts require claimants to undergo the IME in a reasonably fair manner. It is not, however, acceptable for an insurer to require the claimant to undergo any invasive testing, travel a significant distance to have an examination performed, or undergo tests that may be dangerous. The FCE is such a test. The FCE seeks to measure the client's maximal effort. Data are then extrapolated to determine whether the

individual can work full time on a sustained basis. But an individual with injuries severe enough that they can no longer perform the tasks of their job should not exert maximal effort. There are numerous grounds upon which claimants are advised to refuse to attend or participate in an FCE, and claimants must be vigilant about protecting themselves from the potential danger of this test.

Investigations and Surveillance

The moment a claim is filed, insurance companies begin gathering information, all of which can and usually is used to benefit the insurance company. Consider every form that you fill out and every conversation with insurance company representatives as material to be used in an investigation. Field investigations are common, where investigators stop by the claimant's office or home unannounced. Surveillance is used with conditions that are considered subjective, particularly when high benefit claims are involved. Be mindful of activities while in the claims process and while benefits are being paid.

Dentists who purchase long term disability insurance policies are doing the right thing to protect their families and themselves. However, the insurance company's ultimate goal is to minimize their exposure by making the claim process difficult and complex. A well-prepared claimant who understands the process will be more likely to succeed than one who treats a disability claim like any other insurance claim. □



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