

## **The Hunter-Gatherer Period (Preparing to Leave Work on Disability)** by Jacques Chambers, CLU

Earlier this year, we discussed a timetable for leaving work due to disability. Some have asked questions about the initial stage, preparing to go out on disability: What should I know? Where do I find the information? How do I get it without attracting too much attention?

This article focuses only on benefits provided by employers. In addition to them, you will need to know information about applying for public benefits such as Social Security Disability and State Disability benefits (only in California, Hawaii, New Jersey, New York, and Rhode Island) plus any individual policies you may have purchased.

### **Benefits you will want to learn more about:**

- 1. Paid Sick Leave Policy (and other paid time off):** How is it accumulated and how much do I currently have available? Ignore vacation time unless your company provides only one type of Paid Time Off; vacation benefits are vested, and you will receive payment for them in full if you are terminated which is not the case with sick leave days.
- 2. Company Medical Leave of Absence Policy:** Primarily, what you need to know is how long the company will continue your benefits, especially the health insurance, and protect your position while you are out on disability.
- 3. Short Term Disability Plan (STD):** When does it start? How much does it pay? Does it require you to use up your sick leave first or can you use remaining sick leave to pay the gap between the percentage paid by STD and your full salary? Who handles the claims, the employer or an outside administrator? How does the plan define Total Disability?
- 4. Long Term Disability Plan (LTD):** What is the waiting period before benefits begin (usually timed to start after the STD benefits are exhausted)? How much does it pay? What is the definition of Total Disability? Are there limits on how long they will pay for your condition (such as a limit on mental/nervous disabilities or disability due only to “subjective” symptoms)?
- 5. Health, Dental, Vision Plans:** Chances are you have already been using these benefits so you will have an idea how they work. How long they will continue will depend on the company’s Medical Leave of Absence policy. Do you make contributions out of your paycheck for any of these benefits? If so, you will need to make arrangements to continue paying them when the paychecks stop.
- 6. Group Life Insurance:** Although you don’t plan on using it any time soon, you should check to see if the plan provides for a Disability Waiver of Premium which

would continue the coverage without premium payment as long as you remain on disability.

7. **401(k) and other retirement plans:** What are the provisions for early withdrawal due to disability? Can they be withdrawn without penalty (usually the case)? Can they be withdrawn in periodic payments? If you have a defined benefit pension plan, you need to know if there is an Early or a Disability Retirement available to you.
8. **Any other benefit plans your employer offers:** Most other benefits provided by employers end when active work starts, but it never hurts to doublecheck.
9. **Your company's actual practice in other disability situations.** It also helps to know to know if a company has ever made exceptions to their written policies and, if so, what the circumstances were. The larger the employer, the more likely they will stick to the written company policy. With smaller employers, however, sometimes the only indication of how they handle items like Sick Leave and Medical Leave of Absence are by knowing what they have done in the past, if ever.

**NOTE:** When you do leave work, it's also a good idea to also have a friend at the employer's who can keep you apprised of changes once you have left work. Many companies overlook disabled employees when making changes in their benefits package, and you need to know about them.

## Where Do I Find Information On All This?

The literature that will contain this information will come in various forms and your company probably calls them something like:

- Benefit Plan Booklets
- Benefits Handbook
- Employee Handbook
- Insurance Plan Booklet/Policy
- Employee Certificate/Booklets
- Plan Descriptions
- Summary Plan Descriptions or just plain SPDs

Regardless of what your company calls them, the federal government calls them **Summary Plan Descriptions** or **SPDs** and requires employers to give them to employees when they are first covered and **whenever they request them.**

## How Will I Know A Summary Plan Description When I See One?

A Summary Plan Description will:

- Be a complete description of the benefits. For one of the insurance coverages, that means several pages, not a paragraph or two. A Health SPD should be 20 to

30 pages or more; life insurance will generally be 5 to 10 pages; disability plans will be 8 to 25 pages.

- In an SPD, there will usually be a section, often towards the back, titled **ERISA Requirements** or **ERISA Provisions**. Whatever it's called, it will include things like:
  - Plan Name (such as Flying Carpet Mfg., Inc. Employee Health Plan)
  - Plan Number (Usually starts with 5, like 501, 502, 505)
  - Type of Plan (Insurance contract, or Self-Funded Employee Benefit Welfare Plan, etc.)
  - Plan Administrator (Usually the insurance company or an outside plan administrator or sometimes the employer)
  - "Agent for Legal Service" (This is to whom you serve with papers if you end up suing the plan). This item is a good clue as it's almost always phrased just this way, and is only found in an SPD. If you see it, you can relax. You got the Summary Plan Description.

**NOTE:** Even if you still have the Summary Plan Descriptions that you got as a new hire, it's a good idea to request new ones to make sure you have the most current versions.

## **Human Resources and Personnel Departments**

**Large Employers** - Human Resources Departments – Large companies often have personnel within HR that do nothing but Benefits. If possible, make a personal visit. Meet the person; ask for help.

**Medium Employers** – HR Departments in companies of this size do not have people going out on disability regularly enough to be a lot of help in the process. But they should have all the documents or be able to get them to you.

**Small Employers** – These companies don't even have Personnel Departments and such functions may be handled by Accounting, the Owner's Secretary, or the Owner. These can be the most tricky, as not only do they not know the details of their own benefits, they may not have written policies on Medical Leaves, and, even worse, they have no idea about what their responsibilities are or what your protections are under law.

Some Personnel & HR Departments are not very helpful to persons leaving work on disability because of ignorance and because of lack of concern. Hopefully, your department won't be one of those.

**NOTE:** Be careful about accepting what someone "says" a provision or policy is. They probably aren't trying to mislead you, but you are in no position to have someone guessing answers to your questions. Politely ask to see the written policy/document that supports their statement.

## Small Employers (2 – 100)

With an employer with up to 100 employees, the literature will vary substantially based on which plan it is.

- **Sick Leave Policy** – This is set by your employer and may be part of an initial hire letter, and is probably well known, even if you don't find it in writing.
- **Medical Leave of Absence Policy** – Many employers of groups this size, don't have a formal policy, much less one in writing.
- **Health, Dental, Vision, Life, Long Term Disability** – Your employer probably purchases insurance for each of these plans, sometimes all from the same carrier, other times from different ones.

## Medium Employers (100 – 500)

Small and medium employers usually let the insurance company print the booklets and they just pass them out to employees. In these cases, each coverage will have its own booklet:

- **Health** (sometimes the dental and vision plans are part of this; other times they are separate) – This will probably be the largest one. Usually they are 30 pages or more in length.
- **Group Life Insurance** – Sometimes this is included in the health booklet, especially if the amount of life insurance is not a substantial amount.
- **Long Term Disability** – Almost always a separate booklet.
- **Retirement Plans** – Your 401(k) or other retirement type plan will also have its own booklet. Don't confuse the SPD with the annual statement which only shows the activity on your own account.
- **Company determined benefits** such as vacation, sick days, and medical leaves of absence will be found in an employee handbook if they are in writing at all.

## Large Employers (500 and up)

Large employers often print and distribute their own Summary Plan Description of all benefits in one big benefits book. Often they are loose leaf binders with tabs and a separate chapter for each benefit. This is fairly common since it makes updating the book easier and cheaper.

I vividly recall one company that did that, but I can't seem to remember who it was. It was a fancy loose leaf binder with tabs labeled: Life, STD, LTD, Health, etc. and there was a picture of Mickey on the cover of the Health section; Donald was on Dental; Minnie was on another; and Pluto another and so on.

Some very large companies will print their own bound soft-cover book of benefits every year and distribute them every year.

**It's Not The Annual Open Enrollment Packet** – Employees at large companies often have a chance each year, during "open enrollment," to make changes in their coverage.

Some employers provide a rather elaborate annual enrollment guide. **This is not the SPD**, although sometimes the information in them can be very helpful.

**Look out for** brief outlines or summaries. They are not complete although they may help determine benefits if you are unable to get the SPDs in a timely manner.

**And If I Can't Get A Summary Plan Description?** If necessary, write to the employer: "I understand that under a federal law called ERISA, I am entitled to the current copies of the Summary Plan Descriptions of all of my employee benefits plans. Please send me the current plans for: Group Life, Group Health, Short Term Disability, Long Term Disability, and all retirement plans."

### **But Won't They Get Suspicious?**

Many don't want the employer to know they are contemplating disability before they actually leave. One way to deflect curiosity is to tell the employer that you are working with an estate planner (or life agent or financial planner or saw a documentary on financial planning, etc.) and Step 1 is to assemble information on your current benefits before contemplating additional coverage.

The more you know about your employee benefits prior to leaving work, the smoother the transition will be when it finally comes.