



TPD claims for mental illness

Author: [Tanya Neilson](#)

Email: tanya@guardianinjurylaw.com.au

Date: Monday August 15, 2022

Given the increasing number of psychological injuries and mental illnesses people are experiencing, whether at work, because of an accident or due to personal reasons, it is crucial that awareness is increased around options for claiming TPD (total and permanent disability) benefits for mental and psychological illness and injury.

Insurance benefits such as income protection (IP) and total and permanent disability (TPD), often held under a super fund, are some of the least known insurance products available to those who are injured or sick and unable to return to work.

Many people often only think of accessing this insurance for physical injuries; however, you can also lodge a TPD claim for illness, including mental illness and psychological conditions.

What types of mental illnesses are covered?

Psychological injuries and illnesses can take many forms, including:

- anxiety;
- depression;
- post traumatic personality disorder (PTSD); or
- bipolar disorder.

This list is not exhaustive and there are many other psychological illnesses which are commonly accepted by super funds if that illness is preventing you from working.

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What types of benefits can I claim if I have sustained a psychological injury or illness?

If you are unable to work due to mental illness and you hold the necessary insurance cover with your super fund, you may be entitled to income protection (IP) and total and permanent disability (TPD) cover.

Income protection claims for mental illness

[Income protection benefits](#) are usually a percentage of your wage, or an amount agreed between yourself and your super fund, that is paid in place of your usual income. Most funds have a two-month waiting period before you can claim.

Depending on the terms of your policy, you may be able to access these benefits for 2 years or more. IP benefits are considered income and need to be offset against any other form of income including Centrelink and WorkCover benefits that you may have received.

TPD claims for mental illness

[TPD benefits](#) can be accessed if you become permanently unable to work due to injury or illness, including mental illness. Super funds require you to meet their definition of total and permanent disablement which is usually that you are *“unable to work in any occupation for which you have the necessary skills, training and experience.”*

The amount that you are entitled to will depend upon the superannuation insurance product you hold as well as your age. Unless you pay extra premiums, most TPD insurance begins to gradually decline as you get older. TPD benefits are not considered “income” for Centrelink, WorkCover or the TAC, however appropriate financial and taxation advice is required when your claim is approved.

How do I claim super insurance benefits for a mental illness?

To claim super insurance benefits, you need to obtain the necessary documents from your super fund. This will include various authorities, a member’s statement and medical attendant statements that will need to be completed by your treating doctors.

In psychological injury cases, it is usually the treating general practitioner and psychiatrist that will fill in the medical attendant’s statement.

They will be asked to provide a diagnosis of your injury, treatment and medication to date and into the future as well as whether or not you have the capacity to work in your pre-injury role, some other role or participate in retraining.

What can I expect when I claim TPD or income protection for mental illness?

When you claim your super insurance benefits for injury or illness including mental illness, the super fund will confirm receipt of your claim and then undertake a review of your application. In some circumstances, they may ask for additional information, either from yourself, your doctor or any other insurer involved.

The fund may also require you to attend an independent medical examination. This does not occur in all cases. You will be required to attend this appointment.

For income protection claims, once the fund assesses and approves your claim, they will commence making payments to you. The fund will require ongoing monthly medical forms to be completed by your treating doctor. Your doctor will be asked to provide their opinion about your work capacity. Your doctor's opinion will impact upon your ongoing payments.

For TPD claims, your application is referred to the super fund's trustee for approval. The super fund will consider the trustee's position and then make a determination concerning your claim.

If your claim is accepted, payment of your insurance benefit will follow. If your claim is rejected or denied, you can appeal that decision. You can read more about this in our blog, ["Here's what to do if your TPD claim is rejected"](#).

What time limits apply to TPD and income protection claims?

There are no time limits in which you need to bring an IP or TPD claim. You should be aware, however, that the longer these claims are left, the more difficult they become.

Should your claim be rejected, there are strict timeframes for appeal and legal advice should be obtained as a matter of priority.

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Tips when claiming TPD or IP for mental illness?

When claiming insurance benefits for a psychological injury, there are several factors that you need to be aware of:

1. If you had a pre-existing psychological injury before joining the super fund, was this disclosed at the time of joining the fund?

We often see claims rejected based on "non-disclosure" of pre-existing injuries (both physical injuries and mental illnesses). Before lodging a claim, it is important that a careful analysis is undertaken of your treating doctor's clinical notes and the fund's policy, to ensure your claim has every chance of success.

1. Were you in "active employment" at the time of ceasing work?

"Active employment" is a definition many super funds use to determine eligibility for a benefit to be paid. Whilst every fund's policy is different, most require that you were working a minimum of 12-20 hours immediately prior to ceasing work.

1. Have you attempted to return to work?

Just because you have attempted to return to work, or returned to work in a supported role, does not mean that you can't claim insurance benefits from your super fund. If your super fund rejects your claim on this basis, you should seek legal advice.

Should I get a TPD lawyer involved in my claim?

Obtaining early advice about your super insurance entitlements if you have sustained a mental illness is crucial for you to understand the entitlements available to you and the process involved in obtaining these entitlements. This will allow you to be able to make an informed decision about the best way to achieve maximum compensation.

Whilst super IP and TPD claims can initially seem simple, they can quickly become complex, particularly if you have a psychological injury or mental illness.

At Guardian Injury Law, we take the time to get to know you, understand your circumstances and provide you with clear legal advice in a caring and professional environment.

We undertake work on a "no win, no fee" or expenses basis because we understand the difficult financial situations our clients face. We only charge when your claim is successful.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

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