

Disability Claims Solutions, Inc.



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Tidbits:

- Most policies require the insured to meet the “any occupation” standard for Life Waiver of Premium.
- Take that much needed vacation and enjoy your time away!
- Identification of “fibro fog” for FM insureds depends on the make-up of the battery of tests administered by the IME physician.
- Watch out for unannounced visits from insurance investigators to those who are NOT the insured. Just say “No” to letting them in.
- Unum continues to target anesthesiologist claims in violation of state licensing agreements. Unum, you are so bad!

Ahhhh.....Jamaica....Caribbean... Vacation Time..AND a Disability Claim

The weather seems really tempting this year for that long yearned-for trip to the Caribbean. A sip of hot rum, and sunny lazy days on the beach watching the shallow break of the bluest water you’ve ever dreamed of. Well, why not?

“Oops, I have a disability claim!”, the bubble bursts, and the insured is back in Burbank smog. Now, I’m depressed.

Having an approved disability claim does not mean the insured is expected to stay in bed with the covers up to his/her nose. Medical disability is determined because the insured reports restrictions and limitations which preclude work capacity.

On the other hand, being out

of the country on vacation can pose certain risks to any disability claim with the creation of “red flags” within the disability review process.

If you intend an extended stay outside of the country it could cause a few problems. What happens if the insurance company sends a surveillance team and they can’t find you? Or, the company requests an IME on a date when you do not expect to be in town, and calls continually with no answer.

The creation of a “no contact-not-found red flag” will cause claims to be aggressively risk managed— something you might want to avoid.

Bottom line, disability insureds should not be engaged in

any physical or mental activity reported to an insurance company as a restriction and limitation. If your doctor restricts or limits certain activity, the insured should be unable to do that activity whether on vacation or not.

On the other hand, insureds have the right to maintain a quality of life which includes vacations outside of the country. In fact, vacations have their own therapeutic value and can be enjoyed.

Disabled persons with disability claims are NOT second class citizens and are allowed to enjoy life to the greatest extent possible.

It’s OK to plan and take a vacation while receiving benefits from a disability claim as long as medical restrictions and limitations are maintained.

Life Waiver of Premium and Any Occupation Standard

There’s been some confusion lately on the issue of “ Life Waiver of Premium” which is assumed to be automatic when the insurance company approves disability benefits.

Most policies contain provisions of eligibility for Life Waiver only when the “any occupation” standard has been met. This standard is very similar to that which is used by the Social Security Administration.

This means for group employer sponsored plans most Life Waiver provisions require the insured to show proof of not being able to perform ANY occupation for which he/she has training, education, and experience.

This is a very different standard than just being unable to perform your OWN job, or your job as it is performed in the national economy.

Many claimants must pick up the premium on their life insurance when a conversion option is given, or even when not offered a conversion option.

Once the insured meets the definition of disability by the any occupation standard, premiums are then waived on the life insurance policy. The waiver of premium is NOT automatic if you are unable to do your own job and have not met the any occupation standard.



What is A “Private Visit Trespass”?

One of our clients reported to us a field representative from Mass Mutual by the name of Tim Burke showed up unannounced at his employer’s home.

The ruse used by Mr. Burke was a request for the employer to verify his own signature on a previously notarized document. Obviously, Mr. Burke’s question, “May I come in?” was an attempt to conduct an interview with someone who was NOT the insured.

Luckily, the employer’s response was, “No, you may not come in, and please get off of my property.”

I call this an insurance “visit trespass”, and it is a trespass of property and privacy for persons who are NOT the insured.

Field and surveillance representatives use any number of false statements and pretenses to gain access to information. BUT, there ARE rules.

Yes, insurance companies are allowed to conduct investigations and surveillance of the insured. In cases of fraud, others associated with the insured may also be investigated.

However, insurance investigators may be asked to leave private property if they suddenly appear unannounced. Citizens may contact the local police and make a report of trespassing.

Beware of the usual pretenses to gain access to homes for interviews and ask the insurance rep to leave your private or business property immediately.

Friends, neighbors, co-workers, and business partners of insureds with DI claims appear to be the victims of “visit trespass” more often than ERISA claimants.

It may be a good idea to selectively inform others of the possibility of a “visit trespass” from the insurance company and what to do about it.

Our position is that Unum should not be allowed to force anesthesiologists to return to work full time while operating under a state mandated, approved CCT agreement clearly defining the conditions under which the physician may work at all while receiving out-patient care. To deny claims and force physicians to forgo residual disability benefits is punitive beyond mention.

Unum Targets Anesthesiologist's Claims in Bad Faith

During the last year, DCS, Inc. has been in an excellent position to view actual claim files of anesthesiologists managed by Unum Group. We’ve been able to review 5 claim files since January indicting Unum’s targeting of this occupation resulting in denials.

Anesthesiology is a vulnerable occupation since the physician is required to work in excess of 40 hours due to required on-call sessions several times a week. By definition, the occupation of anesthesiology requires working a min of 60+ hours per week on a full-time basis. It is not uncommon for an anesthesiologist to work for several hospitals, on-call, on a regular basis.

In addition, anesthesiology is also a vulnerable occupation for opiate addiction. The combination of factors of being required to put in over 60+ hours, plus treatment for addiction opens the door for Unum to target this particular occupation with a strategy de-

signed to put physicians back to work after a minimum in or out-patient program.

Unfortunately, state licensing programs have a different opinion. The state of Illinois Department of Financial and Professional Regulation, for example, enters into approved Agreements of Care, Counseling and Treatment (CCT) wherein the insured and their treatment providers agree to a treatment plan which allows the physician to continue to work under certain circumstances while an out-patient. The CCT is agreed to and monitored by the IDFPR for compliance.

CCT agreements often limit the number of hours anesthesiologists work for a period of 1-2 years in an effort to prevent relapse.

Unum, in DIRECT VIOLATION, of CCT agreements denies residual claims by stating anesthesiologist can return to work in their own occupation work-

ing 60+ without restrictions. This assessment is supported only with a Unum physician consultant review who “rubber stamps” Unum’s opinion the insured can work.

Of course, this places the physician in a position of having to make a choice: violate the CCT agreement with the State of Illinois and lose his license, or attempt to go back to work prematurely and risk relapse.

Our National Coalition of Disability Insureds will be contacting the Illinois Department of Financial and Professional Regulation to inform them of Unum’s targeting and claim review abuse forcing physicians to violate CCT agreements at the expense of approved treatment and risk of relapse.

We find Unum’s targeting of anesthesiologist claims to be deliberate bad faith endangering approved treatment and well-being of physicians in that occupation.

Another Warning About Doc-to-Doc Calls.....

Those who have been following DCS, Inc. are aware of our warnings concerning doc-to-doc calls, or cold calls made by the insurance company to primary care physicians.

If you are unaware of our policies, please request the "Communicating With Your Physician" book and follow-through with our recommendations.

We mention this again because unfortunately another physician client spoke to a Unum doc on the phone

and authorized an IME. (Well, he didn't really, but now Unum claims he did and there is nothing we can do about it.)

This came after a previous call to another physician resulted in the denial of a claim.

Rest assured, Unum's cold calls to client physicians is intended to persuade or convince your doctors to provide a written buy-in returning you to work or authorizing a "risk activity" resulting in the denial of

your claim.

It is absolutely essential for DCS clients to read our Physician book and do what we recommend.

Your physicians must understand the need to ask for inquiries in writing so that he/she will have time outside of their busy day to think about what the responses should be.

Unfortunately, we can't help you if you don't do as we recommend. Please take care of business!

Unum physicians make doc-to-doc calls as part of a company-wide strategy to catch busy primary care physicians at times not conducive to making decisions about patients and their ability to work.

The goal is to persuade your physician to Unum's point of view so that your claim can be denied with your physician's buy-in. It looks better if your physician supports Unum.

If a neuro-psychologist administering an insurance IME selects the make-up of the battery of tests, how likely is it the IME results will be favorable to the insurance company? Shouldn't the insured's treating physicians have some input into which tests are administered and those not?

Fibromyalgia Brain Fog and Cognition Testing

Years ago Mary could look at her daily planner and remember what she was doing the entire week. Now, she has Post-It notes all over her apartment and office and still misses appointments! It's a drag.

Although cognitive problems are very common among patients with fibromyalgia Rheumatologists often do not take the complaints seriously and of dismiss them as "it's just your age."

The problem is that most disability claimants with FM tend to perform very well on neuropsychological tests administered by IME physicians. Complaints about memory or thinking processes do not match up with test results causing the IME physician to document "somatized" symptoms. (Made-up, or in your head.)

Not surprisingly, a recent survey found not one neuropsychological test incorporating "distraction" was listed in the top 50 most popular tests used by neuropsychologists to meas-

ure memory or cognition.

The unfortunate reality is that the wrong battery of tests are being administered to fibromyalgia patients with cognitive difficulties. The most common test used to assess memory function in fibromyalgia patients is the Wechsler Memory Scale.

This test has been proven to have serious shortcomings for identifying memory deficits in FM patients. The test does not include testing for "distraction", but instead taps memory skills that are working in FM patients, and eliminates cognitive difficulties known as "brain fog."

Interestingly, FM patients often have good memory skills when NOT distracted, but poor memory skills when several distractions are present.

The conclusion made by researchers Frank Leavitt, PhD and Robert Katz, MD, members of the department of rheumatology at Chicago's Rush Medi-

cal Center is "we believe that detection of cognitive deficiency in FM is simple, but is hampered by the poor diagnostic accuracy of conventional tests."

Unfortunately, FM claimants do not have input into the selection of the battery of tests administered in an insurance IME. In fact, it is possible the insurance-paid physician selects a battery of tests which he/she knows will produce results favorable to the insurance company and not the FM patient. This choice can be very costly to the insured.

The selection of the make-up of the battery of tests in a neuropsychological IME is directly related to the outcome. Nearly all physicians include the MMPI-II, known to identify malingerers, but omit the Stroop test which is capable of identifying cognitive problems of FM patients, i.e. distraction.

Something for FM insureds to think about when paying for and obtaining their own IME.



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Dedicated to writing appeals and other communications on behalf of insureds.

Disability Claims Solutions, Incl. works with insureds, physicians, employers and attorneys to provide information advocacy concerning the disability claims process.

This newsletter is the property of Linda Nee and Disability Claims Solutions, Inc. It is not intended to be a substitute for medical or legal advice and all issues relative to a person's health should be discussed in detail with a physician who is licensed to practice medicine. Likewise any issues of a legal nature concerning any disability claim should be obtained from an attorney licensed to practice law.

As always, please feel free to contact me with any questions you may have concerning this information.

CLIENT CORNER:

I keep posting interesting topics to Lindanee's Blog only to find people are going there, but no one is contributing their opinions and suggestions by leaving a comment. The Blog isn't just for DCS, Inc. clients; anyone can contribute. Please pass along the location of the Blog located at:

<http://lindanee.wordpress.com> If you actually visit the Blog you can see the type of information I'm hoping to accumulate there and contribute.

Summer is indeed upon us. I'm going to try and take an at-home vacation the week of 7/6 through 7/13. I will be home reading emails so if something urgent comes up, please do not hesitate to let me know. I will also be taking care of business to insurers, so there should be no disruption in claims management. I am going to be engaged in another project, but I'll be in the office if you need me.

We are working with a graphic designer to design the logo for NCDI, the National Coalition of Disability Insureds. We will let you know what we came up with when it is finished. We haven't finalized a mission statement quite yet, but we have several people on our Action Committee working with me to write our Mission Statement.

Please contact your physician about the doc-to-doc calls if you have not already done so.

I hope everyone is having a good summer.

Take care,