



**Disability Guide for
Shop Stewards**

**Frequently Asked Questions
about Disability Insurance**

Spring 2015*

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Purpose of this guide

This guide aims to assist shop stewards and locals acquire a general understanding of the STDP (short term disability program), the LTDP (long term disability program) and the Extended Disability Plan (EDP). This guide also serves to advise and support CUPW members at the beginning of their claim and to highlight the importance of following appropriate steps in order to increase the chances for a successful outcome.

Under the former sick leave system (for those that had it) there was greater onus on the employer to prove you were able to perform your duties. Under the new disability programs the responsibility is on the member to gather supporting medical information in order to prove they are unable to work. This makes it all the more important to provide solid advice from the beginning.

Short term disability programs are designed to offload responsibility from employers to insurance companies in business for profit. It suggests the “market” will make the best assessment of individual needs within certain medical boundaries. This reduces costs for employers, places private insurance companies as decision makers and causes the worker to carry more of the burden

for being unable to do their job. It is a trend across society that is affecting many workers.

Speaking with a CUPW member

The STDP process and the downloading of responsibility to workers causes stress, hardship and uncertainty. It may feel uncomfortable at times to be an empathetic ear while providing clear advice and support for our co-workers going through a tough time.

There are things that members should know early in the process. One of the most important things is that they:

- a) Tell the member to keep copies of everything***
- b) Ensure they sign a release allowing for the union to be involved in their case***
- c) Be aware of the importance of meeting time limits***
- d) There is the possibility that they will have to pay back money***

Mental illness and stress

A significant amount of work disability in society is related to stress and mental health. This problem is exasperated with speed-up, overwork, shift work and life pressures that accompany the rise of neoliberal economics. Though these stressors may be a by-product of the nature of the work and corporate directives, society places the burden on the individual to take the steps to get well. Mental illness can be difficult to deal with, especially if you do not have a medical professional. The member may feel stigmatized or agitated. Understanding and complying with requirements can seem burdensome and overwhelming. Having an employer meet their legal duty to accommodate mentally disabled workers can be a huge challenge. There are some factors that you should be aware of:

- 1) One out of every four to five workers is affected by mental health issues each year. It is not uncommon. Invisible perhaps.
- 2) One in six Canadians will suffer from a mental illness in their lives.
- 3) Mental illness is not a “character weakness” or “flaw” but are conditions that can affect the entire body.

It is not your job to assess or judge mental illness in another person. Maintain confidentiality and be supportive without taking too much

on. Refer the member to appropriate agencies and supportive networks if needed.

Speaking with an insurance company caseworker

When dealing with frontline insurance company staff (caseworkers) advise members to demonstrate the utmost respect and civility. Even if you disagree don't be argumentative. Ask for clarification. They are interested in any medical information you can provide to support a claim. Keep clear lines of respectful communication open with the case worker. Keep notes of each conversation. The applicant should know that they have a right to union representation and it is highly recommended that they do so.

How long does it take for a claim to be processed?

There is no qualified answer as it varies from case to case. If you have a clear cut case where there is not the slightest room for doubt – (i.e. broken leg, terminal cancer, etc.) things can move quickly. When there are questions and denials it could take months – even though that is not consistent with the contract. Hopefully you will not go through this process and things will go smoothly. But be aware, severe hardship can occur as you wait. In a clear cut case things could be done in a month.

There are many possible causes for delays in the administration of a disability claim regardless of whether it is an STDP, EDP or LTDP claim. Both the member and the Union need to keep on top of the process in order to have the best chance of a successful claim.

It may be necessary at times to contact the STDP, EDP or LTD claims manager or the Canada Post Occupational Abilities Coordinator in order to minimize delays in the process.

It is important to understand that the current programs shift more of an onus to the worker to substantiate their level of disability. This is a significant shift from the previous sick leave provisions under the urban contract.

What is the Short Term Disability Plan and how does this affect CUPW members?

The Short Term Disability Plan is an income replacement system in which the worker receives 70% of their wage.

In other words, being ill will cost you money. RSMC workers have a similar program. This was a vast improvement, however, over what they had previously. With urban workers under the old sick leave process the employer, with their providers, had more responsibility to prove you were not sick. Denial of sick leave could be arbitrated. Now there is more onus on the worker to prove that they are unable to work.

What percentage of earnings do you receive and why?

The earnings are 70 percent of regular wages. For all CUPW members this is from a policy negotiated between Canada Post and Great West Life.

All plans are taxable income (EDP, STDP and LTDP). Under the STDP, should you have remaining sick leave credits from the old contract, you can top up to 100%. After 15 weeks the urban contract allows for topping up to as much as 95% when under the EI portion should you have the credits. This will vary depending on each individual case and how much accumulated sick leave there is. This amount would be a combination of Disability, EI and sick leave top up credits should you have any. With no credits you would still receive 70%. The breakdown of who is paying what would change. You would receive one cheque from EI and one from Canada Post.

There may be a qualifying period (see article 20.10 of the urban contract). It will vary depending on the nature of whether it is the result of an accident, illness, work related, not work related, etc. There could be up to a one week qualifying period for which the member will not be eligible for pay (should you have no personal days or sick leave top up). Otherwise you would have to use other leave like annual leave or compensatory leave.

What about RSMC?

RSMCs remain with Great West throughout the process. There is no Sun Life involved. The STDP and the extended disability plan (EDP) form their coverage. The STDP lasts 30 weeks. The process is the same as the Urban contract for the first 30 weeks other than RSMC workers don't have accumulated sick time. Canada Post will pay for the first 15 weeks and then the next 15 weeks of disability would be covered by EI and Canada Post. If you do not have a qualifying period, the breakdown is 16 weeks of CPC payment and 14 weeks of CPC and EI.

If you are still unable to work, a member should apply for the EDP where you can get up to 74 weeks coverage. In terms of medical information and keeping your case worker informed, follow the same procedure as the Urban contract. Don't be rude, keep them informed and update them with appropriate medical information.

How will you be paid?

You are paid pending claim approval. If the claim is denied you must appeal. If you don't appeal Canada Post will claw back the payments and deduct from your pay at a recovery rate of 10% gross. If your claim is not supported due to "non-compliance" (i.e. not submitting timely medical information or not complying with supporting medical information) Canada Post will claw back this money immediately at 100%.

If you wanted to pay back faster, contact Canada Post.

What is non-compliance?

The member must ensure they meet the criteria and remain in contact with the insurance provider and Canada Post. Failure to do so risks the success of your claim.

In the event that an applicant fails to comply with the requirements of any of the disability programs either upon initial review or at any point during ongoing claim management, the member would be considered non-compliant and his or her claim would be not supported.

The following excerpt is taken directly from the CPC STDP Plan:

Non- Compliance could include the following but is not limited to:

- Not providing forms / information when requested by Canada Post and the Disability Management Provider. (The Employee is responsible to provide the Employee Statement to the Disability Management Provider within 14 calendar days from the date of disability as well as updated medical information as requested by the Disability Management provider).
- Not maintaining direct contact with Case Manager and Canada Post (e.g. not returning phone calls or correspondence in a timely manner).

- Not engaging in active evidence based treatment or complying with a recommended treatment plan.
- Not participating in Return to Work (RTW) facilitation / Rehabilitation when requested.
- Declining participation in Independent Medical Evaluations (IME) or Functional Abilities Evaluations (FAE).
- The applicant leaves the country without prior approval by the Disability Management Provider.

In these circumstances, the Case Manager will communicate and take action as follows:

- The Disability Management Provider will advise the member verbally and in writing that the claim is not supported and explain why.
- If deemed appropriate, the Case Manager will offer support to the applicant to reintegrate her or him into the workplace (i.e. Return to Work meeting).
- The applicant will be informed of their option to appeal the decision.

Work with and advise supervisor

- The Disability Management Provider will advise the supervisor verbally and in writing that the absence is not supported and the next steps (i.e. return to work date, return to work meeting, accommodations or appeal).

- If an applicant's claim is non-supported the supervisor consults with the Subject Matter Experts (Occupational Abilities Manager/Co-ordinator, Labour Relations, Human Rights, etc.) to discuss internal management of the decision. They will decide on an action plan with regards to consequences and next steps.

- The bargaining agent, if applicable, will be made aware of non-supported cases or abandoned claims.

Sun Life often contracts out some of their work to companies like Banyan or Comprumed. You are required to cooperate with them the same as Sun Life. Members can always refuse to cooperate but this generally results in a cessation of benefits.

Confidentiality

An occupational abilities coordinator will make decisions that are not fully based on medical information. Management do not have the need or right to know. You should not be sharing personal

medical data with frontline staff and all communications between the steward/union and the member are confidential.

How do you apply for E.I. Sick Benefits and what percentage do they cover?

You can apply online or in person through the Service Canada website or local Service Canada centre. ***This initiative is up to the individual!*** When you approach the end of the 15 weeks of STDP (around the 12-13 week mark) Canada Post will send a letter with instructions for applying for the LTDP. There is a special arrangement with Canada Post and EI under the sub plan. Be careful! When filling out the application with EI ensure to **not** declare that you are receiving income –follow the instructions that Canada Post sends you. This is a result of a special agreement between Canada Post and EI. Failure to follow this process may delay your EI claim.

You will need a record of employment (RoE) from the employer. It is the legal obligation of Canada Post to provide the document. It is in the member's best interest to ensure they have done so. The RoE can be found online on the Service Canada website. You can set up an account online and you will be able to find your data there. Service Canada and EI can help you navigate the system if you are having difficulty. If there is no RoE it means Canada Post neglected to follow procedure. It could mean, perhaps, a supervisor did not input correct information into the SAP or some other administrative delay or mistake. In this case the member should

contact their steward immediately. Provide EI with all available information in this case.

How do you request a record of employment?

Follow the process mentioned in the previous question above. If it does not show up within a week the union should be contacted. Unnecessary delays in processing can result in delayed claims. There is no longer a paper version of the RoE though you can print a copy from the website. Remember, that while a member is waiting for EI to approve their claim they are still getting paid the full amount from CPC. When EI approves the claim the member will be in an overpayment situation. CPC will deduct the overpayment at 100%.

What makes for a successful disability claim?

There has to be a disabling condition with enough severity to prevent you from engaging in your normal occupation. There should be a diagnosis, and related symptoms identified. What limitations and restrictions are there and do they prevent you from doing your job? There should also be a recognized treatment program for healing and a prognosis. A prognosis would include such things as a prediction of the probable course and outcome of a disease and the likelihood of recovery.

What deductions are you responsible for paying while on Disability?

Our members are responsible for their portion of any benefits they signed up for. While on a LTDP approved claim members do not pay disability premiums, however, while on the STDP they do. For example, while on the STDP you have a direct source of income from Canada Post. They are providing you with pay and will automatically continue your deductions. Union dues are not waived for STDP.

Canada Post will only tax on what they are paying. You have to arrange to pay **BACK YOUR PENSION DURING YOUR ABSENCE OR PAY IT BACK LATER**. If you haven't paid, Canada Post will double deduct until you are paid up (after your return to work). It is advisable to arrange to make pension payments while on LTD. When on STDP Canada Post pay your pension and benefit contributions. They are deducted from your pay. Once you are on LTD Sun Life will only pay your taxes on what they are paying you. However you must inform Sun Life. Sun Life and Revenue Canada have TD 1 forms. The TD 2 form is used to notify Sun Life to initiate or change dedications. Again, you are responsible for notifying Sun Life.

What about union dues?

Under the STDP, Union dues are not waived. In that case you are still receiving sole income through Canada Post and they are making deductions. Canada Post will continue deductions the second fifteen weeks as long as they are paying you an income.

Do you accumulate vacation leave while on LTDP?

No. Leave accumulates for any time you are paid **ten days in a month**. If you are off work you will not have the number of days of work per month to earn the leave.

What is a first level STDP review and how long do members have to appeal a denial decision?

The STDP appeal is two levels. It is the responsibility of the member to have the decision reviewed by the insurance company. They will receive a letter from the insurance company declaring they have been denied. ***You MUST notify the Insurance provider within 7 days of receiving notification of your denial!*** It is recommended you also fax and keep a record of the confirmation. You do not want to find yourself in a situation where you missed the seven day deadline.

You will then have 30 calendar days to submit supporting medical documentation.

Communicate and have every appearance of being cooperative including informing them of new appointments, cancellations, things coming up, etc. This review of the case is done by the insurance company. The member will receive a form to sign for a release of their medical file to the union. The member should sign it and return it to Canada Post while keeping a copy.

Should there be a second denial of benefits the Union will determine whether the decision will be appealed. In that case the information would be reviewed by an independent medical physician.

During each step you can ask what specific information is needed. Members should be encouraged to read the denial letter carefully as it usually articulates the reason for the denial. Any decision can be reviewed. If there is an appeal on the STDP process you must notify them within 10 days and you have 30 days to provide additional medical information.

Once you go to the IMP they will start clawing back. Canada Post will reverse this if the review is successful. This adds pressure because the employer will start deducting if denied at the first level.

Again, if the member has not already signed, stress the importance of signing a release form so the union can advocate. The final level of appeal is decided by the Union.

STD Recurrences: what if you return to work but must go off again? Is this a new claim? (Successive Periods of Total Disability)

Article 20.11 of the urban contract notes that if you have a recurrence of the same or related medical condition within thirty (30) calendar days of a return to work following a STDP leave (and it is medically supported by the Disability Management Provider) you receive a continuation of disability benefits, with no qualifying period, for the remaining 30 weeks of STDP benefits.

If the member returns to work for longer than thirty (30) calendar days following a STDP leave the following absence is considered a new period of illness or injury. Canada Post maintains you must be on full duties and full hours for those 30 days.

LTDP (all internally reviewed)

While they call it an appeal, all LTDP reviews are internal “reviews”. There is no independent party deciding on the insurance company’s decision. It is not in essence an “appeal” in the way a court or arbitration would occur since there is no third party to make a decision, but rather an internal review process. If you are not happy with the initial decision you can proceed to a first level review. At this point a manager will take a second look at the file. A first level review can go ahead without additional information but the decision is usually the same. At each level it is recommended that a doctor provide new information to support your claim. There are three levels of review in the process and are usually initiated by the union. The contract says the case will be reviewed by the “disability Team Leader” at Sun Life.

If you are denied again you will go through the Senior Disability analyst.

When does Sun Life get involved in a claim (urban)?

Sun Life will get involved near the end of the thirty week period. Sun Life only applies to urban members.

Sun Life is sent file on week 22. Check with case/claims manager to ensure file has been sent at that time otherwise you may face delay. Canada Post and GWL will have Human resources (HR)

send out an application for Sun life around week 22. For members who STDP benefits are denied should request the application prior to week 13. If you have not received a Sun Life application as you approach the end of the 30 weeks disability benefits, contact your shop steward and HR. You can remain on disability for up to an additional two years if medically supported. At the end of the two year mark they will assess whether you are able to work elsewhere. If Canada Post won't accommodate you in a modified condition but Sun Life says you can work on a modified schedule (you are physically able and Canada Post refuses to accommodate) Sun Life will terminate your benefits.

The member will receive a letter authorizing the Union to represent them at Sun Life. They should do this immediately and keep a record. Frequently these authorization letters are not sent to the union. It is also a good idea to keep a diary of events for later reference all through the process, recording conversations, appointments, who you spoke with ,what was said, what was sent, etc. The member should follow up with the union to ensure the release was sent.

What about your return to work but must go off again? Is this a new claim? (Successive Periods of Total Disability)

There are different answers to this depending on the scenario (called successive periods of total disability). This is complex and the Sun Life definition is as follows:

While the policy is in force, an Elimination (waiting) period will not be applied if an Employee, in the interval between successive periods of Total Disability, is Actively At Work for a period of less than:

1. One month, if the subsequent Total Disability is due to an entirely unrelated cause or Illness, or
2. Six consecutive months, if the subsequent Total Disability is due to another Illness resulting from the same cause, or
3. Twelve consecutive months, if the subsequent Total Disability is due to the same Illness.

Where this sub-section applies:

1. The Monthly Benefit, except as provided below, is the same as that paid for the final month of the initial period of Total Disability, and
2. The initial Elimination Period and the period for which benefits were paid under the prior claim shall be considered to form part of the Employee's new claim for the purpose of determining whether the Employee is Totally Disabled and for the purpose of determining the application of sub-paragraph 2 of the sub-section entitled Mitigation of this benefit provision.

If during the interval between the successive periods of Total Disability:

1. The Employee is Actively At Work for a period of at least 13 weeks, and
2. Premium payments for the Employee's insurance reflect an increase in the Employee's Insured Earnings, then the Monthly Benefit will be increased to reflect such higher Insured Earnings, when the sum of the existing Monthly Benefit paid during the period equal to the Elimination Period, which has been waived, is exceeded by the accumulated value of the increase in the Monthly Benefit resulting from the higher Insured Earnings.

What is commensurate occupation?

If after two years Sun Life deems you totally and permanently disabled from any commensurate occupation they pay you until age 65. This is work that Sun Life feels the claimant is capable of doing. Sun Life can mitigate their expenses by directing the claimant to apply for CPP disability benefits and if approved this will be deducted from Sun Life benefits.

If denied CPP (which many are on the first go round) Sun Life is still responsible to pay and they may direct you to appeal. If CPP is approved you will receive payment from two sources (Sun Life and CPP).

They have the right to reduce your benefits if you qualify for Canada Post disability medical retirement.

If after two years Sun Life deems you totally permanently disabled from any occupation. They have the right to not pay you if you qualify for Canada Post medical retirement.

What happens if a member returns to work and is unable to perform their full duties?

It is possible to have a failed return to work program and go back on disability benefits. It is essential that these cases are properly documented and supported by the treating physician(s). You can remain two years disabled from your own job, and then you have choices to make. This could be disability retirement, looking for another job, going on social assistance, etc. You can also go back and ask to modify the return to work program.

Can Sun Life deem permanent restrictions?

Technically only a Medical Doctor can do that, Sun Life can accept it. Sometimes Great West Life (GWL) and Sun Life will say different or conflicting things about the same member or claim. They have their own culture and operating procedures.

Can Sun Life facilitate a return to work meeting/plan?

Yes, they have a Rehabilitation program. Sun Life theoretically has jurisdiction to review the return to work plan however Sun Life doesn't always do that. If a Sun Life claim is denied they will decline jurisdiction because you are denied and in an appeal process. Canada Post has implemented the denied LTDP claims process, so they hand the file back to GWL, not to assess validity of disability, but rather to see if there is the potential to return to work.

What happens if a member is unable to return to full duties during a return to work plan?

When Sun Life implements a return to work they believe the member is going from start to finish and the plan will be successful. We get into disputes around this and it is the employer's duty to accommodate.

The duty to accommodate is also under the Canadian Human Rights Act and in article 54 in the urban contract. The person can't always work up to the full job as prescribed or envisioned by Sun Life. Canada Post may decide that if you don't do enough of your job they will choose to terminate your accommodation. The duty to accommodate looks at other employment opportunities in the corporation.

Who is Banyan Group, Compremed, etc, and what purpose do they serve?

Banyan Group is a company that is subcontracted by Sun Life. Their services are to make an assessment, what barriers may exist, and what they can do to facilitate a member getting back to work. They get actively involved. Sometimes Banyan will say that they will not talk to the union but they are required to communicate with the union rep. They sometimes speak and behave differently with a member than when the union is present.

Do members have to co-operate with Banyan Group?

Yes, but preferably with a union rep present. Banyan will typically behave differently and more professionally with union representation present. If you do not cooperate at all it will make your case more difficult and it will likely be denied.

What happens if a member does not get along with their Sun Life Case Manager?

Sun Life assigns their case manager. You do not a choice. That is why it is advisable to get a union rep involved.

Can a member complain about their case manager? Who do they complain to?

There is an internal Sun Life Ombudsmen with whom Members can register complaints. This may go nowhere however the complaints will become a matter of record. Unless you have good cause to complain there is little to gain from complaining about a caseworker who is just doing their job. Disagreement is not enough to have a case worker removed. Having a case worker removed could happen in the event that the case worker is homophobic, sexist, threatening, etc. You will need something substantive. This is not the norm. In an extreme and rare case it is possible.

Are there any groups that regulate Sun Life Disability and how can they be contacted?

You can always litigate a claim. The Union does not pay for a litigation case. Litigation would be a last resort after all appeals are exhausted. In Ontario there is a provincial insurance ombudsman.

All provinces have a provincial “superintendent of insurance” who can intervene in abuses of insurance policy and regulations. You must go through other steps first. Contact the Insurance Board of Canada for more information.

What happens if a member is able to return to work after the two years of Sun Life Disability and Canada Post tells them there is no work for them?

Then your fight is with Canada Post and you will need to apply the collective agreement.

Do members lose seniority while on Sun Life?

You maintain seniority and continuous service. As long as you are employed you continue to accumulate. Once Canada Post releases for incapacity under 10.10 in the urban contract you can grieve. For RSMC they release you immediately and you have no 10.10 process. You should still grieve the termination in any event.

What happens to if your station is going through postal transformation/restructure while you are on Sun Life?

Canada Post takes the position they do not create jobs for disabled members. If you are accommodated during a restructure process they should not restructure your job from underneath you but it does not mean that they will not. It is likely that as postal transformation proceeds there will be more problems as the nature of the job and work changes.

A member whose job is ‘structured out from under them’ should file a grievance over the lack of accommodation.

As a union, we take the position that a restructure is the ideal time to structure the work in a fashion that will accommodate all workers.

Do members on Sun Life maintain their bidding rights?

Yes. A worker ought to put in writing that they expect to be notified of bidding opportunities. It is good to keep a copy and note the time, date, who you gave it to (and any witnesses if applicable).

Who is responsible for informing Sun Life if the job duties change while the member is on Sun Life?

There is no definite answer at this time. Our position is that this is the employer’s responsibility.

What are the members responsible for informing Sun Life? (i.e. Changes)

The member is responsible to inform Sun Life about any change in medical condition (if it becomes worse/improved). If you are unavailable they will terminate your benefits if you leave the

country without approval. You are also responsible to inform them of any outside employment or disability benefits from another company. Keep a note of time/date and who you left the message with. If no response, call again.

Who qualifies for Sun Life Disability?

Any urban member who is enrolled in the plan qualifies as long as they meet the requirements of disability from doing their own occupation.

Great-West Life/Morneau Shepell

Who are they?

Great West (GWL) is the insurance company contracted by Canada Post to provide disability services in the short term for Canada Post. Morneau Shepell is the same company. Technically the company is called Great West Life Morneau Shepell.

Why do members have to supply them with medical information?

Canada Post has the right to request clarification of a medical situation. They have the right to ask questions related strictly to

the medical condition. However, they may try to get your entire history and as much medical information they can get out of you – this is why it is important to speak to and be advised by the union in order to only provide relevant medical information to GWL (not your supervisor, occupational abilities coordinators, or operations management). Your information should only be shared with the insurance provider NOT your supervisor.

What are the members’ obligations to GWL/MS when claiming disability?

At all times you must have the appearance of being cooperative – be polite and clear – becoming angry or insulting a case worker will likely not help you. Try to provide the information that supports your specific case. Ask clarifying questions like “why do you need it,” “what do you need?” Be firm but not obnoxious. Try to be as clear as possible about what is being told to you and what is being required of you

Does GWL/MS have to approve a member’s absence to claim Sun Life?

Sun Life can make an independent assessment of your claim regardless of what GWL rules. A negative GWL decision may impact on your Sun Life decision however.

You should apply for Sun Life if you are approaching your thirty weeks and expect to be unable to work even if you have an outstanding denial and have initiated an appeal process at GWL.

The second insurance company (Sun Life) can make an independent assessment without relying solely on GWL.

Who pays for medical reports?

If the insurance provider directly requests medical information they pay for it.

What is the appeals process?

There is an appeal process under the STDP. They are using this process with RSMC members as well, though it is not in their contract. Members should talk to their locals about possible grievances under article 33.10 when members have to pay for medical out of their own pocket.

Why does it take so long to render a decision?

Lack of personnel can delay decisions. It is a private company whose bottom line is profit driven. They do not always have enough resources to handle cases in as timely a manner as you

might like. GWL may have delays reaching weeks, with Sun Life it may take months. Unlike GWL, with Sun Life you do not receive approval quickly. This can place severe financial hardship on a person waiting for approval and having no income.

Keep things up to date. If experiencing unreasonable delays, contact the local union.

Do GWL/MS pay members during their absence from work?

No. Canada Post pays. Members will be paid STDP benefits while waiting for approval. The continuation of benefits is contingent on approval and a denial will get these wages clawed back.

Support networks

Sadly CUPW members may require help through a period of great stress and economic hardship. This means looking at things like provincial disability support payments where applicable, food banks, etc. It is wise to contact your bank and negotiate a temporary alternative. Most banks would prefer this over default and they can be approachable when discussing an alternative. You may, where applicable, seek out a qualified social steward, EAP or other qualified agencies to help you survive a difficult period.

What happens to CUPW members if GWL/MS makes recommendations to Canada Post and CPC refuses to follow them?

If there are recommendations for accommodations it becomes a contractual issue. So contact your shop steward and refer to the contract.

What is a PPD review and how will this affect the member's current restrictions?

PPD stands for permanent partial disability. The insurer may send a letter to the member asking them to take a form to the doctor and identify any changes in their condition. A PPD review is a Canada Post process used on a regular basis purportedly to determine if there are any material changes in a worker's restrictions for better or worse.

How would a member complain if they are not satisfied with GWL/MS treatment and decisions?

Similarly all insurance companies have internal ombudsmen but because of the contractual relationship information should be brought to the employer and the union. If the employer will not act there may be a possible grievance. It is a case by case basis. Urban workers have a contractual relationship under article 20.

RSMC members' rights flow from article 17 of the RSMC contract. Talk to the union.

Who regulates GWL/MS and how would a member contact them?

They are an arm of Canada Post and have an internal ombudsman. Information is available on line or by request. All insurance companies are governed by provincial insurance regulators.

What happens if a member is under the care of Worker Compensation, can GWL/MS get involved?

GWL may try to become involved as the “disability management” provider for Canada Post; they are not entitled to make any assessment of the validity of a Provincial worker’s compensation claim.

If a claim is denied this could make it more difficult for your STDP claim. Workers’ Compensation can be denied because it is not work related. You may be disabled but that does not mean it was work related (meaning provincial Workers’ Compensation Plans do not apply).

If a member injures themselves at work who do they deal with?

The WCB or WSIB and the union should be involved in any workplace injury. While some workers are not so enthusiastic about claiming an injury initially, thinking it will “go away” or is “not that serious” you risk potential long term problems and re-occurrence.

Can GWL/MS deem permanent restrictions?

They can validate or disagree but it is primarily up to your physician and their treatments.

What happens if there is a dispute with GWL/MS and the member’s personal doctor?

Make sure your doctor will support you and go by the doctor’s advice. Always counsel people to go by the doctor’s instructions. Our job is to counsel, not to be health professionals. It may require a very open and frank discussion between the member and their doctor.

Does a member have to use the Employee Assistance Program (EAP)?

No, that is a personal decision. You are not required to go through EAP. Further, if you do feel you require assistance of some kind it is best not to share your life story with your case worker as everything you say, even unrelated matters, may haunt you later. You are free to seek confidential assistance through other service avenues if you wish. In using EAP, be cautioned! Do not go through a supervisor but contact EAP directly. It is arm's length. Social stewards, where active, are preferred over EAP.

What happens if a member is not happy with the therapist appointed to them by GWL/MS?

GWL does not generally send you to a therapist.

Are they obligated to continue therapy if the member feels they are not getting the help they require?

This would be treated by the union as similar to an appeal or review where new evidence and information is introduced to indicate the treatment inappropriate to the diagnosis. Follow your doctor's prescription for therapy.

What is the Privacy Act and how does that protect the membership?

Medical info – other than what you share – is between you and your doctor. Information under the Act should only be released under a need to know basis. For example, supervisors and managers, have no need to know. Supervisors and managers are not qualified to make decisions on your health and capacity to work. They can and should have information on any restrictions you may have if you are being accommodated or in a Graduate Return to Work Program.

What do members do if their personal information is shared with non- authorized persons?

File a grievance and a complaint under the privacy act. Though there is not a lot of teeth to the Privacy Act in terms of getting results, it does document the violation and could reduce the chances of it happening repeatedly. The privacy commissioner can make decisions but not impose conditions or fines.

What about paying for benefit coverage while off work?

They will send you a cover letter implying that you have to choose whether you want to maintain benefits or not.

They leave you with the impression that you have to sign. You are under no obligations to sign this form and should not. Your benefits will remain intact.

Sometimes people on disability have painful stories. They can experience isolation and deep personal and emotional crisis. How do you deal emotionally with not taking on too much? What do you say to people who want to unload their problems?

Sometimes disabled members simply need someone to talk to and you can be an “ear” for them but you cannot take the place of proper medical counseling.

You can be sympathetic towards their plight but make sure you do not lead the member to believe that you can resolve their lives for them. Be honest with the member in terms of your role in the process.

You must be careful not to be consumed by their problems. If you take on the role of counselor in every case, you will find you have time for little else.

When members are dealing with the fall-out of the stress that comes along with their disability, you should encourage the member to discuss this with their treating physician. This hopefully will lead to the doctor referring their patient to the appropriate counseling and/or treatment.

Refer members to the appropriate social agency where indicated. When people are at the end of their rope you have to be honest with yourself and what you can accomplish – you can't "wear it" or "take it home" with you. This can be easier said than done.

What happens to members who are over 65 years old?

Sun Life Benefits cease at age 65. Active members over 65 do not have coverage under LTDP but they still have STDP. You also do not pay premiums anymore for LTDP after the age of 64 years and 8 months. Keep an eye on your pay stub to ensure they are not continuing the deductions for something you are no longer entitled to.

What happens to a member who is deemed 'permanently and totally disabled from all occupations?'

A member disabled from all occupations should continue to receive benefits to age 65. Sun Life will require that the member apply for CPP disability benefits and if successful Sun Life will offset their payments with the CPP disability payments.

RSMC get a maximum of two years coverage and then they are on their own. RSMCs can apply for medical retirement if they qualify.

Does a member have to apply for Canada Pension Plan (CPP) disability?

If you are declared totally and permanently disabled by the LTD insurance provider they will direct you to apply for CPP benefits. You are required to comply with the direction of the insurance company and complete an application. Failure to comply will impact on the LTD benefits.

What happens when CPP Disability denies your claim?

Sun Life will assess whether they think that the CPP should be appealed and may direct the member to do so. Sun Life benefits are not reduced if CPP denies the claim.

What happens when CPP Disability deems a member totally disabled from all occupations, but Sun Life Disability believes the member can return to work?

Sun Life will respond that they operate on a different definition of disability than CPP – never mind that the CPP definition is more stringent. The member will have to have a review of the Sun Life decision and medically establish their level of disability.

Sometimes the doctor sends more or different information to CPP than they did to Sun Life.

What happens when a member is considered totally disabled from all occupations by both Sun Life and CPP Disability and their worker compensation claim denial is overturned? Is the member required to return to work based on their compensable injury?

Worker's compensation will need to be appealed and the member should comply with clear direction from their treating physician(s).

What does a member over 65 years old do once the 15 weeks of E.I. runs out?

This is one of those circumstances where the union would likely guide the member toward their CPC pension and CPP benefits to secure an income. It depends on the circumstances (for example the employer chooses to accommodate). If you are over 65 you are not receiving LTDP. If you are an RSMC and your EI sick leave runs out then you go to EDP.

Are members entitled to Canada Post benefits while on Sun Life Disability/EDP and E.I.?

Employee benefits should continue while the member remains employed at Canada Post.

Do members have to co-operate with the outside agencies that Sun Life refers them to, e.g. Banyan Group?

Sun Life often contracts out some of their work to companies or “recognized medical service providers” like Banyan or Compremed. You are required to cooperate with them the same as Sun Life. Members should be cautioned against any outright refusal to cooperate in this process as this will generally result in a cessation of benefits.

What are pre-existing conditions?

A pre-existing condition is a condition you have prior to your start at Canada Post that you are still receiving treatment for. You need to be 13 weeks treatment free to avoid being labelled as having a “pre-existing condition.”

Limitation Act

Each province has legislation governing the time period with which you can initiate legal action. In Ontario for example, there is a 2 year provincial limit from the initial denial. It differs by province.

LTD Appeal Questions

Should a member use the Collective Agreement appeal process or go directly to litigation through the courts?

A member is not obligated to use the Collective Agreement appeal process and always has the option to go directly to litigation.

In most cases you would recommend using the appeal process as this provides an opportunity to review the claim while avoiding the expense of litigation.

In a case where there is absolutely no additional medical information that can be provided and the insurance company maintains the denial, you might recommend that the member abandon the subsequent levels of appeal and go directly to litigation. An internal review by the insurance company of the same medical information is not likely to change the decision.

When should a member abandon the Collective Agreement appeal process with Sun Life and pursue litigation through the courts?

This depends on the individual circumstances of the claim including when the claim was denied and the province in which the member resides.

The insurance policy is subject to provincial legislation that establishes limitation periods for filing a claim through the courts.

In Ontario the Provincial Limitations Act the specified period of time is 2 years from the date the benefits were terminated.

For example:

- The member resides in Ontario.
- Date of disability: November 13, 2010.
- LTD first payment date: February 12, 2011.
- Change of definition: February 11, 2013.
- The employee is approved for the entire own occupation period until February 11, 2013.
- Benefits were terminated at the change of definition date. Therefore, the 2-year limitation period commences as of February 2013 and will end in February 2015.

Therefore, the 2-year limitation period commences as of February 2013 and will end in February 2015.

Important: If the appeal process is taking an exceptionally long time, the reasons for the delays in the appeal process do not change the limitation dates for filing with the courts regardless of whether the delay is caused by the applicant or the insurance company.

Can a member simultaneously pursue both the appeal process and litigation through the courts?

(As per the insurance company's response regarding a claim in Ontario)

An employee cannot simultaneously pursue an appeal through Appendix N and litigation against Sun Life.

Once Sun Life is served with a Statement of Claim, all authorizations are essentially revoked and any communications thereafter ought to be delivered through the employee's legal counsel.

If a member is concerned that they will lose their right to litigate based on the insurance act (2 years from Sun Life's decision), they should appeal in a timely manner;

Family Responsibility Order

Should you have legal requirements like garnishment or enforced settlements such as family payments, these deductions will still occur from the employer portion. You are responsible for making these payments should you have no income.

If off on LTD, the member should obtain a letter from CPC which states the amount of LTD premiums they paid during their career at CPC. This amount can then be deducted off their income tax.

GLOSSARY

- CPC: Canada Post Corporation
- CPP: Canada Pension Plan
- DMP: Disability Management Provider
- EAP: Employment Assistance Program
- EDP: Extended Disability Plan
- GWL: Great West Life
- HR: Human Resources
- IMP: Independent Medical Physician
- LTDP: Long Term Disability Plan
- PPD: Permanent Partial Disability
- RoE: Record of Employment
- STDP: Short Term Disability Plan
- WCB: Workers' Compensation Board
- WSIB: Workplace Safety and Insurance Board

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