

MY DOCTOR SAYS I'M DISABLED. WHY ISN'T THAT ENOUGH?

By A. Tereasa Rerko, Esq.

Our clients often ask, "My doctor says that I'm disabled. Why doesn't Social Security approve my disability benefits?" We have to tell them that qualifying for Social Security Disability benefits is a much more complex process than simply having a doctor say the word "disabled".

The decision by the Social Security Administration (SSA) to award benefits focuses on what you are able to do in the competitive job market. To make this decision, the SSA looks at how much you are able to walk, stand, sit, lift, carry, push, pull, and many other such activities. A serious-sounding diagnosis does not necessarily result in an award of benefits, unless that diagnosis affects your personal ability to function at work. Your age is also a factor; the younger you are, the more difficult it will be to qualify for Social Security Disability benefits.

Your doctor may say you cannot return to your job because of your limitations. Is this enough to prevail? Maybe not. Even if you are unable to perform your most recent occupation, you may not qualify for disability benefits,

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JIM HORCHAK NAMED OUTSTANDING YOUNG LAWYER

At the April 4, 2005 annual meeting of the Westmoreland Bar Association, QRG attorney James Horchak was recognized as the Outstanding Young Lawyer. This award is presented by the Bar Association to the young lawyer who best exemplifies outstanding leadership and distinguished service to the legal profession and to the community.

Jim has been an associate attorney with QRG since 2001 and concentrates his practice in business law, estate administration and tax law. Along with his responsibilities at QRG, he served as Chair of the Bar Association's Young Lawyers Committee, where he was instrumental in reorganizing its structure and purpose. He is now beginning a five-year term as a member of the Building Committee. He also serves as Chair of the Business Law Committee and is a member of the Bylaws Committee. Jim is also a member of the Pennsylvania Bar Association and the Ned J. Nakles Inn of Court, and the Board of the Westco Federal Credit Union.

Jim is a graduate of Greensburg Salem High School, St. Vincent College, and the Duquesne University School of Law. He and his family reside in Youngwood. Congratulations to Jim on earning this recognition!

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The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.

WHAT'S THE CONNECTION BETWEEN SOCIAL SECURITY DISABILITY AND PRIVATE DISABILITY INSURANCE? _____

By A. Tereasa Rerko, Esq.

Many employers provide private disability insurance coverage for their employees. These policies provide disability benefits to employees who, for health reasons, are unable to work for extended periods of time. Some policies pay benefits immediately when an employee becomes unable to work; others may require a waiting period of six months or more before benefits begin. Each insurance company decides whether an employee qualifies for these benefits based upon the wording of the specific policy in effect.

It is true that in some instances, if you are considered disabled under a private disability policy, you may also qualify for Social Security disability (SSD) benefits. However, that is not always the case. The rules for qualifying under a private disability insurance policy are separate and distinct from the rules followed by the Social Security Administration (SSA). Persons may be considered disabled under the rules of the private policy if unable to perform the duties of their most recent job. On the other hand, the SSA will not award benefits unless an individual is unable to perform any work, considering age, education, work history and current medical restrictions. The older the worker, the more likely he or she is to be awarded SSD.

Each disability program has its own rules and regulations. In order to evaluate your specific situation, you should meet with one of the attorneys in our Social Security department.

[In the next issue of Legal Update, we will provide more information about private disability insurance coverage.]

TAX TALK WITH JIM _____

EDUCATIONAL EXPENSES

By James A. Horchak, Esq., C.P.A.

If you, your spouse or a dependent is attending a college, university, vocational school or other post-secondary institution, you may be eligible to claim the HOPE credit, lifetime learning credit or an adjustment on your personal federal income tax return. These credits are based on the amount of qualified expenses paid for the student during the year.

Qualified expenses include the costs paid on behalf of the student by you or others. For purposes of the HOPE credit or lifetime learning credit, qualified expenses include tuition and fees required for the student's enrollment or attendance at school. Qualified expenses do not include room and board, insurance, medical expenses, transportation, personal living expenses, books, supplies, equipment and non-academic activities. If your adjusted gross income is \$105,000 or more if married filing jointly, or \$52,000 or more if single, head of household, or qualifying widow(er), you are not eligible to claim the HOPE credit or lifetime learning credit.

If you are ineligible to claim the HOPE credit or lifetime learning credit, you still may be able to claim an adjustment on your return. This adjustment is limited to \$4,000 and is completely phased out if your modified adjusted gross income is greater than \$160,000, if married filing jointly, or \$80,000 if single, head of household or qualified widow(er).

You can claim the applicable credit or adjustment for every eligible student. However, you cannot claim more than one credit or adjustment per student.

*QRG attorney Jim Horchak is also a Certified Public Accountant.
Jim is available to help with preparation of your tax return or with any tax questions you may have.*



In June, attorney **Barbara Artuso** was part of a panel of attorneys who prepared and presented a seminar on "Advanced Issues in Social Security Disability" as part of the Pennsylvania Bar Institute's state-wide continuing legal education for Pennsylvania attorneys. The seminar was presented in Pittsburgh, Philadelphia, and Mechanicsburg, and replayed on video in several other locations around the state. Barbara is shown with PBI Assistant Director Dick McCoy at the Mechanicsburg seminar presentation.

In May 2005, attorney **David DeRose** presented a seminar on Living Wills at the Mountain View Inn in Greensburg, exploring the subject from both a legal and a medical perspective. Co-presenters at the seminar were Dr. Richard F. Kunkle, former associate medical director of Latrobe Area Hospital, and Anna Kay South, a critical care nurse. The seminar provided insight on the importance of committing to writing your wishes concerning your medical care and treatment should you become critically ill. This is one of the QRG Lifetime Legal Care seminar series.

Attorneys **Dennis Rafferty**, **Richard Galloway**, and **Joyce Novotny-Prettiman**, along with legal assistant **Brenda Sherbondy**, attended the 23rd annual seminar held by the Pennsylvania Trial Lawyers Association regarding automobile law in Pennsylvania. This is a seminar that instructs Pennsylvania attorneys on the latest developments in this area of the law.

Attorney **Barbara Artuso** and legal assistant **Kellie Taylor** recently honed their skills in representing disabled individuals in Social Security claims by attending the Spring Conference of the National Organization of Social Security Claimants' Representatives in Washington, D.C. The annual conference provides participants with information on a variety of topics relating to the Social Security disability process, including the Medicare prescription benefit plan and the Administration's new emphasis on electronic claims processing.

In June 2005, QRG hosted a booth at the Senior Lifestyle Show presented by WCNS Radio at the Four Points Sheraton. The annual show features exhibitors, guest speakers, grocery bingo, health screenings and entertainment. QRG attorneys **Tereasa Rerko**, **David DeRose**, and **Barbara Artuso** were at the show to provide information about the many legal services QRG can provide for seniors. Tereasa and David are pictured at right with Mary Ann Nalevanko of Latrobe, an attendee at the show.



WHAT'S THE VERDICT?

By Richard H. Galloway, Esq.



QRG PERSONAL NOTES

Carl's pension plan seemed like it would provide enough income for his wife and him to live a comfortable retirement, provided they toned down their living a little, which they surely intended to do. But by the time ten years had passed, medical expenses had come along and eaten into their income and, to make matters worse, a termite invasion of their home had used up most of the savings they had put aside for a rainy day. Carl decided that their remaining savings, \$50,000, should be put into the stock market. It turned out that his stockbroker was either awfully unlucky or just plain dumb and pretty soon the nest egg was down to \$10,000. Carl's wife, Peg, wanted to know why their \$50,000 in savings was now down to \$10,000.

Carl pours out his troubles to his friend Rudy over dinner at Vincenzo's Italian Restaurant and Tavern. Rudy is very sympathetic and confides to Carl that he happens to know a guy who works at the local race track who has told him that if he has any money, put it all on "Harvey's Hobby", a virtually unknown horse who is a ringer and virtually certain to win even though he is a 10 to 1 long shot. Rudy also knows of a bookie, Big Al, who takes bets on such things.

Carl decides that it is time for radical measures so he takes \$5,000 out of his stockbroker's hands and gets in touch with Big Al who is more than happy to take the \$5,000 bet on a horse that everybody knows can't be any good. Big Al figures it's a quick \$5,000 profit and doesn't even bother to place the bet.

Carl keeps his fingers crossed and wonder of wonders, his luck changes. "Harvey's Hobby" comes charging around the final turn and surges ahead of the favorite to win. The next day, Carl skips down to the local magazine store where Big Al holds court and asks for his \$50,000. Big Al explains to Carl that there has been a mistake, that Carl placed his bet too late and Big Al can't honor the bet but is happy to give him his \$5,000 back. Carl is outraged and threatens to sue but Big Al only laughs. Carl then threatens violence, and Big Al reminds him that Big Al is younger, tougher and more than willing to use a pipe or 2x4 if necessary, and he's had plenty of experience doing it. Carl decides it is time to see his favorite lawyer, Lisa.

Can Carl make Big Al pay off the bet?

Answer on Page 7

Matthew Cirelli, son of file clerk **Betsy Nicksich**, was inducted into the Greensburg Salem chapter of the National Honor Society on May 16, 2005. Matthew is a junior at Greensburg Salem High School.

Legal secretary **Patty Hudec** married **Daniel Apone** on March 29, 2005 in Scottsdale. They are residing in Mount Pleasant with Patty's two sons, Nicholas, 13, and Ryan, 9. Dan is a manager at a local beverage distributor. He and Patty will celebrate their marriage with a southern Caribbean cruise in January of 2006.

Attorney **Brian Bronson** married **Liznelia Alicea** on April 23, 2005 at St. Joseph's Chapel on the campus of Seton Hill University. The multi-cultural ceremony featured a bagpipe in procession, bilingual scripture readings, and customs reflecting Liznelia's Hispanic heritage. Following a honeymoon in Ireland, the couple resides in Unity Township. Liznelia is a registered nurse and is employed by the Veterans' Administration in Pittsburgh.

Nathaniel DeRose, son of attorney **David DeRose**, was recently admitted to a joint degree program at the University of Pittsburgh. Following completion of his first year of law school, Nathaniel will begin a year's study in the Katz Graduate School of Business. He will then complete his remaining two years of law school, graduating with both J.D. and M.B.A. degrees.

Michael Quatrini, son of partner **Vince Quatrini**, is studying canon law this summer in Italy. His family joined him for a visit in June. This fall Michael will be a second year law student at Duquesne University.

Two QRG family members graduated from Valley School of Ligonier on June 9, 2005. Both **Brenda Sherbondy's** daughter, **Kelsey**, and **Barbara Artuso's** niece, **Lisa**, were speakers at the ceremony. Kelsey received the computer prize, the community service award, and certificates of merit in drama, Latin, French, and geometry. Lisa received the Girls' Sports Award, the community service award, and a certificate of merit in English.

Cassidy Chappell, daughter of legal assistant **Rhonda Chappell**, was chosen as guard during tournament play for her fourth grade basketball team, Norwin Gold.

QRG COMMUNITY PARTNERS

From time to time we will feature articles from people and organizations in our community about subjects which we feel may enrich your life. In this issue, we are featuring Bill McGarrity, an active volunteer at Westmoreland SCORE. Bill is a business graduate of Lehigh University. He worked in sales and marketing for a major company, was a manufacturers' sales representative, and ultimately owned and operated his own small manufacturing company. Bill and his wife, Rosemarie, reside in Latrobe and have three adult children.

SCORE – HELPING BUSINESSES SUCCEED

By Bill McGarrity



SCORE - Counselors to America's Small Businesses - is a national non-profit, volunteer organization and a resource partner with the U.S. Small Business Administration. It is dedicated to aiding in the formation, growth and success of small businesses. SCORE provides two basic services to aspiring business owners and existing small businesses: no-fee, confidential business counseling, and low-fee workshops for starting a new business.

Westmoreland SCORE is affiliated with the McKenna Business School of St. Vincent College. More than 40 seasoned professionals regularly volunteer their time, knowledge and considerable expertise in the fields of sales, marketing, purchasing, production, engineering, research, medicine, finance, accounting and law to help develop and coach the next generation of small business owners in Westmoreland and Indiana Counties. In the last year alone, Westmoreland SCORE members logged more than 3,600 hours counseling 400 new clients, conducting 1,303 counseling sessions and presenting 6 workshops for people starting new businesses.

The workshops conducted by Westmoreland SCORE each year feature a team of experienced business professionals who discuss "how to *really* start your own business". The topics include evaluating your business idea, testing your business idea, protecting your business idea, obtaining financing, structuring a business, analyzing cash flow, and writing a business plan. A workshop costs \$25.00 to attend and includes instructional materials and refreshments. Remaining 2005 workshops will be held September 22 at 6:00 p.m. and November 12 at 9:00 a.m.

Given the expertise readily available through the generous volunteers of Westmoreland SCORE, the risks associated with starting a new business or expanding an existing business can be significantly reduced. For more information, to register for a workshop, or to schedule a counseling appointment, contact:

SCORE
St. Vincent College, 300 Fraser Purchase Road, Latrobe, PA 15650
724-539-7505
E-mail: score@email.stvincent.edu
www.scorewestco555.org

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because the SSA looks at any work that you have done within the last 15 years. It then determines if the medical evidence shows that you are able to perform any one of those jobs, even if that job no longer exists.

Even if your doctor has said you are disabled, SSA may still disapprove your application for disability benefits on another basis. Your medical condition does not matter if you do not have enough recent earnings to qualify for disability benefits. In general terms, you must have worked and paid into the system for five out of the last ten years.

The question of whether you qualify for Social Security Disability benefits is not a simple one. If you think that you may qualify but have been denied, or have not applied for benefits but want to discuss whether or not you should do so, please feel free to contact our office and meet with Attorney Barbara Artuso or me to discuss your unique situation.

FREQUENTLY ASKED QUESTIONS ABOUT SOCIAL SECURITY

By Kellie J. Taylor, Legal Assistant

At QRG, our staff handles several hundred Social Security cases per year. In the course of our representation, there are questions that repeatedly arise. Here are some questions that we hear most often:

What is the difference between SSD and SSI?

The Social Security Administration pays disability benefits under two programs. Social Security Disability (SSD) are benefits paid to disabled workers and their families. SSD benefits are determined by the work you've done and the money you've paid into the Social Security system. Your SSD benefits are calculated from your earnings.

Supplemental Security Income (SSI) are benefits paid to a disabled individual who qualifies financially due to a lack of resources and income and who has no significant work history.

How will Social Security decide if I am disabled?

Social Security has a very strict definition of disability:

- your medical condition must have lasted, or be expected to last, 1 year, or be expected to result in your death
- you must be unable to perform any type of work you did in the 15 years before the onset of your disability
- you must be unable to perform any other type of work on a full time basis because of your medical condition

How long does it take to get a decision?

It takes about 4 to 5 months to get an initial decision. Approximately 64 percent of the applications are denied. You can appeal that denial to an Administrative Law Judge. The overall process can take a year or longer from the time you file your application until the date of your hearing.

If I am already receiving another type of disability payment, can I automatically get Social Security benefits?

No. Social Security disability laws differ from the rules governing most other programs. Entitlement to workers' compensation benefits, short-term disability, long-term disability or a private disability pension does not automatically entitle you to Social Security.

My neighbor is getting benefits for a condition similar to mine; why can't I?

Every case is different and is individually evaluated based on age, education and work experience. You should not compare your case with another case.

Will I be entitled to health insurance if I am approved for benefits?

Under SSD, Medicare is available after you have received benefits for 2 years. At this time, there is virtually no prescription coverage available to SSD recipients.

Under SSI, Medicaid is available for those receiving at least \$1.00 in monthly SSI benefits. Medicaid does include prescription coverage.

While my application for SSD benefits is pending, can I work?

There are many factors involved in this decision. Any work you do while filing for benefits will be examined closely by the Social Security Administration. Deciding whether work will adversely affect your case depends on the type of work you do, the hours of work and your rate of pay.

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FREQUENTLY ASKED QUESTIONS ABOUT SOCIAL SECURITY

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After my application for SSD benefits is approved, can I continue to work?

Generally, if you work and earn more than \$590 per month, you enter into a Trial Work Period. After the Trial Work Period, if you earn more than \$830 per month, your benefits will end.

Will I ever receive an increase in my Social Security benefits?

SSD and SSI benefits increase each year based on the cost of living increase (in 2005, this increase was 2.7 percent).

How much will it cost for you to handle my claim?

There is no fee for our services in your SSD or SSI case until we are successful in obtaining benefits for you. If we are successful, the Social Security Administration generally allows a fee of 25% of the past due benefits in your case, up to a specified maximum amount. Under some special circumstances, an hourly fee may instead be charged, but all fees must be approved by the Social Security Administration.

WHAT'S THE VERDICT?



ANSWER:

When Carl meets with Lisa, she first wants to know how he placed the bet. Was it at an official off-track betting parlor, sanctioned by Pennsylvania? Well, no, it was through Big Al. Lisa knows of Big Al, who has a reputation for a lifetime of running an illegal gambling operation. She has the unfortunate responsibility of telling Carl that in Pennsylvania, gambling agreements or contracts are considered illegal and the law will not allow them to be enforced in court. It's as if Carl had never had the agreement with Big Al. So much for the lawsuit....

Carl is furious, but he's learned a valuable lesson, and decides he'll take the \$5,000 that Big Al returned and put it back into the stock market. So, off he goes to see his stockbroker, Bill Knutt. He informs Bill that he is going to give him the \$5,000 back to reinvest and hopes that things go better. Bill just stands there, smiling. It seems Bill had invested that other \$5,000 of Carl's in the AJAX Pharmaceutical company for Carl just before that company announced that it had discovered a cure for the common cold. The stock has gone from \$5 a share to \$100 a share and Carl now has \$100,000. Sometimes it's better to be lucky than smart.

Carl buys a dozen roses and invites Peg to dinner at Vincenzo's. Life is good.

GOLF OUTING HONORS MEMORY OF WORKERS' COMP JUDGE

The Community Foundation of Westmoreland County recently hosted the Jack Kenney Memorial Scholarship Golf Outing at Hannastown Golf Club. The June 13th outing was organized and facilitated by numerous volunteers, including QRG employees Rhonda Chappell, the event's coordinator, and Teresa Ross. Managing partner Vince Quatrini is the event chairman.

The Jack Kenney Memorial Scholarship provides higher education opportunities to students at Greensburg Salem High School. The annual scholarship has to date provided four students with financial assistance for their college educations.

The scholarship is given in memory of John F. "Jack" Kenney, a former Pennsylvania Workers' Compensation Judge, who passed away November 21, 1999. Judge Kenney attended the Greensburg Salem public schools and St. Vincent College. During WW II, he served in the European Theater as a platoon sergeant and saw action in the Ardennes Forest during the Battle of the Bulge. He gave much of his time to guide and direct young people by coaching little league, pony league, prep league and American Legion baseball and served on the Salem Township and Greensburg Salem Recreation boards. He was a member of the Greensburg Salem School Board for 19 years. He served as a Workers' Compensation Judge for 27 years, was previously employed by Kennametal Inc. and was a District Justice.

MEET THE STAFF

BARBARA J. ARTUSO, ESQ. AND DEBRA L. PICCIANO, LEGAL SECRETARY

Barbara is one of the attorneys in the Social Security department of QRG and has been with the firm for 14 years. She concentrates her practice in obtaining Social Security disability benefits and SSI from the federal government for individuals too ill or injured to work.

Barbara graduated from Ligonier Valley Senior High School, then moved to central Pennsylvania to attend Bucknell University and Dickinson Law School. She returned to Westmoreland County to practice law and raise her son, Joseph, who is now 23 years old. In addition to her work at QRG, Barbara is currently president of the Ned J. Nakles American Inn of Court, a professional organization for attorneys, and an active member of the Pennsylvania and Westmoreland Bar Associations.

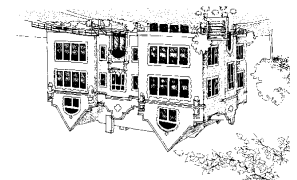
Barbara is an avid skier, enjoys traveling and reading, and loves to sing, especially in her church choir. She would one day like to own her own boat!

Debbi has been a legal secretary at QRG for twenty-five years! She is Barbara's secretary and additionally has many responsibilities within the Social Security department of QRG. She is a graduate of Hempfield Area High School, and lives with her husband, Ron, her two children, John and Ronelle, and her dog, Annie, in Hempfield Township. Debbi most enjoys spending time with her family, especially at the beach. For now, her highest priority is planning her daughter's wedding in September of 2006.

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