

VT COMMENTS  
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**Suggested Best Practices Outline for Disability Insurance Claims Handling, August 28, 2008  
for Consideration by the NAIC Consumer Protections and Innovations (D) Working Group**

Training

- All claim staff should be trained in the same way in the same documented procedures.
- Training materials should be routinely updated to reflect new issues and staff should be re-trained regularly.
- Training should emphasize that adverse pre-disposition or bias against a claimant is unacceptable.
- Training should address applicable law, including regulations, interpretive bulletins, and case law. [CA]
- Training should emphasize everyone's accountability for performing consistently with a written code of compliance.
- **Training should emphasize the importance of safeguarding protected health information.**
- Successful completion of training should be documented and each student should affirm in writing understanding of and intent to act consistently with the code of compliance.

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Claim Organization

- Experienced claim staff should sign off on claim denials and terminations of benefits.
- Companies should create a separate compliance-accountability function involving highly experienced claim staff to be involved in the more complicated claims prior to a denial or termination decision.
- Companies should create a claim audit function, reporting to senior management and ultimately the Board of Directors, to evaluate compliance with claim procedures and law.
- Senior management should evaluate claim staff based on compliance with claim procedures and not the number of claims closed or whether benefits paid/reserved are consistent with the business plan.
- Senior management should consistently reinforce the importance of claim professionals to the organization and reward performance based on appropriate standards such as compliance with claim procedures, the training of subordinates, and compliance with law.

Corporate Organization

- The organization's commitment to compliance should be reinforced by establishing a Board of Directors function responsible for monitoring compliance.
- Senior management, claim management, compliance management, and the claim audit leadership should regularly report to this Board committee.

Claim Procedures

- Companies should develop detailed written procedures for handling claims, with an emphasis on providing fair and timely service. There should be a section in the written procedures identifying applicable legal standards, including statutes, regulations, bulletins, and case law. In addition, written procedures should describe the insurer's administrative practices regarding application of coordination of benefits and benefit offset provisions, including the fair and equitable application of any social security offset that follows a favorable determination of disability by the U. S. Social Security Administration. [CA]
- Claim procedures should be designed to provide a fair and prompt initial determination of disability and ensure timely payment of benefits due under the policy. Claim forms and authorization instructions should be clear and easy to follow, requesting all necessary medical and employment information as soon as possible without being invasive or burdensome. [NE]
- Independent Medical Examiners should be selected solely on the basis of objective, professional criteria and without regard to the results of previous reports. Independent Medical Examiners should be certified in professional specialties appropriate to the care they are reviewing. [TX]
- A code of conduct should be adopted for all medical professionals used by the company which includes a commitment to provide fair and reasonable evaluations considering all available medical, clinical, and/or vocational evidence, both objective and subjective, bearing on impairment. With each determination the medical professional should certify that he or she has reviewed all the evidence provided.
- Claim staff should provide the medical professionals with all available medical, clinical, and/or vocational evidence in the claim file, both objective and subjective, concerning impairment.
- Input should be sought from attending physicians and the information they provide should be fairly interpreted and applied. Significant weight should be given to the treating physician's opinion. Obtain an objective independent opinion when company and attending physicians disagree. [CA: San Francisco presentation]
- **Absent an error of law, inconsistency with applicable medical evidence, or inconsistency with the disability definition in the policy, carriers should give significant weight to a finding of disability in a Social Security Disability Insurance award.**

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- When co-morbid conditions (*i.e.*, multiple contributing problems) are present, claim staff should ensure that all diagnoses and impairments are considered and afforded appropriate weight in developing a coherent view of the claimant's medical condition, capacity, and restrictions/limitations.
- Claims should not be denied or prematurely terminated based on the type of medical condition without giving full consideration to all co-morbid conditions. [San Francisco presentation]
- Projections from average experience (e.g., expected return-to-work dates) should be used only as a basis for further investigation and should not by themselves be considered grounds for denying or limiting benefits. [San Francisco presentation]
- Companies should establish guidelines and procedures for clear, fair, and reasonable usual and customary fee schedules. [CA – but is this relevant for disability coverage?]

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