



DI Claims FAQs

Bloodborne pathogens

Occasionally, questions arise concerning Berkshire Life Insurance Company of America's (Berkshire) possible handling of claims involving health care workers with Human Immunodeficiency Virus (HIV) or other bloodborne pathogens such as Hepatitis C virus (HCV) or Hepatitis B Virus (HBV) positive status.

What should I do if I become sick or injured but am not sure I will need to file a claim?

If you become sick or injured and are unable to work, you should immediately notify our Claims Service and Solutions Group. The earlier you notify us of your circumstances, the sooner we will be able to begin our evaluation of your eligibility for benefits. More importantly, your policy contains specific information regarding the time frame in which you must submit notice of claim. You may contact us by any of three methods:

Berkshire recognizes the unique challenges some clients may face when they are infected with these and other bloodborne pathogens. In some instances, these health care workers may be prohibited from performing some or all of the material and substantial duties of their occupation due to license restrictions or practice limitations imposed by the appropriate licensing or regulatory authorities.

This FAQ outlines Berkshire's current position as to the disability benefits eligibility of health care workers infected with HIV (or another bloodborne pathogen). This position is based on our research to date and it is subject to modification as our understanding of this highly dynamic topic evolves.

This memorandum is not an amendment or endorsement to any insurance policy and does not change the definitions contained therein.

Many policies administered by Berkshire generally define Total Disability, in part, as the inability to perform the material and substantial duties of one's occupation due to sickness or injury. Subject to the specific definition of Total Disability and other policy provisions, clients who are healthcare workers will generally be considered to have met that part of the total disability definition

if they become infected with HIV or some other bloodborne pathogen while their policy is in force and the following conditions are satisfied:

1. They test positive using test criteria established by the Centers for Disease Control and Prevention (CDC);
2. They follow the applicable regulations in their state as well as the CDC guidelines for the prevention of the transmission of the pathogen; and
3. As a result of their HIV or other bloodborne pathogen status they are restricted or prohibited by the appropriate regulatory authorities, in accordance with CDC guidelines, from performing the material and substantial duties of their occupation or occupations.
4. They have not been sanctioned or lost their license to practice medicine due to failure to adhere to the aforementioned restrictions or prohibitions imposed by the appropriate regulatory authorities as a result of their HIV or other bloodborne pathogen status.

If regulatory restrictions still allow for the performance of some of the material and substantial duties of an insured's occupation or occupations, the insured may be eligible to recover benefits for a long term loss of income if their policy provides the necessary coverage.

In all cases, we will evaluate each claim in a thorough and professional manner, and the individual circumstances of each claim will be appropriately considered. In each instance, be assured that we are committed to an equitable treatment of our policyholders as governed by the terms and provisions of their insurance policies.

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