

A GUIDE TO

Short- & Long- Term Disability

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POND LEHOCKY

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Short-Term and Long-Term Disability

Short- and long-term disability policies can be lengthy and packed with difficult legal terms. Applying for benefits can be a confusing process, but Pond Lehocky will guide you along the way.

What to Know

WHAT ARE SHORT- AND LONG-TERM DISABILITY INSURANCE POLICIES?

Short- and long-term disability insurance policies can either be offered by your employer or purchased privately. These policies provide benefits that you paid for either on your own or through a payroll deduction. If you become disabled and are unable to work, you can apply for benefits under a short- or long-term disability policy, which would allow you to continue receiving part of your salary.

WHAT IS THE DIFFERENCE BETWEEN EMPLOYER-PROVIDED AND PRIVATE POLICIES?

If your disability insurance is through an employer, it may fall under the federal Employee Retirement Income Security Act (ERISA). This law has strict rules on how to apply for benefits or file an appeal. It also affects your chances of approval. Privately purchased policies are not governed by ERISA.

WHY PURSUE A SHORT- OR LONG-TERM DISABILITY CLAIM?

Short- and long-term disability is meant to protect you if you can no longer perform your job. In some instances, it is easier to prove a claim under a disability insurance policy than it is to prove a claim for Social Security disability benefits. There are two reasons for this:

1. Depending upon the policy terms, you may only need to show that you cannot perform your regular occupation in order to qualify for benefits.
2. Your age is not a factor when determining a short- or long-term disability claim.

HOW LONG WILL I RECEIVE LONG-TERM DISABILITY BENEFITS?

Most policies provide for a six-month waiting period before long-term disability payments begin. Generally, policies provide for the payment of benefits until you reach age 65. However, this can be misleading as the insurance company will continually review your claim to determine whether you continue to be disabled. It can deny your claim at any point if it concludes you are no longer disabled.

HOW DOES THE INSURANCE COMPANY DETERMINE WHETHER I AM DISABLED?

The insurance policy you have will define what it means to be disabled. However, most policies provide that during the first 24 months of your claim, you are disabled if you cannot perform your regular occupation. Thereafter, you are disabled if you cannot perform the duties of any occupation.

WHY WAS MY CLAIM DENIED?

Unfortunately, many first-time claims are denied. The claims administrator looking at the application may be employed by the insurance company, so even justified claims are often denied at first.

A denial can be because of:

- Insufficient medical evidence such as a lack of regular medical treatment, adequate records or a doctor's statement.
- Failure to meet the policy's definition of disability.

- Video surveillance by the insurance company that conflicts with the claim.
- Missed application deadlines.

WHAT HAPPENS IF THE INSURANCE COMPANY DENIES MY CLAIM OR DETERMINES THAT I AM NO LONGER DISABLED?

You have the right to appeal any determination to deny your claim. ERISA and your policy will establish strict deadlines that you must follow in order to have your appeal considered.

Typically, you have 180 days to file an appeal with the insurance company. You must file your appeal within this timeframe, or your claim could be forever lost.

The insurance company will then consider your appeal with any new evidence you submit and will render a new determination of your claim. If the insurance company still denies your claim, you can file a lawsuit in federal court asking a judge to review the decision to deny your claim.

DO I NEED AN ATTORNEY?

You should not handle a disability insurance appeal on your own. You will be dealing with a massive corporation that loses money when they pay disability claims. They have considerable resources available to defeat your claim.

Pond Lehocky will represent you against the insurance company. We will build your case for you by obtaining all your medical information and providing expert opinions that support your claim for disability. The time to build your case is at the administrative appeal level. You may not have the ability to submit new evidence in federal court, so do not delay in obtaining an attorney.

WHAT CAN WE DO FOR YOU?

We can assist you if you have a short- or long-term disability policy and:

- Your claim is denied.
- Your benefits are terminated.
- Your claim is wrongfully delayed.
- You are no longer receiving benefits.
- You have received a low and unfair settlement.
- You have applied for benefits and are waiting for a response.

MY CLAIM HAS BEEN DENIED. HOW CAN I AFFORD TO PAY FOR AN ATTORNEY?

Our firm works on a contingency fee basis, so we only get paid if we recover benefits for you. There are no up-front costs or fees. Additionally, we will pay for all your medical information, expert fees and court costs. We will only ask to be reimbursed for our costs if we are successful in obtaining benefits or a settlement for you.

DO OTHER PAYMENTS AFFECT MY LONG-TERM DISABILITY BENEFITS?

Yes, the insurance policy will have language allowing the insurance company to offset what it must pay you based on the other income you receive. Benefits that may offset your long-term disability benefits are:

- Social Security disability benefits for you and your dependents
- Workers' compensation benefits
- Unemployment compensation benefits
- Certain pensions and/or 401K distributions

What to Expect

At Pond Lehocky, we are honored to represent you during this difficult time. Rest assured that we are fighting for you every step of the way, no matter where you are in the process.

FIRST STEPS

- Our forms are sent to your home.
- Simply fill out the forms and send them back to us immediately.
- You are now officially represented by Pond Lehocky.

APPLICATION PROCESS

Pond Lehocky typically serves in an advisory role at the initial application process. We will assist you in completing the application and ensure the insurance company promptly reviews your claim.

APPLICATION PROCESS

If your claim is denied, then we will handle your administrative appeal with the insurance company. We typically use a 180-day appeal timeframe to build the claim for you, so we will be gathering all your information. Once we receive it, we will prepare an appeal in which we will argue why you should be found disabled.

The insurance company will then review your administrative appeal. Typically, the insurance company has 45 days to render a decision on a disability claim. However, they may ask for extensions as provided for by ERISA. The insurance company may have your claim examined by a nurse, doctor or vocational expert. They must provide us with a copy of any new evidence, and we will have the opportunity to comment and supplement the record with new information.

FEDERAL APPEAL

If your administrative appeal is denied, then you will have the option of filing a lawsuit against the insurance company in federal court. However, in cases involving employer-provided plans, you will not have the right to present your case to a jury. Instead, a federal judge will review the insurance company's decision to

determine whether there was a rational basis for the denial of benefits.

There is a possibility that you can control your own destiny and resolve your claim with the insurance company via a lump sum settlement. Our office is prepared to argue your case in federal court or to negotiate a fair settlement of your claim.

More Information

Please visit **[PONDLEHOCKY.COM](https://www.pondlehocky.com)** to learn more about short- and long-term disability and chat with our specialists anytime. You can learn more about our team of expert attorneys and how we can assist you. If someone you know may be eligible for short- or long-term disability, call **800.568.7500**.

We help with all legal matters, including:

- **Workers' Compensation**
- **Social Security Disability**
- **Employment Law**

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