
The Injury Disability Law Letter

Brought to you by Spencer & Spencer, Attorneys at Law

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WHAT IS A CONTINUING DISABILITY REVIEW?

If you receive Social Security disability benefits, sooner or later you will have to go through a Continuing Disability Review (CDR). A CDR is a periodic review done by Social Security to make sure that you are still disabled. Every recipient is supposed to be reviewed every three years. In reality, how often you are reviewed will vary. People with permanent impairments such as amputations and retardation are typically not reviewed on a regular basis. However, if you have a condition that is expected to improve soon after you were awarded benefits, your review could be scheduled much sooner.

Understandably, CDR is *very frightening* for claimants. However, more than 90 percent of CDRs find that the person is still disabled. The key to remember if you are reviewed is that it is more difficult for SSA to stop your benefits than it was for you to get the benefits in the first place.

Once you are awarded disability benefits, SSA must prove that your condition has improved to the point that you are now able to work and earn more than the substantial gainful activity (SGA) level (currently \$700 a month).

Until recently, if you were receiving SSDI benefits, and had returned to work, this would trigger SSA to review your file. However, a change in the law has made it possible for SSDI recipients to try to go back to work without fear that their benefits will immediately stop because of that. Unfortunately, this law does not apply to SSI recipients. On December 17, 1999 President Clinton signed the "Ticket to Work" bill. This law prevents SSA from conducting a CDR just because someone has returned to work. This law applies if you have been receiving SSDI benefits for (cont. on page 2) at least 24 months.



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However, once the regular review occurs, SSA can still use prior earnings that have exceeded the SGA level (currently \$700/month) as a basis to stop benefits.

When your case has been selected for review, SSA will send you a letter telling you that it is going to review your case. You will probably need to provide information about your medical treatment and work activity, if any. SSA will then review this information, and will most likely try to send you to a doctor for a medical opinion about your current condition. If this happens, you should contact an attorney before the appointment. An attorney may be able to prevent you from having to go to this appointment. Keep in mind that these doctors tend to think that SSA is asking them to explain why you are no longer disabled, rather than providing an unbiased medical opinion about your condition. Once SSA feels that it has gathered enough information, they will decide whether or not your disability continues.

You will receive a written decision. You should know that if you are found no longer disabled, there are some very strict deadlines to appeal. You must appeal within 60 days. However, **if you appeal within 10 days, your benefits will continue during the appeal period.** If you miss the 10 day deadline, you are still able to appeal, but your benefits will stop. At this point, you will have to request a hearing in front of a judge. It is best to contact the attorney who originally handled your case, or hire an attorney who handles CDR reviews.

What you can do to prepare for a CDR:

- ✓ Continue to see your doctor—even if it is only once or twice a year. Even if you have been told there is nothing that can be done for you, it is still very important for you to continue to see your doctor so that you have medical records that show that your condition continues to disable you.
- ✓ Keep a record of “flare-ups” in your condition. If you have a condition that fluctuates, keep a record of each exacerbation, list how long the exacerbation lasted, and what your symptoms were like. If you have a condition such as epilepsy, keep a record of your seizures, what triggered them and any after-effects.
- ✓ Contact the attorney who represented you initially. If he or she will not handle your case, contact another attorney. Typically, you must pay a fee for an attorney to represent you in a CDR. Your attorney must prepare for CDRs in the same way required to prepare a case for a hearing in front of a judge.

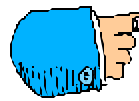


INJURED WORKERS LOSE IMPORTANT FRIEND ON COLORADO COURT OF APPEALS

The interests of injured workers suffered another blow earlier this year with the resignation of Colorado Court of Appeal Judge Stephen C. Briggs. Appointed by Governor Romer in 1992, Judge Briggs was a strong advocate of the rights of workers' compensation claimants.

Throughout his tenure on the Court of Appeals, Judge Briggs handed down several important decisions which advanced the interests of injured workers. In one recent case, Judge Briggs held that claimants are entitled to receive 100% compensation for a permanent total disability award, even if they had a pre-existing impairment from a previous work-related injury. In another case, Judge Briggs passionately lamented the devastating impact that current law has had on permanently and totally disabled claimants. In one of his final cases, Judge Briggs wrote a thoughtful concurring opinion which urged the Colorado General Assembly to rework the current system that fails to adequately compensate claimants who cannot return to their previous work after maximum medical improvement. Judge Briggs' thoughtful presence on the bench will be sorely missed by all injured workers in the State of Colorado.

COMMUNITY RESOURCES-EPILEPSY SUPPORT GROUP



This Colorado Springs area group provides support for adults and/or family members of adults with epilepsy. Services include: guest speakers; general epilepsy information; ideas about how to live with epilepsy.

Location of meetings: 225 S. Academy Boulevard, Suite 104 Colorado Springs, CO 80910

Meeting time: 5:30PM-6:30PM, 3rd Wednesday of each month

Contact: LeaAnn at (719) 636-0009

To apply: Attend a meeting.

Fees: None.

WEB PICKS:

Computer Related Repetitive Strain Injury



URL: <http://www.engr.unl.edu/eeshop/rsi.html>

RATING: ★★★ out of four

Don't let the long name of this site put you off. The site contains a lot of useful information for people suffering from repetitive motion injuries (also known as repetitive strain). Even if you don't currently suffer from an injury, you should be doing everything you can to prevent one. This site provides good information about preventative strategies. Also included is a fairly comprehensive list of links to other sites, as well as a long list of books covering the topic.

When we visited the site, several of the links were broken, leading us nowhere. If you are interested in this information, don't give up, as there are many links that are still active, and very informative. The number of broken links could be due to the fact that the site is administered by a person who suffers from a repetitive motion injury, and he must therefore limit his computer time.

Sorehand Mailing List

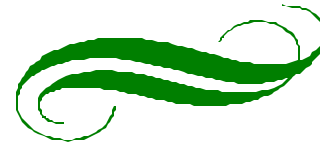
URL: <http://www.ucsf.edu/sorehand/>

RATING: ★★★½ out of four

To subscribe to the list: send a message to listserv@itssrv1.ucsf.edu. In the body of the message, enter: *subscribe sorehand YourName* (e.g. *subscribe sorehand Jane Doe*).

This is an e-mail discussion group that focuses on repetitive motion injuries and strategies for coping with an injury. During the week we subscribed to the list, there were 95 messages posted. Because this is a very active list, you can request that the messages be sent to you in a digest format, where you will get all the day's messages in one message. Once you have subscribed, if you would prefer the digest format, send the message: *set sorehand digest* to listserv@itssrv1.ucsf.edu.

We found the group to be very supportive, and the discussions were relevant. If you are interested, we suggest that you give the list a try. Remember, if you don't like it, you can easily unsubscribe. To get additional information about the Sorehand discussion group, visit



<http://www.ucsf.edu/sorehand/>.

WAL-MART BID TO SLASH WORKERS' COMPENSATION BENEFITS REJECTED

Even though the Legislature gutted the workers' compensation system 1991, many Colorado employers feel that injured workers still receive too many benefits. A recent case from the Court of Appeals illustrates Wal-Mart's aggressive approach to defending workers' compensation claims. The claimant had developed neck and arm pain as a result of her work at Wal-Mart. However, Wal-Mart denied the claim as not-work-related. The claimant went to court and proved to a judge that the injury was related to her employment. Rather than accept the judge's ruling, Wal-Mart appealed all the way to the Court of Appeals. Using some rather convoluted logic, Wal-Mart argued that the claimant was not entitled to benefits because she had never missed any time from work!

Consider for a moment the potential impact had Wal-Mart's argument been successful. Under our workers' compensation system, the employer has the first opportunity to select the treating physician. Many of these "company doctors" refuse to take claimants off work because this helps employers keep claim costs down. Wal-Mart's legal theory would have meant that claimants would not be entitled to benefits as long as the company doctor refused to restrict them from work!

Fortunately, the Court rejected Wal-Mart's argument. However, this case demonstrates the lengths to which some employers will go to deprive their injured workers of benefits.

LAWYER JOKES



Definition:

ju•ry (jō'or'rē) n., Twelve people who determine which client has the better lawyer.

FREE PRESCRIPTION MEDICATION

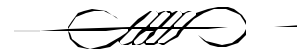
We have just learned of a wonderful national program that supplies free prescription medication to qualified individuals. The Medicine Program established by volunteers dedicated to alleviating the plight of an ever increasing number of patients who cannot afford their prescription medication.

The Medicine Program, in cooperation with the physician, assists patients who may qualify to enroll in one or more of the many patient assistance programs now available. These programs provide prescription medicine **free-of-charge** to individuals in need, regardless of age, if they meet certain criteria.



To find out more about this program, please visit our web site at www.2spencers.com and click on "Community Resouces" or call our office and we will send you an information packet.

A lawyer died and arrived at the pearly gates. To his dismay, there were thousands of people ahead of him in line to see St. Peter. To his surprise, St. Peter left his desk at the gate and came down the long line to where the lawyer was, and greeted him warmly. Then St. Peter and one of his assistants took the lawyer by the hands and guided him up to the front of the line, and into a comfortable chair by his desk. The lawyer said, "I don't mind all this attention, but what makes me so special?" St. Peter replied, "Well, I've added up all the hours for which you billed your clients, and by my calculation you must be about 193 years old!"



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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