

Bottom Line Personal
August 01, 2003
Frank Darras

Disability Insurance: What you need to know before filing a claim

If you file a claim for long-term disability, be prepared for a fight. No matter what your physical restrictions or pain, the insurance company will do whatever it can to keep you working or waiting for you benefits.

That's what happened to these disabled workers...

A chiropractor had a car accident and could no longer perform spinal manipulations. The insurer refused to pay disability, saying that the chiropractor could hire someone else to do the adjustments and simply meet and greet patients.

A janitor had a severe brain injury and could no longer drive or find his way to a bus stop. The insurer suggested he find work as a garment worker or a crossing guard.

What You Can Do

To make the disability claim stick...

- Be aware that you're being watched.

In the name of cutting costs and fighting fraud, insurers may videotape you periodically. Times when they tape...

Around holidays, when you typically go out with family members and are likely to be loading luggage into cars or playing with your children or grandchildren.

When you are scheduled for medical exams with doctors retained by your insurer.

During days when insurers require you to keep a log of your activities. If the two-week log and the videotape don't match, the company will accuse you of insurance fraud. If you sent the log by mail, add a count of mail fraud as well.

Insurers typically tape over a three to five-day period, usually between 5 am and 6 pm. This is legal if both you and the camera are outdoors or in public places.

Examples: You can be taped while doing yard work at home. If you go to a gym, the videographer can conceal a camera in a gym bag. Insurers cannot tap your phone or videotape through your windows.

Helpful: if you see an unfamiliar car outside your home, call the police. Doing so will intimidate the insurance company's "paparazzi."

- Brace yourself for demands for curative treatment or disability-ending care, even if your policy doesn't require it. Disability policies now require "appropriate" care instead of "regular" care. Appropriate care means care to cure the disability, not merely to help you live with it.

Example: If your back trouble has not responded to rest, physical therapy or pain medication, the insurer will argue that surgery is required if doctors say that surgery may enable you to return to work. You must have the operation and assume its risks—or forfeit disability payments.

- Turn the Tables. Your insurer will insist that you periodically see doctors of its choosing. Here's how to level

the playing field...

Check out the insurance company's doctor. Ask your own doctor what he/she knows about the insurer's doctor. Check the doctor's malpractice record with the state medical board. If he/she has been sued repeatedly, call, then write the insurer and request a different doctor.

Audiotape or videotape your entire visit—both the inquiries about your medical history and the physical exam. Put the recorder in plain sight, and offer the doctor a copy of the tape. If he/she refuses to allow you to tape the exam, stop immediately and call your insurer, if the insurer says your refusal will mean loss of disability benefits, contact an attorney.

If the insurance doctor does anything that causes you additional pain, see your own doctor immediately to get medical documentation of the harm.

- Be certified as disabled by a board-certified doctor—preferably a professor at a university-affiliated hospital.
- Avoid any activities that are inconsistent with your doctor's restrictions. Your insurance company probably will argue that just because you have a diagnosed malady doesn't mean you are disabled
Example: If you're not supposed to lift or bend, stay out of the supermarket and always ask for help with your groceries. If you have cognitive problems, including lack of focus, don't take responsibility for the family finances and investments.

BASICS OF A GOOD INDIVIDUAL DISABILITY POLICY

Disability insurance provides coverage if an accident or illness prevents you from carrying out the necessary duties of your occupation. Policies differ, depending on your occupation age and gender. Always buy as much individual disability insurance as your income will support. Most carriers will insure 60% to 70% of your salary or earnings on a monthly basis. Features to include...

Non-cancelable. The insurer cannot cancel the policy if you pay your premium before the policy grace period is up.

Guaranteed renewable. You pay the quoted premium forever.

Occupation-specific. You will receive benefits as long as you are unable to carry out the important duties of your own occupation—even if you can work at a different occupation.

Long benefit period. Many carriers offer coverage to age 65.

Waiver of premium after 90 days for as long as you are disabled. This means that you don't keep paying premiums while you are disabled and collecting benefits.

No more than 90-day waiting period before benefits start accruing. Benefits are paid retroactively and on a monthly basis. So if you have a 90-day waiting period, plus 30 days, your first check will take at least 120 days—plus 10 days to arrive by mail. Save accordingly. A longer waiting period may pose too much of a financial hardship for you.

Residual (partial) coverage. Disability insurance provides only part of your pre-disability salary. Residual coverage provides a smaller percentage if you are partially disabled and can show a 20% loss of your pre-disability earnings.

Cost-of-living adjustment. Pay extra to lock in an annual cost-of-living benefit. It is money well spent.

HOW TO BUY

Buy your own disability insurance even if your employer provides it. If you pay the premiums, benefits are tax free. You also have more rights, including the right to sue for back and future disability benefits, emotional distress, extra contractual damages (e.g., if your car was repossessed or home went into foreclosure), punitive damages and attorneys' fees.

Some companies offering individual disability insurance...

Berkshire Life, 800-819-2468, www.berkshire.com

Mass Mutual, 800-272-2216, www.massmutual.com

Northwestern Mutual, 414-271-1444, www.northwesternmutual.com

Unum Provident, 800-799-0990, www.unumprovident.com

Before choosing a policy, get at least three quotes from a licensed agent who has shopped for the lowest rates and provided you with the most generous coverage available.