

Your guide to

LONG TERM DISABILITY BENEFITS

Mission Statement

Trial experience settles cases fairly, and trial experience will protect the injured if negotiations break down. A lawyer for the injured needs the fortitude to say “no” to unreasonable offers and the commitment and skill to take the injured person’s case to trial.

Where to Begin

A serious injury can have a devastating impact on you and on your family. There are many decisions to be made which can become quickly overwhelming. Disability Lawyers at Boland Romaine ensure that you have an advocate in your corner.

Who We Are

Boland Romaine Personal Injury Lawyers is one of Ontario’s most respected injury firms with over 40 years of trial experience. Voted as one of the top 10 personal injury firms by Canadian Lawyer Magazine, Boland Romaine’s lawyers have represented the province’s most vulnerable injured victims in court and won.



CERTIFIED SPECIALIST
CIVIL LITIGATION

2021
LEXPERT RANKED
LAWYER



A blue street sign with white text that reads "University Ave". The sign is mounted on a metal pole. In the background, there are trees and a building with a clock tower.

What are Long Term Disability Benefits?

Long term disability benefits provide income replacement for disabled employees who meet the definition of “totally disabled.” Typically, long term disability benefits are paid on a monthly basis up to a maximum amount as outlined in the disability policy.

There are several types of long-term disability benefits available in Ontario. Your employer may provide long term disability benefits through a group plan, or you may have private coverage through your own policies. However, other types of long term disability benefits include:

- Canada Pension Plan Disability;
- Workers Compensation;
- Ontario Disability Support Program; and,
- Disability Tax Credit.

Who Qualifies for Long Term Disability?

You are eligible for LTD benefits in Ontario if:

- You are an Ontario resident.
- Have an insurance plan through your employer or a private provider.
- Have worked for your employer for a qualifying period, if identified by your insurance policy.
- Have a long-term injury, illness, or medical condition preventing you from working.

Pre-existing Conditions

Pre-existing conditions are a common exception to eligibility for long term disability benefits. Pre-existing condition clauses exclude or restrict you from receiving long-term disability benefits if you have a recurrence of symptoms from a previous condition you had prior to starting your job. This is often included in policies in order to protect the company from a high claim payout. Typically, pre-existing conditions become an issue if a disability occurs a short time after coverage begins. The insurer may then investigate to see whether your entitlement to benefits is excluded.

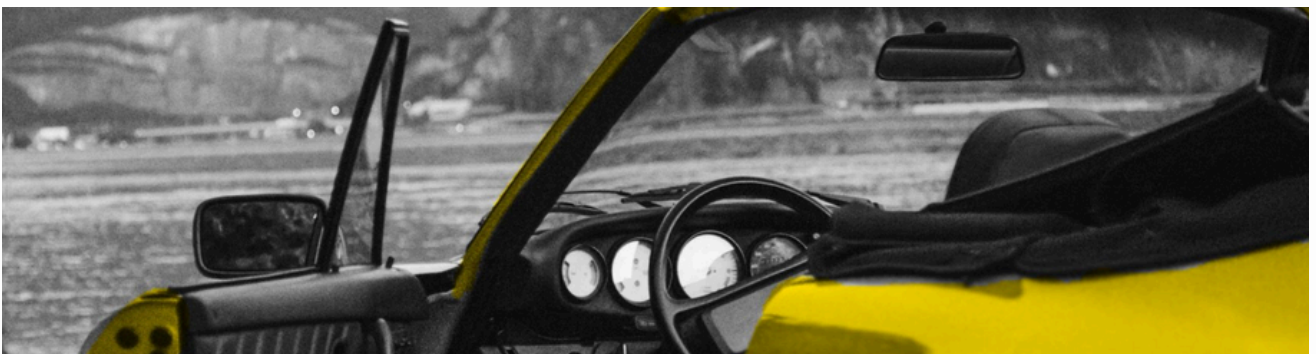
Exclusions and Limitations

There is often a list of exclusions and limitations within the disability policy. If any of the listed conditions apply to you, you may not be eligible for benefits. For example, some common exclusions are self-inflicted injuries, including alcoholism.

Elimination Period

The elimination period is the waiting period between the onset of the disability and the time you are first eligible to receive long-term disability benefits. This waiting period is typically covered by short term disability benefits, if available.

Once this elimination period is satisfied, you will be eligible to receive your benefits at the end of the following month. For example, if it states in your policy that there is a 90-day elimination period, this means you are 4 months away from receiving your benefits.



How to Apply for Long Term Disability Benefits in Ontario?

The first step in applying for long term disability benefits in Ontario is to see if you have coverage under a group medical plan. If you have coverage, then you should immediately speak with your doctor. You should not leave work to apply for disability benefits without first speaking with your doctor and getting their support.

To apply for long term disability benefits, you likely will have to complete a number of application forms. For instance, most insurance policies will have a notice of claim form, as well as a medical report form. You should confirm what you need to provide to the insurer in order to begin your access to benefits.

When completing the forms, take care to fill them out completely and accurately. You do not want to make a mistake and have your disability benefits denied. Your doctor will very likely have to fill out a form as well.

In submitting your application, it can sometimes be helpful to write a covering letter. The letter should be brief and should indicate what documents are attached to your application. You may even use the letter to quickly summarize any special circumstances.

Once you have submitted your application, you may be required to attend an interview with a representative from the insurance company. This person will be the one who decides whether your claim is approved or denied. You should prepare for this call and be ready to answer any questions they may have accurately and confidently. There is a chance that the insurer might use this interview to find a reason to deny your claim for long term disability benefits, so you should be careful when speaking with them.



How Much Does Long Term Disability Insurance Pay?

On average, long-term disability benefits range from 60% to 80% of your salary. The benefit is typically paid on a monthly basis and often there is a maximum monthly payment which is outlined in the disability policy. You should always review your long term disability benefits policy to see how much you are entitled to receive.

How long can you stay on Long Term Disability?

Depending on the severity of the condition, you may be able to stay on long-term disability benefits until the retirement age of 65 in the event you are disabled from performing your own job or any other occupation even with reasonable retraining. Less severe conditions, however, may range from several months to several years.

What if your Long Term Disability Claim was denied?

An employee may be denied long-term disability coverage for many reasons, one of which may be that the insurer does not believe they are totally disabled in accordance with the long-term disability policy. Even if the employee has ample documentation to support their claim for benefits including medical records and doctor notes, it may be deemed insufficient.

A worker who has been denied long-term disability benefits has two options:

1. The first option is to **appeal the decision** with the insurer. However, this option is not recommended. You can appeal up to 3 times, and each one must be done within 90 days of the decision. It is important to note that unless your physician can provide significantly different documentation to support your claim, it is not the best choice to appeal the decision, because your appeal is very likely to be dismissed.
1. The second option is to **commence a lawsuit** against the insurance company for wrongful denial of disability benefits. To achieve the best outcome, it is preferable to retain legal representation. This will take the stress off you and allow you to focus on your recovery.

If your long term disability application is denied, don't waste time arguing in appeals with the insurer. Instead, you could hire a Long Term Disability Lawyer at Boland Romaine to assist you with going through the Court, which is a higher authority. You should act quickly in consulting us about your options given the insurer's internal 90-day appeal deadline and the Court's limitation deadline of 2 years to bring a claim.



Common Reasons Claims Are Denied

There are many reasons why your application for long term disability benefits may have been denied. Insurers often rely on a number of common explanations for denying long term disability benefits, including the following:

- Failing to file your claim on time;
- An exclusion within the insurance policy;
- Not enough medical information or evidence;
- Refusal to attend interviews or to communicate with the insurer;
- Refusal to comply with reasonable medical treatment;
- A change in definition of what is considered “totally disabled”; and,
- The insurer does not believe you.

If your application for long term disability benefits is denied for any of the above reasons, you may have a claim for wrongful denial of disability benefits. You should consider speaking with a lawyer rather than appealing internally through the insurance company.

What Totally Disabled Means for Long Term Disability Insurance

There are **2 definitions** used in your long term disability policy to define the period of time you are totally disabled from working. Somebody is “totally disabled” where they cannot work because of a medical condition or injury. Any illness or injury could qualify for long term disability benefits. It is not the illness or injury itself that matters, rather it is the impairments or restrictions caused by your injury or illness that matter. The diagnosis itself does not decide whether a worker is qualified for long term disability benefits.

The meaning of “totally disabled” changes over time. When you first apply for long-term disability benefits, the assessment of total disability is based on whether you can perform your own occupation. This means that you are not able to perform the essential duties of your job.

After 2 years of being on long term disability benefits the insurer will assess whether you can perform any occupation. This means you are not able to perform the essential duties of any job that you are reasonably qualified for. Most long term disability policies use the own occupation definition for 2 years, but it may be less or more depending on the policy.

Who Qualifies for Long Term Disability?

If an employee has long term disability insurance coverage at the time they become disabled, they are qualified to receive long term disability benefits. The conditions covered by a policy range from physical injuries to mental health illnesses. Read on to the next page for more.



“Insurers know which lawyers go to trial for their clients and which ones don’t. Shouldn’t you?”



Save Time: Ask Us What We Can't Do

At Boland Romaine LLP we believe your future is worth fighting for. We are trial lawyers for the injured and we understand how financially and emotionally exhausting it can be to challenge an insurance company.

We have significant experience handling claims involving catastrophic injuries. To secure maximum compensation, it's crucial to hold insurance companies accountable for their responsibilities to injured individuals. This often requires pursuing a hearing to obtain a catastrophic injury determination from an adjudicator. It's essential that your personal injury lawyer has a strong reputation in the insurance industry for being ready to effectively represent you at such hearings, if needed. Our lawyers at Boland Romaine are highly experienced in arbitration proceedings and are recognized as industry leaders in advocating for our clients' rights.



Short-Term and Long-Term Disability

If a medical condition or illness impacts your ability to work beyond the sick days provided by your employer, you may be eligible for short-term disability (STD) benefits.

STD benefits typically begin a few days after your disability starts and may last anywhere from 16 to 52 weeks, depending on your policy. These benefits generally cover a portion of your regular income, with many plans offering up to 100% income replacement. Eligibility usually requires documentation from your healthcare provider detailing the nature and severity of your condition, as well as an anticipated return-to-work date, if applicable.

If it becomes clear that recovery and a return to work are unlikely by the end of your STD period, you should consider applying for long-term disability (LTD) benefits. Insurance companies typically require additional applications and medical assessments for LTD coverage, so it's crucial to begin the process early—ideally one to two months before your STD benefits are set to end.

LTD Policy Considerations

The foundation of a long-term disability (LTD) claim lies in the details of the policy itself. The policy handbook defines the rules, parameters, and specific conditions for eligibility. Key aspects to review include:

- **Definition of Disability:** This specifies whether the benefits apply to your “own occupation” or “any occupation.”
- **Duration of Benefits:** Often lasting until age 65.
- **Benefit Amount:** The portion of income the policy covers.
- **Exclusions for Pre-Existing Conditions:** These may apply if you haven’t met a minimum employment period, typically 12 months.

Definition of Disability: "Own Occupation" vs. "Any Occupation"

Understanding the definition of disability in your policy is critical, as it sets the criteria you must meet to qualify for benefits. Most group LTD policies use a two-stage test:

1. **Own Occupation:** For the first 24 months, you qualify if your disability prevents you from performing the key duties of your regular or “own” job.
2. **Any Occupation:** After 24 months, you must demonstrate that your disability prevents you from working in any job for which you are reasonably suited by education, training, or experience and where you could be gainfully employed.

Insurer Actions During "Any Occupation" Assessment

During this stage, insurers often increase scrutiny, requesting additional medical documentation, conducting assessments, and performing vocational reviews to evaluate your ability to work in alternative roles.

Denial Based on Definition of Disability

If your insurer denies or terminates your LTD benefits, don’t accept their decision without question. Contact us—we can evaluate whether you have a case for wrongful denial. In many instances, you may have grounds to challenge the decision.

Duration of Benefits

The expected duration of benefits is another critical consideration. For example, if benefits are capped at age 30 and the claimant is 27, the claim is often settled quickly, either through negotiation or early mediation. Understanding the limits of your policy can help you prepare for next steps and advocate effectively for your rights.

What Types of Disabilities Qualify for Long-Term Disability Benefits?

What Types of Disabilities Qualify for Long-Term Disability Benefits?

The specific disabilities covered under long-term disability (LTD) benefits depend on the terms of your policy. However, most policies provide coverage for a broad range of conditions. Below are some common types of disabilities that may qualify for LTD benefits:

Mental Health Conditions

Mental health issues, though often invisible, are a significant cause of disability in Canada, accounting for approximately 30% of LTD claims. Common conditions include:

- **Depression:** Persistent sadness, loss of interest, sleep disturbances, difficulty concentrating, and physical symptoms like fatigue or body pain.
- **Anxiety:** Uncontrollable worries, fear, rapid breathing, trembling, and difficulty focusing.
- **Post-Traumatic Stress Disorder (PTSD):** Symptoms include flashbacks, avoidance behaviors, heightened vigilance, and mood disturbances after experiencing or witnessing trauma.
- **Postpartum Depression:** Intense and prolonged symptoms such as sadness, social withdrawal, and trouble bonding with a child, occurring during or after pregnancy.

Central Sensitivity Syndromes (CSS)

These conditions result from chronic hypersensitivity of the central nervous system, leading to amplified pain signals. Examples include:

- **Chronic Fatigue Syndrome (CFS):** Extreme fatigue not alleviated by rest, coupled with cognitive and physical symptoms.
- **Multiple Chemical Sensitivities (MCS):** Adverse reactions to low-level chemical exposures, affecting multiple organ systems.
- **Chronic Lyme Disease:** Long-term complications such as joint pain, fatigue, and neurological issues from untreated bacterial infections.
- **Irritable Bowel Syndrome (IBS):** Disruptive gastrointestinal symptoms like abdominal pain, bloating, and irregular bowel movements.
- **Chronic Migraines:** Severe headaches often accompanied by nausea, visual disturbances, and sensitivity to light or sound.

What Types of Disabilities Qualify for Long-Term Disability Benefits?

Autoimmune Diseases

Autoimmune conditions occur when the immune system attacks healthy tissues, leading to chronic symptoms. Examples include:

- Rheumatoid Arthritis (RA): Joint pain, swelling, and systemic organ damage.
- Multiple Sclerosis (MS): Nerve signal disruptions causing muscle weakness, fatigue, and balance issues.
- Hashimoto's and Graves' Diseases: Thyroid dysfunctions resulting in fatigue, weight changes, and mood disturbances.
- Myasthenia Gravis: Muscle weakness affecting mobility, breathing, and speech.
- Lupus: Multi-organ inflammation causing joint pain, skin rashes, and organ dysfunction.
- Crohn's Disease: Gastrointestinal inflammation leading to malnutrition, fatigue, and severe abdominal pain.

Traumatic Brain Injuries (TBIs)

Head injuries from accidents or physical trauma can result in cognitive, motor, sensory, and emotional deficits. Severity ranges from mild concussions to severe brain damage, with symptoms such as:

- Cognitive challenges (memory loss, poor concentration).
- Physical impairments (weakness, tremors, coordination issues).
- Emotional and behavioral changes (anxiety, impulsivity, depression).

Demonstrating Disability

Successfully claiming LTD benefits often requires robust medical documentation. Insurers may scrutinize claims, especially for conditions that are misunderstood or deemed "minor." To strengthen your case, provide detailed evidence from healthcare providers demonstrating how your condition impacts your ability to work.

If your LTD claim is denied or terminated, it's essential to seek advice. Many claims are wrongfully denied, and legal assistance can help ensure you receive the benefits you're entitled to.

Frequently Asked Questions

Why Do I Need A Personal Injury lawyer

A personal injury lawyer will coordinate all aspects of your case and your recovery, ensure that your rights are protected, and will work towards obtaining the benefits and compensation to which you may be entitled.

What are the limits on what I can receive for medical and rehabilitation benefits?

Minor injuries are eligible for \$3,500 in medical and rehabilitation services. (This can be increased to \$65,000 if there is compelling evidence that a pre-existing medical condition will prevent the insured person from achieving maximal recovery with access to only \$3,500).

Serious injuries (but not catastrophic injuries) are eligible for up to \$65,000 available for up to 5 years or until age 28 for minors in medical and rehabilitation services. (Combined total limit with any attendant care benefits).

Catastrophic Injuries are eligible for up to \$1,000,000 maximum and are available for life. (Combined total limit with any attendant care benefits).

Weekly Income Replacement Benefits, What Are They?

Income replacement benefits will not be paid for the first 7 days after a collision. After this period and for as long as you qualify, you may be entitled to receive up to 70% of your gross weekly income, up to \$400 per week. You can receive \$600, \$800, or \$1,000 if optional additional coverage was purchased. If you are entitled to group or private benefits, you are still entitled to receive up to \$400 in addition to the group benefits.

Why Boland Romaine?

Trial experience settles cases fairly, and trial experience will protect the injured if negotiations break down. A lawyer for the injured needs the fortitude to say "no" to unreasonable offers and the commitment and skill to take the injured person's case to trial and that is a skill all of our lawyers possess.

This is overwhelming, how do I go about this?

That is where we come in. Dealing with insurance companies, medical appointments, and lifestyle adjustments or interruptions is an unwelcome burden. By engaging with one of our personal injury lawyers, a significant part of that burden will be managed by our firm on your behalf, allowing you and your family to focus on your recovery.

What will happen at the Initial Consultation?

we will gather general information about your claim. You will sign a retainer agreement and authorization forms. This enables us to obtain all the documentation we need to evaluate your case, negotiate a settlement and protect your legal rights. We will then discuss our general strategy with you and answer any questions you may have. This consultation is free.

“Your future will be decided based on evidence. So should the lawyer you choose to represent you.”
- Darcy Romaine



Our Commitment Is to get you

Justice

**Tell Us What
Happend**

(905) 841-5717

BolandRomaine.com

Info@BolandRomaine.com