

TOTAL AND PERMANENT DISABILITY

Total and permanent disability benefit (TPD) has been around for a long time, and not just in long-term insurance markets – it features in personal accident (PA) and sickness covers too. Outside of the latter products, TPD is generally either a rider to a life policy or an integral part of critical illness (CI) insurance. For PA and sickness products ‘total and permanent disability’ can be defined in a number of ways, but in mature long-term markets claim eligibility is usually defined along the lines of inability to follow one’s own occupation or to follow any occupation at all. Note, though, that some policies use ‘activities of daily living’ (ADLs), either as their primary definition or as an alternative to an occupation-based one.

Conceptually, TPD is a good product. The idea of paying out when the insured is so ill or incapacitated that he or she is unable to work ever again has a great deal of merit; the potential for financial hardship is obvious. But how TPD works in practice leaves a lot to be desired. What degree of ‘disability’ is required to meet the definition? It depends on the individual circumstances and, as is well known from other disability covers, not all claimants have the same view as to what it takes to be prevented from working; the stoics keep on going long after the flaky ones have given up. What constitutes permanence? That largely rests with expert opinion, again in individual circumstances. But whether claimants agree with the medical experts is another matter. Whichever way you look at it, decision-making on occupation-defined TPD claims is highly subjective.

In practice many TPD claims are refused on grounds of not meeting the definition – not 100% disabled and/or not permanent. In the UK, about 55% of TPD claims associated with CI are declined. Moreover, final adjudication is frequently delayed because of the need to gather sufficient medical evidence from various sources. This is a highly unsatisfactory state of affairs. If it is so difficult to claim, there is a strong degree of subjectivity in adjudication, customers don’t know where they stand and are kept hanging around when they try to claim, TPD is not working.

This is why the UK’s Association of British Insurers (ABI) has been examining the problems of TPD and has just made proposals for improvement as part a consultation paper relating to CI.

Part of the problem is ‘over-selling’ by intermediaries and consequent lack of understanding by consumers of what the benefit is and how it works. It does not help that, as a component of CI cover, TPD is positioned as a ‘catch-all’ that picks up cases of severe chronic disability missed by the main ‘critical’ diagnoses. That ‘safety net’ concept is nice enough, but it isn’t 100% reliable and was never intended to be, at least by the product designers. But while more responsible selling is required, it is clear that those occupation-based definitions need to go. TPD needs to be made simpler in operation and more transparent to consumers and advisers.

The thrust of the ABI’s proposals is replacing the occupation-based definitions with a series of ‘events’, diagnoses or clearly defined ‘disease status’ criteria. This is too long and detailed to repeat here, but broadly consists of:

- Cardiomyopathy
- Complex regional pain syndrome
- Chronic severe rheumatoid arthritis (resulting in inability to do specified physical activities)
- Loss of a hand or foot (replacing the cover under CI)
- Respiratory failure
- Severe brain damage (replacing the ‘head injury’ event under CI)
- Severe Crohn’s disease

- Severe specified mental health conditions (sic), eg bipolar disorder, paranoid psychosis and schizophrenia
- Certain surgical procedures for severe back and neck conditions
- 'Loss of the physical ability to look after yourself', based on inability to carry out three of six ADLs.

This is a bold and welcome initiative but, nevertheless, care is required if the current set of TPD deficiencies is not to be replaced with another, especially where restricted scope of cover risks denying payouts to deserving cases or where, on occasion, the claim criteria can be fulfilled in the absence of chronic severe disability. Such situations can arise particularly in connection with back and neck disorders requiring surgery, chronic pain syndromes (which are growing in number and in which diagnosis is notoriously difficult) and mental illness. Also, some of the definitions as proposed are lengthy and contain technical terms highly unlikely to be understood by ordinary customers. This clearly runs against the criteria of simplicity, clarity and transparency essential to all good financial products – but then that is a criticism that can easily be levelled at CI cover to which TPD is so often attached.

All this illustrates the difficulty of defining disability claim concepts in terms that are workable for insurers and their customers. Make the claim criteria tight enough for insurers and customers don't understand them. Make them looser and both parties have a different understanding.

Given these quite fundamental problems, how has TPD survived for so long? It has done so because historically insurers have been able to set their own terms of business without reference to other stakeholders, and their customers have been accepting of their products and their judgments – they have felt they had little choice. But now customers have a bigger voice – and not just with the help of consumer watchdogs and regulators; they are less tolerant and more likely to complain, and they are enabled by abundant communications media and channels. Today's industry has no hope of getting off lightly.

Are we on the road to a more effective and fairer model of TPD, one that offers meaningful cover that is distinct from other disability products? Time will tell. You can be sure that markets all over the world will be taking an interest in what happens in the UK.

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