

November 1, 2017

To: Participating Employers

**From: Alana Shearer-Kleefeld,
Director, Employee Benefits**

**RE: Disability Income Plans
Impact on Access to Disability Benefits When a Plan Member Returns to Work on Reduced Hours Prior to the Start of Their Bridge or Long-term Disability Benefit Period**

3sHealth's four disability income plans (CUPE, SEIU-West, SUN and General) are all intended to provide wage loss replacement benefits to eligible plan members in the event of total disability and loss of income.

During the 119 day qualifying period for long-term disability (LTD), which includes the bridge period for CUPE and SEIU-West plan members, and for the first two years of LTD, the plans define total disability as an illness or injury that results in the member being unable to perform any and every duty of their own occupation. After the first two years and 119 days, the plans define total disability as a condition that results in the plan member being unable to perform any occupation for which they could be reasonably fitted by education, training or experience.

There is no partial disability provision within any of the 3sHealth Disability Income Plans. However, the plans do have a rehabilitative employment provision that allows for a plan member to receive disability benefits when they are engaged in employment that is deemed to be rehabilitative in nature.

Over the past decade, employers have increasingly taken reasonable steps to assist plan members with a disability in remaining at work by accommodating, temporarily or permanently, their limitations and restrictions. This has resulted in examples of disability income plan members applying for disability benefits when they are not completely away from work.

The current process

In 2012, in acknowledgment of the efforts that employers and unions were making to keep plan members with a disability at work, 3sHealth Employee Benefits implemented a process for adjudicating disability applications from plan members who are continuing to work reduced hours (most often, with modified duties). The process requires the adjudicator to determine if the claim should be approved under the rehabilitative employment provision by considering a number of factors. These factors include:

- when did the reduced hours begin?
- did the plan member experience a period when they were off from work completely?
- why were reduced hours required?
- how many hours per week is the plan member working?
- for how long will the plan member need to work reduced hours?
- what are the duties that the plan member is still performing?

Along with these factors, all other requirements of the Disability Income Plans remained applicable including, most notably, that the plan member must be totally disabled and in receipt of and compliant with satisfactory medical supervision and treatment.

The implementation of this process has resulted in many plan members receiving disability benefits (paid on an integrated basis with their reduced employment earnings), who would previously have been denied because they had not experienced a period being completely off work or because they were working reduced hours.

Based on this process, a plan member who is working reduced hours may be eligible for disability benefits if:

- They are a CUPE or SEIU-West member and they have run out of sick leave eligibility prior to the end of the 119 qualifying period for LTD benefits. In such a case they can apply for bridge benefits, then LTD.
- They are a plan member of the 3sHealth Disability Income Plans and they have completed the 119 day qualifying period. In such a case they can apply for LTD benefits.

How does 3sHealth Employee Benefits determine when the 119 day qualifying period ends and the LTD period begins?

In order to determine the end date of the 119 day qualifying period and the start date of the LTD benefit period, we must first determine the date of disability (this is the date that the plan member's period of disability commenced and is the first day of the 119 day qualifying period). The responsibility and authority for determining the date of disability as it relates to an application for 3sHealth disability benefits, rests entirely with 3sHealth Employee Benefits. In making this determination we consider a number of dates and factors, including:

- the date the injury or illness commenced
- the date the plan member was first absent from work due to illness or injury
- the date the plan member first saw a physician for the illness or injury
- the date the plan member's physician first recommended they stop work
- all available medical records received in support of the application

As the employer, you will not always have access to all of the pertinent dates and medical documents that 3sHealth Employee Benefits will utilize in determining the correct date of disability. A general guideline that an employer can use in estimating the date of disability is to use the first date that the plan member was absent from work for illness or injury. If the plan member has not experienced a day when they needed to be off from work completely, then the guideline would be to use the first date that the plan member worked reduced hours.

Other important factors

It is important to note that not all plan members who are working reduced hours will qualify for disability benefits. An application for disability benefits may be denied based on a plan member's participation in occupational duties. The nature of the duties or the number of hours worked may be inconsistent with a claim for total disability from the plan member's own occupation.

As well, it remains that loss of income is a critical requirement for being found eligible for disability / wage loss replacement benefits. If a plan member has not had a significant reduction of hours and resulting wage loss, they will not be considered eligible for disability benefits regardless of the level of disability that they are experiencing.

Also, it is possible that a plan member who is working reduced hours may be unable to provide medical evidence that supports their application. As is the case with some plan members who have stopped work completely, there will be applications from plan members who are working reduced hours that may be denied as there is insufficient medical evidence to support their claim.

If you have any questions about this benefit bulletin, please contact one of our Employee Benefits Claims Services Supervisors: Rhonda Butterfield at rhonda.butterfield@3shealth.ca or Joe Jaworski at joe.jaworski@3shealth.ca.