

## Disability Income Benefits: The Complex Application Process

**T**he most important aspect of a claim for disability benefits is the information contained within the initial application submitted to the insurance carrier. The application process is complex and most applicants do not realize the manner in which insurance companies scrutinize and investigate claims for disability benefits. Our law firm has counseled and guided hundreds of applicants throughout the application process.

An application for benefits must contain specific information and be supported by the proper documentation. The application process involves collaboration between the applicant, the treating physicians, an accountant and any co-workers at the time the applicant became disabled.

The disability application requires an applicant's occupational duties to be specifically broken down into categories and the amount of time spent performing each duty must be established. In order to verify occupational duties, an insurance company will want to analyze the applicant's tax returns, profit and loss statements, appointment books, billing records and any other documentation that shows the work the applicant has performed during the three years prior to filing a claim and the time period after filing a claim.

Next, the insurance company will require the applicant's treating physicians to submit Attending Physician Statements, which must state whether or not



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the applicant can perform either the duties of his or her occupation or any other occupation. In addition, the insurance company will either call or meet with the treating physicians in order to discuss the applicant's claim for disability benefits. We regularly consult with an applicant's treating physician, so that the treating physician can properly evaluate an applicant's restrictions

and limitations in conjunction with the applicant's daily occupational duties at the time the applicant became disabled.

While evaluating the applicant's claim for benefits, the insurance company will usually send out a company field representative to interview the applicant and review any financial documentation in the applicant's possession. Field representative interviews should never be conducted without the presence of an attorney. In addition, the applicant may be required to appear for an independent medical examination (IME) and a functional capacity evaluation (FCE). In order to protect the rights of the applicant and ensure legitimate testing, we always recommend that these so-called independent medical exams are videotaped and a copy of the report provided to the applicant upon completion.

Lastly, without the applicant's knowledge or consent, the insurance company will usually have a private investigator follow the applicant and conduct video surveillance for several days or weeks. In a recent case, a disability insurance com-

pany ordered surveillance of a doctor within 3 days of the applicant calling the insurance company to request an application to file for disability benefits. The insurance company will then send the video surveillance to the independent medical examiner in order to find out if the observations in the video are consistent with the applicant's inability to perform the duties of his or her occupation. We always ask the insurance company for a copy of the surveillance video and to give the applicant's treating physicians an opportunity to review the surveillance video before any decision is made.

The insurance companies are not entitled to every piece of information they request, and an applicant must be aware of the legal implications of every communication and document requested by the insurance carrier. Insurance companies have a lot of discretion under the terms of a disability policy, and an applicant must be prepared so that an insurance company will be forced to focus on the limitations and restrictions which prevent an applicant from performing his or her occupational duties at the time the disability started. Without proper guidance, an applicant can easily jeopardize their entitlement to disability benefits.

If you are considering applying for benefits or are waiting for a decision, contact our law firm for a free evaluation of your claim for disability benefits.

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