

**Cancer, Work & Health Insurance
January 18, 2006**

Executive Summary

Managing Insurance, Disability & Social Security Issues

Phyllis Katz, Esq.

Phyllis Katz practices employment law as a partner with Sands Anderson Marks & Miller, PC in Richmond, VA. She is a faculty member of University of Richmond's School of Law and the VCU Non-profit Management Program. Ms. Katz is also co-founder of Legal Information Network for Cancer (LINC), a non-profit organization providing legal assistance to cancer patients.

- Things to do before you lose your job:
 - Communicate with your employer.
 - Try to work with your employer and find compromises.
 - Find out what short term and long term disability benefits are offered.
 - Begin the application process for benefits.
 - Negotiate with your employer regarding:
 - Non-FMLA leaves without pay
 - Severance agreements
 - Payment for COBRA benefits
 - Seek the assistance of professionals:
 - Board for People with Disabilities
 - Dept. of Rehabilitative Services
 - Legal Information Network for Cancer
 - Severance agreements
 - Payment for COBRA benefits
 - Plan an Exit Strategy:
 - Do not resign without getting money in return.
 - Do not get terminated for willful misconduct (follow all the rules)
 - Keep records, including names of witnesses.
- Unemployment Compensation Benefits
 - Being unable to work due to disability disqualifies one from unemployment compensation.
 - Employment compensation may only be collected if one is fired from his or her job, but is actively seeking employment.
 - Just because one job is not feasible due to cancer treatment does not mean all jobs are not feasible/

- Disability Coverage
 - Short-term Disability coverage generally covers periods of six months or less, and often only covers up to 90 days.
 - There is often a gap between short and long-term disability.
 - There is always a waiting period for long-term disability, usually between 6 months and a year.
 - For long-term disability there has to be a sickness or injury (disabling condition), and if it's employer-provided, it must have begun while employed.
 - There can be a range of qualifying definitions for long-term disabilities, so the applicant must be very careful.

- Social Security Disability
 - Impairment must be expected to last at least 12 months in a row or end in death.
 - Impairment must be such that you are not able to work.
 - Ability to do certain physical functions may disqualify you/
 - Upon application for Social Security Disability, a functional analysis will assess one's condition affects the ability to do work-related functions.
 - Abilities needed to work include physical and mental elements.
 - It is important that the applicant take every opportunity to tell the SSA how the disabling condition limits the ability to function.
 - It is also important that the applicants doctors and health care providers are told how the condition limits the ability to function.
 - A Daily Activity Form will have to be completed. In this the applicant should describe a typical day, focusing on the things he or she cannot do and focusing on things that have changed since the onset of the disability.

- COBRA
 - If you lose your health care coverage because you're terminated, you and your beneficiaries (spouse, dependents) can elect independent coverage.
 - Must be aware of critical dates:
 - 60 days to notify employer of qualifying event
 - 60 days to elect coverage after receipt of notice
 - 45 days after election of coverage, first payment is due
 - 30 day grace period for late payment
 - At the end of COBRA coverage, there is no pre-existing coverage exclusion if covered in new group plan within 63 days.

- Conversion Coverage
 - Every health insurance company must give notice of termination of coverage with in 15 days of event.
 - Insurance company must offer continuation of coverage at individual rate or
 - Allow continuation in group plan for 90 days.
 - Both options do not require evidence of insurability.

- Premiums will vary.
- Participating family members offered same options.
- Must make conversion election within 31 days.

- Loss of Coverage—Pre-existing Condition Exclusion
 - Break in coverage triggers pre-existing condition exclusion, which means that treatment for cancer will not be covered for a period of time if a patient has had any lapse in coverage.
 - Preexisting and other limitations on coverage will not apply if conversion to individual policy or group plan occurs within 31 days.
 - Exclusions can extend up to 12 months after enrollment date.

- Mandated Benefits
 - List of benefits that have been enacted to protect cancer patients within the last 8-10 years:
 - Patient must be allowed to use off-label prescription drugs.
 - Patient must be allowed excess of recommended dosage of prescription drugs used for cancer pain.
 - Freedom to choose pharmacy of choice
 - Standing referral from primary care physician to specialist for treatment period.
 - Standing referral from primary care physician to oncologist or pain management specialist.
 - Cannot deny renewal or cancel coverage if a person is diagnosed with a fibrocystic condition, breast cancer, or a family history of such.
 - Routine follow-up care for recurrence of breast cancer shall not be disallowed as a pre-existing condition if cancer free for five years.
 - Mammograms allowed beginning at age 35.
 - Bone marrow transplants for breast cancer.
 - Pap smears
 - Reconstructive breast surgery
 - Minimum inpatient stay for mastectomies.
 - Routine PSA testing for persons over 50 or who are high risk
 - Colorectal cancer screening
 - Patient costs for participation in phase II, III and IV cancer clinical trials
 - Hospice care