

LONG-TERM DISABILITY APPEALS GUIDE

A Guide to Appealing the
Denial or Termination of your
Long-Term Disability Benefits



Disclaimer

This guide was prepared for disabled individuals who need guidance in Appealing the denial or termination of their Long-Term Disability (LTD) benefits. The information provided in this guide is not meant to be a substitute for legal advice. If your LTD benefits have been denied or terminated you should contact a disability lawyer, immediately.

Mulqueen Disability Law is a boutique law firm focusing on **complex** disability insurance litigation. Courtney Mulqueen has over 20 years experience representing disabled clients in their LTD benefit disputes under both **individual and group** disability insurance policies, as well as litigating critical illness claims and representing clients at their CPP-Disability Tribunal hearings.

If you need our assistance with appealing the denial or termination of your LTD benefits, or if you have questions or concerns regarding your other disability claims (such as Critical Illness or CPP Disability), we encourage you to [contact us](#).

Mulqueen Disability Law is an experienced disability law firm dedicated *exclusively* to the practice of disability insurance litigation. We encourage you to contact us for a free consultation.



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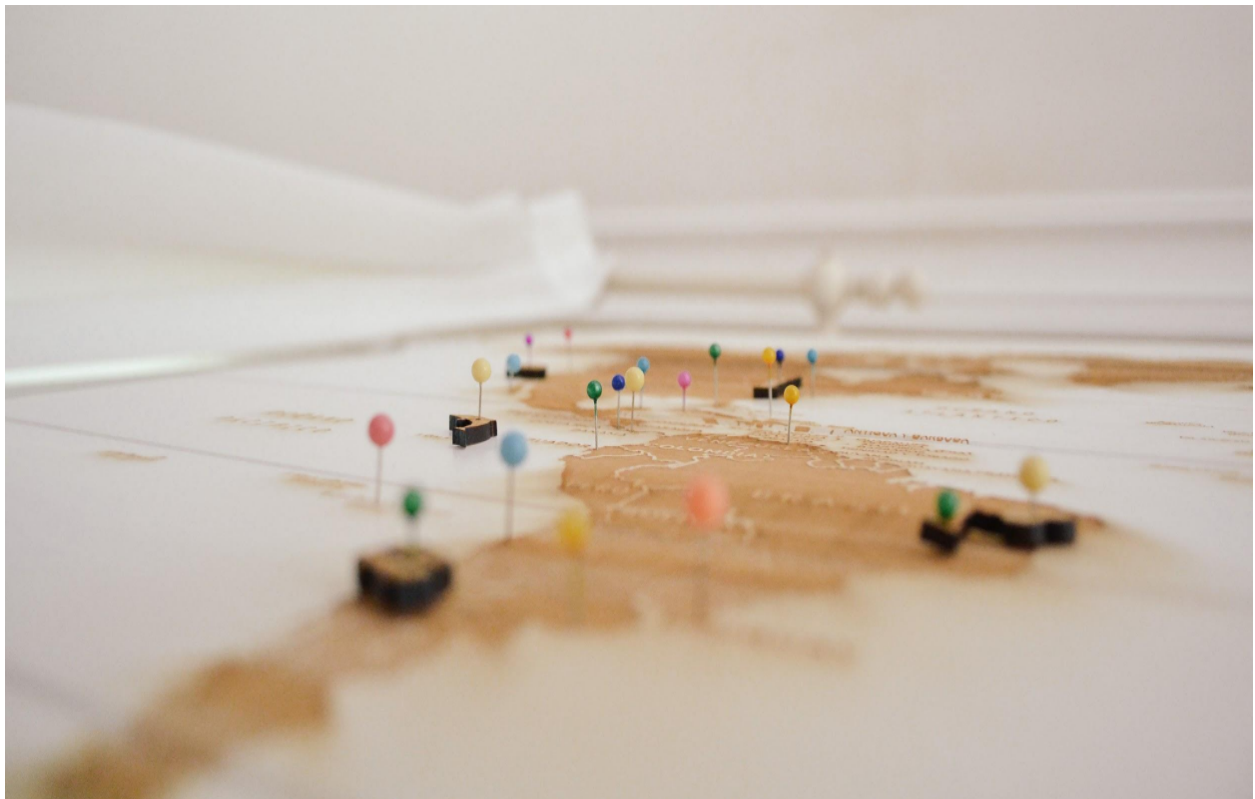
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What is the Purpose of this Guide?

The purpose of this guide is threefold:

- To provide general information about the LTD Appeals process;
- To assist you in determining whether to Appeal or sue the insurance company; and
- To provide useful tips and guidance for Appealing the denial or termination of your LTD claim.

This guide is not meant to replace independent legal advice. If you require legal advice in making your application or Appealing the denial of your claim, it is best to consult a disability lawyer. To schedule a free consultation with a lawyer focused on disability law, please contact us at info@MulqueenDisabilityLaw.com, (416) 900-0368.



Introduction

If you applied for LTD benefits and your insurance company **denied** your claim or if you were receiving LTD benefits and your insurance company **terminated or cut-off** your benefits, but you are still unable to return to work, then you may be wondering what options are available to you to **fight the denial or termination** of your benefits.

You have **two** options: 1) **Appeal** the decision to the insurance company or 2) start a **Court Action** against the insurance company.

The option you choose will depend, to a large extent, on **why** the insurance company denied or terminated your claim and **what evidence** is available or could be obtained to support either an Appeal or a Court Action.

Time is also a factor. If you are approaching **two years** since your insurance company stopped paying you or since your claim was denied/terminated, then you may need to act quickly, to preserve your legal right to bring a Court Action.

To decide which path to choose, it is important to first understand each of these **two** options.



What is an LTD Appeal to the Insurance Company?

Your insurance company probably offered you the option to **Appeal** the denial or termination of your benefits. The letter they sent to you denying your claim, likely set out a list of documents that you would need you or your doctor to submit, in order for you to Appeal the decision.

The insurance company will review the new documents you submit and determine whether the **new information** you provided is sufficient to change its mind and reinstate or approve your benefits.



If your Appeal is **successful**, your benefits will be paid from when the insurance company stopped paying you. You will then continue to receive disability benefits on a monthly basis, so long as you continue to meet the definition of disability and other conditions in the policy. The insurance company may cut-off

your benefits again, down the road.

You may or may not decide you need help from a lawyer with your Appeal. If your Appeal is **complicated** or if dealing with the insurance company has become a damaging **source of stress and anxiety** for you, [Mulqueen Disability Law](#) can help you with your Appeal. However, you may be able to Appeal the decision on your own with or without the guidance of a disability lawyer. In either case, [Mulqueen Disability Law](#) can provide various levels of assistance with your Appeal, depending on your individual needs.

What is a Court Action for an LTD Benefit Dispute?

Once your insurance company denies or LTD claim or stops paying your LTD benefits, you can bring a Court Action (lawsuit) against the insurance company. **There is no law or requirement in most insurance policies that requires you to first go through the insurance company's Appeal process.** Not Appealing the decision will not be held against you in your Court Action.

In a Court Action, your disability lawyer will make various claims against your insurance company, including a claim for the payment of your LTD benefits. (See our website for more information about the Steps in an LTD Lawsuit.)

Ultimately, most LTD Court Actions will resolve in one of **three** ways: 1) Payment of a lump sum settlement of all past and future claims; 2) Reinstatement of your LTD benefits; or 3) Judgment at Trial. A disability lawyer will be able to provide you with the pros and cons of each of these three types of resolutions to determine which outcome is best for you and



what you can most likely expect from your particular LTD Court Action.

Remember that in Ontario, the **Limitations Act** provides for a **two-year limitation period** within which to start a Court Action against the insurance company for LTD benefits. If you missed this deadline, you should still [contact us](#) to determine whether there may be a way around the missed limitation period.

If you are **unionized**, you may or may not be able to bring a Court Action. You may be required to grieve the LTD decision and a Court might not have jurisdiction over your dispute. **Jurisdiction over your LTD benefit dispute will depend on the wording of your collective agreement.** It is best to speak to an experienced disability lawyer *and* your union representative about your rights to dispute the denial of your LTD benefits by way of Court Action. We will be able to review your collective agreement to determine whether the Court has jurisdiction to deal with your LTD dispute. Keep in mind there is probably a **time limitation** for grieving the denial or termination of your claim under your collective agreement.

If you are a **Teacher in Ontario**, you do not need to Appeal a denial/termination of your LTD benefits. [Mulqueen Disability Law](#) has decades of experience representing Teachers in their OTIP/Manulife LTD disputes. [Contact us](#) for a free consultation to discuss your options and the implications for your pension and other issues unique to OTIP/Manulife LTD claims.



Should I Appeal or Bring a Court Action?

There are **three** important factors to consider when deciding whether to Appeal to the insurance company or start a Court Action. These factors include:

- 1) The reason or basis for the insurance company's decision to deny or terminate your LTD benefits;
- 2) Whether there is likely to be sufficient evidence available or obtainable to support your Appeal; and,
- 3) How long ago your claim was denied or terminated?

We will explore each of these three factors to help you determine which path is right for you to take in your fight for your LTD benefits.



Why was My LTD Claim Denied or Terminated?



LTD benefits are available to you either through a **private/individual** LTD insurance policy or through a **group** LTD insurance policy (provided through your employment or membership in an organization) . The LTD policy is a contract of insurance. It sets out various terms and conditions you must satisfy to be eligible for coverage and eligible for benefits. The insurance company assesses claims based on these terms and conditions. If it finds that you do not satisfy the terms and conditions in the policy, it can rely on those terms and conditions to deny or terminate your LTD claim.

Some of the **most common reasons LTD benefits are denied or terminated** include:

- Not eligible for the LTD coverage under the policy;
- Not totally disabled from your own or any occupation;
- Not receiving appropriate treatment;
- Failing to participate in the insurance company's rehabilitation program;

- Insufficient medical information to support your claim; and
- Disability due to a pre-existing condition.

Often your decision to Appeal or bring a Court Action will depend on the reason for the denial or termination. In some circumstances, it makes sense to Appeal, while in others, it may be best to proceed directly to a lawyer to commence a Court Action. A review of some of the most common types of denials/terminations will help you determine which way to proceed.

LTD Denials Based on a Lack of Insurance Coverage

Before the insurance company even begins to consider whether you are disabled and entitled to LTD benefits, it will want to confirm that you have LTD **coverage** under the insurance policy. To do this, the insurance company will want to confirm details such as, when you were first enrolled in the insurance plan; whether premiums have been paid for you; whether you were actively at work when your insurance took effect; and what your employment status was right before you became disabled.

Sometimes LTD benefits are denied, at this early stage, if the insurance company determines that you are not eligible to even apply for LTD benefits because you did not have the insurance coverage when you became disabled. This may be because your **employment was terminated** on the date you became disabled or on a date before you became disabled. Eligibility might also be an issue if your **employer failed to properly enroll you in the insurance plan** or if you **did not pay premiums**.

If the insurance company says that your claim will not be approved because you did not have the insurance coverage when you first became disabled, you may think that there is no point in Appealing the insurance company's decision. However, in many cases, **these types of denial can often be successfully disputed by experienced disability lawyers**. If successful, the insurance company will be forced to reconsider your coverage and proceed to assess your LTD claim on its merits.



LTD Denials Based on a Lack of Medical Evidence

More often, the insurance company will deny or terminate your LTD benefits if they determine that the medical information you have provided to them is not sufficient to support “Total Disability” (often defined as being unable to perform the essential duties of your own or any occupation due to an illness or injury).

If this is the reason you have been given, you may be able to go back to your treatment providers and ask for more or updated information to support your Appeal. If you have already provided everything available, then you may need to proceed directly with a Court Action. A disability lawyer will be able to use the information you have already provided, obtain very specific new information and frame everything in a way that is persuasive to the insurance company, resulting in a resolution of your claim.



LTD Denials Based on Other Terms & Conditions in the Policy

If your claim was denied or terminated for some other reason, such as not having appropriate treatment (or not having treatment that would suggest a severe condition); non-compliance with the insurance company's rehabilitation program; having a disabling condition that results from a pre-existing medical condition; or some other reason, **your case may be more complicated than you think**. In these cases, providing some updated medical records as part of your Appeal is not likely to be enough to change the insurance company's decision and a Court Action may be your only option.

Appeal VS Court Action - What's the Verdict?

Generally, if you still have **time** to bring a Court Action (in other words, you are not close to the two-year limitation period), and you have or you can obtain **new and persuasive medical support** for your disability claim, then Appealing the insurance company's decision may be the right way to go.



You may be able to do the Appeal **on your own** or you may choose to hire a lawyer to help you with your Appeal. This could save you significant time and money in legal fees, if the insurance company then approves your claim on Appeal.

The risk in Appealing is that Appeals may take a long time (drawing you closer to or even beyond the **two-year limitation period** for Court Actions). Furthermore, in our experience, **Appeals do not normally result in the insurance company reversing its decision**.

It is best to contact us to determine whether an Appeal is the best option for you. Remember, if your Appeal is *not* successful, you can then proceed with a Court Action.

However, if you have a **complicated LTD case**, a Court Action will probably be the better, if not *only* way to persuade the insurance company that you are entitled to LTD benefits. Complicated cases often include cases where:

- You have already provided all available information about your disability to the insurance company;
- You have already Appealed at least once, if not more than once and you the insurance company is upholding the denial or termination;
- Your treating doctors and specialists are not cooperative or not supportive of your disability claim;
- Your coverage is at issue (the insurance company says you are not covered under the policy);
- You have had difficulty getting “appropriate” treatment for various reasons (such as, a lack of available treatment providers, an aversion to prescription medication, lack of money to pay for treatment, treatment from non-physicians, no referrals from your family doctor, no treatment has been helpful for your condition or none exists, etc.)
- The insurance company says that your disabling condition is “work-related” or “workplace specific”;
- You were forced to participate in a rehabilitation program or forced to attempt to return to work and you refused or your were not successful;
- The insurance company says you are disabled from a pre-existing medical condition;
- The insurance company says you can do “any occupation” and lists some jobs they say you can do;
- The insurance company used surveillance to terminate your claim;
- The Limitation Period for starting a Court Action (two years) is fast approaching or has already passed; or
- You are suffering from an “invisible condition”, meaning there are no definitive tests to diagnose you or objectively measure the severity of your symptoms, such as:
 - Fibromyalgia,
 - chronic pain syndrome,
 - chronic fatigue syndrome,
 - multiple-chemical sensitivities,
 - post-concussive syndrome,
 - psychological conditions, including anxiety and depression, and
 - undiagnosed condition.

It may seem obvious to you and to your doctors that you are Totally Disabled and entitled to LTD benefits. However, insurance companies often see claims very differently and completely disagree with claimants and their doctors. **You may actually have a much more complicated case than you and your doctors believe.**

Whether you decide to “roll the dice” and submit an Appeal or whether you decide to proceed directly with a Court Action, it is important to contact us as soon as your claim has been denied or terminated, to help you make the best decision for your particular case.

What Services are Available to Help Me with the Appeal?

If your LTD claim has been **denied or terminated for any reason** and you are considering Appealing the decision on your own or with the assistance of a lawyer, we encourage you to [contact Mulqueen Disability Law](#) for a **free consultation**. We will review your case with you, provide you with information and insights about your case and help you decide whether to submit an Appeal or to start a Court Action against the insurance company. We will also help you decide if you need legal help with your Appeal, and if so, how much and what kind of help you actually need.

[Mulqueen Disability Law](#) offers **various levels of Appeals assistance**, depending on our clients’ individual needs. We appreciate that some Appeals are more complicated than others and that some people are better equipped to deal with the evidentiary and emotional challenges of Appealing to the insurance company, than others.

If Appealing to the insurance company makes sense for you and for your specific claim; if your claim is complicated; or if continuing to deal with the insurance company on your own is taking a toll on your health, [Mulqueen Disability Law](#) can help. Knowing what information the insurance company needs and how to present that evidence in a persuasive way, can enhance the chances of a successful Appeal, while allowing you to focus your efforts and energy on your health and recovery.



Some of our **Appeal Services** include:

- Review of your termination/denial letter(s), insurance policy, claims file and medical records to determine the strategy and approach for Appealing the denial/termination of your claim;
- Determine what information is going to persuade the insurance company to approve your benefits;
- Obtain (or provide you with guidance for you to obtain) the information you need for your Appeal;
- Draft (or help you draft) a cover letter for your Appeal, detailing the basis for your Appeal and summarizing the information that supports your claim;
- Take over all (or some) communications with the insurance company during the Appeal process.



Contact us to learn more about our various levels of legal assistance for Appealing your LTD denial, depending on your individual needs.

If a Court Action is the better option for you, suing insurance companies for our disabled clients is what we do. Courtney Mulqueen has over 20 years litigating **complex** LTD denials/terminations under both **group** LTD and **individual** (private) LTD insurance policies.

We are a proudly woman-led law firm focused on LTD litigation and helping our clients resolve their LTD disputes through our trauma-informed, practical and strategic approach.

Sample Letters to Help You Obtain Information for Your Appeal

Sample Request Letter to your Doctor(s)

Date	Your Name and Return Address
Your Dr.'s Name and Address	
Dear Dr. _____,	
RE: Request for Letter and Records to Support My LTD Appeal	
My Long-Term Disability (LTD) benefits have recently been denied. As my treating doctor, your support is very important to my disability claim. I am writing to request from you a letter to support me in my appeal. If you are not able to support my claim, please let me know, as soon as possible.	
I have attached the insurance company's denial letter, for your reference. Generally, to qualify for LTD benefits, I must provide the insurance company with evidence that I am Totally Disabled according to the definition of disability in my insurance policy. <i>(You can insert the definition of disability here, if you like.)</i>	
If you are willing to support me in my appeal, kindly provide the insurance company with copies of any medical reports and/or records that would support my LTD claim as well as a letter addressing the basis for the denial. Please also include the following information:	
<ul style="list-style-type: none"> ● Symptoms and diagnosis; ● Functional limitations and restrictions (cognitive and/or physical); ● Medications and treatments and their effectiveness; ● Dates of disability; ● Prognosis; and ● Whether my medical condition(s) prevent me from being gainfully employed. 	
Kindly advise if you will charge a fee for your report. I have limited resources and would appreciate it if you could provide the letter at a reduced rate.	
Thank you for your assistance with this matter.	
Yours truly,	
Print Name and Signature	Enclosure : LTD Denial Letter

Sample Appeal Cover Letter From You

Date

Your Name and Return Address

Your Insurance Company's Name and Address

Dear _____ (*Case Manager's Name*),

RE: Appeal of Long-Term Disability Denial

Please be advised that I am appealing the denial of my Long-Term Disability benefits.

I understand that in order to be eligible for LTD benefits, I must provide evidence that I am Totally Disabled, according to the terms and conditions in the insurance policy.

My doctors and I believe that based on my functional restrictions and limitations, I meet the definition of Totally Disabled in the policy and that I am entitled to the benefits. In support, please find enclosed the following documentation:

- **List of all documents enclosed, including application forms, reports and records in support of application/Appeal/reconsideration**

If you have any questions about any of the information provided, please contact me or contact my doctor directly. If the information provided is insufficient, please advise what specific information you require, in order to approve my claim.

Yours truly,

Print Name and Signature

Enclosures

Resources

Mulqueen Disability Law LLP

Law firm focusing on Long-Term Disability Litigation and authors of this guide.

Website: www.mulqueendisabilitylaw.com

Email: info@mulqueendisabilitylaw.com

CPP Disability

Federally funded disability benefit for eligible workers with severe and prolonged disability.

Website: <https://www.canada.ca/en/services/benefits/publicpensions/cpp/cpp-disability-benefit.html>

Phone: 1-800-277-9914

Service Canada - Application for CPPD Benefits

Federal service provider for applications for social assistance and disability benefits.

Website: <http://www.servicecanada.gc.ca/fi-if/index.jsp?app=prfl&frm=isp1151>

Service Canada - Find a Service Canada Office

Federal service provider for applications for social assistance and disability benefits.

Website: <http://www.servicecanada.gc.ca/tb-sc-fsco/sc-hme.jsp?lang=eng>

Canada Benefits - Benefits Finder - to obtain a customized list of federal and provincial benefits for which you may be eligible

Resource for determining which benefits to apply for based on potential eligibility.

Website: <http://www.canadabenefits.gc.ca/f.1.2c.6.3z.1rdq.5.2st.3.4ns@.jsp?lang=en>

Canada Revenue Agency (Tax Credits and Deductions for Persons with Disabilities)

Information on tax deductions and savings plans for people not working due to disability.

Website: <http://www.cra-arc.gc.ca/tx/ndvdl/sgmnts/dsblts/menu-eng.html>

Legal Aid

List of neighborhood legal aid clinics and specialty clinics providing legal support.

Website: <http://www.justice.gc.ca/eng/fund-fina/gov-gouv/aid-aide.html>



Contact Us

Mulqueen Disability Law is an experienced boutique disability insurance law firm focused on **complex** long-term disability insurance litigation. Between the three partners, we have over 50 years experience litigating disability insurance claims. We also have extensive experience litigating **individual LTD claims**, life insurance and critical illness claims and we have represented our disabled members at CPP Disability Tribunal hearings and in their related motor vehicle accident and personal injury cases. We appreciate that you have serious physical and cognitive limitations and restrictions and strive to accommodate your disability throughout the litigation and in the service we provide.

As part of our commitment to assisting and empowering disabled individuals, we offer **free, confidential consultations** by telephone, in-person or by video conferencing. Although our practice is located in the **Toronto and Markham areas, we represent members throughout the province**. Please feel free to contact us directly by email or telephone if you need our assistance with your LTD denial/termination or if you have any questions about CPP Disability or another type of disability-related insurance claim.

Please see our website for more information: www.MulqueenDisabilityLaw.com.

