ROTHMAN GORDON

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Workers' Compensation Newsletter

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Understanding/Appreciating Social Security Disability Insurance

If you have had the misfortune of suffering a catastrophic illness or injury (whether it is work related or not), and are unable to work, you may be eligible to apply for social security disability benefits.

Social Security offers more then just retirement benefits. If you have worked for a long enough period of time (usually five out of the last ten years) and expect to be out of work for 12 months or more, you may be eligible to immediately submit an application for social security disability insurance benefits.

There are advantages to applying if you are eligible. First and most importantly, it provides a source of income in the event you are unable to work on a long term basis. The majority of workers who are injured or ill as a result of a disability do not have private long-term disability policies to supplement their income. The receipt of social security disability benefits provides a means for individuals to supplement their income (even if they are on workers' compensation) while they are unable to work.

The amount of benefit varies by individual based on their yearly contributions. The monthly benefit is based on how long a person has worked and how much money a person has earned. Often you have received in the past, and will continue to receive in the future, an Earnings Statement which informs you what you will be eligible to collect monthly if you were found disabled. If you find that Social Security has omitted a year that you know you worked and paid into Social Security, it is important to notify them immediately by filling out form SSA-70008 and providing a W2 form indicating your earnings for that year they missed.

This same statement may tell you that you are not eligible to submit an application for social security disability insurance benefits if you have not worked long enough to qualify for that benefit. Notwithstanding that, you still might be eligible for Supplemental Security Income if you are under certain income requirements.

For more information about social security disability do not hesitate to contact our office at (412) 338-1153 as there are additional advantages to applying for social security disability such as assistance for children under age 18 (or older if they are still in high school) or children who are disabled, early eligibility for Medicare and preventing your social security retirement fund from being depleted.

Applying for social security disability is a very complicated process and the federal government would like you to apply on your own so that you make mistakes which we would have difficulty overcoming in the event you apply yourself. Consequently, we urge all of our clients and referral sources that if they know someone who needs social security disability, they should first seek a consultation before they take a false step which might be irreparable.

Injured workers must be truthful about their injuries

In *Sauer v WCAB (Verizon Pennsylvania, Inc.)*, the injured worker lost his benefits due to surveillance photos which showed him performing physical acts that he had indicated he could not do. The worker suffered a work injury to his neck and right shoulder. In July 2007, he indicated he had no employment and no other income than his Workers' Compensation benefits. In August 2007, he returned to modified duty work but was terminated and lost all WC benefits because he lied to his employer.

The injured worker was photographed on a couple of occasions over the summer doing lawn maintenance, assembling a gazebo, and carrying boxes. He was also photographed visiting private residences and performing activities consistent with home repair. The truck he was driving at the time had a sign that read "Worker Bee Home Improvement."

The Workers' Compensation Judge (WCJ) found, and the Workers Compensation Appeals Board (WCAB) agreed, that the injured worker had lied to his employer about the extent of his injuries and physical limitations, as well as about his lack of income. The termination and the loss of benefits were both upheld.

What does this mean? Lying is a very serious breach of trust that can jeopardize a case and may result in complete loss of benefits as well as employment. Employers are within their rights to use surveillance if they suspect an injured worker is lying to them. It is very important to be truthful about your injuries. It is also important to follow your doctor's instructions and not attempt any activity that he or she has advised against, even if you are having good days and bad days.

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