

## Massachusetts Appeals Court Upholds Insurer's Interpretation of Lifetime Total Disability Benefit Rider

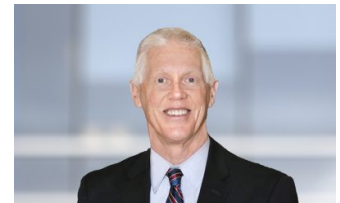
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Many individual disability insurance policies include provisions that affect the amount of the disability benefit to be paid after the insured reaches age 65. Examples include residual disability benefits that end at age 65; the stoppage of a COLA benefit after age 65; or a reduction in the disability benefit after age 65 depending upon when the total disability begins. When these circumstances arise, some insureds begin looking for ways around them, and their attorneys then craft creative arguments to support them. One of the strategies employed by these insureds is to argue the policy language limiting benefits after age 65 is ambiguous. Another is to argue that other policy provisions allow for benefits after age 65 even though the plain meaning of the policy says otherwise.

In [Kligler v. Paul Revere Life Insurance Company](#), 2024 WL 2288878 (Mass. App. Ct. 2024), the Massachusetts Appeals Court upheld summary judgment entered in favor of Paul Revere. The insured, Kligler, asked the court to reverse Paul Revere's determination that his total disability benefit after age 65 was reduced, based on the provisions of a lifetime total disability benefit rider.

After receiving his first disability policy from Paul Revere in 1990, approximately a year later Kligler submitted an application requesting a new policy with additional benefits, including a lifetime total disability benefit rider. Under Kligler's prior policy, benefits were payable only to age 65.

In 2014, Kligler submitted a claim to Paul Revere. The claim was approved, and Paul Revere began paying total disability benefits to Kligler when he was 62 years old. Under the terms of the rider, after 65 Kligler was only entitled to a monthly benefit of 30% of what he had been receiving prior



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to age 65. Kligler challenged that determination and argued that he was entitled to two benefits of \$13,300 each, a double total disability benefit. He also brought a claim alleging a violation of the Massachusetts Consumer Protection Act, Chapter 93A.

Kligler argued that the language of the policy schedule allowed him to recover two total disability payments of \$13,300 each. All claims were dismissed on summary judgment. Kligler appealed. In its decision, the Appeals Court found that Kligler's policy was unambiguous. It found that after age 65 Kligler's disability benefit was provided solely through the rider and that Paul Revere properly calculated his benefit under the terms of that rider.

**Joseph M. Hamilton represented The Paul Revere Life Insurance Company.**

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