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Traps in Company-Provided Disability Insurance...How to Protect Yourself

For most employees, disability insurance is something the company may provide, few workers have enough of, and no one understands.

After all, none of us likes to think about an extended sickness or traumatic injury that would prevent us from gassing up our cars, putting food on our tables, and clothing our loved ones. But disability does happen and always without warning, so you need to be prepared.

SHORT-TERM DISABILITY INSURANCE

Short-term disability coverage is just that - short-term. It usually lasts from 13 to 26 weeks. Benefits begin after a very short waiting period - zero to seven days - if you can't perform the substantial and material duties of your job. During the waiting period or elimination period, you don't get any money.

Example: Typically, a company's short-term disability policy pays 60 to 70 percent of your monthly salary. If you make \$2000 a month and your short-term disability policy pays a 60% benefit, your monthly benefit would be \$1200.

Trap: You are required to pay taxes on the benefits you receive if your company pays all the premiums for your short-term disability coverage.

Tip: Investigate if your employer will allow you to pay all or part of your short-term coverage. If you are permitted to contribute to your short-term coverage, your benefits will be tax-free. For example, if your monthly benefit is \$1200 and you pay 50% of the premium, then one-half of the benefits will be taxable and the other will be tax-free.

Also, ask your Human Resources department or benefits administrator if you can increase your coverage by paying the difference. If the company offers a 50% benefit, for instance, you may be able to increase your coverage to 70% by paying the difference yourself.

Key: Determine what definition of disability your insurance company will use to determine whether you are disabled under a short-term disability policy.

Most insurers will cover an accident or illness that prevents a policyholder from performing the physical and mental duties of his job.

Self-defense: Review your company's description of your job duties. Be sure it accurately reflects all of the physical and mental requirements necessary to do your job. If it is inadequate, supplement your occupational description so that it accurately reflects the amount of standing, bending, lifting, squatting, climbing, walking, reaching, carrying, and driving that you do. Be sure to include what kind of tools and equipment are necessary to do your work.

Tip: Be thorough when providing occupational information to your treating doctor. He will be required to certify your disability on a monthly basis and to evaluate physical and cognitive limitations that prevent you from doing your job.

Be honest about how you feel. Don't be a hero and put on a happy face when you feel lousy. Be sure to tell your doctor if you're experiencing dizziness, drowsiness, an upset stomach, or other side effects from your prescribed medication. If you don't tell your doctor about your problems, your insurance company won't learn about them either.

Trap: Some insurance companies may inform you during the claims process that policyholders may have only one disabling condition at a time. For example, if your back hurts and you're suffering from depression, your insurance company may tell you that it has to close one claim before it opens the second. Don't fall for this! Remember, you are insured for your whole body. Your insurer must consider all your claims for disability.

Surveillance Videotape

Be careful when your doctor says be as active as possible . Insurance companies love to secretly videotape policyholders who have a claim on file, then compare what they see with your alleged restrictions and limitations. If the monthly progress statement that you submit to your insurer is inconsistent with your treating doctor's monthly certification, a red flag is raised. If you aren't supposed to do heavy lifting or repetitive activity, don't do it. Be careful! Videotape is very powerful and can destroy your claim and your credibility.

Tips: Report to your local law enforcement all suspicious vans, trucks or cars prowling near your home.

Don't carry heavy luggage to your car or load your kids into their car seats. Have someone else drag your trash cans out to the curb. Don't exercise in public places. Spread out your must do errands over several days so you're not videotaped doing everything on your good day.

Be vigilant. Ask yourself if your activity is consistent with your doctors' restrictions and limitations and with what you listed on your monthly progress statement.

Short-Term Disability Requirements

Don't be tempted to cut back to part-time status when you first become sick or injured. By cutting back to fewer than 30 hours per week, you could be jeopardizing all of your short-term disability benefits.

Some short-term disability policies require a policyholder to be actively employed and working 30 hours per week just prior to claiming a disability. These at-work requirements are often hidden in the small print of your group certificate or policy booklet.

Tip: Be sure you have financial resources available for at least four months if your employer doesn't provide short-term disability coverage. You'll wait a long time before long-term disability kicks in.

LONG-TERM DISABILITY INSURANCE

Employer-provided long-term disability policies usually cover injuries or sickness after a 90- to 180-day waiting period if it has been determined that you are unable to perform the functions of your occupation for 24 months. After 24 months, the definition shifts to any occupation for which you are trained, educated, or suited.

Trap: After 24 months of disability, most carriers cut off benefits and previous earnings are not taken into account. For example, a new car sales manager is disabled from his occupation making \$100,000 a year. The carrier pays the first 24 months. After 24 months, the insurer may claim the policyholder can sell

encyclopedias by phone and agrees only to pay benefits based on a salary of \$25,000 a year.

Trap: Most group benefits are reduced or off-set by the amount of money you receive from state disability, workers compensation and social security -- even if you don't apply for them. With these sweeping off-sets, your long-term disability benefit can be as low as the benefit minimum of \$50 a month.

Tips: Read your group certificate of policy booklet carefully to determine what off-set or benefit reductions your policy contains.

Save enough money to build up an emergency fund in the event that you become disabled. You won't become eligible for benefits until after the 180-day waiting period, and it could take up to 7 ½ months before your disability coverage kicks in.

COMPANY TRAPS

Unless you work for the state, federal or local governments, a church, or a school district, your employer's long-term disability plan is regulated under the Employee Retirement Income Security Act (ERISA) guidelines. As a result, you and your family lose nearly all of your legal rights to sue if you do not receive the benefits to which you are entitled.

Under ERISA, you are not allowed to seek punitive damages or any other compensatory or consequential damages resulting from unfair or even fraudulent claims denials. You cannot sue your insurer for damages if it unfairly delays or denies your medical, life, or disability claim. Your only recourse is to take your insurer to federal court where your case would likely be decided within 15 months by a federal court judge, not by a jury.

If you lose your home in foreclosure because your insurer delayed paying your monthly benefit, your equity loss is not recoverable.

These restrictions seriously limit your ability to hire a lawyer -- meaning that you're likely to have to pay for all legal services out of your own pocket.

Administrative Record

Most ERISA cases will be decided on the administrative record that the policyholder, his employer, and treating physician submit to support the disability claim.

Don't assume the insurance company gathered all your medical records from your doctors. Some insurers only request office or chart notes. During the claim process, be sure to document and support your claim by sending&

All occupational information that lists the important duties of your job.

All medical records, including charts, test results, and progress notes that support your restrictions and limitations.