

Disability Rights Legal Center

CLRC

Cancer Legal Resource Center

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The CLRC is a joint program of the Disability Rights Legal Center & Loyola Law School

Disability Insurance

What is Disability Insurance?

Disability insurance is an insurance policy that pays a portion of your income in the event of a temporary or permanent disability, which prevents you from working.

Private Disability Insurance

What is private disability insurance?

Private disability insurance is an insurance policy that can be provided by an employer as an employee benefit, or an insurance policy that can be purchased by an individual. It protects employees who are unable to work due to a disability, by paying them all or part of their salaries.

What is short-term private disability insurance?

Short-term disability insurance pays a percentage of your salary if you become unable to work for a short period of time due to illness, injury, or pregnancy. Short-term disability insurance policies typically provide benefits for a short period of time (six months to one year). It is important to know how your insurance company defines "disability."

What is long-term private disability insurance?

Long-term disability insurance pays a percentage of your salary if you become unable to work for a longer period of time due to illness, injury, or pregnancy. Long-term disability insurance policies typically provide benefits for a disability that is expected to last, or has lasted for one year or longer. Again, it is important to know how your insurance company defines "disability." Policies vary on the length of coverage, but usually long-term disability provides benefits until age 65 for physical disabilities (or as long as the disability continues). However, policies may only cover mental disabilities for a period of up to two years.

Must my employer offer disability insurance?

An employer is not required to provide disability insurance as a benefit of employment. Check with your employer to see whether disability insurance is offered and, if so, whether the employer pays the whole premium or a part of the premium. You should review the terms, limitations, and exclusions in the policy to determine whether the coverage is adequate for your own future needs.

What should I look for in an individual disability policy?

Always read the information in a policy before purchasing, to make sure the policy suits your specific needs. These are some important aspects of a disability policy:

- The definition of "total disability" that will entitle you to benefits
- The "elimination" or "qualifying" period, which refers to the period of time between the date the disability begins and the beginning of the benefit period

- Availability of “residual” benefits, which make up the difference in income if you are only able to work in a limited capacity, which results in a lower income
- Payment for “presumptive” disabilities (such as loss of sight, hearing, or use of limbs), even if you still may be able to work
- The “benefit period,” which means the maximum amount of time you can collect benefits
- The “benefit percentage,” which is the amount you will be paid and is usually a percentage of your income
- Any cost-of-living adjustments to increase benefits
- “Waiver of premiums,” so that you do not have to pay premiums if your disability lasts 90 days or longer
- “Mandatory rehabilitation options,” which allow the insurance company to terminate your benefits if you do not cooperate with a rehabilitation plan
- Any other limitations or exclusions (such as barring benefits for pre-existing conditions)
- Any offsets against the benefits (such as SSDI or workers’ compensation)
- “Survivor benefit option,” which is a lump sum payment to the insured’s survivors if the insured dies while receiving disability benefits

Can an insurer refuse to issue a disability insurance policy?

Insurance companies can refuse to sell individual disability insurance policies to people who have a pre-existing medical condition. It is important to purchase disability insurance before you have a pre-existing medical condition, or there is a greater chance that you will be denied based on that pre-existing medical condition. Some policies may offer a pre-existing condition exclusionary period. This means that for a specified period of time, the insurance company will not provide benefits, if you are unable to work as a result of the pre-existing medical condition. Only after the pre-existing condition exclusionary period expires, will the condition then be covered under the policy.

The insurance company can also require a medical examination before issuing a policy. Once they issue the policy, it generally cannot be cancelled as long as you pay your premiums and it is guaranteed to be renewed each year. However, if there was any misrepresentation of a disability or of pre-existing medical conditions the insurance company may cancel the policy based on a claim of fraud. It is important to always provide accurate information about your medical history.

How does private disability insurance differ from Social Security Disability Insurance (SSDI)?

Employees who have disabilities that prevent them from working may be eligible for both private disability insurance benefits and Social Security Disability Insurance (SSDI) benefits. See below for additional information about SSDI. Collecting private disability insurance benefits does not bar you from collecting SSDI benefits. However, some private disability insurance policies may require that you also apply for SSDI benefits and, if you receive SSDI benefits your private disability insurance benefits will be offset by the amount of your SSDI benefits.

How does private disability insurance differ from Supplemental Security Income (SSI)?

Employees who have a disability that prevents them from working may also be eligible for Supplemental Security Income (SSI). See below for additional information about SSI. The amount of SSI benefits that you receive depends on the state in which you live. If you are receiving private disability insurance benefits this will count towards your income and may disqualify you from receiving benefits through SSI.

How does private disability insurance differ from workers’ compensation?

If you are receiving workers’ compensation benefits after being injured on the job, some private disability insurance policies will deny or reduce your private disability insurance benefits.

What should I do if my disability insurance company denies my insurance claim?

If your claim is denied, some policies require that you appeal the decision within a certain timeline. Check with your insurance company for information on the appeal process.

State Disability Insurance

What is state disability insurance?

State disability insurance benefits are benefits that are offered through a state-sponsored program. State disability insurance programs have different names in each state. They can be called temporary disability insurance benefits and state short-term disability insurance benefits. They provide employees with a source of income when unable to work due to disabling illnesses and injuries, which are not work-related. Typically, state disability insurance benefits are administered by the same agency that administers state unemployment insurance. Eligibility requirements for these benefits will vary in each state.

Which states and territories offer state disability insurance and how long do they offer benefits?

- California State Disability Insurance (SDI) – up to 52 weeks
- Hawaii Temporary Disability Insurance (TDI) – up to 26 weeks
- New Jersey Temporary Disability Insurance (TDI) – up to 26 weeks
- New York Disability Benefits Law (DBL) – up to 26 weeks
- Rhode Island Temporary Disability Insurance (TDI) – up to 30 weeks
- Puerto Rico Disability Insurance – up to 26 weeks

State Disability Insurance Agencies

California

Employment Development Department
State Disability Insurance (SDI)
(800) 300-5616
www.edd.ca.gov

Hawaii

Hawaii Dept. of Labor & Industrial Relations
Disability Compensation Division
Oahu (808) 586-9161 or Maui: (808) 984-2072
www.dlir.state.hi.us

New Jersey

New Jersey Department of Labor
Division of Temporary Disability Insurance
(609) 292-7060 www.state.nj.us/labor/index.html

New York

New York State Insurance Fund
New York State Disability Insurance Benefits
(877) 469-7432 www.nysif.com

Rhode Island

Rhode Island Department of Labor & Training
Temporary Disability Insurance
(401) 462-8000 www.dlt.state.ri.us

Social Security Disability Benefits

What is Social Security Disability Insurance (SSDI)?

SSDI is a federal disability insurance program and is managed by the Social Security Administration. Social Security defines “disability” as the “inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, which can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months.” To be eligible for SSDI benefits, an employee must have sufficient credits based on a taxable work history. The amount of the monthly SSDI benefit is based on the Social Security earnings record of the insured employee. Contact the Social Security Administration at www.ssa.gov or 800-772-1213, for more information.

What is Supplemental Security Income (SSI)?

Supplemental Security Income (or SSI) is a monthly stipend provided to people aged 65 or older and people who are blind or have a disability. In order to be eligible for SSI, a person must also have limited income and resources. SSI is also administered by the Social Security Administration and utilizes the same definition of “disability” as SSDI. The amount of the monthly SSI payment varies up to the maximum federal benefit rate, which may also be increased by the State or decreased by a person’s countable income and resources. Contact the Social Security Administration at www.ssa.gov or 800-772-1213, for more information.

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