ALFA INTERNATIONAL
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NAVIGATING AROUND ROCKY SHOALS – CO-MORBIDITY IN DISABILITY CLAIMS

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RECENT FEDERAL CASES ANALYZING COMORBIDITY

• Courts routinely hold that if the claimant was disabled as a result of both psychological and physical conditions, the insurer is entitled to cut off benefits when the payment period for the psychological condition expires. See Eastin v. Reliance Std. Life Ins. Co., 2013 U.S. Dist. LEXIS 123237, 2013 WL 4648736 (E.D. Ky. 2013); Kruk v. Metro. Life Ins. Co., 2013 U.S. Dist. LEXIS 35637, 46-47 (D. Conn. Mar. 13, 2013) (“MetLife’s payments of disability benefits to Kruk for the period January 19, 2001 to January 18, 2003 cover the maximum time allowed by the Plan for disability caused by mental or emotional disease. Mental disease and physical disease were comorbid illnesses afflicting Kruk before and up to January 18, 2003, and continued to do so thereafter. To be entitled to disability benefits after January 18, 2003, Kruk must prove that her physical disease, in and of itself and entirely disregarding her mental and emotional disease, was totally disabling.”).

• Courts have not developed a uniform approach to the issue of whether insurers must consider claimants’ comorbid conditions when determining whether a claimant is disabled. In Hayden v. Martin Marietta Materials, 763 F.3d 598 (6th Cir. 2014), the Sixth Circuit held that the insurance company was not required to take the “cumulative approach” to comorbid mental and physical conditions because the plan at issue “contemplates that mental and physical disabilities will be considered separately” based on the fact that the plan caps mental-disability payments at 24 months and does not cap physical disability payments. In stark contrast, in James v. Liberty Life Assur. Co, 582 Fed. Appx. 581 (6th Cir. 2014), the claimant was suffering from a comorbid diagnosis of physical ailments “complicated and amplified” by psychiatric disorders. The Sixth Circuit held that the insurer erred by “overlook[ing] the comorbidity of James’s diagnosis.” The plan at issue in James also caps mental disability payments at 24 months. Most courts seem to follow the approach of the James court.

• The Northern District of Georgia held that the insurer erred by failing to consider the insured’s comorbid psychological conditions. Reid v. Metro. Life Ins. Co., 944 F. Supp. 2d 1279, 1326 (N.D. Ga. 2013) (“Metlife’s review of Plaintiff’s medical records fails to squarely address
the issue that Plaintiff’s comorbid illnesses of Bipolar Disorder/Depression, Cognitive Disorder, and Dementia rendered her disabled.”

- The Eastern District of New York held that conducting a separate “co-morbid” analysis of the claimant’s medical records precluded it from finding that the insurer committed an abuse of discretion when denying insured’s claim. *Topalian v. Hartford Life Ins. Co.*, 945 F. Supp. 2d 294, 347 n.23 (E.D.N.Y. 2013) (“[D]uring plaintiff’s administrative appeal, Hartford referred plaintiff’s LTD benefits claim to two peer review physicians for a co-morbidity analysis and notified RRS that ‘because of the multiple conditions and specialties involved, [Hartford] would really like to have separate reviews to ensure that all conditions in combination are fully considered.’”)

- The Northern District of California held that insurer did not abuse its discretion when denying a claim because the reviewing doctor was not “entirely unaware” of the comorbid physical and psychiatric conditions and the doctor consulted with specialists before rendering his opinion that insured was not disabled. *Smith v. Hartford Life & Accident*, 2013 U.S. Dist. LEXIS 13868, 64, 54 Employee Benefits Cas. (BNA) 2643 (N.D. Cal. Jan. 30, 2013).
HOW JUDGES HANDLE COMORBIDITY – IS THERE A DIFFERENCE BETWEEN ERISA AND NON-ERISA CASES?

- Influence of the ERISA standard of review where applicable
- Likelihood/Possibility of remand
- Physical and mental and other combinations
- Will the court permit discovery?
PRACTICAL CONSIDERATIONS IN HANDLING CLAIMS AND LITIGATING COMORBIDITY CLAIMS

• Is there a claims manual which discusses comorbidity?
• Does the policy discuss comorbidity?
• Will a whole person analysis cover comorbidity?
• Are IMEs helpful?
• Who is the best professional to conduct an IME?