



Subjective Member Testimony Must be Given Considerable Weight, LTD Case Shows

ONA has successfully appealed a longterm disability (LTD) denial, which shows that Medical Disability (MD) Guidelines are often unreliable in cases of mental health and do not take into consideration individual circumstances.

The insurance carrier denied initial entitlement to a member because the medical on file did not support the severity of the mental health symptoms she reported as she did not see a psychiatrist. The internal medical consultant stated that the MD Guidelines, which is a tool used by insurance carriers and disability/ workers' compensation program administrators to diagnosis and assess patient therapeutic treatment timelines, are 28 to 60 days for depression and seven to 28 days for anxiety. The insurance carrier also argued that her absence from the workplace was, in part, due to workplace stressors.

ONA argued that the MD Guidelines are unreliable and unreasonable, and each case must be determined on individual merits and not an abstract number of days. We explained that the member was under appropriate treatment and the family doctor was qualified to diagnose her mental health condition and prescribe appropriate treatment that she was also seeking counselling from a social worker, and that obtaining a consult with a psychiatrist in her region took several months.

The psychiatrist agreed with the diagnosis and the member's counselling, and provided a different medication to trial. ONA also provided subjective journalling information from the member related to her activities of daily living and the resultant limitations and restrictions as a direct result of her mental health illness, arguing that such testimony from the claimant must be given considerable weight, as there are no qualitative tests for how depression and anxiety limit one's ability. We also provided information on the member's active lifestyle prior to her disability, arguing that no one would choose to have such a drastic lifestyle change and that such disabilities are of no fault or exaggeration of symptoms by the member.

Although her occupation was sedentary in nature, we noted that sedentary refers mostly to physical tasks and does not take into consideration the very high cognitive requirements to fulfill the duties of her own occupation, which the member was lacking as a result of her disability. ONA also argued that the cause of her disability is not relevant; the symptoms related to her illness and resultant limitations and restrictions are.

ONA was successful in this appeal, and the member received retroactive monies of \$48,000 and \$4,400 monthly ongoing.

While we have seen an increase in approval of mental health illness appeals, they are unfortunately still among the majority of our claim denials. The symptoms and resultant limitations and restrictions are, for the most part, subjective and difficult to argue with objective medical. It is important that insurance carriers give subjective member testimony appropriate recognition when determining entitlement to LTD benefits.

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