

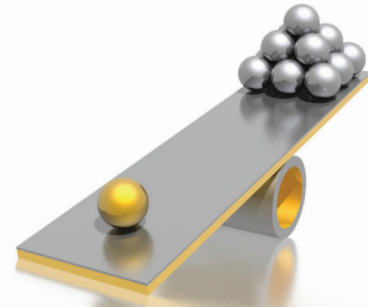


FRANKEL & NEWFIELD, PC
DISABILITY INSURANCE ATTORNEYS

1-877-LTD-CLAIM

1-877-583-2524

FRANKEL & NEWFIELD, P.C. is a boutique law firm focused on representing individuals across the country with all matters concerning Long Term Disability Insurance Claims. We invite you to visit our website, www.frankelnewfield.com to learn more about the firm and our successful representation of clients. If you have any questions, please call our firm at 1-877-LTD-CLAIM (1-877-583-2524). We look forward to hearing from you.



WHY YOUR DISABILITY CLAIM MAY NOT BE A SLAM DUNK

Physicians face a number of challenges when pursuing disability insurance claims that are unique to their profession.

High benefit claims, typically held by physicians, are red flags for claims adjusters and supervisors seeking to contain financial exposure, keep reserves at a minimum, and enhance the company's stock price (for the many public company insurers). The disability claims process is filled with laws and contract provisions which provide insurance companies opportunities to push back on paying claims – something the newly disabled physician may not be aware of, or prepared for.

The law firm of Frankel & Newfield represents physicians in all specialty areas in all stages of the process of pursuing claims for disability insurance benefits, as well as at the outset of the claim process, to help navigate the landmines. Our track record is strong, as are the relationships we build with our clients. We respect the training and hard work it takes to become a physician, and the need to protect the income and lifestyle that you have earned.

We suggest that you place this newsletter with your disability insurance policy. You may not need the information it contains now, but if you do, we hope

it will serve as a guide so that you will be better prepared to assert your claim. Of course, you are always welcome to contact us at **877-583-2524** to discuss your situation.

The Economics of Disability Insurance

Physicians have always been a prime sales target for insurance companies. Purchasing disability insurance is an easy “yes” to purchase coverage at all stages of the doctor's career.

Residents are offered disability policies through a medical association, typically the AMA. When a doctor joins a practice or medical center, they are often provided with a group policy as part of their employee benefits package. A doctor who builds their own practice purchases private disability insurance or might add on to prior coverage. As the doctor's income grows, whether they are part of a medical center or on their own, they purchase additional disability insurance to protect a growing income stream.

All of these disability insurance policies fall under different laws. Group policies are governed by federal law, while individual or private insurance typically



falls under state law. Each presents its own set of challenges for claimants.

Disability Insurance Claims vs. Health Insurance Claims

A common misconception is that a disability insurance claim is similar to a health insurance claim. The application is completed, with the assistance of the insurance broker or online through the website. There may be requests for more information – medical records going back decades or extensive financial records.

Requests for more information are not a good sign. Often, the requests are for information not required by provisions in the policy, but an inexperienced claimant does not know that not every request by the insurer is proper.

A denial letter is met with disbelief. The physician is used to having their health, home and auto insurance claims approved with no or few questions. But disability insurance is different.

The exposure is not just for a one-time event or an illness that occurs over the course of a year or two. If the doctor is in their early 50s, with a \$100,000 annual benefit, the cost of the claim is projected and analyzed – and pushback is indicated. Insurance companies rely on the numbers: teams of analysts, statisticians and economists know exactly how costly your claim is going to be.

But here is what you may not know: *there is no penalty for the insurance company if your claim is denied* – particularly in New York where we do not have protective bad faith claims available to make the insurers act properly.

OB/GYN

I have known Jason Newfield for several years, and I recommend him without reservation. It is hard to accept giving up one's life long career in medicine because of illness. I am still struggling with it. Jason Newfield obviously could not restore my health, but, by his efforts, he helped

me deal with the disability insurance people to considerably offset my loss of income.

I remember the first day when he looked at my policies and without sugar coating the situation, he reassured my wife and me that things were going to be OK. He was right. I asked Jason if he would accept a contingency fee arrangement. He said yes, but advised against it. He favored an hourly rate arrangement because he felt strongly that I would succeed in obtaining benefits and that I would be paying him too much money if we went with the contingency plan. He was right.

The company cannot be sued for any extra-contractual damages caused by the denial or delay of your claim. If savings are exhausted, or mortgages go unpaid, there is no fiscal consequence to the insurance company. The only cost is having attorneys to defend the insurance company and then only if a lawsuit is brought.

Denying a claim is an economic benefit to the disability company. It is not personal. But it feels personal when a financial lifeline is cut at same time you are coping with the devastation of an illness or injury that has ended your professional life.

Group Disability Claims vs. Private (Individual) Disability Claims

Contract law and insurance law are, admittedly, not the stuff of blockbuster movies. But understanding the difference between these two types of disability insurance clarifies many of the challenges that occur in the course of a disability insurance claim.

Group disability insurance coverage is issued through an employer, with premiums often deducted from paychecks. Like many other employee benefits, it is governed by a federal law known as ERISA – Employee Retirement Income Security Act. The law was created in response to abuses of retirement accounts by employers, but the insurance

companies discovered that it could be used to their advantage to control the disability claims process.

Over the past twenty years, the ERISA disability claims process has been refined, litigated (in Federal courts) and defined. Here is a simplified look at how it impacts a claim denial, in contrast to private policies:

ERISA (Group)	vs.	Private (Individual)
Limit on time to respond to denial set in terms of policy – rigid limits with harsh consequences		Time limits may be changed by court
Only materials in claim file may be considered by Federal Judge – trial on paper typically		Evidence admitted to case as approved by court to include discovery, depositions, trial
Federal Judge – likely not familiar with ERISA		State Court Judge
No Jury Trial		Jury Trial

Any Occupation vs. Own Occupation Policies

The disability insurance policy is insuring the claimant's ability to perform the material tasks and duties of their profession. Physicians typically purchase "own" occupation policies to insure their ability to work as physicians. Disability insurance companies seek to work around this in a number of ways.

The doctor will be asked to provide detailed information concerning their working day. If there are administrative or managerial tasks, the push by the insurer will be to have the doctor's occupational category reclassified as including a certain percentage of management tasks, impacting total disability.

If that can be established, the battle for benefits may hinge on whether or not the doctor can work in a management capacity; thereby reducing the percentage of the monthly benefit to be paid. It may make a claim a partial

disability instead of a total disability claim.

Residual Coverage

If the physician is able to work in a limited capacity, the disability insurance company will seek to establish the lowest possible monthly benefit. The use of outdated income and occupation references is a standard practice we see on a regular basis.

An anesthesiologist earning more than \$600,000 a year working full time may be able to scale back their work, but the income will be nowhere near the pre-disability income level. The insurance company will push back on how limited the income may be.

Strong counterarguments, buttressed by extensive data, are needed to overcome this strategy. And the loss of income on this type of claim has to be “disability” related, and they might argue market forces are to blame for loss of income rather than disability.

Ongoing Support for Claims

When the claimant is at a relatively young age, or if the policy is one that is expected to pay benefits over the claimant’s entire life, the disability insurance company continues to monitor

the claim. Frankel & Newfield represents clients who are on claim, serving as the contact for the insurance company and coordinating requests for additional information, medical exams, and other requests. Every document provided to the insurance company can be used as evidence to terminate the claim, so we ensure the information being sent to the insurance company continues to support the claim. We also guard against requests for materials the insurance company is not entitled to have.

Lump Sum Settlements

The lump sum settlement is not a solution for everyone. But for the doctor who has been on claim for an extended period and is tired of having their claim repeatedly reviewed, being asked to undergo medical examinations by insurance company doctors on a regular basis, worried about living under surveillance and providing tax returns and financial records, a lump sum settlement may be worthwhile.


It cannot be overemphasized that the goal for the insurance company is to minimize the lump sum.

Our firm has handled many negotiations for physicians and other high-income earners where the opening offer is

mind-boggling. The insurance company is counting on the claimant wishing to bring the constant intrusion and worry of a claim denial to an end.

Having a strong advocate with experience in the hardball negotiations required to maximize the lump sum settlement works to the claimant’s advantage.


Prudential denied my MD husband’s disability claim, and Justin and his assistant Christine handled our appeal. We found him on the internet --and have never met him. Took a big chance, we thought, to send our retainer check to a stranger based on internet referrals only, but they were excellent and won the appeal. Justin used supportive information from similar cases and argued impressively in our behalf. He described his work as “going to court on paper.” Nearly 200 pages in our final case file, I believe. He handled the contact with physicians and the company --and effectively critiqued their hired “expert opinion” which disagreed with our physicians about the disability. We highly recommend him for his diligence and skill. ■



Justin C. Frankel, Esq.
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Avvo Rating 10.0
Justin Corey Frankel
Top Attorney

RATED BY
Super Lawyers®
Justin C. Frankel
SuperLawyers.com



Jason A. Newfield, Esq.
Martindale-Hubbell®
AV PREEMINENT®
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Jason Adam Newfield
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RATED BY
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585 Stewart Avenue, Suite 312, Garden City, NY 11530

DISABILITY NEWS UPDATE | FALL 2020

ATTORNEY ADVERTISING · PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME.

Who we are and why we have sent you this newsletter.

Jason Newfield and Justin Frankel are experienced and highly skilled attorneys who have dedicated their practice to representing individuals who have been denied disability insurance policy benefits, had their benefits terminated, or who seek to prepare a claim with the guidance of experienced disability insurance attorneys.

Both attorneys have attained the respect of clients and their peers for their aggressive representation, dedication and compassion to their clients, and focused results achieved.

We encourage you to place this brochure with your long term disability insurance policy paperwork. We hope you never need it - - but if and when you do, contact us to learn how we can help protect you and your family. Visit us at www.frankelnewfield.com for more information, or call us at 877-583-2524.



To learn more about Frankel & Newfield's Disability Insurance Law firm, visit www.frankelnewfield.com

Still have questions? Call us at 1-877-LTD-CLAIM (1-877-583-2524). We look forward to speaking with you.