



# DISABILITY CLAIMS SOLUTIONS CLIENT NEWSLETTER SPECIAL EDITION -- ERISA

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## Bad Economy– More Denials

By Linda Nee, BA, HIA, ALHC, DIA, DHP, CPM

Since 4<sup>th</sup> Quarter 2006 it has been increasingly obvious to me our American disability insurers have been aggressively managing disability claims in an effort to protect financial reserve profitability in the face of a “near recession experience” in 2006-2007.

Senior UCLA Economist David Shulman reports that while the U.S. economy is expected to have a 3 percent growth by 2009, we are actually seeing evidences of a near recession most likely caused by the deterioration of the current housing market.

So, what does the U.S. economy have to do with me and my disability claim someone asks? The answer is actually fairly simple.

Disability insurers sell policies for payment of a specified amount of premium based on anticipated risk. Premium dollars are then invested in portfolios of other companies consisting of stocks, bonds, Treasury notes, real estate, options and futures which in turn earn interest and dividends used to reduce liability on the disability claims presented for payment. Falling interest rates aren't good for disability insurers since this means disability insurers are unable to earn enough to offset payouts for claims, hence less profits, less cash flow and less money available to pay debt.

In order to make up the difference, insurers have to deny more claims. For example, UnumProvident lost 55 million dollars in investment when Enron went under. Not only was the 55 million gone, but the anticipated residual future income from dividend and interest was lost as well. This was thought to be considerable and UnumProvident's claims practices hit an all time low in ethical standard shortly thereafter.

Noticeably, all of the U.S. disability insurers have been aggressively managing claims by requesting more IMEs, field visits and surveillance in 2007. Obviously DMA has been on the warpath of denials since DCS gained three clients within two weeks due to denials resulting from cheaply obtained FCEs.

Since their brief reorganization Unum has made considerable effort to “stay on top of things.” As chaotic as their claims process has been since June 1999, as an organization attempts are being made to handle back logs and “stay ahead”

### DCS Successes for September

1. Considerable recovery of previously denied benefits to claimed date of disability.
2. Reinstatement of IDI benefits.
3. 2- Payment of claims in Unum Reassessment.
4. 1- LTD Settlement of \$340,000.
5. 1- Payment of IDI benefits.

of the claims process.

Nevertheless, any efforts on the part of disability insurers to appear credible are paying off by convincing federal and state regulators they are “back on track.” Unfortunately, nothing has really changed. Unum's motivation is the same.....profits...and more of it.

The problem is that companies such as Unum have proven over and over again they are incapable of self-regulating. Now that the hype of the multistate settlement and California agreements is no longer in the public eye, I fear we may be back to overwhelming patterns of practice which are just “horses of a different color.” In other words, Unum may be denying more claims than ever, but their strategies in doing so are cloaked under the guise “we learned our lesson and now we're the good guys.” Regulars are so naïve.

In any case, I'm afraid all disability insurers may be up to the same thing – denying more claims. Extreme caution is in order, or at least until the economy improves and once again provides an adequate investment return.

A Recession is technically defined as two consecutive quarters of negative growth. Growth of about 1 percent means the economy “runs the risk of falling into an actual recession.”

### *Tidbits...CIGNA and Prudential*

*After a series of meetings in Philadelphia's Independence Hall in 1792, a group of prominent citizens form the Insurance Company of North America (INA), formed the first marine insurance company in the United States. The new company insured the hull and cargo of the ship America on a voyage from Philadelphia to Londonderry, Northern Ireland. Later in 1794, INA issues its first life policy by insuring a sea captain against death during a voyage. The policy also included a clause promising benefits if the captain is captured by Barbary Coast pirates. In October 1871 the great Chicago fire burned for two days in October, destroying 2,000 acres and leaving 100,000 people homeless. INA paid \$650,000, one of only 51 insurance companies out of 202 to pay claims in full.*

*Prudential was founded on May 30, 1848 in Hatton Garden, London. The company's registered name was "The Prudential Mutual Assurance Investment and Loan Association." Its purpose was to offer life assurance and other loans to the middle class. Prudential grew the market of insurance to the middle class by offering premiums of 1 penny and providing marketing on a door-to-door basis. In 1826 Prudential opened the market to infantile insurance policies and the volume of sales began to grow dramatically.*

*Prudential was also the first insurance company to employ "lady clerks"- an innovation in its day.*

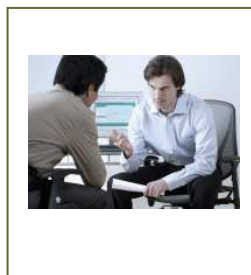
### When Your Struggle becomes an Obsession

By

Bob Livingstone LCSW  
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The August issue included an editorial titled *Enjoying Life* which addressed how some of us can get so involved in fighting for our disability benefits that we become obsessed about the injustice of continual denials, non-responsive government officials and an insurance industry that cares more about profits than our physical and mental well being.

How do we fight for our rights without ending up embittered, hopeless and emotionally numb? How do we struggle with this impossible system and still maintain our dignity and self esteem? How do we insure that the very fight for our rights does not cause us to get sicker from the stress that comes from interfacing with this entire process?



Bob Livingstone is a well-known therapist and author of the book, [The Body Mind Soul Solution: Healing Emotional Pain through Exercise](#). Although he was very busy in promoting his book, he graciously contributed to this Newsletter upon request. Thanks, Bob!

You know you are obsessed when you cannot think of anything else but your impending disability benefits. Now there is good reason to stay on top of this because you may not have any other financial support besides the possibility of disability insurance.

Your challenge is how to put up the good fight without it allowing this struggle to destroy you.

If you realize that you are fixated on obtaining benefits, here are some tips to improve your plight:

Don't isolate yourself from your support system. It is not uncommon to isolate yourself from others because you are spending all your waking hours obtaining information and formulating strategy to fight the insurance foe.

You find yourself spending increased time by your self because you feel that no one really understands your plight. While there are undoubtedly situations where this belief is accurate, the listeners to your fight tend to lose interest after a while. It is unrealistic to ask your friends and lovers to pay attention to your plight 24/7. You will notice their eyes glazing over and taking your words in with accelerated indifference. You need to have other interests in your life that you can converse about.

Don't struggle alone-reach out to those who know the way the system works. There are organizations that can assist you with legal advice and emotional support. They are:

Turn off the computer, shut down the cell phone. Commit yourself to working on your claim for a defined amount of time per day. When work time is over, close the computer because as long as you are booted up and online, the temptation to continue working will remain. Don't take any work related calls and if you do answer the phone, don't talk about your insurance related issues unless you have some very good news to report.

Watch something mindless on television, hang out with friends and exercise as much as your physical restrictions will allow. The important task here is to not allow thoughts of your struggle to dominate your mind. After all the struggle will be there when you return.

## Remembering 9/11 and UnumProvident

*(Here is an article I traditionally publish somewhere in memory of my days at UnumProvident on 9/11. I hope it does not offend anyone, but it does speak a lot about the disability insurance business and how the system operates at the expense of all else.)*

Here we are nearly six years since the tragic event of 9/11. As a former customer care specialist employed by UNUMProvident, I can still remember the hushed and scared faces of all of us who watched computer monitors when the first and second planes hit the towers. It was unbelievable. Most of us didn't quite know what to do, as an announcement came over the intercom, "Anyone who is disturbed emotionally by this morning's events may go home." No one did. I think we were in shock, mostly, and as the day continued it was obvious that we wore our hearts on our faces, and were too saddened to make calls, or conduct our business in the usual way.

UNUMProvident, the disability insurer for many of the financial businesses located in the Twin Towers, initially made good, and paid on the very expensive disability policies issued to companies such as Morgan Stanley, and The Mercantile. (Although in Chattanooga, employees were gathered together to find a way NOT to pay claims under the terrorist provisions in the policies.)

Most of the employee paperwork of these companies was also destroyed, yet UNUMProvident agreed to pay disability benefits without going through normal processing. UNUMProvident received a great deal of notoriety as the good guy because of their "generous sympathy". Senior claims specialists were given the responsibility of managing the 9/11 claims. I was one of them.

Nearly all of the 9/11 claims assigned to me were diagnosed with PTSD, anxiety and depression. One of my claimants was a pregnant woman who was on the 49<sup>th</sup> floor when the first tower collapsed, and only by sheer will and quickness was she able to exit the second tower in time. Both she and her baby survived, but the nightmare of stumbling down the stairs haunted her peace and prevented her from caring for her baby.

Most of us watching the events on TV saw the thick clouds of debris and smoke when the towers suddenly collapsed. Many of my claimants suffered, not only from PTSD, but from severe respiratory illness resulting from breathing the hot smoke and toxic ashes. As spectators, we certainly never realized that when the towers collapsed, the pure force of the debris embedded in the bodies of many individuals who were too close. A year later, pieces of steel and debris continued to

emerge from the bodies of 9/11 victims. And lastly there are those claimants who, desperately trying to escape the inferno and smoke, sought refuge in nearby buildings, and were only able to get out after stepping over dead bodies and body parts. We can all imagine what this experience did to our country men and women.

One of my 9/11 claimants had been trapped under a car when the towers fell and still another couldn't stop from shaking every time he entered a building. The 9/11 tragic event instilled a fear in people of unprecedented proportion, and a year after the event there still had been no improvement in their physical or mental condition.

On the anniversary of 9/11, 2002 UNUMProvident literally marched all of its employees into conference rooms for a film replay of the 9/11 events. When the films of the actual planes hitting the towers were shown, many employees left the room. The memories were still too real. The grand finale was the statement by then CEO Harold Chandler, "God Bless the United States of America and UNUMProvident."

At this point, most of us felt sick at the tasteless remark. The inappropriateness of the message became even more evident a week after the conference room replay of the events. Those of us who were managing the 9/11 claims were called to meeting run by several of the department managers. One manager boldly stated, "It's been a year now since we've been paying on the 9/11 claims. These people can't possibly still be impaired from PTSD. We (meaning the managers and consultants) will give you a date for roundtable. Gather up all of your 9/11 claims and present them at roundtable. We want to review all of the 9/11 claims for possible denial."

I really didn't want to present the 9/11 claims at roundtable. I knew what the roundtable was for, and I knew the 9/11 victims didn't have much more time on claim. Hence I was late getting my 9/11 lists together and claims prepared for the presentation. However, in spite of my attempts of "putting off" the reviews, I was "instructed" by a consultant to prepare the claims and bring them in the following day. I had no choice, and the next day I attended the 9/11 roundtables. My manager, consultant and medical personnel did everything they could to find cause to deny the claims. I was ordered to deny legitimate claims I knew should be paid. On the way home that night I cried. I felt helpless to do what I knew was the right thing.

One of my claims was denied because the gentleman had moved to Jersey and “couldn’t possibly still have PTSD when he doesn’t even have to cross the bridge or see the site anymore.” *Does that really make sense?* Another claim was denied because an insured didn’t have money to obtain “appropriate” medical treatment for his depression and panic attacks. My consultant ordered me to obtain additional medical information from a woman who was still so traumatized she couldn’t speak with me directly on the phone. I didn’t like signing those denial letters, but if I wanted to keep my job, I had to.

As we remember future anniversaries of the 9/11 tragedy perhaps we should also consider that for every 9/11 claim denied unfairly, there are hundreds of other disability claims for individuals like you and me that are also denied unfairly. We’ve been through a long history of the Georgia Conduct Market Examination, the Multi-State Settlement, Elliot Spitzer, The Department of Labor, and the California Settlement but we are no further ahead to halting the rampant unethical activity of most disability insurers.

Those of us who hoped for reform, or at best, some sort of chastisement for UNUM were sorely disappointed when the DOL and Elliot Spitzer “sold out” to the powerful UNUMProvident lobby eternally protecting its interests. ERISA laws, originally intended to help insureds, are now interpreted to favor the disability industry and the profits they made from employer sponsored plans.

Information I have indicates there are still UNUMProvident 9/11 claims out there in litigation, and my experience with UNUMProvident as an employee tells me they won’t be the last. What I regret most is the realization we haven’t accomplished a darn thing in making the disability insurance industry accountable to the people it sells policies to. Somehow, we, our leaders, our government, missed the point on all this. And, that is truly a tragedy to be remembered.

(Sometimes my days at UNUMProvident are difficult for me to recall. This is one of those times.)

## **Editorial.....from your Consultant**

I am often asked about what illnesses insurance companies typically reject as impairing. Diseases such as MS, Lupus, Toxic Mold, Lyme Disease, RSD, Fibromyalgia, Depression, SLE and others are challenged on a regular basis by disability insurers with claims that a diagnosis does not in itself produce insurance disability.

Although I have never seen an official definition of insurance disability, I’ve coined one I think fits rather well.

“An insurance disability is any physical or mental condition diagnosed by a qualified physician, which causes an inability to sustain full or part-time productive and/or gainful work in and individual’s own, or any occupation on a consistent basis.”

Let’s take toxic mold for example. Individuals diagnosed with toxic mold also claim they may be allergic to their environment. Since mold exists in some form or another everywhere, the person claims they cannot work at all. Disability insurers will have a real problem accepting a diagnosis of toxic mold as permanently disabling under the above definition. As one disability manager once remarked to me, “Advise the individual to tie themselves to a tree overnight. If they are still alive in the morning, they were definitely not allergic to their environment.” As rude as this comment was, it does make a point about how disability insurers view the category of diseases where it is presumed the insured could work and still be diagnosed and treated. Some insureds claim to have “toxic mold encephalopathy” which takes the diagnosis of “toxic mold allergy” to a new level of treatment.

Fibromyalgia falls into this same category, as does multiple sclerosis and lyme disease. Disability insurers question whether “brain fog” really prevents an individual from working. Unfortunately, the term is often taken from the Internet and is now a much overused cliché in the claim departments. Other over used terms and phrases include “I have my good days, and bad days”, “I hurt all over”, and “I’ll pay for it tomorrow.”

We certainly have our work cut out for us with these types of claims, but having the inside scoop puts us ahead of any disability insurer looking to deny claims unfairly. This is all for the month of September. If you have any questions, please let me know. As always, take care, and we’ll talk next month. Linda