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Risky Business:
Long-term Disability Benefits and Risk of Relapse Claims

Sometimes, people make claims for long-term disability benefits because of the risk that performing their job would cause their underlying medical condition to worsen or recur. In such situations, the key question in determining benefits eligibility is whether the risk of relapse rises to the level of a present disability. The author argues that risk of relapse must be considered a valid disability by insurers and employers.

Long-term disability (LTD) insurance provides important financial security for people who find themselves unable to perform their jobs because of medical conditions. But when the inability to work stems from the *risk* that doing so would cause further harm — that is, a relapse — whether they are disabled is a more complex and nuanced question. In such cases, though the claimant technically might be able to perform their job duties, their ability to do so *safely* is dubious. The question then becomes, "when does the risk of relapse rise to the level of a present disability?" Although courts may be divided on this issue, public policy and the principal purpose of LTD plans dictate that a risk of relapse must be treated as a valid disability.

Courts Agree: Risk of Relapse Can Constitute a Current Disability

Whether a risk of relapse can constitute a current disability for LTD benefit purposes varies by jurisdiction. Wisconsin state courts have not squarely addressed the issue; however, federal courts applying ERISA do so frequently. Though the Seventh Circuit has yet to rule directly on this issue, lower courts have acknowledged that prophylactic medical restrictions — that is, restrictions imposed to prevent relapse — may constitute disability when supported by substantial medical evidence. This approach aligns with other circuits in recognizing that the risk of relapse cannot be dismissed out of hand.

By looking beyond Wisconsin at decisions from courts nationwide, workers and advocates can glean insight into the three most important factors for successfully claiming LTD benefits based on a risk of relapse.

• First, there must be an **underlying medical condition** that calls for prophylactic restrictions (for example, a history of substance use disorder or severe coronary disease).

• Second, courts consider the **severity of the potential harm**: the graver the risk, the more likely it is to constitute a disability.

• Third, the claimant must provide compelling evidence that the risk of harm is not merely a remote possibility but is **likely to occur** if the claimant returns to work.

Beyond these three essential factors, some courts also find the absence of the following factors relevant to the inquiry: 1) a categorical plan exclusion for risk of relapse or prophylactic restrictions, 2) the claimant's agency over the risk, and 3) a windfall to the claimant if deemed disabled because of a risk of relapse. Notably, however, the presence of any of these factors should not necessarily require that the claim be denied.

Underlying Medical Condition that Puts Claimant at High Risk of Severe Harm

In *Saliamonas v. CNA Inc.,*[1] the court examined the risk of relapse for a claimant with severe aortic insufficiency and coronary artery disease who worked in a high-stress occupation as a hospital programmer. While it was undisputed he could perform the physical demands of his sedentary job, he nonetheless claimed disability on the basis that stress affected his ability to work. The insurer denied his claim, arguing that the policy "does not insure against 'future risks or possible loss.'"[2]

In considering the dispute, the court clarified that the question is not whether stress *itself* is a disability but whether stress *coupled with* severe aortic insufficiency and coronary artery disease is. Ultimately, the court found in Saliamonas' favor, noting, "[t]o suggest, as CNA does, that a permanent heart condition that may be aggravated by stress can only rise to the level of a disability when and if the insured suffers a heart attack is unreasonable."[3]

Shortly after *Saliamonas* was decided, the Third Circuit ruled in a similar manner in *Lasser*

v. Reliance Standard Life Insurance Co.,[4] considering whether a physician was disabled given that the stressful nature of his job increased his risk of heart attack. Lasser's doctor had restricted him from performing emergency surgeries and being on call overnight, both of which were essential to his job, and explained that 1) stress is a known trigger for heart attacks, 2) exposure to stress would lead to "poorer control of blood pressure and lipid therapies" whereas "a less stressful environment would contribute to [Lasser's] longevity," and 3) avoiding work stress was "absolutely necessary to maintain [Lasser]'s health."[5] Ultimately, the extensive medical evidence – of both the risk's likelihood and its gravity – persuaded the court that Lasser's risk of future disability (that is, risk of suffering a heart attack) constituted a current disability.

Nearly a decade later, the First Circuit followed suit when it decided *Colby v. Union Security Insurance Co.*[6] – a case concerning an anesthesiologist who had been self-administering opioids, resulting in a substance use disorder. While the insurer approved LTD benefits during Colby's stay at a treatment facility, it denied her claim thereafter, noting "a risk for relapse is not the same as a current disability."[7] Colby retorted that her risk of relapse was so great as to prevent her from performing her job. Indeed, her providers described her risk of relapse if she returned to work as "high," "significant," and "almost inevitable."[8] Ultimately the court ruled in Colby's favor, noting the plan at issue did not categorically exclude risks of relapse, and absent such an exclusion, the insurer's steadfast adherence to its claim that a risk of relapse – no matter the degree – could *never* constitute a disability was faulty.[9] In other words, an all-or-nothing approach absent a categorical plan exclusion indicated the insurer sidestepped the central inquiry of whether the risk had "swelled to the level of disability" and thus rendered the resulting decision unreasonable.[10]

Meanwhile, in *Evans v. UnumProvident Corp.*,[11] the Sixth Circuit considered whether a nursing home employee who experienced seizures triggered by stress was disabled under her LTD plan. Although Evans had achieved "excellent" seizure control, she was nonetheless advised to refrain from returning to her high-stress job given that stress precipitated her seizures. The insurer concluded she was capable of sedentary work and that, because stress was merely a "'prophylactic' factor that should be accorded minimal, if any, weight," she was not disabled.[12] The court disagreed and held that "an existing illness that was likely to manifest into a future injury if the plaintiff returned to work constituted a disability."[13]

A few years later, the Sixth Circuit upheld this approach in *Helfman v. GE Group Life Assurance Co.*,[14] wherein the plaintiff was prophylactically restricted from exposure to work stress because of his diagnosis of severe coronary artery disease and high risk for further cardiac harm. The insurer disregarded the plaintiff's claim, arguing that although "Helfman subjectively believed that stress was keeping him from working, ... objectively he was capable of returning to work."[15] The court, however, found it "unreasonable ... to have dismissed stress as an improperly documented, subjective, and irrelevant factor in its disability determination."[16] Moreover, absent a categorical plan exclusion for prophylactic factors, the court posited, an insurer's rejection of the same suggested the adverse benefit determination was unreasonable.

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Claimant's Agency over the Risk

Consideration of a claimant's agency over the risk can lead to problematic outcomes. For example, the Fourth Circuit imposed a curious and controversial limit on the extent to which a risk of relapse can constitute a current disability via its decision in *Stanford v. Continental Casualty Co.*[17] The plaintiff worked as a nurse anesthetist and began self-administering fentanyl, which resulted in a debilitating substance use disorder. His LTD benefits were initially approved but were terminated after he achieved sobriety (and despite his physicians' assertion that he would remain at risk of a relapse if he returned to work) on the basis that "the policy does not cover potential risk."[18]

The court, persuaded by the argument that Stanford exercised some semblance of agency over his risk of relapse, upheld the insurer's determination that

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the risk of relapsing into addiction did not constitute a disability. Rooted in an antiquated understanding of substance use disorders, the court reasoned:

"A doctor with a heart condition who enters a high-stress environment like an operating room 'risks relapse' in the sense that the performance of his job duties may cause a heart attack. But an anesthetist with a drug addiction who enters an environment where drugs are readily available 'risks relapse' only in the sense that the ready availability of drugs increases his temptation to resume his drug use. Whether he succumbs to that temptation remains his choice; the heart-attack prone doctor has no such choice."

The dissent argued that such a ruling creates a perverse system that punishes people for gaining sobriety and "thwart[s] the very purpose for which disability plans exist: to help people overcome medical adversity if possible, and otherwise to cope with it."[19] The majority acknowledged this but countered that Stanford should instead revel in the "newfound opportunities" that sobriety brings – and while such opportunities do not include a return to his former job, this is not due to any physical or mental impairment but instead is merely a "prudent choice" to not place himself in such a compromising position.

There are numerous issues with the majority opinion that would make its adoption in the Seventh Circuit misguided and unlikely. First, the court's rationale is inconsistent with the science of addiction and therefore leads to a morally skewed result. The idea that an addict "chooses" to relapse oversimplifies the complex nature of addiction, which is a chronic disease affecting brain chemistry, impulse control, and decision-making. Although a relapse may appear to be a voluntary act, it is often driven by neurological changes that impair true agency. Addiction alters the brain's reward system, making cravings overpowering and decision-making irrational, especially in high-risk situations. Just as people with diabetes don't *choose* for their blood sugar to spike, people with addictions don't simply *decide* to relapse – they are fighting against deeply ingrained biological and psychological forces. Framing relapse as a choice ignores the medical reality of addiction and risks further stigmatizing people who need support, not blame.

A claimant might also be deprived of a meaningful choice as to whether to return to work due to financial constraints. Many workers, especially highly trained professionals, substantially invest in their education and training by incurring significant student loan debt. Generally, they accept this financial burden knowing they will have the ability to work in a higher-paying field to repay it. If a physician, lawyer, or other professional becomes disabled and can no longer work in their field, they are unlikely to swiftly find a job in a different field that would have comparable earnings potential.

Accordingly, when the court in *Stanford* argued that "no prudent addict would place himself in [a work setting likely to trigger their relapse]," [20] it overlooked that financial necessity often leaves individuals with no viable alternative. In such circumstances, LTD coverage ensures individuals have financial stability – not just for day-to-day living expenses but also to manage existing debt and potentially invest in retraining for a new career. Without this protection, individuals who have dedicated years to specialized training could face severe financial hardship if they don't return to work – despite the risk it may pose.

Next, the court also cited a purported windfall to the claimant as a reason to disallow Stanford's risk of relapse from qualifying him for benefits. "It would be truly perverse," the court argued, "if Stanford were to go on to great success in another occupation but was still able to collect insurance checks on the basis of 'disability.'"[21]

This rationale is not only out of touch with reality but reflects an incomplete understanding of how LTD plans work. The court's argument disregards that the insurer is contractually obligated to pay benefits if a claimant is unable to perform the claimant's "own occupation." Whether the claimant finds success in a new occupation is of no consequence to this inquiry.[22] This is especially true given that most LTD plans

already protect against a windfall to claimants by offsetting the LTD benefits by any earnings the claimant receives from working while disabled. (Many plans even terminate benefits altogether if a claimant's earnings exceed a certain threshold amount.[23])

Despite this, the Fourth Circuit declined to enforce the terms of the plan and instead fixated on the hypothetical possibility that Stanford could receive a windfall. In doing so, the court suggested that paying legitimate claims somehow unjustly enriches the claimant and constitutes an unfair outcome or burden on the insurer. In reality, LTD coverage exists to provide financial protection in the event of a covered loss, not to ensure that insurers make money by avoiding payouts.

Ultimately, if faced with a fact pattern similar to that of *Stanford,* one would hope the Seventh Circuit would consider both the science of addiction and explicit plan terms to conclude a risk of relapse could form the basis of a valid LTD claim.

Categorical Plan Exclusions for Risk of Relapse Are Flawed

A categorical plan exclusion for risk of relapse would be unconscionable and therefore unenforceable. Although various courts have cited a plan's absence of a categorical exclusion to support the notion that a risk of relapse can constitute disability, to date no court has explicitly decided whether the presence of such an exclusion bars an LTD claim based on a risk of relapse. However, it is likely that courts, including those in the Seventh Circuit, would decline to uphold an insurer's denial of LTD benefits pursuant to a plan's categorical exclusion for risk of relapse claims in light of the doctrine of unconscionability.

The doctrine of unconscionability prevents the enforcement of contractual provisions (for example, terms of an LTD insurance plan) that result from unfair bargaining power or that shock the conscience of the court.[24] Courts generally assess unconscionability in terms of procedural unconscionability and substantive unconscionability, the former of which refers to how the contract was formed, including whether one party lacked a meaningful choice due to unequal bargaining power. Substantive unconscionability evaluates the fairness of the contract terms themselves — whether they are overly harsh, one sided, or oppressive.

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A categorical plan exclusion for risks of relapse should be deemed unconscionable under both parts of the doctrine.

Procedurally speaking, the insurance company's bargaining power is far superior to that of the individuals seeking insurance under a group plan, whose only options are to adhere to the insurance contract or to reject it. In such circumstances, an individual does not have a meaningful choice as to whether to accept the categorical exclusion.

Such categorical exclusions are also substantively unconscionable given they unfairly and disproportionately affect individuals with chronic, fluctuating, or recurrent medical conditions. Illnesses such as cancer, multiple sclerosis, and certain mental health conditions require individuals to take prophylactic measures or

avoid high-risk activities to prevent a relapse. For example, a person with cancer who is advised not to return to work due to their immunocompromised state or an individual with epilepsy who is advised not to return to a high-stress work environment to avoid seizures would be penalized for following sound medical advice and taking responsible preventive measures to protect their health. This is particularly unjust because LTD insurance is designed to provide financial security when an individual is medically unable to work, but a categorical plan exclusion for risk of relapse undermines this fundamental purpose.

Finally, a categorical plan exclusion for risk of relapse goes against public policy by compromising public safety. Refusing to pay disability benefits to someone who has a risk of relapse is likely to force that person to return to work despite ongoing and grave safety concerns. Consider the case of a surgeon who has been denied LTD benefits despite being at high risk of a heart attack. Would patients feel safe knowing that their surgeon could suffer a medical emergency mid-operation? Similarly, a commercial pilot who is prone to seizures or heart failure poses a direct risk to hundreds of passengers. Denying such individuals' LTD benefits "is tantamount to a breach of the public trust" and would force individuals "to work to the brink of failure to justify disability benefits, thereby imposing an unacceptable risk on … the public generally."[25]

Conclusion

The risk of relapse must serve as a valid disability consideration. If the Seventh Circuit were to refuse to accept that risks of relapse can constitute a present disability for LTD purposes, it would set a dangerous precedent, effectively opening the floodgates for insurers to deny a vast number of legitimate claims at the first sign of improvement. Indeed, most disabilities and medical conditions, by their nature, will show some level of improvement when a claimant stops working. However, such superficial improvement due to the absence of triggering stimuli, increased rest time, and relief from a strict work schedule should not be mistaken for genuine recovery when the individual still faces significant limitations or risks associated with their health, especially if forced to return to work.

Instead, consistent with the purpose of LTD coverage, which is to provide financial support for individuals who are unable to work for medical reasons, courts must recognize the risk of relapse as a valid reason for continued LTD benefits. **WL**

ENDNOTES

[1]*Saliamonas v. CNA Inc.*, 127 F. Supp. 2d 997 (N.D. Ill. 2001).
[2]*Id.* at 1001.
[3]*Id.*
[4]*Lasser v. Reliance Standard Life Ins. Co.,* 344 F.3d 381 (3rd Cir. 2003).
[5]*Id.* at 389-90.
[6]*Colby v. Union Sec. Ins. Co.,* 705 F.3d 58 (1st Cir. 2013).
[7]*Id.* at 60.
[8]*Id.* at 63.
[9]*Id.* at 65 (noting that because "'the plain language of an ERISA plan must be enforced in accordance with its literal and natural meaning', [p]lucking an exclusion for risk of relapse out of thin air would undermine the integrity of an ERISA plan" (quoting *Harris v. Harvard Pilgrim Health Care Inc.,* 208 F.3d 274, 277-78 (1st Cir. 2000)).
[10]Although the First Circuit rooted its holding in the fact that the plan at issue did not exclude from coverage disabilities stemming from a risk of relapse, it is worth noting that generally "in an ERISA plan, exclusions from coverage are *not* favored" and the insurer "must spell out exclusions distinctly." *Id.* at 65 (emphasis added). Moreover, any ambiguity regarding an exclusion will be construed against the insurer. *Id.*
[11]*Evans v. UnumProvident Corp.*, 434 F.3d 866 (6th Cir. 2006).
[12]*Id.* at 879.
[13]*Downs v. Unum Life Ins. Co. of Am.*, 745 F. Supp. 3d 967 (N.D. Cal. 2024) (citing Evans, 434 F.3d at 879).
[14]*Helfman v. GE Grp. Life Assurance Co.*, 573 F.3d 383 (6th Cir. 2009).
[15]*Id.* at 394.
[16]*Id.* at 395 (citing *Glenn v. Metropolitan Life Ins. Co.,* 461 F.3d 660, 673 (6th Cir. 2006)).
[17]*Stanford v. Continental Cas. Co.,* 514 F.3d 354 (4th Cir. 2008).
[18]*Id.* at 356.
[19]*Id.* at 362 (Wilkinson, J., dissenting).
[20]*Stanford*, 514 F.3d at 359.
[21]*Id.* at 359-60.
[22]Moreover, most policies limit the payment of benefits based on one's inability to perform their own occupation to only 24 months such that even if Stanford went on to great success in a different occupation, his benefits would terminate after the expiration of his "own occupation" period.
[23]Given that windfalls occur when one party to a contract is enriched at the other's expense, the court arguably created an unintended windfall for the *insurer* by allowing it to deny payment on a valid insurance claim yet retain the premiums it has collected, all to the detriment of the disabled plaintiff. This is particularly concerning because an insurer is not merely a party to the contract; the insurer owes a fiduciary duty to the claimant to discharge its duties under ERISA solely in the interests of the participants and beneficiaries. 29 U.S.C. § 1104(a)(1).
[24]*See Williams v. Walker-Thomas Furniture Co.*, 350 F.2d 445, 448 (1965) (citing 28 D.C. CODE § 2-302).
[25]*Kufner v. Jefferson Pilot Fin. Ins. Co.,* 595 F. Supp. 2d 785, 796-97 (W.D. Mich., 2009) (holding that claimant need not wait until he experienced a relapse because that would be "untenable given the serious risk this poses to public health and safety … Defendant essentially engaged in a form of 'benefits Russian roulette' with plaintiff's career and his patients' lives at risk."); *see also Colby*, 705 F.3d at 66-67 (pointing out that "[d]eclaring the plaintiff fit for her usual occupation immediately upon her release from [in-patient treatment] would, if the plaintiff acted in accordance with that declaration, not only put her at risk but also threaten to endanger her patients").

Beyond the direct safety concerns, forcing at-risk individuals back into the workforce creates liability for employers and industries. If an employee who was denied LTD benefits has a medical relapse while on the job, the employer may be held accountable for failing to provide a safe working environment. This can lead to costly lawsuits, reputational damage, and financial burdens that could have been prevented by granting necessary LTD benefits. **WL**