
The Injury Disability Law Letter

Brought to you by Spencer & Spencer, Attorneys at Law

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WELCOME TO THE INJURY DISABILITY LAW LETTER

You may be wondering why we have chosen to publish this newsletter. If you are not familiar with our firm, we are a Colorado Springs law firm that practices in the areas of Workers' Compensation, Social Security Disability and Personal Injury.

Our primary goal is to inform you about Workers' Compensation, Social Security and Personal Injury law. We will keep you posted about changes in the law, and will let you know how you can get involved before proposed legislation becomes law. You can make your opinions count only if you get involved in the decisionmaking process.

We will feature a different term or concept that is used in Workers' Compensation, Social Security and Personal Injury law in our Terms column. We will also feature case summaries of people just like you who continue to fight the system.

Our other goal is to tell you about community resources. And by "community" we are not limiting ourselves to the Front Range. We will not only include information about organizations in the Pikes Peak region, but will also review web sites for their usefulness to injured and disabled people.

We know how important it is for injured and disabled people to have a support system. Our aim is to provide information to you that you can use to build or expand your own support system. Even if you are not injured or disabled, you probably know someone who is, and we think that person would appreciate it if you passed our newsletter on to them.

Last, because we are not afraid to laugh at our profession, we will also print some of our favorite lawyer jokes.

SPENCER & SPENCER, L.L.C.
ATTORNEYS AT LAW

403 South Tejon Street
Colorado Springs, CO 80903

(719) 632-4808-Colorado Springs
(719) 562-9921-Pueblo

www.2spencers.com

SSA CHANGES CLAIM PROCESS

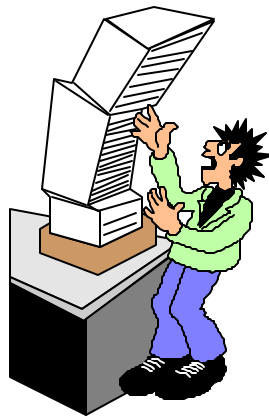
The Social Security Administration has made some major changes in the application process for disability claimants. (SSDI & SSI). This change will take place on October 1, 1999. These changes do not apply to anyone who has applied before October 1, 1999. Colorado is one of ten states where this new program will be started. Over the next few years, this new system will be implemented nationwide.

SSA has eliminated the “reconsideration stage” of the process. Under the old system, if an application for benefits was denied, you could request that SSA “reconsider” the denial. SSA would then review the initial denial.

This process has changed in several ways.

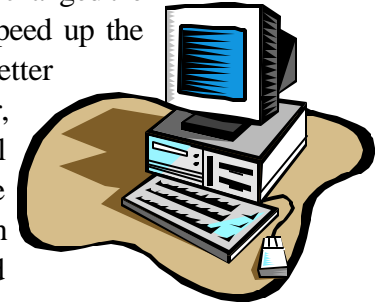
- First, as mentioned above, there will be no request for reconsideration.
- Second, one person will be evaluating the medical records and statements from the claimant. Before this change, one person evaluated the file when the claimant first applied, and a second person looked at the file after reconsideration was requested.
- Third, SSA has added a Claimant Conference to the process. If the person evaluating the claim cannot award benefits based the evidence in the file, they will send a notice informing the claimant of their option to attend an informal conference. You can and should have your attorney with you at this conference, if you chose to attend.

We here at the Injury Disability Law Letter are very concerned that SSA will pressure people to drop their case at this Claimant’s Conference. We urge all applicants who receive a notice of a Claimant’s Conference to contact an



attorney who specializes in Social Security law. Social Security cases are supposed to be “non-adversarial;” however, our experience has been that the process has become more and more antagonistic.

SSA states that it has changed the procedures in an effort to speed up the process and provide better customer service. However, we question whether this will really save significant time since Congress has not given SSA additional money to add more staff.



WEB PICKS:

WebMD

URL: <http://www.webmd.com>

RATING: ★★★ out of four

This is a fairly well-developed site that offers many different sources of information in one place. Check out the “Member to Member” message board where you can read messages from other visitors and reply to their questions, or post your own question. The “Condition Centers” has articles on more than 50 diseases and conditions. WebMD also has links to clinical trials currently taking place where you can search for experimental drug and procedure trials.

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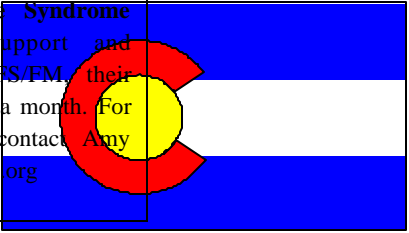
Earnings Limit Increased for Social Security

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The "Drug Reference" section is very useful. It provides fairly detailed information about prescription and non-prescription drugs. A handy feature is the ability to search by brand name or generic. The site also offers a unique feature with its "Daily Broadcasts," which are two-minute audio programs that keep users up to date on current medical news. You can either listen to these programs or print out a transcript.

There were two drawbacks to this site. First, the live chat links did not offer much when we visited the site. Most of the chat topics did not have any upcoming chats scheduled or archives to read. Second, this site is relatively new and does not cover as many conditions and diseases as it could. But, overall, we found the site generally easy to use, and informative.

<h3>Community Resources</h3> <p>The Fibromyalgia and Chronic Fatigue Syndrome Support Group provides emotional support and educational information to people with CFS/FM, their families and friends. The group meets twice a month. (For meeting times and additional information contact Amy Gervickas at (719) 570-6116. http://www.cfids.org)</p>	
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LEGISLATURE SLASHES WORKERS' COMP. BENEFITS

The Colorado Legislature has never been a friend of injured workers. However, last year's election of Bill Owens as Governor set off a stampede to reduce the few remaining benefits available. This column explains two new laws enacted during the last legislative session. These laws apply to injuries occurring on or after July 1, 1999.

House Bill 1105

This law changed the rules for determining when an injured worker is entitled to lost wages benefits after being fired by the employer. Under the old rule, a claimant could still receive lost wages benefits if the work injury interfered with his or her ability to find another job. Under the new law, if an employee is "responsible" for being fired, he or she will not be entitled to lost wages benefits even if the work injury makes it impossible to find other work.

We believe this new law will encourage employers to look for an excuse to fire an injured worker as soon as he or she gets hurt. If the employer can show that the injured worker violated some "technical" rule (such as being late for work, "bad attitude," etc.), the claimant will not be able to obtain lost wages benefits. Therefore, it will be extremely important for every injured worker to be on their "best behavior" after being hurt on the job.

House Bill 1157

This law changed the rules for calculating permanent partial disability benefits (PPD). PPD is paid to an injured worker who is left with a permanent medical impairment after reaching maximum medical improvement. The insurance and business lobbyists put this bill at the very top of their agenda during the last legislative session because it will dramatically reduce the benefits to claimants with arm and leg injuries.

Some background is required to understand the changes made by this bill: our Workers' Compensation system uses two different methods to calculate PPD benefits, depending on which part of the body was injured. Arm and leg injuries are compensated based on a "schedule" of benefits. The maximum compensation for an arm or leg is \$31,200. However, injuries to other parts of the body, such as the back, neck or head, are compensated under a formula which includes the claimant's age and wages. This is known as the "whole person" formula.

A "scheduled" impairment rating can be converted into an equivalent "whole person" rating. For example, 10% of the arm equals 6% of the whole person. These are simply two different ways to look at the *exact same* physical impairment. However, the 6% whole person rating is usually worth **2-5 times more** than the 10% "scheduled" rating. Therefore, it was usually to a claimant's advantage to have the scheduled rating converted into a whole person rating. This conversion was required if a claimant had both types of injuries, for example, an injury to the arm and the neck.

HB 1157 makes it virtually impossible to convert a scheduled rating into a whole person rating. Although there is some wiggle room left for shoulder injuries, most arm and

leg injuries will now be compensated solely under the “schedule” of benefits.

Some of you may have read the newspaper accounts of the bitter fight over this bill near the end of the legislative session. This bill was defeated by *one vote*. Senator Bryant Sullivant, a Republican from Summit County, cast the deciding vote against HB 1157. However, Governor Owens and the insurance lobbyists were extremely displeased that the bill was defeated. The Republican leadership called for a re-vote the next day. Under heavy pressure, Senator Sullivant changed his vote and the bill was passed.

We note that the SGA amount for the blind is adjusted automatically each year and is \$1,110 in 1999. SSA refused the many public requests for a similar automatic adjustment to the general disability SGA amount, but promised to reconsider the idea in the future.



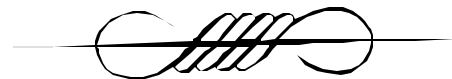
 **Web tip**

With new Medicare options to consider, Medicare recipients should take a look at the free handbook, *Medicare & You*, available in text or pdf formats at <http://www.medicare.gov>. If you do not have Internet access, you should receive this handbook in the mail within the next year.

SSA CHANGES EARNINGS STANDARD

SSA has changed its rules for determining when a person’s earnings demonstrate the ability to engage in “substantial gainful activity” (SGA). After **nine long years**, SSA has finally raised the earnings limit from \$500 to \$700 per month, effective July 1, 1999.

Whether a person is engaging in SGA is one of the factors SSA considers when it decides if a person is disabled. In general, if you can or do earn \$700 or more a month, SSA will find you not disabled. If you are earning \$300 or less, SSA will usually decide that you are not doing substantial gainful activity. Whether or not a person is doing SGA is only one of many factors that SSA considers when they evaluate your claim.



LAWYER JOKES

Q: How many lawyers does it take to change a light bulb?

A: Fifty-four. Eight to argue, one to get a continuance, one to object, one to demur, two to research precedents, one to dictate a letter, one to stipulate, five to turn in their time cards, one to depose, one to write interrogatories, two to settle, one to order a secretary to change the bulb, and twenty-eight to bill for professional services.

Q: Do you know how to save a drowning lawyer?

A: Take your foot off his head!

If you would like to receive our free booklet “**Social Security Disability: Frequently Asked Questions,**” please call our office at 632-4808, and we will send you a copy.



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Colorado Springs, CO 80903-2111

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