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How to appeal a rejected TPD claim

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Navigating the world of Total and Permanent Disability (TPD) claims can be daunting, especially when your claim is rejected. In Australia, TPD claims are often available through disability insurance in superannuation. Knowing how to effectively appeal a rejected TPD claim (or any other adverse finding) is important for people unable to return to work after injury or illness. This guide will walk you through the steps you need to take to appeal a rejected TPD claim.

Understanding Total and Permanent Disability (TPD)

Before diving into the appeal process, it's essential to understand what TPD means in the context of Australian law. TPD is defined in disability insurance policies. The definition varies depending on what your specific policy says.

Generally, however, if you become sick or injured and cannot return to work, in either your own occupation or any occupation (depending on the policy wording), you will be determined TPD.

Disability insurance policies linked to superannuation funds typically cover TPD claims as a default, so most Australian workers will be eligible to claim on this insurance.

Common reasons for TPD claims being rejected

Understanding why your TPD claim was rejected can help you build a stronger appeal. Common reasons include:

Insufficient medical evidence

Not providing enough or the right type of medical documentation and evidence to support your claim can lead to complications, delays and, ultimately, a rejected TPD claim.

TPD policy definition not met

Your injury or illness, together with your level of impairment, may not meet the specific definition of TPD outlined in your insurance policy. It's also worth knowing what injuries or illnesses may have an exclusion on them.

For example, if you have a family history of heart disease and you have had heart-related medical issues in the past, ceasing work due to a heart condition may exclude you from a TPD claim. At the time of taking out your TPD insurance policy, you will be advised if there are any exclusions.

Failure to meet waiting periods

Some disability insurance policies like TPD (and income protection) impose a waiting period before benefits can be claimed.

Lack of continuous medical treatment

It is important that you continue to seek medical advice and/or treatment once you become aware of an injury or illness so that you meet the relevant policy definitions and requirements. Not showing ongoing treatment for your condition can lead to a rejected claim.

For more detailed information about lodging a successful claim and mitigating the risk of it being rejected, visit our earlier blog, "How to maximise your chances of a successful TPD claim".

Options to appeal a rejected TPD claim

If your TPD is rejected, you have three options to appeal that decision.

Internal Dispute Resolution (IDR)

The first step is to lodge a complaint/dispute with the insurer's internal dispute resolution (IDR) team. Request a formal review of your case through this process. If your complaint is related to a disability insurance product inside super, they have 45 days to respond to your complaint, and they must do so in writing.

Australian Financial Complaint Authority (AFCA) reviews

If the IDR process doesn't resolve the issue, you can escalate the matter to the Australian Financial Complaints Authority (AFCA). Notably, to do this, you must have gone through step one above (IDR) before seeking review from AFCA. AFCA provides free dispute resolution services for consumers.

Court action

As a last resort, if both IDR and a complaint to AFCA do not resolve your dispute, you can consider taking legal action and proceeding through the Court system.

Litigation is complex, time-consuming and expensive. It's crucial that, at this point, if you have not already, you consult with a lawyer experienced in TPD claims to assess the viability of continuing to appeal your rejected claim.

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Steps to appeal a rejected TPD claim

If your TPD claim has been rejected, don't lose hope. Here's a step-by-step guide to help you navigate the appeals process.

Review the rejection letter

Start by carefully reading the rejection letter from your insurer. Look for:

specific reasons for the rejection (e.g. insufficient medical evidence);

any policies or clauses mentioned;

deadlines for lodging an appeal.

Gather supporting documents

Collect all relevant documents to support your case. This may include:

medical reports from your healthcare providers;

treatment records and prescriptions;

any previous correspondence with the insurer;

personal statements detailing how your condition affects your daily life.

Seek professional advice

The process for appealing a rejected TPD claim can be time-consuming and exhausting, particularly if you're sick or injured. Consider consulting with a TPD lawyer and/or a financial advisor to help you with your claim. They can provide invaluable insights into:

the strength of your case;

potential legal grounds for appeal;

assistance with documentation and submissions.

Draft your appeal

When drafting your appeal, keep the following points in mind:

Clear structure: Use headings and bullet points for clarity;

Reference policy terms: Directly address how your situation aligns with the definitions of TPD in your specific policy;

Include medical evidence: Attach any new or previously submitted medical documentation that supports your claim;

Personalise your appeal: Include your personal story to highlight the impact of your injury or illness on your life.

Submit your appeal

Once you have prepared your appeal, submit it according to the guidelines provided by your insurer. Ensure that:

you keep copies of all submitted documents;

you send the appeal via a traceable method (e.g., registered post or email);

you confirm receipt with the insurer.

Follow up

After submitting your appeal, it's crucial to stay proactive about the progress.

Set a reminder: Note down a follow-up date (usually within 14 days) to check on the status of your appeal;

Contact the insurer: Reach out to the insurer to confirm they received your appeal and inquire about the expected timeframe for a decision.

Get help from a disability insurance lawyer experienced in TPD claims

Appealing a rejected TPD claim can be a complex and challenging process, but it’s important to remember that you have options. By understanding the reasons for rejection of your claim, gathering the necessary documentation (in particular, supporting medical evidence), and following the steps outlined in this guide, you can strengthen your case and improve your chances of a successful appeal.

Remember, you’re not alone in this journey, and there are resources available to help you every step of the way. We provide a free initial consultation and run cases on a no-win, no-fee basis.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.