

Maintaining Eligibility for Insurance

After you have obtained your insurance, it is important to keep your plan active during your benefit period. If you become ill or injured and find that you are unable to work or pay for insurance premiums, you'll need to know about these rules and programs.

Medical Protected Leave from Work

You may find that it is difficult to maintain your work schedule when you or family members face a life-threatening illness. Fortunately, federal law provides workplace protections which may help you maintain employment and ultimately, your health insurance benefits.

The **Family and Medical Leave Act** (FMLA) allows you to take up to 12 weeks of unpaid leave and still be eligible to return to work. You must have a qualified and documented medical reason that applies to yourself or to a child, spouse or parent for whom you are a caregiver.

When you return to work, your employer must return you to your original position or an equivalent job with the same pay, benefits and other employment terms.

In addition to protecting your job, FMLA allows you to maintain your group health

insurance coverage as though you are still actively at work.

You are eligible for FMLA leave from your job when:

- You have worked at least 1,250 hours in the past 12 months for your employer, even if the hours were not in consecutive months.
- The company employs 50 or more employees within a 75-mile radius.

FMLA may be taken when:

- You have been diagnosed with a serious illness making you unable to maintain your work schedule.
- There is an urgent family situation as a result of active military duty.
- You are the spouse, child, parent or next of kin of an Armed Forces

member with a serious injury or illness. This scenario allows family members to take up to 26 work weeks to care for the service member.

- You need time off for the birth and care of a newborn child or placement of a child for adoption or foster care.

In every scenario, you must provide your employer with documentation from a physician that supports the request for leave. Once approved, leave can be taken in one block or a few hours at a time.

Employers do have the right to require that you use your paid vacation and sick time before you are allowed to take unpaid FMLA leave; this policy is usually documented in the company's policy handbook.



About Federal Disability

Social Security Disability Insurance (SSDI)

In order to be deemed disabled, you must have a medical condition that meets the Social Security Act definition of disability, which is “having an illness or injury that is expected to last at least 12 months or if your condition may be considered terminal.” A Social Security disability decision can provide income replacement and also open the door for you to receive other benefits.

To be eligible for SSDI, you **must have worked five of the last 10 years** if you are over age 31, *and* have contributed through a payroll FICA tax deduction in which 6% of the **tax went to a Social Security** program. If approved, SSDI will provide you monthly income based on your contributions.

Some basic medical questions you will need to answer include:

- Q Did your doctor say your condition was severe or could cause you to die?
- Q Is your condition found on the compassionate allowance list at www.ssa.gov/compassionateallowances/conditions.htm?
- Q Are you currently working? What are your job responsibilities?
- Q Can you do the work that you did before? Is your medical condition not allowing you to adjust to other types of work?

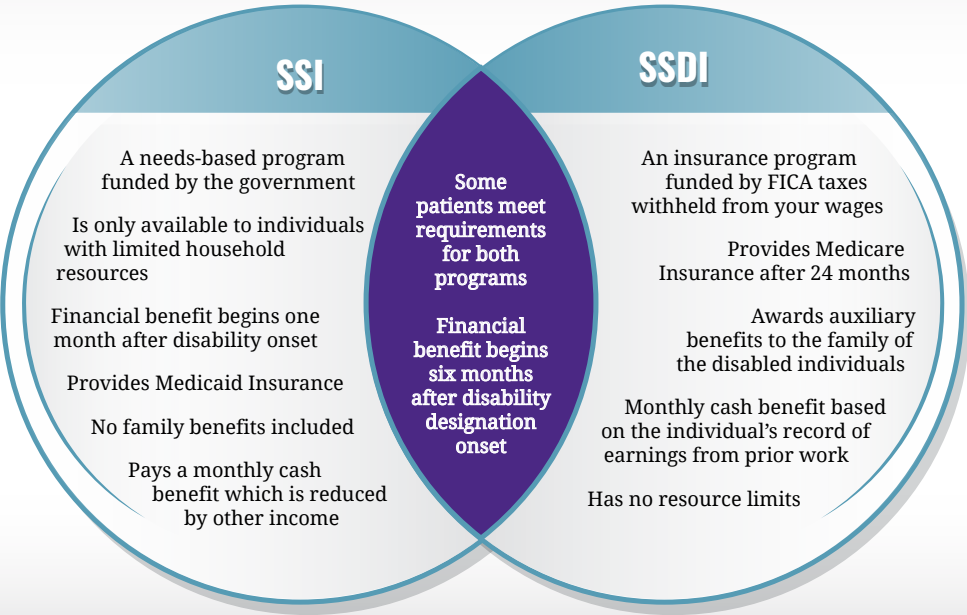


Q What is your current monthly income? If you make over a certain amount per month, you may not be considered to be disabled at this time.

You can complete the SSDI application online, by phone, or in person at your local Social Security office.

- You will be responsible for providing a detailed medical history, as well as the names of medical professionals who provided your care.
- Once all of the necessary information is received from the providers, it is forwarded to the state Disability Determination Services, which decides if you are eligible to receive SSDI benefits. **This process can take between three to six months.**
- If your claim is denied you have the right to appeal, but the reconsideration process is lengthy and can take up to an additional two years.
- Once approved, ALL SSDI beneficiaries must wait **five months** after the disability onset date to begin receiving financial benefits and **24 months** after the onset date before Medicare benefits begin.

The Differences Between SSI and SSDI



About Social Security Benefits

Supplemental Security Income (SSI) is a federal program that provides a cash benefit to people who have been determined to be disabled AND have limited income and resources. This Social Security benefit provides cash to help you meet basic needs for food, clothing and shelter.

It is possible for you to qualify for both SSI and SSDI. If you get SSDI and are receiving less than the income guidelines, you may also qualify for SSI benefits. In addition, if you qualify for SSI you may also be eligible for your state's Medicaid program, expanding your access to affordable health insurance.

As part of your approval for SSI related to a disability, you must undergo periodic medical reviews to demonstrate the ongoing need for assistance, with the frequency of required medical reviews depending on your diagnosis.

It is possible to qualify for both SSDI and SSI, but you must meet eligibility requirements and apply to both programs independently.



Short-Term Disability Policies and Benefits

Short-Term Disability insurance policies offer a benefit that pays you between 40% and 70% of your base salary when you have a non-work-related illness or injury that prevents you from working for a set period of time. Short-term benefits last three to six months.

Injuries that are work-related are covered by workmen's compensation plans.

Many employers will offer or provide short-term disability policies as part of their benefits package. If you are not eligible to purchase disability insurance through your employer, you can purchase an individual policy from an insurance agent. Depending on where you live, you may also be eligible to participate in a state disability program.

Disability plans vary in the kinds of waiting periods and disabilities covered, as well as benefit rates and exceptions. Read the plan summary for definitions of what is covered as well as specific details required by your plan.

Long-Term Disability Benefits



Long-Term Disability (LTD) coverage provides wage replacement that is between 50% and 70% percent of your base salary.

Most LTD plans include a waiting period that lasts from three to 26 weeks before you are eligible to begin receiving benefits. This waiting period coincides with the length of time you can be paid for short-term disability benefits, and allows you to pick up LTD benefits following short-term disability.

To qualify for benefits, detailed medical documentation must be provided to the insurer initially and then as requested throughout the life of the claim. Failure to do so will result in termination of your benefits. As is true for short-term disability plans, be sure to read the plan summary for definitions and other specifics on benefits.

If a LTD plan is offered through your employer, it is very important to sign up during the initial enrollment period, when you cannot be denied coverage for a pre-existing condition.

Most LTD policies have two distinct situations that identify the disability condition: “Own Occupation” and “Any Occupation.”

- During the **Own Occupation** period, benefits are payable if the employee is unable to perform his or her regular job or a similar job. This period can last up to **two years**.
- After that, benefits are payable only if the employee is unable to perform **Any Occupation** for which he or she is or becomes reasonably qualified by education, training or experience.

Most LTD companies require you to also apply for Social Security Disability Insurance (SSDI) benefits, and may even provide assistance in the application process. Your LTD policy provides for what is known as an *offset*, meaning that any benefit you receive from SSDI will reduce the benefit paid by the LTD policy.

If you are approved for SSDI and receive a retroactive payment check, you are normally required to pay that amount back to the LTD company.

COBRA and its Role in Keeping You Insured



The **Consolidated Omnibus Budget Reconciliation Act (COBRA)** requires companies with 20 or more employees to continue offering group health benefits after employment has formally ended.

Employees and their dependent family members may elect to continue group health coverage for 18 months following the last employed day (in special circumstances, 36 months), in the following situations:

- You leave the job, either through voluntary or involuntary means.
- Your work hours are reduced and insurance is no longer offered for your position.
- You are covered under your spouse's employer plan and your spouse dies or you get divorced and want to continue on that plan.

When you elect to continue your insurance enrollment under COBRA rules, you remain on the same health insurance coverage your former employer offers existing employees; however, you must pay the full cost of the premium for that coverage, plus a 2% administrative fee.

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Alternatives to COBRA

Special enrollment periods after losing insurance

Both the **Affordable Care Act** and the **Health Insurance Portability and Accountability Act (HIPAA)** contain provisions that may qualify you for a special enrollment period which lasts for up to 30 days after the loss of job-based coverage. These exceptions allow you the opportunity to explore other health insurance coverage options.

- You can enroll in a spouse's group health plan coverage.

- If you are under age 26, you can enroll in your parent's group health plan as a dependent. You do not have to reside with your parents to take advantage of this option.
- You can explore the Health Insurance Marketplace in your state to find and compare private health insurance options and calculate your eligibility for tax credits or cost-sharing reductions.

Protections and Laws that Impact Your Insurance



The **Employee Retirement Income Security Act (ERISA)** provides protection for those enrolled in health insurance plans sponsored by private-sector employers (the law does not apply to federal, state, local or church health plans).

ERISA sets specific time periods for when you must be notified about any claim decision made by your insurer.

If a claim is denied, ERISA ensures your right to a detailed explanation of why your claim was denied and a description of the appeal process. In addition, the insurer must cite the rules, guidelines or plan exclusions used in its decision, and provide you with instructions on how you can request a copy of the specific plan language.

If you have an insurance issue relating to these ERISA protections, you should seek help from the Department of Labor at www.dol.gov/dol/contact.



Security and Privacy of Your Medical Info



The **Health Insurance Portability and Accountability Act (HIPAA)** contains provisions that protect your health information and limits who has access to your records.

In order to be compliant with these rules, medical providers and healthcare professionals must:

- Seek your written permission before releasing identifiable health information to other providers, insurance companies and billing personnel, including any information that is spoken, printed or transmitted electronically
- Limit disclosure of your medical information unless absolutely necessary for your care, including details surrounding office visits, tests, procedures and mental health information
- Provide you with the ability to see your records and have copies of them, as well as make corrections you feel need to be made on your chart

How the ADA Law Protects Patients at Work

The **Americans with Disabilities Act (ADA)** requires employers with 15 or more employees to make reasonable accommodations that allow workers with disabilities to function properly on the job.

Under the ADA, a disability is defined as "a physical or mental impairment that substantially limits one or more major life activity." Diagnosis of a serious medical condition would qualify one for disability benefits, even when future recovery is possible.

Individuals with a disability may inform the employer that an accommodation is necessary at any point during their employment. Reasonable accommodations must be intended to help the employee do his or her job, and cannot be refused unless the accommodation causes undue hardship, difficulty or burdening expense for the employer. Employers are not required to eliminate a fundamental duty of a position in order to avoid the need to make an accommodation, nor penalize an employee for requesting a modification.

Some examples of reasonable accommodations include:

- Modifications that ensure that the workplace is physically accessible
- Allowance for periodic breaks in a private area to take medication
- A modified work schedule, shift change, or, if possible, the ability to telecommute
- Allowance of leave for doctors' appointments and/or to recuperate from treatment

If you have used the allotted time provided under FMLA leave, and you are not yet ready to return to work, you can consider asking for extended leave as a reasonable accommodation under the ADA.

Additional provisions for cancer patients can be found at the *Equal Employment Opportunity Commission* website: www.eeoc.gov/laws/guidance/cancer-workplace-and-ada

The **Federal Rehabilitation Act** also protects qualified individuals from discrimination based on their disability as outlined in the ADA. This law applies to employees of the federal government as well as to organizations and employers who receive financial assistance from any federal department or agency.



Medically-Related Job Discrimination



Discrimination based on disability is illegal in the workplace. If you think you have been discriminated against at work because of a disability or as a result of a medical condition, consider filing a **Charge of Discrimination** with the Equal Employment Opportunity Commission (EEOC).

Charges and complaints must be filed **within 180 days** from the day the discrimination took place.

The EEOC will investigate the charge by contacting both you and the employer.

- *If they find a violation*, they may try to reach a voluntary settlement with the employer, or they may refer the case to the EEOC legal staff to explore options.
- *If they find no violation of law*, you may be given a Notice of Right to Sue letter, which gives you the right to file a lawsuit.

If a violation has occurred, mediation or a settlement may allow you to return to the same position you would have been in if the discrimination had never occurred. You may be reinstated, promoted, awarded back pay, have your legal fees paid and/or provided other reasonable accommodation.

For more information, call the EEOC at 1-800-669-4000 or visit www.eeoc.gov.

The **Genetic Information Nondiscrimination Act (GINA)** provides additional protection from genetic discrimination in both health insurance and employment. The law ensures a patient's right to participate in the research and development of new tests and therapies that could potentially lead to a cure of previously untreatable conditions, without fear of losing insurance or employment.

The law prohibits insurance companies from requiring individuals or their family members to undergo genetic testing as a requirement for obtaining insurance. GINA does not apply to employers with fewer than 15 employees. GINA's protections in employment do not extend to the U.S. military.

Pathways to Medicare and Medicaid Insurance

If you are deemed disabled and receive Social Security income, you may also be eligible to receive other benefits which can include health insurance through Medicare and/or Medicaid.

Medicare is traditionally for people age 65 or older who are citizens or permanent residents of the United States. However, expanded eligibility also provides Medicare coverage to disabled people who have been collecting SSDI payments for 24 months, regardless of age.

Medicaid is a federally mandated, but state-run health insurance option for blind, elderly or disabled people and minor children who also have a low income and minimal assets.

People who qualify for Medicaid due to disability can sometimes meet eligibility requirements at somewhat higher incomes which are established by each state. Medicaid is administered by each state, so eligibility and income requirements will vary.

Compassionate Allowances for Faster Disability Review

The Compassionate Allowance program expedites the disability review process for applicants whose medical condition is so serious it immediately meets disability standards.

To be approved under Compassionate Allowance:

- Your diagnosis must be listed on the Compassionate Allowance list; **and**

- You must be able to submit medical records that support your advanced diagnosis when you are submitting your initial claim.

Unfortunately, you still have to wait five months **after** your disability onset date to begin receiving SSDI benefits and 24 months after your disability onset date before Medicare benefits begin, as in the traditional approval process. A complete list of diagnoses can be found online at www.ssa.gov/compassionateallowances/conditions.htm.

Social Security Benefits that Provide Financial Support

Depending on your situation, you may qualify for other Social Security programs if you match specific criteria. For example, Survivor's Benefits and Social Security Retirement benefits can also provide monthly income.

