Understanding Disability Insurance Contractual Provisions

Group Long-Term Disability Coverage

Group long-term disability (LTD) contracts with most insurers usually have similar contractual provisions. The most common approach to insuring employees for a total disability is to insure them against the risk of disability in their “own occupation” for a set period of time; usually two, three or five years or to age 65 or to SSNRA (Social Security Normal Retirement Age). Then, after the “own occupation” period, the insured individual is most always insured in an occupation for which he/she is suited by “education, training, or experience.” The other common approach is to insure the individual in “any occupation” without regard to education, training, or experience.

Disability Defined (as stated in a representative disability policy)

You have a disability when it is determined that:

• You are limited from performing the material and substantial duties of your regular occupation due to your sickness or injury; and you have a 20 percent or more loss in your indexed monthly earnings due to the same sickness or injury.
• After 24 months of payments, you are disabled when the insurer deter mines that due to the same sickness or injury, you are unable to perform the duties of any gainful occupation for which you are reasonably fitted by education, training, or experience.

Individual Disability Coverage

Over the past three decades, several different approaches have emerged for insuring individuals against the risk of long-term disability. Therefore, we’ll analyze the most common forms of disability coverage that cover most contingencies and see how they compare against one another. The types of coverage fall under roughly three categories:

‘Earnings Only’ Coverage

An “earnings only” contract offers no special protection in one’s own occupation. Total disability benefits are paid if the individual has acquired a disability from his own occupation or from any other gainful occupation. If the insured individual returns to work in his occupation or any other, he collects a percentage of his monthly benefit based on their percentage of lost income.

Example: Let’s assume a senior level corporate executive working for a small construction company suffers a massive heart attack. Prior to becoming disabled, he was working 60-hour weeks and earning $100,000 a year. He is insured to 60 percent of his income (or $5,000 per month). After an initial period of total disability, he returns to his previous job. But his physician insists he only work half days. Let’s assume the executive’s income drops to $60,000, or 60 percent of what he was earning pre-disability. What does he collect?

$40,000 (monthly income lost) divided by $100,000 (income before disability) multiplied by $5,000/month benefit = $2,000/month benefit Therefore, under an “earnings only” policy, the executive could earn $60,000 from his job and receive another $24,000 ($2,000/month) from his disability insurer, or a total of 84 percent of his pre-disability earnings.

Limited ‘Own Occupation’ Coverage

The “some occupation” system provides a limited own occupation definition last- ing typically two, three, or five years. After the limited own occupation period, benefits are then based on the percentage of lost income.

‘Own Occupation’ Coverage

Lastly, a combination approach offers full occupation protection combined with “residual” benefits. If the insured individual cannot perform her own occupation, she receives 100 percent full total disability benefits, even though she may be able to work in some other field. Residual (or partial disability) benefits are paid if the insured person returns to her own occupation while partially disabled and suffers a continuous loss of income.

Example: Using the “earnings only” example, let’s assume the construction company executive returns to work earning $60,000 in each of two scenarios:

(1) He returns to his former job working at a reduced capacity, in which case he would be paid exactly as we’ve described in the previous “earnings only” example.

(2) He is unable to return to his former job because the physical and emotional demands are excessive. The only work he can handle on a part-time basis is as a clerk in a builders’ supply house. His income falls dramatically, but the day-to- day pressures of managing his own business are gone.

Under a true “own occupation” policy, the executive would be eligible to collect full benefits ($5,000/month), plus he would be able to receive his income from his new clerical job.

Other Important Policy Provisions to Understand
The following are important provisions to understand when filing a long-term disability (LTD) claim:

'Zero Day' Residual Disability
When residual/long-term partial disability benefits were first offered, insurers required a prior period of total disability before benefits would be paid. As we've already established, many claimants start out with a partial disability. "Zero day" residual benefits solves this problem by not requiring any prior days of total disability before partial benefits are payable. Today, most quality disability insurance carriers offer this critically important contractual feature.

Many insurers refer to "Zero Day" disability benefits. It's important to note an insured can misunderstand "Zero Day" and assume benefits are payable immediately. However, "Zero Day" refers to the requirement that an insured doesn't have to have any days of total disability to be eligible for benefits after the policy elimination period.

Waiver of Premium
Once an insured becomes totally disabled (typically 180 days), the insurance company waives further premium payments for as long as disability continues.

Trial Workday Provision
With many disabilities, an insured person will try to return to work to determine if he can handle the demands of his job while still in the stages of recovery. With an LTD program that has a long waiting period before benefits begin, say 180 days, an insured person will need some time "on the job" to see if he can function at full capacity. The trial workday provision allows the claimant a specific period of time back on the job (usually 15, 30,60 or 90 days) depending on the policy elimination period), before starting the policy waiting period all over again, should the insured person revert to being disabled.

Recurrent Disability Clause
Once an insured individual has been on claim for some time, the chance exists that her disability will recur as she recovers and returns to work. The recur- rent disability clause typically provides a six-month period during which, if the insured person suffers a recurrent disability from the same or a related cause, no break will occur in benefit payments. The objective is to give the recovering employee the opportunity to get back to work without starting the waiting period all over again.

Presumptive Disability
If the disability prevents the insured from being able to use their hands, lose their eyesight, speech, or hearing; the insurance company automatically "presumes" them to be disabled. It will pay full total disability benefits, even if they are able to work at their regular job in some capacity.

The 'presumptive' clause becomes more valuable based on the insured's occupation at the point of disability. The cardiologist needs normal hearing to listen to the different heart sounds A trial attorney needs unimpaired speech to deliver an affective summation in the court room. The neurosurgeon must have full use of his hands to function at his job. A self-employed CPA must have normal vision to be able to read tax forms.

Preexisting Condition Limitation (with Group LTD)
The most common preexisting condition clause insures an employee for a pre- existing condition after he or she has been insured for 12 months. A preexisting condition is defined as a condition for which the employee has received medical treatment or advice during the three-month period prior to the effective date of coverage. This is commonly referred to as a 3/12 preexisting condition clause.

For example, an insulin-dependent person with diabetes would have to be covered by an LTD program for one year before he or she would be eligible for benefits arising from a complication of diabetes. They would be covered for another disability (that was not being treated three months prior to the effective date of coverage) such as cancer or a heart attack.

There are other "pre-ex" clauses such as 3/6/12 (treated 3 months prior to the effective date of coverage but now insured if 6 months treatment free. The industry standard is 3/12 for larger groups with more restrictive provisions with smaller groups (typically less than 25 employees).

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*Allan Checkoway, RHU most recently authored "**I'm Disabled . . . Now What?" ,** created for people whose lives have been impacted by changes in their overall health. Fortunately, our decades of experiences in working with people who have become disabled, sometimes ending up in long term care situations has given us a unique perspective that can benefit our readers. We've taken what we believe to be all the best up to date accessABLE resources from a multitude of resources, putting them all together in one place in **"I'm Disabled . . . Now What?"** and on our new website www.DisabilityandSeniorResources.com**. We are dedicated to helping restore active lifestyles**. Allan is presently the Principal of Disability Services Group, an Employee Benefit Advisory firm. Allan's address is 661 Highland Ave. Suite 103, Needham, MA 02494, tel: 781.400.5055; email: allan@disabilityservices.com*