

Ten tips for making a successful Long Term Disability Insurance Claim based on “Long COVID”

This publication was prepared by the Los Angeles based law firm, Kantor & Kantor LLP, a long-time UP sponsor, to assist consumers with disability insurance claims associated with COVID-19.

Applying for short-term or long-term disability benefits can be overwhelming. Here are ten tips from a law firm that specializes in representing clients with Long COVID, ME/CFS^[1], and other conditions that are difficult to medically document.

The phrases “Long COVID” and “Longhauers” have been adopted to describe COVID-19 symptoms and the individuals whose COVID-19 symptoms linger for weeks or months. These symptoms are identical to those experienced by others who are on long-term disability and include chronic fatigue, brain fog, headaches, dizziness, and shortness of breath, among others.

Our firm has observed that insurance companies look for ways to reject applicants, including those who are clearly disabled. So if you file a claim and it gets immediately rejected, or if an insurer representative discourages you from filing a claim, don’t give up. Many people succeed in getting a claim paid that was originally denied. If you have symptoms that qualify you for short- or long-term disability, you should pursue a claim and follow these tips.

1. **Be honest and specific about your condition without exaggerating.** Remember this when discussing symptoms with your doctor, insurance company, employer, or anyone else. When preparing to make a claim, be direct with your employer about any accommodations that would help you. Being accurate and specific will help you avoid “gotcha” moments where private investigators hired by insurers to spy on claimants. If you have better and worse days, be up front

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Source:

<https://uphelp.org/claim-guidance-publications/ten-tips-for-making-a-successful-long-term-disability-insurance-claim-based-on-long-covid/> Date: July 1, 2022

about the variations you experience in your illness, but do not minimize the limit that “bad days” place on your ability to function.

2. **Read your disability policy.** Pay particular attention to the definition of disability, benefit exclusions and limitations, pre-existing condition provisions, and other income provisions. Find out if your policy is considered an “ERISA” plan^[2], which generally means an insurance policy you have through an employer. If it is, and if you have a problem with your claim, you’ll want to consult an attorney who specializes in handling claim disputes subject to ERISA rules.
3. **Keep a journal of symptoms.** Keep a daily or weekly journal of your symptoms and how they impact your function. This doesn’t need to be exhaustive—but develop benchmarks for assessing your symptoms and apply it consistently (using scales of 0-5 often work well). If you’re always at a five, think about whether you are being honest in your assessment.
4. **Find COVID-experienced and supportive treatment providers.** Talk with your treatment providers about whether they believe you are able to continue working on a regular basis and whether they will provide documentation to support your disability claim. If you are a long-hauler and suspect ME/CFS, you should see a physician who specializes in this disease. Treating with specialists to try to relieve your disabling symptoms is a fundamental part of many successful disability claims.
5. **See your treatment providers as regularly as feasible.** Think of treating and trying to gain symptom relief as your new job. Make it a priority. Seeing a doctor regularly – by any means – is important for documenting medical conditions. In addition to seeing a doctor regularly, it is equally important to mention how symptoms affect functionality. Without regular records, it becomes much harder to provide ongoing proof of disability.
6. **Keep tabs on your medical records.** Occasionally request medical records to make sure that your doctor’s notes are accurately representing and not unfairly minimizing your condition. If records are incomplete or express doubt about your condition, you need to know this before you appeal a benefit denial.
7. **Know your governmental benefits.** You will be required to file for all other disability benefits to which you could be entitled. This includes benefits under the Family Medical Leave Act, as well as state disability benefits and Social Security disability insurance (SSDI) benefits. Note: Only five states offer disability benefits, and they last no longer than one year. As such, these programs provide a lifeline at the start of your journey, but ultimately long-term programs, such as LTD or

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SSDI, are needed for those who remain chronically ill and too disabled to work.

8. **Obtain objective evidence.** Consider tests that help explain symptoms, such as 2-day CPET (cardiopulmonary exercise training) or tilt-table testing. For cognitive impairment, consider neuropsychological testing with measurements for validity. When getting a CPET, seek out practitioners who understand chronic fatigue and use Workwell's 2-day test-retest protocol to avoid misinterpretation of results. Our experience is that one-day CPETs are not very helpful in assessing disability.
9. **If you file a claim and it is summarily denied, request reconsideration.** Your insurer may have a business practice of summarily denying Long COVID, ME/CFS claim, so you may need to appeal. But although these conditions can be challenging to medically document, they have been medically established and you should pursue a claim when warranted by your symptoms.
10. **Consult with at least one lawyer that specializes in representing individuals with short and long-term disabilities.** Many attorneys specializing in this area offer free consultations and can help you understand and interpret your policy as it applies to your situation, and give you basic guidance on moving forward.

[1] ME = Myalgia encephalomyelitis. CFS = Chronic Fatigue Syndrome

[2] For more info see: <https://uphelp.org/claim-guidance-publications/disability-insurance-and-erisa-faqs/>

MORE RESOURCES

- [So you've got long COVID? Here are 5 things you should know](#) (San Francisco Chronicle)
- [COVID-19 Insurance Denial Guidebook: What to do When Your Long Term Disability Insurance Claim is Denied](#) (Kantor & Kantor)
- [COVID-19 Longhaulers Resource Center](#) (Kantor & Kantor)

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