

Should Long Term Disability Insurance Cover Long COVID?

I was recently retained by a successful executive in his early 40s with a young family who had been diagnosed with long COVID. His most troubling symptoms included brain fog, debilitating physical and mental fatigue, and changes in his cognitive status impacting his speech. The combination of these symptoms resulted in an inability to perform decision-making and strategic planning tasks, which were essential to perform his job. Simply playing with his child for a short time left him too fatigued to do anything else that day. His initial claim for benefits under his long-term disability policy was denied.

LACK OF DATA AND UNDERSTANDING

The problem is, we don't have a lot of data, and we don't understand the disease. COVID is too new for researchers to predict the longitudinal evidence of whether long COVID symptoms will get better, worse, or stay the same and for how long.

I recently attended a conference where the CDC's Dr. Nathaniel Smith did a presentation on the ongoing COVID epidemic. He recognized that the terminology to define the ongoing chronic symptoms from the SARS-CoV-2 infection has been referred to in many ways – Long COVID, Long-haul COVID, Long haulers, Post-COVID Syndrome, etc. However, Post-COVID condition is the term that continues to be used to describe ongoing symptoms that individuals experience lasting longer than four weeks.

Generally, the symptoms reported which are most problematic include

respiratory symptoms, cardiac symptoms, fatigue, sleeping difficulties, depression, anxiety, palpitations, joint pain, and post-exertional malaise. In addition to extreme fatigue, individuals will often report cognitive changes impacting their short-term memory, concentration, speech, and ability to sustain activities for a prolonged period of time.

BENEFITS DENIED

It is not uncommon for individuals applying for long-term disability benefits to initially be denied. Policyholders typically have one of two criteria to meet to be determined disabled, thus unable to return to work. Some policies will dictate that an individual is deemed "disabled" if they cannot return to their "own occupation." While other policies will require the policyholder to demonstrate that they are unable to return to any work (any occupation). The insurance company applies a lot of weight to the medical evidence to demonstrate if an individual meets the standard to receive long-term disability benefits. However, often consideration of how an individual's various symptoms impact employability is overlooked. During the appeal process, it is often helpful to have the opinions of a vocational expert.

ABILITY TO RETURN TO WORK

As a vocational expert, I use my education, training, and experience to evaluate the medical records, conduct a clinical intake interview with the policyholder (valuee), and provide opinions regarding the individuals' ability to return to their "own occu-

pation" or "any occupation" depending on the language contained in their policy.

In evaluating an individual's ability to return to work, I consider many factors, including their education, training, and work background. Additionally, I review the medical evidence to identify the diagnosis and various symptoms resulting from these conditions. Depending on the evidence, I will consult with the treating providers to obtain additional clarification or guidance on their resulting physical and mental limitations. Finally, I will analyze the various job duties and tasks required for an individual to return to work. The process involves the evaluation of the essential duties and tasks required of their previous position. Examples could include: ability to communicate effectively, multi-task, problem solve, analyze data, and respond to crisis situations. If the disability policy contains "any occ" language, then a second analysis needs to be considered.

If the disability policy has an "any occ" clause, it is extremely helpful to have a vocational expert who can further evaluate the individual's education, work experience, transferable skills, and ability to return to alternative employment. In considering whether other jobs exist, I apply the same process of reviewing the medical evidence, completing a clinical intake interview, and consulting with medical providers (if deemed necessary).



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