

Questions to Ask Before and After You File a Disability Claim

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Acting as your own advisor can be economically devastating in today's disability claim environment. It is prudent to seek the advice of an attorney on a legal issue or the advice of an accountant on a tax issue, but it is also prudent to seek competent advice when faced with the prospect of a disability claim. An experienced disability claim consultant with a successful history of selling disability insurance and providing advice on disability claims can help answer difficult questions and help you prepare to communicate effectively with insurance companies.

These are some questions that you may not be prepared to answer, yet each addresses an important facet of a disability claim.

Are You a Danger to Yourself and to Those You Give Advice to by Continuing to Work?

I continue to see chiropractors who continue to work in spite of medical symptoms that indicate they should stop. Cervical, hand problems and low back issues are just some of the medical symptoms I encounter that relate to this problem. Chronic pain can cause one to have a lack of focus or not have the physical strength to perform a chiropractic adjustment properly.

Sometimes, reducing your hours can help and a PARTIAL disability claim would be appropriate. In other situations, a complete divorce from chiropractic adjustments may be the order of the day.

If you have a "pure," your occupation definition for total disability in your disability contract, you can usually continue to own the practice and work in a management/marketing person scenario. In this case, you would still be considered totally disabled even though the practice continues to earn money for you. Another chiropractor could be hired to fill in for you or an associate chiropractor working part-time could have their hours increased to working full-time.

If the definition of total disability covers you in "Your Occupation" but also states that you cannot work in any other occupation, working now in a management/marketing capacity will define disability as a partial disability and will consider your earnings. If, after overhead expenses you do not have a 20% loss of earnings (for the practice) you will collect nothing.

Some insurance companies, even with a 20% or more loss of earnings, will still pay you nothing. So, it is important to clearly understand the definitions in your disability contract(s) so you know which direction to lean.

Do I sell my practice or continue the practice? You may have a choice, but moving in the wrong direction may cost you some big bucks! Denial, loss of identity, purpose in life and other factors all have a bearing on admitting you have a problem. By not admitting the problem, you risk being sued for malpractice, injuring a patient or both. If you "hold back" and don't do a procedure or don't do it properly, you risk losing the patient and if you lose enough patients, your practice will no longer even be saleable.

What is the Best Way to Transition From a Partial Claim to a Total Disability Claim?

You have reduced your hours or eliminated one of your chiropractic adjustments (Ex: A Side Posture) and you are collecting on a partial (residual) disability claim because of reduced earnings.

Over time, your medical symptoms have worsened whereby another chiropractor must be brought in to replace you. Since they may not be you in terms of experience, dedication and being a "major league player," their "minor league tendencies" might cause patients to leave the practice for a competitor. Or, you might have to pay another chiropractor so much money that it is not economically feasible for you to earn a profit.

In this case, you would want to sell the practice as quickly as possible and I recommend that you use a practice broker experienced in working with professionals (or even one limited to working with chiropractors) or certainly a business attorney who can help draft the proper contracts.

Do not call or notify the insurance company that you are planning to go on disability until the practice has been sold and/or you stop your clinical duties.

Doing so can only jeopardize your rights and the insurance company will not give you an answer until you actually stop clinical duties. It is crucial that you advise your treating physicians/chiropractors that your condition has worsened before you stop clinical duties.

In addition, all my clients provide a history letter of the reason for the transition from partial to total disability and samples of such letters are provided as a guideline. Do not make this serious error! Your disability policy has "Your Occupation definition" AND an "earnings definition" for TOTAL disability OR includes a "Not working in another occupation" in addition to the "Your Occupation" definition.

Consider this scenario if you have a "not working in another occupation" policy: You stop working clinically and manage the practice for a year. THEN you sell the practice.

[pb]In this case, the insurance company will consider you a *manager*, not a Chiropractor, and the definition of a manager will apply. So, if your medical symptoms would prevent you from working as a chiropractor, but don't prevent you from working as a manager (in a chiropractic office or ANY type of office), you will receive no disability benefits. Timing is very important when it comes to a disability claim, and knowing when and how to quit can make the difference between receiving benefits and receiving nothing.

How Do You Handle Your Social Life After You Go on a Partial or Total Disability Claim?

Many insurance companies use video surveillance as an important tool in their arsenal of weapons to discredit your claim. You have to make sure you are not doing something that is in conflict with your medical symptoms.

If you had to reduce your hours or completely stop chiropractic adjustments because of a rotator cuff problem, throwing a football or baseball with your 10-year-old, will certainly be in conflict with your symptoms. Skiing or being a "surfer dude" with a low back problem would also be in conflict with your symptoms. Have a lousy low back or shoulder or hand problem? Walking your 80 pound Labrador Retriever who is pulling you in all sorts of directions (in spite of a choker chain) might not be the best way to act for one with a disability claim.

This doesn't mean you cannot do any type of sports or activities. It means that you can do some activities within your limitations. Letting the insurance company know what activities you perform

using the proper language will avoid the "gotcha syndrome," which can be the basis for a termination or denial of a claim.

Knowing how insurance companies do video surveillance is also important, as well as knowing what is permissible and what is not. Parking a van in your neighbor's driveway is a "no-no," as well as following 10 feet behind you in a van while you take a soft stroll with your neighbor.

If a Disability Claim is Denied or Terminated, What Are Your Options?

There are 4 options:

1. You can roll over and play dead and do nothing.
2. You can appeal the claim yourself, which would be the equivalent of filing a tax return instead of letting your C.P.A. prepare it.
3. You can hire an attorney. Some (very few) will charge you an hourly rate and ask for an "up-front" retainer fee. As the money gets used up based upon the attorney's time, you will be asked for more money. Amounts could reach \$75,000 to \$100,000, and that is even if the case is settled (which many are) and another \$50,000 or more if you go to trial. All the expenses of which are being paid on your end. Most of the attorneys who specialize in disability claims will charge you a "contingency fee." They assume all costs initially and if the claim is settled (often for 40 cents on the dollar or less), the attorney will get paid one third or 40% of the settlement amount plus all the costs they have advanced. If you had a two million dollar potential payout, you might end up with 20 cents on the dollar net or \$400,000. Most lawsuits wind up in federal court (moved from local court). The difference being: A Federal Court Judge can pick as many people as he wants on the jury (8, 10, 12, 14) AND in a trial everyone must vote favorably for you, otherwise there is a "hung jury" (which in essence means you don't win) and your attorney will then suggest you go back to the arbitrator to see if there can be a "meeting of the minds," which means a much lower settlement. Wanting to go another round in trial might be offered with additional expenses piling up in addition to the mental anguish you will suffer.
4. Hire a consultant highly experienced in disability claims. The consultant will help you prepare an appeal for a small retainer fee and charge an hourly rate against that fee. The total cost is usually less than \$10,000 even when costs exceed the amount of the initial retainer fee.

The foregoing are just some of the questions you will have to deal with if you go on a partial or total disability claim. For the following reasons, you may want to think twice before deciding to go it alone:

- There are many forms to complete — initially and on an ongoing basis. In addition, many of the questions you will be required to answer demand a very thorough understanding of the subject matter. The importance of answering the questions correctly cannot be overstated.
- Many hours of work are usually required. Submitting the initial claim form is only Round One.
- You take a simplified approach when your needs are "major league."
- Not understanding the meaning of words as they apply to a disability contract can also cause you to prejudice your rights. For example, what's the real meaning of "pre-existing condition?" Does the wording "fraudulent misstatement" change the above? Does the state in which you reside have an effect on how the insurance company interprets these clauses?
- Finally, and most important, do you know how to maintain dignity, self-respect and credibility in your relationship with your insurance company?

A disability claim consultant may be the best investment you can make in successfully and effectively submitting your disability claim.

