

Special Report

HOW THE UNITED STATES SUPREME COURT MADE LONG-TERM DISABILITY CLAIMS EVEN MORE DIFFICULT

**(Claimants and Their Doctors Now Need to be Even
More Diligent in Pursuing Claims)**

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Life just got harder for long-term disability claimants.

In May 2003, the Supreme Court of the United States ruled that long-term disability insurance companies need not give any deference to the opinions of treating physicians when evaluating disability claims.

Kenneth Nord was employed by Black & Decker as a material planner. **On the advice of his physicians**, he stopped working at his “sedentary” job because of hip and back pain caused by degenerative disk disease. This disease was confirmed by MRI.

Nord applied for disability benefits and was denied. He appealed the denial. **His doctors and Human Resources Department filed documents supporting the claim**. MetLife, the insurance company administering the claim, sent Nord to a neurologist for an examination. While agreeing with the diagnosis made by the treating doctors, the neurologist said that Nord was capable of sedentary work if he took his pain medication and had “some walking interruption in between” work.

Despite the support of his physicians and Human Resources Department, his appeal to MetLife was denied! He sued.

When his case was reviewed by the Court of Appeals, that court ruled that the insurance company had to justify its rejection of Nord’s treating physicians’ opinions. Since there was no justification for rejecting the treating physician’s opinion, the Court of Appeals declared Nord the winner.

The United States Supreme Court reversed and held that the disability plan did not have to give special weight to the opinion of the treating physician. The court reasoned that nothing in ERISA or the Department of Labor’s regulations governing long-term disability claims mandated that the insurance company give any special deference to a treating physician.

The court reached this ruling, despite recognizing that:

- It may be true that the treating physician as a rule has a greater opportunity to know and observe a patient as an individual; and
- Physicians repeatedly retained by benefit plans may have an incentive to make a finding of not disabled in order to save the employer’s money and to preserve their own consulting arrangements.

What consumers and, frankly, employers need to understand is that there are no rules. Employers can provide any plan they want. There is virtually no regulation of the substance of the plan. Nothing requires an employer to establish a disability plan and ERISA does not mandate what should be included in any plan. Astonishingly, the Supreme Court said, “The validity of a claim to benefits under an ERISA plan is likely to turn on an interpretation of the terms of the plan at issue” (and, I say, not necessarily on whether a person is actually disabled).”

Ben Glass is an attorney with 20 years of experience fighting the insurance companies. He has written the definitive guide for doctors and their patients, **14 Ways to Guarantee That Your Long Term Disability Claim Will be Denied and You Lose in Court**. The report is absolutely free and is available by emailing him at Ben@BenGlassLaw.com.