
Chapter 1

Chance of Becoming Disabled

The acquisition of a disability comes with a host of side consequences. Indeed, outcomes are specific to each individual, but all are playing out against a rising swell of disability claims nationally that is swiftly becoming a crisis. Attorneys can be central players in helping clients navigate an increasingly unforgiving landscape—and be better able to claim the benefits they deserve.

Risks of Becoming Disabled

The likelihood of anyone becoming totally disabled varies depending on age, gender, and occupation. The statistics used in this book are for disabilities lasting 90 days or longer. If someone is disabled for 90 days, there is a high probability that his or her disability will last much longer, possibly for months or years, or even for the rest of his or her life. (Regrettably, insuring shorter-term disabilities such as sprained ankles, rotator cuff repair, or pneumonia would raise the cost of disability insurance by 20% to 30%.)

Some prevalent facts (and perceptions) on disability are as follows:¹

- Over 36 million Americans today are classified as disabled, which represents 12 percent of the total population. Of those disabled, 50 percent are between the ages of 18 and 64.
- **Perception:** A total of 64 percent of workers say their chance of long-term disability during their career is only 1 or 2 percent.
- **Reality:** Just over one in four (25%) of today's 20-year-olds will become disabled before they retire.
- In total, 8.8 million workers, over 5 percent of the workforce, are receiving Social Security Disability Insurance (SSDI) today.

An article in the *American Journal of Medicine*, reporting on the results of a national study on medical bankruptcy in the United States, found the following:

- A total of 62 percent of personal bankruptcies in 2007 were related to medical conditions.
- Most of the sufferers were well-educated, middle-class homeowners.
- Their mean age was 45 years.
- Three quarters had medical insurance.
- Income loss was the major factor in their bankruptcy.
- Medical bankruptcy rates have risen substantially in recent years.

The Council for Disability Awareness (CDA) provides data from 19 of its member companies representing over

¹ See, e.g., the website for the National Fibromyalgia Association, <http://www.fmaware.org>.

75 percent of the commercial disability insurance marketplace. It reports that:

- Every seven seconds a working-age American will experience the beginnings of a long-term disability.
- Most people are not remotely prepared to experience the consequences of a long-term disability or the financial and psychological impact on their families.
- Eighty-four percent of corporate human resource professionals say the average employee can survive no more than six months without a paycheck, and 77 percent of financial advisors concur.
- The average LTD claim lasts over two-and-a-half years.

As these findings suggest, when people are young and distracted with family and ambition, they understandably give little thought to the likelihood of becoming disabled. However, reinforcing the data just presented, the Society of Actuaries tells us that the average 40-year-old faces a 20 percent chance of experiencing a long-term disability (i.e., a disability lasting at least 90 days) before reaching age 65, and one worker in seven will be disabled for five years or more sometime before normal retirement age.

Issues and Consequences

The average American, then, does not anticipate becoming disabled. One day your potential client is healthy, pleased to be working, with cares and concerns that center on everyday matters. Like tens of millions of other hardworking Americans, they allow themselves to remain willfully unaware of the risks and consequences of becoming disabled. And then “it” happens. The “it” might be headaches that won’t go away, followed by an MRI, followed by a visit with a neurologist. Or the “it” might be awakening at 3 a.m. with stabbing chest pains, a spouse calling 911, and waking up a day later in intensive care. There are thousands of causes of long-term disability. Unfortunately, too many people discover the inadequacies of their disability insurance programs only after they are

already facing a lifelong disability. Insurance clauses and policy terminology can make it difficult to truly understand the benefits. And then, once disabled, a potential client can struggle mightily to navigate the claims process and successfully collect benefits.

In many ways, the cause of the “it” doesn’t matter—what matters are the issues someone faces when becoming totally disabled. The “it” has been best described as being like walking into a wall—and not at a normal walking speed but rather at 25 miles per hour. After that collision, this person’s life as he or she knew it has effectively ended, so dramatic is the change.

One major consequence of disability can be home loss. For many people, jobs become an important part of identity formation. When health problems prevent potential clients from making a mortgage payment, perhaps the first they have ever missed, the impact can be devastating. The home carries with it enormous psychological value. It is the place where we shelter our families and seek refuge from the world, as well as a source of pride and satisfaction. It is not surprising that the leading cause of mortgage foreclosure in the United States today is a family member’s health problem (as shown by the statistics on medical bankruptcy published in the *American Journal of Medicine*). We can infer that these statistics typically reflect disabilities experienced by household breadwinners.

As a window into the financial state of many American families, we can look at the mortgage foreclosure disaster that shook the country in 2008. Many households didn’t have enough money to meet the downpayment on a home, so a second bank gave them a second mortgage. Or the original bank decided the downpayment wasn’t necessary after all, given that houses were then appreciating at 5 percent per year or more. So many adages were proved wrong, notably: “Real estate doesn’t ever go down in value” and “Our house will quickly be worth more than what we owe.” Many homes were purchased with the income of both spouses working full-time jobs, which meant that when one member of the family lost income, many homeowners were unable to meet their mortgage payments. Many families lost their homes because of a disability.