

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 that 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 directly from an insurance company or through a professional organization.¹ It protects employees who are unable to work due to a disability, by providing partial income replacement (the amount varies, but is usually around 60% of your salary). Plans vary, so if you have disability insurance, it is important to read the terms of the policy carefully to understand when benefits are payable and under what conditions. It is particularly important to know how your insurance policy defines “disability.”

Is my employer required to 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. Review the terms, limitations, and exclusions in the policy to determine whether the coverage is enough for your future needs. Some employers offer short term disability, some offer short and long term, and some only offer long term plans.

What is short-term private disability insurance?

Short-term disability (STD) 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 short periods of time (usually up to six months or one year).

What is long-term private disability insurance?

Long-term disability (LTD) 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. Policies for LTD plans vary on the length of coverage, but they may provide benefits for a limited number of years, or they may provide benefits until age 65, or until retirement, or until recovery. LTD policies may include a shorter time limit on coverage of mental disabilities than physical disabilities.

What should I look for when shopping for an individual disability policy?

¹ The American Bar Association offers its attorney members disability insurance, and there may be other professional organizations that offer members the opportunity to buy discounted disability insurance. If you are part of a professional or other organization, check to see if the organization offers the chance to purchase disability insurance.

Always read the information in a policy before purchasing, to make sure the policy suits your specific needs, and again before filing a claim to understand your benefit limits and what you need to show to prove disability. These are some important aspects of a disability policy to consider:

- The definition of “total disability” that will entitle you to benefits;
- Whether your plan is an “any” or “own” occupation plan: (1) “any occupation” plans consider an individual disabled if a condition prevents the person from performing the regular duties of any occupation. (2) “Own occupation” definition considers a person totally disabled if a condition prevents that individual from performing the regular duties of their own occupation.
- The “elimination” or “qualifying” period, (the period of time between the date the disability begins and when the benefits begin);
- Payment of “residual” benefits, which make up the difference in income if you are only partly 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 is the maximum amount of time you can collect benefits
- The “benefit percentage,” the amount you will be paid; usually a percentage of your income;
- Any cost-of-living adjustments to increase benefits over time
- “Waiver of premiums,” allows you to not pay premiums if a disability lasts 90 days or more;
- “Mandatory rehabilitation option,” which allow the insurance company to end 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 made to the insured’s survivors if the insured dies while receiving disability benefits

Can an insurer refuse to issue a disability insurance policy?

Yes. Although the Affordable Care Act (ACA) prohibits insurers from denying health insurance coverage because of pre-existing conditions, the ACA does not apply to disability insurance policies. If you do not have employer-sponsored group disability insurance and wish to purchase disability insurance privately, insurance companies can refuse to sell individual disability insurance policies to people who have a pre-existing medical condition such as cancer. It is important to purchase disability insurance before you need it, because the price of a private disability insurance policy may vary based on age, health, and past medical conditions.

Some policies may have a pre-existing condition exclusion period. This means that for a certain period of time, the insurance company will not provide benefits if you are unable to work as a result of a pre-existing medical condition. Only after the exclusion period ends, will the condition be covered. The insurance company can also require that you take a medical examination before getting a policy. Once the insurance company issues the policy, it generally cannot be cancelled as long as you pay your premiums on time and it is guaranteed to be renewed each year. However, if you misrepresent a disability or pre-existing medical condition, the insurance company may cancel the policy. It is important to provide accurate information about your medical history.

How is private disability insurance different 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 keep you from collecting SSDI benefits. In fact, many private disability insurance policies require that you also apply for SSDI benefits. If you receive SSDI benefits, your private disability insurance benefits will be offset by the amount of your SSDI benefits.

How is private disability insurance different from Supplemental Security Income (SSI)?

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

How is private disability insurance different 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 timeframe. Check with your insurance company for information on the appeal process. (Also see the CLRC Disability Insurance Appeals handout).

Does my employer have to hold my job open for me while I am receiving disability benefits?

Not necessarily. It is important to note that private disability insurance offered as an employee benefit is not the same thing as job-protected medical leave. Disability insurance does not provide job protection or guarantee health insurance coverage. That means your employer is under no obligation to continue employing you simply because you are receiving disability benefits. In order for your job to be protected while you are out due to a disability, you must take job-protected leave, like under the Family and Medical Leave Act (FMLA), use sick/vacation days, or use any leave policy your employer may provide. If you have been let go from a job while on disability leave and you think you should have been protected under the FMLA or Americans with Disabilities Act, you may want to contact an employment law attorney to discuss your options.

What happens to my disability plan if I am terminated from work and my employer had provided me with long term disability benefits?

It depends. You may remain eligible for LTD benefits if you are terminated while on short term disability leave. If you had a LTD plan through your employer and you became disabled while still employed, you may be able to collect those benefits. However, if you are leaving your job before being eligible for any disability benefits, and wondering whether you can take your LTD policy with you, you will need to look to see whether the policy includes a conversion provision – that is, you will need to see if the policy is one that can be converted into an individual policy so that you can take it with you when you leave your job. Most plans do not include a conversion option, so check your policy to be sure. If your employer or its insurance company tries to deny you disability benefits, contact an employee benefits lawyer.

For more information about Private Disability Insurance, please contact:

Life and Health Insurance Foundation for Education (LIFE)
LIFE is an educational foundation that exists to help consumers better understand disability insurance. Call 888-LIFE-777 or visit www.lifehappens.org.

STATE DISABILITY INSURANCE

What is State Disability Insurance?

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

Which states and territories offer state disability insurance and how long are benefits paid?

- 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

Agency Contact Information:

California

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

New York

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

Hawaii

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

Rhode Island

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

New Jersey

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

Puerto Rico

Department of Labor and Human Resources
Unemployment Insurance Division
(787) 625-7900 <http://www.dtrh.gobierno.pr/>

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, you must have enough credits based on a taxable work history. The amount of the monthly SSDI benefit is based on how much you have paid into Social Security over the years. Contact the Social Security Administration at www.ssa.gov or 800-772-1213, for more information about SSDI.

What is Supplemental Security Income (SSI)?

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, you 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 may be 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 about SSI.

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