A MEMBER'S GUIDE TO THE

PROVINCIAL LONG TERM DISABILITY PLAN FOR TEACHERS

OSSTF/FEESO

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Long term disability

The provincial LTD plan for teachers has been in effect since 2013, and includes the vast majority of OSSTF/FEESO Teacher Bargaining Units. The plan is administered by the Ontario Teachers' Insurance Plan (OTIP), and participation is mandatory for all active teacher members.

Your entitlement to benefits is based on the specific provisions within the LTD policy. You must meet the conditions within the Policy in order to have your claim approved, and for it to continue.

This booklet is intended to be a general overview of what is involved in applying for LTD.

Accommodation and LTD

If you have not been able to continue to perform your assignment because of a medical condition, you should consider at least two possibilities: (a) whether a workplace accommodation of your medical condition might enable you to continue working; or (b) whether you should be applying for LTD.

School Boards have a legal obligation to accommodate workers with disabilities.

When faced with a medical condition, it is beneficial to explore the medical need to be off work from your existing assignment as well as the possibility of being accommodated in that assignment or another assignment. This will help you to determine next steps and to work with your local OSSTF/FEESO representatives if you require accommodation.

Choosing to apply for LTD does not mean choosing against seeking accommodation. Further, if the accommodation you require is a partial reduction in your assignment, you may still have a valid claim for LTD.

If you wish to discuss a possible medical accommodation, please contact your local OSSTF/FEESO office.

Filing an LTD claim

The decision to seek accommodation or apply for long term disability benefits should be made in consultation with your health care professionals, who have the best understanding of your medical condition, its implications, and whether or not you are disabled from working. To apply, you must complete an LTD application package or kit. This may be obtained from your local OSSTF/FEESO office, your school board, or if necessary, directly from OTIP.

There are three parts to the package that must be completed and returned to OTIP:

1. **Attending Physician's Statement (APS)**
   This is to be completed by your primary treating physician (often your family doctor.) If you are being treated by a specialist, he or she should also complete an APS to be submitted to OTIP.
2. **Plan Administrator's Statement**
   This statement is to be completed by the LTD policy administrator (this is either your school board or your local Bargaining Unit.)
3. **Member's Claim Statement or Submission**
   This is your document to complete in order to provide information about your illness, its impact on your life and your career, and any medical treatments you may be undergoing. It is imperative that any information you provide be accurate, and consistent with the information your doctors have reported on the Attending Physician's Statement.

Timing of application and benefits

An application for benefits must be submitted no later than six months after the end of the waiting period. You must meet this deadline even if you are involved in other processes such as a WSIB claim, working in an accommodated partial assignment, seeking accommodation or pursuing a grievance. Under the Policy, OTIP is not liable for an LTD claim that is not initiated within this time frame. If you are having difficulty with this, contact your local OSSTF/FEESO office.

The LTD Policy has a waiting period (or elimination period) between the start of the disability and the start of benefit payments (see Plan Features on the next page). Currently, the waiting period is either 110 working days or the expiration of your sick leave (whichever comes later), and in no event more than 24 months.

During the waiting period, a member might access sick leave credits (at 100% or 90% of salary), or Employment Insurance sickness benefits.

LTD benefits will not be approved unless OTIP accepts that total disability persisted continuously through the waiting period and into the benefit period.

Pursuing reasonable and customary medical treatment during this time is imperative.

Plan features

The chart below outlines the features of the Plan as of March 1, 2018.

Benefit Level	50% of monthly gross earning
Maximum Monthly Benefit	A benefit based on a maximum annual salary of $150,000
Benefit Tax Status	Non-taxable
Elimination (waiting) Period	The later of 110 working days or expiration of sick leave, and in no event more than 24 months
Initial Assessment Period	24 months
Cost of Living Adjustment (CO-LA)	The lesser of 2% or the actual increase in the Annual Consumer Price Index
Termination of Benefits (and coverage)	A member's benefits terminate on the earliest of the following: • The date the member retires • Age 65 • When first eligible for at least a 60% unreduced service pension

Please note: If you became disabled prior to March 1, 2018, you are covered by the Plan in place prior to that date. Contact your local OSSTF/FEESO office for assistance if this applies to you.

Mandatory Early Intervention

Early Intervention is a confidential service provided by OTIP. It is designed to assist you in returning to work earlier, thereby shortening or preventing a long term disability claim.

If you have been off ill for 15 consecutive working days or longer, an OTIP Early Intervention Rehabilitation Counsellor will contact you. The type of assistance that may be provided through the EI program is dependent on the unique circumstances of each case. We encourage you to take advantage of the assistance offered through Early Intervention.

What does disability mean?

You are only entitled to LTD benefits if you provide sufficient proof that you are disabled as defined in the Policy.

During the initial assessment period (first two years), LTD benefits are payable if you are unable to perform the significant duties of your own specific assignment as a teacher—this is known as the "own occupation" period. After this initial assessment period you must be unable to work at any gainful employment (as defined in the Policy) in order to continue to be eligible for benefits—this is known as the "any occupation" period.

Therefore, after two years, if you are still are not well enough to teach, you may no longer be entitled to LTD benefits if you are well enough to perform other work.

Medical treatment and medical proof of disability

Medical evidence is the key to a successful LTD claim and you are responsible for providing this information to the insurer.

Evidence that you have a medical condition is not sufficient to qualify for LTD benefits. You must provide evidence that your medical condition renders you totally disabled. If your doctors disagree about the exact diagnosis of your condition, this may not be a barrier to being eligible for benefits as long as your doctors share a medical opinion that you are totally disabled because of illness or injury.

After a doctor completes an Attending Physician's Statement, he or she may also be asked to prepare an additional report or provide clinical records. You should understand that anything you discuss with your doctor may be recorded in the clinical notes and form part of OTIP's assessment.

If you have not been referred to a specialist, you should discuss this with your family doctor as soon as possible.

The family physician's report is an important element to the claim, but the insurer will rely more heavily on the opinion of a specialist in assessing whether you are totally disabled. It is crucial that such an opinion be obtained as soon as possible. Specialist opinions are only persuasive where they relate to a health condition within the doctor's field of expertise. For example, your psychologist's perspective of how disabling your physical condition is will likely be of limited use.

The more objective and professional the doctors appear in their correspondence, the more credible and reliable the insurer or an adjudicator is likely to perceive their opinions. For this reason, you should not encourage your doctor to act as an advocate for you in the claim. That is not the doctor's role.

The LTD insurer looks for "objective medical evidence" in assessing the merits of a claim. Objective evidence includes, but is not limited to, test results including x-rays, CT scans, MRIs, etc., as well as treatment programs including medications, all of which may help to illustrate the severity of the disability. The insurer is often resistant to accepting claims based on "subjective" complaints (i.e., symptoms you report experiencing) where there is no objective evidence verifying a basis for disability.

In order to be eligible for LTD benefits, you must be engaged in reasonable and customary treatment for your medical condition on an ongoing basis. The insurer will expect you to be receiving care and treatment with a recognized specialist who has expertise in your area of illness. For example, they will expect a report from an oncologist if the condition is cancer-related, an orthopedic surgeon if there are broken bones or spinal problems, or a psychiatrist or psychologist if there are mental health issues such as depression. You are expected to be compliant with reasonable treatment recommendations made by each of your treating healthcare providers, and failure to do so may render you ineligible for LTD benefits.

As you approach the two year point of the claim, and the change from "own occupation" to "any occupation," it is important that you make your doctors aware of the change in definition of disability. After two years, the medical evidence will need to support that you are disabled from any gainful employment in order for the claim to continue.

Surveillance

As part of its assessment of a claim for LTD benefits, OTIP may conduct surveillance on you without your knowledge. The insurer sometimes uses this as a means of assessing your functional abilities and the veracity of your reporting to them and your doctors. Often, OTIP will request that you complete a Member Status Report (MSR) at the same time that they are arranging surveillance. On the MSR you would provide descriptions of your limitations and abilities, and it is crucial that your reporting is consistent with any observed activities, as well as with the reports of your treatment providers.

Duration of benefits

As long as you are eligible for benefits and continue to provide proof that you are totally disabled and comply with your obligations under the LTD Policy, LTD benefits should continue to be paid.

Under the Policy, you will no longer be eligible for benefits once you reach age 65, or are eligible for a 60% unreduced pension from OTPP (refer to the chart in the previous “Plan Features” section.)

Appealing a negative decision

If your claim is denied, you will receive a letter explaining the reasons for the denial and outlining your appeal rights and associated timelines.

When a LTD claim is denied, this is often because the insurer does not feel that the medical evidence proves you are disabled. It may be that there is no report on file from a specialist or there are no objective tests outlining the nature and severity of the illness. It is imperative that all your treatment providers provide any information that is requested of them.

You should share the denial letter with your doctor and specialist in order to decide what additional information is needed to support your appeal.

If your appeal is denied

If your appeal is denied, legal action against the insurer may be your only recourse. OSSTF/FEESO provides some assistance in pursuing claims through litigation or arbitration after an appeal is denied. It is imperative that you contact your local OSSTF/FEESO Bargaining Unit as soon as you become aware that your appeal has been denied.

For LTD claims, the *Limitations Act* provides for a two year period in which any legal actions must be initiated against the insurer. Keeping in mind the need for thorough medical evidence, it is imperative that you complete your appeal in a timely manner in order to be able to pursue legal action if necessary. If you miss the time limit for pursuing legal action, you will not be able to pursue your claim any further. This is an important issue to discuss with a legal representative well before the expiry of the time limit.

Provincial assistance with LTD claims

OSSTF/FEESO has established guidelines for assisting members in LTD disputes. The provincial office may only become involved with a member's claim once all appeal avenues have been exhausted. Contact your local OSSTF/FEESO office to initiate a request for assistance.

The decision to provide legal assistance in LTD is contingent upon a determination that there is sufficient medical evidence that the mediation/arbitration/litigation process has a reasonable chance of success.

If it is determined that there is insufficient medical evidence, and the request for legal assistance must be denied, the member may submit additional medical information to have the decision reconsidered. It should be noted that any costs associated with obtaining additional medical documentation are the responsibility of the member.

Given the costs associated with providing legal assistance relative to the potential monetary value of a claim, discretion will be used when considering whether legal assistance will be approved.

If legal assistance is approved, it will only be provided if the member agrees to sign an agreement that stipulates mutual responsibilities as well as the expected member contribution toward costs (including legal), should the mediation/arbitration/litigation process be successful.

Financial assistance

If you are without any income because benefits have not yet commenced or your LTD claim is denied, you may seek financial aid through one of more of the following agencies or government programs.

- **Employment Insurance (EI) Sickness Benefits**
  These benefits are available from the federal government and provide for a maximum of 15 weeks of benefits after the one-week waiting period. In order to qualify, you must have accumulated 600 hours of insurable employment in the 52 weeks preceding the claim. More information is available at www.canada.ca/en/services/benefits/ei/ei-sickness.html.

- **Ontario Disability Support Program (ODSP)**
  This Ontario government program provides financial assistance to a person with a disability, including accommodation resources, basic living expenses, prescription drugs and basic dental care.

  See www.mcss.gov.on.ca/en/mcss/programs/social/odsp for eligibility requirements and other information.

- **Canada Pension Plan (CPP) Disability Pension**
  CPP Disability may be available if you have made sufficient contributions to the Canada Pension Plan and if you meet the eligibility requirements.

  In addition, the Policy allows OTIP to deduct CPP disability benefits that would have been paid if the member does not apply. Therefore, it is recommended that you apply for CPP disability if you have been off of work for a year or more, or if your LTD claim has been denied, or if you are requested to do so by OTIP. Further information can be found at www.canada.ca/en/services/benefits/publicpensions/cpp/cpp-disability-benefit.html.

- **Ontario Teachers' Pension Plan (OTPP) Disability Pension**
  As a member of the Ontario Teachers' Pension Plan, you may apply for a full or partial disability pension if you are unable to work due to a disability or illness. However, accessing this pension has serious implications for your long-term pension status as well as your employment status with the school board. Therefore, this should only be considered if absolutely necessary and after consultation with OTPP. For more information about this pension, please contact OTPP by phoning their Member Hotline at 416-226-2700 or 1-800-668-0105.

  OSSTF/FEESO also offers financial assistance to members in extreme financial need through the Benevolent Council. Consult your local Bargaining Unit for information on the assistance that is available as well as how to access it.

  In addition, there may be other resources for financial aid within individual communities and these should be investigated as well.

Return to work

Assistance with return to work and medical accommodation issues is available through your local OSSTF/FEESO Bargaining Unit. An OTIP Rehabilitation Consultant may also be involved. This person may be helpful to the process, but he or she is not your advocate. The consultant may not be familiar with the collective agreement or the school board's protocols and human rights obligations. In all cases, you should contact your local OSSTF/FEESO representative for assistance. Local representatives seek to ensure fairness and reasonableness in safely and efficiently returning members to the workplace.

If you are able to return to work on a part-time basis, you may still be eligible for continued LTD benefits. You should consult with your local OSSTF/FEESO representative prior to discussing return to work with your employer.

Pregnancy and LTD

If you are in receipt of LTD benefits and you become pregnant, your LTD benefits should not be affected by your pregnancy.

You are not generally obligated to report your pregnancy to anyone while you are on LTD. However, if the original disability resolves and complications from your pregnancy are the reason for an ongoing work absence, this will have to be reported. Further, this information tends to be revealed to the insurer when regular medical updates are requested for the LTD claim.

If you are on a pregnancy or parental leave when you develop a disabling illness, you should file a claim immediately in order to commence your waiting period.

You will not be eligible to receive LTD benefits until the end of your leave but your leave time will count toward your waiting period.

Contact OSSTF/FEESO if you have questions.

OSSTF/FEESO employee life and health trust benefits

OSSTF/FEESO members who are in the OSSTF/FEESO provincial benefit plan on the date that the LTD benefit commences continue to have access to health and dental benefits. For the first 24 months that a member is on an approved LTD claim continuation in the OSSTF/FEESO benefit plan is maintained by paying premiums on the same basis as when the member was actively at work. After 24 months, the member may maintain benefit coverage by paying the full premiums.

Ontario Teachers' Pension Plan

OSSTF/FEESO members who are in receipt of LTD benefits continue to earn credit in the Ontario Teachers' Pension Plan without making pension contributions.

Notes