

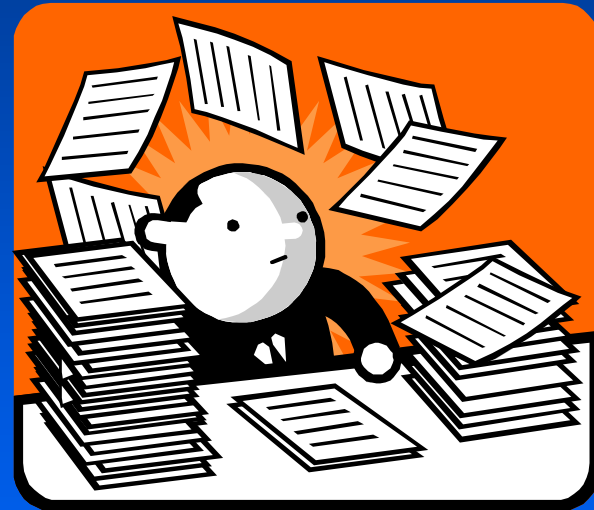
Wilson Elser

Individual LTD Claims Handling & Processing

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Necessary Documents

- Insured's application (attached to policy)
- Underwriting file
- Policy – all amendments
- Notice of claim form – all attachments
- Job duties form
- If overhead expense policy – financials for analysis



Initial Analysis & Review

- Review Policy definition of Total Disability
 - Own Occupation
 - Any Occupation
- Does Policy contain *CORRECT* definition of Total Disability (*Moore, Erreca*)
- Incontestable provision
- Clear understanding of the insured's duties and physical activity
 - Does insured have multiple occupations?
 - If yes, evaluate the claim as to each occupation

Definition of Total Disability

- Own occupation
- Any occupation - insured's usual/ordinary employment; such other they might fairly be expected to follow
 - **Review:** station in life, capabilities, including age, experience, education, training, physical & mental capacity
 - **Remember**
 - Certain business aspects of one's occupation \neq new occupation
 - Income from investments and non-occupational business operations \neq divesture of right to benefits



Communications With Insured

- Receipt of claim form = send initial letter, acknowledge receipt, ask for records
- Every 30 days send follow-up on status, ask for records not provided and any new records discovered
- Respond to each inquiry no later than 30 days (*minimum*)
 - Remember: No communication can form basis of bad faith claim



Document Review

- LTD application – any non-disclosed medical condition
- Notice of claim & APS – analyze disabling condition, onset, length, prognosis, and if modified work possible
- Review policy – determine/list all applicable provisions in claim file notes (fact specific)
- Get all medical documents from every treating doctor



Document Review Continued

- Consider: Whether Proof of Loss is timely filed; prejudice required
- Consider: TD, own occ, any occ, partial disability, physical exam, M/N limitation
- Consider: timing of initial disabling condition versus a subsequent layoff or job termination
- Consider: one condition at time of lay-off; development of other disabling conditions before or at termination

Document Review Continued

- Consider: Did the insured report and receive treatment before the insured was terminated?
- Consider: When symptoms & treatment for subsequent disabling conditions commence after termination.... Review policy.... Beware of “stacking” conditions
- Consider: other applicable provision as claim progresses

Document Analysis

- Review all medical records; get missing records or explanation as to why not available
- Medical records that mention other doctors – get those records too, all disciplines
- During review – make list of dates, meds, tx, conditions, prognosis, duration
 - Consider: Obtaining all records allows insurer to contend not unreasonable
 - Consider: Contradicting info might = surveillance, other investigation

Consulting Medical Professional

- When to retain doctor? (unclear, difficult condition, policy allows)
- Independent; not favor either side
- Retain same discipline; not general
- MP must review all med. records
- MP must clearly understand:
 - All job duties to identify restrictions
 - Def. total disability (own or any occ)
- Not suggest final disability status
- Another professional necessary
 - Consider voc. or occ. specialist/ another dr.



Making Determination

- Consider all documents
 - Consider: policy, claim, med recs., MP or other reports,
- Make decision within allowed time frame
 - Consider: policy, state statute
- Extension required.... tell insured
 - Don't fail to communicate w/ insured
- More than one medical condition detail each qualifying injury
 - Address every claim on notice of claim
- Body of information not support denial of benefits
 - Consider: payment of claim, further investigation, temporary approval w/ reservation of rights, limitations

Denial Letters

- List/discuss every applicable relevant policy provision
- List/discuss every claimed disabling medical condition
- List/discuss every relevant document that supports decision
- Reference all relevant Dr. notes
- ***Do Not*** simply state symptoms are subjective and no objective evidence exists (Ex: Fibro claim)
- Bases must be “Entirety of file”
 - **Avoid isolated comments or single snippets of information**



Denial Letters Continued

- Must provide specificity for denial
- Must advise Insured of correct appeal rights
- Take time to prepare this correspondence
 - Shows insurer's diligence and consideration
 - Will assist in defense later if required
- Obtain required approval of supervisor, if required

Appeals

- New claims person should handle
- Obtain complete set of all new records insured requests reviewed or notifies insurer of
- All records reviewed by new claims person
- All new records should be sent to retained MP
 - MP should issue a new report listing all new records; address if opinions changed & how
 - If during this process you learn of conflict involving MP send entire file to new MP for analysis
 - Additional professional review required; complete it
- Appeal Ltr restate initial denial, discuss new docs, new reports & additional bases for upholding denial

Revisiting Eligibility

- Right to obtain med docs & other info
- Obtain all updated medical records
- Obtain a medical exam if Policy allows
 - Consider: others like FCE, vocational assessment, etc.,
- Determine if surveillance appropriate
 - If yes, complete it; send to MP & treating dr. for analysis
- Terminate benefits only where sufficient evidence exists supporting termination
 - Consider: once benefits in place, difficult to reverse
 - Substantial bases for terminating benefits

Overriding Considerations

- Obtain all necessary docs & info
- Perform thorough analysis; body of info
- Keep insured regularly informed
- File/Ltr must contain all bases for decision
- Decision close & policy allows medical exam obtain one from independent doctor
- Insurer's obligation: Deal fairly with insured, Do not w/hold pymt of valid claims, Promptly resolve those claims not reasonably in dispute

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Thank You