

Tips For Easing The Newest Insurance Nightmare: The Wrongful Denial of Disability Claims

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As if the HMO and health insurance battles are not enough, a new kind of insurance issue now plagues physicians and other health-care professionals.

The issue is disability coverage. And, if you haven't run into the problem yourself, you probably have a colleague who knows far too much about it.

Here's how it works, at least from a physician's perspective. For years, acting as a prudent physician, you have purchased disability insurance policies. You have paid high premiums for blue-ribbon coverage, recognizing that your financial future would be at stake if you were forced for medical reasons to abandon your practice.

Suddenly, the day arrives. You are felled by an illness or accident. Your only comfort is your disability policy, the blue-ribbon one; the one for which you paid those extra premiums. You pull it out, dust it off and file your claim.

Your insurance company writes back, demanding large amounts of personal information, such as your tax returns for the past five years and all of your sources of income. It asks incredibly detailed questions about your practice, like the number of office visits you've scheduled in the past five years, the names of each patient, the number of minutes that you spent with each one, and the exact services you provided.

You struggle through the paperwork, irritated by its mass, riddled with anxiety about things like confidentiality, and searching—endlessly—for trick questions.

Finally, you get the answer from your insurance company.

Claim denied.

The good news is that there are things people can do to avoid—or reverse—this outcome and make the process less painful. Here are a few examples.

1. Answer Their Questions

All too often, people spend considerable time and energy arguing with insurance companies about the irritating and inappropriately private nature of their questions. But, unless you are more interested in making a statement that in getting your coverage as quickly and painlessly as possible, skip these fights. They're usually not worth your time or your energy, and they'll only delay your claim.

2. Focus on the Facts

Facts win disability claims. If an insurance company tells a physician, for example, that his or her income is earned from managing other physicians in his or her practice, instead of practicing medicine, the only solution is to use the facts and prove that it is wrong. If the insurance company says the physician has made a lifestyle choice instead of a medically mandated one, the same solution applies. And if the insurance company



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says the objective evidence doesn't support the diagnosis, the same solution applies yet again.

These three examples were not picked randomly. They are the bread and butter of disability denials. With the right facts, they are easy to refute. And, if you want to reverse a denial, you'll have to succeed in refuting them.

3. Stress The Opinions of Your Treating Physicians

All too often, disability insurance companies deny claims without ever having physicians actually examine claimants. They simply take the claimants' records and hand them over to in-house physicians, who then reject the assessment of the treating physicians.

This approach shouldn't work. Many courts have held that the opinions of treating physicians are more important than the opinions of non-treating physicians. While your insurance companies are well aware of this fact, remind them of it—often—in your correspondence. At a certain point, it may cause them to back down.

4. Don't Get Emotional

Denials of disability claims often read like personal attacks. It is typical for insurance companies to imply, in denial letters, that claimants are exaggerating, if not faking, their medical symptoms and are fully capable of continuing to work full-time. Between the lines, and even directly in the lines, the letters may insinuate that the claimants are malingers, hypochondriacs, or outright liars. It's all too easy to take these letters personally—and to lose perspective about how to respond.

Don't do it. Instead, try to remember, in dealing with denials, that your claim is purely a business matter to the insurance company. The insurance company has to attack your arguments in order to justify its denial. Despite the theme, the denial isn't personal. People are much more effective in refuting these arguments when they keep this point in mind.

5. Think Like A Lawyer

Now, I know some of you are thinking, "Now that's offensive." And I know that 90 percent of the lawyers ruin it for the others. But, that aside, you'll need to think like a lawyer in order to reverse that denial.

Thinking like a lawyer means thinking creatively about how to disprove the reasons for the denial. Don't just answer the questions the insurance company asks. Remember—the insurer's goal is to disprove coverage, not to help the claimant prove it.

With a little luck, you'll never have to file a disability claim. If you do, maybe you'll be lucky enough to have it granted. But if you're not, then don't just accept a wrongful denial. Get a lawyer when you need one, keep your cool, and make that blue-ribbon policy work for you. ■

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