



ROY LAW



ERISA AND YOUR LONG-TERM DISABILITY CLAIM

Roy Law represents individuals throughout the Pacific Northwest who are applying for or have been denied long-term disability insurance benefits. Roy Law offers free case evaluations to all prospective clients.

1. What is ERISA, and does it apply to my claim?

The Employee Retirement Income Security Act (ERISA) is the law governing almost all employee benefit disputes. If your long term disability policy is part of an employee benefit package, and you work for a private employer, then ERISA applies.

2. When does ERISA not apply to my claim?

ERISA does not apply if your employer is a government entity or religious organization. Further, ERISA does not apply to disputes related to social insurance programs such as social security and unemployment insurance, nor does it apply to disputes over extra compensation like raises and bonuses.

3. What if ERISA does not apply to my claim?

Then state contract, tort, and consumer protection laws apply.

4. What should I do if my claim is denied?

The first thing you should do is determine your appeal rights. Unless given a choice, you must participate in all appeals offered by your insurance company. If you fail to exercise your appeal rights or miss critical deadlines, then your case is over and you are barred from taking legal action. Under ERISA, you must file your appeal within 180 days from the date of denial.

5. What is the best way to present my case?

In every situation, you should present your insurance company with as much objective evidence as possible. Beyond that, the best way to present your case depends on the language of your long-term disability insurance policy. Your policy is a contract, and courts will enforce all lawful terms of the policy.

6. What safeguards do I have?

Employee benefit plan and claim administrators have a fiduciary duty to all plan participants. They must put employees' interests first, make sufficient inquiry, analyze all evidence, and make reasonable decisions.

7. How long do I have to seek judicial review if my appeal is denied?

Your time to file a lawsuit depends on the language of your policy, and your state's statute of limitations for insurance contract disputes. In most situations you have three years from the date your appeal was denied to file for judicial review.

8. How does judicial review work?

A judge decides whether the insurance company made a reasonable decision under a de novo or abuse of discretion standard depending on the situation. In most cases, ERISA only allows the judge to consider the insurance company's claim file and does not allow the presentation of new evidence at trial.

9. What happens if the judge overturns my denial?

You will recover contractual damages, meaning what the contract entitled you to in the first place, and interest. You may also petition the court for reimbursement of your attorney fees and costs. You are not allowed damages for pain, suffering, or other incidental and consequential damages.

10. How can Roy Law help?

- Roy Law will analyze your case, and determine the best way to proceed.
- Roy Law will present your case persuasively.
- Roy Law will file your appeal, attempt to negotiate a favorable settlement, and navigate the litigation process.
- Roy Law will file a motion and seek reimbursement of your attorney fees and costs.

This brochure is for informational purposes only. It is not a substitute for legal advice. If you have questions, please contact Roy Law for a free consultation.