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What To Do When Disability Insurance Companies Use Surveillance Evidence Against You

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We all need insurance. It's a basic necessity to protect us from accidents and unforeseen tragedy. Unfortunately, many insurance companies are experts at denying claims. In the event that you submit a claim, your insurance company may try to misconstrue your injuries, medical records, and even the events leading up to the moment you filed the claim.

One tactic that insurance companies often use when faced with a claim that they don't want to pay, and cannot easily deny, is surveillance. Yes, they will stoop to trying to "prove" that you are not disabled enough to qualify for the benefits you have paid to receive. Hard as it may be to believe, insurance companies will send out investigators to watch your every move because they would rather pay an investigator to gather "reasons" to deny the claim than to pay the extent of your benefits.

Remember that insurance is a business, just like anything else. The company views surveillance tactics as a viable way to save money. However, sometimes insurance companies cross the line.

Why Do Insurers Use Surveillance Tactics?

When an insurer suspects that claimants have exaggerated or enlarged their disability claims, insurers can lawfully surveil them—in certain areas. These tactics are common in both individual and group long-term disability claims.

To prove that you are not as injured as you claim to be, insurance companies may follow you, take videos, pictures, and record a journal of various activities that you do daily. The goal? To catch you doing an activity that can disqualify you from receiving benefits according to the terms and conditions of the insurance company.

Is Surveillance Legal?

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Generally, insurance companies are permitted to surveil you in any public place where you do not have a “reasonable expectation of privacy.” Additionally, if you have signed an authorization to allow the insurance company to gather information about your claim, rest assured that’s what the paparazzi used to gain access to your gate-guarded community.

Even with a signed authorization, private places are off-limits. The inside of your home, for example, is a place that most American citizens consider resolutely private. In your home, you are not in public. You are, in a grand sense, in a private place.

If the investigator videotapes or photographs you in private spaces—like in your bedroom, bathroom, or any other area of your home—the surveillance is generally illegal. The law seeks to protect people’s sense of privacy in places where the expectation of privacy is legitimate.

However, you do not expect privacy in public places like an amusement park, your doctor’s office, or your gym. It should not surprise you to know that someone may have seen or overheard you in public, common areas.

Significant Terms To Remember

Precise definitions of the various forms of surveillance will vary.

General tactics, however, are used to surveil claimants with individual and group long-term disability claims, including:

- **Fixed surveillance:** This is more commonly known as a “stakeout.” Here, the investigator watches the subject of interest from a distance and typically from a distinct location. Insurance companies may use this tactic to observe a claimant’s normal daily routines, generally from 5 a.m. till at least 7 p.m.
- **Stationary technical surveillance:** This form of surveillance is similar to fixed surveillance. The primary difference is that stationary technical surveillance reduces the need for a human investigator. Typically, fixed cameras and listening devices are used in the place of an investigator.
- **Tracking:** Tracking is simply the act of determining where you’re going and where you’ve been. Time frames vary. Sometimes, investigators may literally follow you around inconspicuously. Other times, investigators use various tracking technologies. These mechanisms can include GPS tracking and location apps.

How Disability Insurance Companies Use Surveillance To Deny Disability Claims

If you recently filed an individual or long-term disability insurance claim (/2017/05/understanding-common-causes-disability-claims-part/), your insurance company may surveil you. While the thought of being recorded and photographed is unsettling, it is an unfortunate—yet mostly legal—reality of disability-insurance claims investigations.

Here are several factors to consider about the legality and practical use of surveillance to deny disability claims.

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Be Wary of Home Visits From Insurance Field Representatives

Insurers may also use field visits to verify their surveillance. Field visits happen when your disability carrier sends or hires a representative to meet with you face-to-face to talk about your disability benefits claim at your own home or office.

While these field visits can seem innocuous, insurance carriers often have other motives for entering your office or home:

- To see where you live, what you drive, how long you sit, stand, or walk during the interview
- Did you have focus, concentration, or memory issues during the interview
- How long did the interview last in relation to your sitting, standing, and walking tolerances

If you agree to a field visit, you are inviting the insurance representative into your home or office. You waive your otherwise reasonable expectation of privacy during a field visit to which you consent. Then, it becomes reasonable to believe that this person will take note of what he sees or hears in your home or office.

Do not consent to a field visit without having one of the seasoned, top-rated disability lawyers (<https://www.longtermdisabilitylawyer.com/>) of DarrasLaw present to represent you. Learn more about the implications of submitting to a field visit here (</faq/submit-field-visit/>).

Note that insurers may legally conduct surveillance on you more than once and often surveil for multiple days in a row to eliminate the “I have good days and bad days” argument.

The Reality of Insurance Fraud

The Coalition Against Insurance Fraud estimates that fraud steals \$80 billion a year across all lines of insurance. Insurance companies have a financial responsibility to their stockholders to pay only legitimate claims, which is why many use surveillance to identify and deny fraudulent claims.

Insurance fraud can also hurt other policyholders. According to the FBI, insurance fraud can cost the average American family between \$400 and \$700 each year in the form of increased premiums.

Surveillance can help you when your insurer is proactive about denying illegitimate claims—it keeps your premiums lower.

To shore up their profits, however, insurance companies often use the pretense of fraud to delay, undervalue, and wrongfully deny valid claims (</2017/08/filing-disability-insurance-denial-claim-appeal/>).

How Insurance Companies Collect Intel to Surveil You

When you filed your claim for individual or long-term disability benefits, your insurance company likely asked you to specify which activities you can do and for how long. The insurer may have also asked you to complete an activity log detailing your typical daily activities by the hour for a two-week period.

While this information does provide a clearer picture of your time spent during disability, insurers can also use it to determine when and where to surveil you—to collect evidence that undermines your valid disability claim.

Investigators will try to catch you performing activities that your claimed disability should limit or prohibit. The insurer can then use this “evidence” to deny your disability claim. In some cases, the insurer could also allege that your disability claim was fraudulent and attempt to rescind your policy.

If you are requested to participate in an independent medical exam (IME), the insurer may try to conduct surveillance the day before, the day of, and the day after the exam. This will allow the insurer to directly compare your public behavior to your exam results and look for any inconsistencies in symptoms or limitations as described by their medical professional.

Beware of Social Media Surveillance

During the last several years, insurance companies have increasingly relied on social media to investigate policyholders, as it can provide opportunities to uncover information that may conflict with or contradict information presented in your disability claim.

According to insurance company GenRe (<https://media.genre.com/documents/cflh13-02-franken.pdf>), social media investigation is an increasingly popular form of surveillance because “Monitoring these sites is a cheaper and quicker way of gaining insight into a claimant’s activities and domestic situation than arranging surveillance or a home visit. Theoretically, it also provides an opportunity for a more genuine appraisal of the true level of functional capacity.”

Harvard neuroscientists (<https://slate.com/technology/2013/08/oversharing-on-facebook-researchers-weigh-in.html>) say we cannot help but share our thoughts, leading to oversharing on social media. Unfortunately, these habits can pose a problem for the fate of a disability claim.

Insurance companies may directly compare the language you use in your disability claim forms to your social media activity. If you reported, for example, that you are never able to lift more than 20 pounds—but a picture on social media shows you carrying around a small child who clearly weighs more—your insurance company could deny your disability claim.

How often do you see someone on social media crying in pain, limping at the grocery store, or documenting on Facebook their restrictions and limitations? In many cases, the assumptions drawn from your social media activity may prove unfair or inaccurate, as people tend to show

only a small and “cleaned up” version of their lives on social media—the “good days.”

We realize that even disabled people have very occasional good days. Nonetheless, insurers can use evidence of these good days against you. Any information you willingly share with the public is free for your insurance company to use. Stay off social media or take great care and post about your inability to sit, stand, walk, bend, lift, push/pull, kneel, climb, and how your medications make you dizzy and loopy.

What Can You Do About It?

If you discover your insurance company has run surveillance on you and is attempting to use this “evidence” against you, do not feel intimidated. An experienced disability insurance attorney at DarrasLaw can help you determine whether the insurance company illegally followed you or misconstrued and exaggerated any findings to construct a false narrative about your disability.

You can also safeguard against social media surveillance with a few simple steps. Learn more about auditing your social media use (</2015/07/more-resources-how-to-change/>).

If Surveillance Has Led to the Termination of Your Disability Insurance Benefits, Fight Back!

If your disability claim was wrongfully denied for surveillance or social media reasons, the ERISA attorneys at DarrasLaw may help if the insurance company:

- Sent a **private investigator who took the video** that your insurer alleges invalidates your disability claims
- **Falsely asserts that your disabling condition was pre-existing** and does not qualify for disability benefits under your policy
- **Failed to follow the terms of its own plan** when deciding your eligibility for disability benefits, changing the interpretation of an “own occupation” policy to an “any occupation” policy, or using a vocational expert to say you’re capable of working when you actually cannot
- Makes endless **requests for duplicative claim documentation**, only to tell you that you supplied incomplete or unsatisfactory documentation, or that it never received it
- **Refuses to supplement Social Security Disability Insurance (SSDI)** as required when the disability benefits promised by the policy exceed those received from SSDI
- Has an **improperly credentialed, the insurer-hired doctor reviewed your file** and determined that you are not disabled, or talked to your treating doctor and determines that you are ready to return to work before that is actually possible

Hold On To Those Disability Papers!

If your insurance company wrongfully denies your disability claim, fighting back is the only possibility you have for a fair and different outcome.

Keep (or retrieve) copies of all correspondence between you and your insurer—whenever
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possible.

Find what you can, make note of the documents you remember submitting but can't locate, and save everything else moving forward.

If Your Insurer Wrongfully Denies or Terminates Your Legitimate Disability Claims

Insurance companies act in bad faith more often than one might imagine. If you have filed or are preparing to file an individual or long-term disability insurance claim or believe your disability benefits were wrongfully denied, contact DarrasLaw's (/contact-us/) top-rated, long-term disability insurance attorneys for a free policy consultation or claim help.

At DarrasLaw, our nationwide disability insurance law firm (<https://www.longtermdisabilitylawyer.com/>) has seen more, evaluated more, and resolved more individual and long-term disability cases than others across the country. We understand that a disability can damage your income suddenly and unpredictably. We are here to assist and fight for the disability benefits you paid richly for and deserve. We evaluate cases throughout the United States.

We have recovered nearly \$1 billion on behalf of disabled people who may be just like you—unsure of where to turn. Turn to us. While insurers have a right to protect their business interests, they should not do so by using bad-faith tactics to wrongfully delay or deny your valid disability benefits. There is no risk involved in contacting us.

We can help you can fight back! When enough is enough, reach out to us to discuss your disability claim options. Call DarrasLaw today at (800) 898-7299 or contact us online (/contact-us/) for your free policy analysis and claim consultation.

Policy reinstated: A welcome update to a difficult story (<https://www.longtermdisabilitylawyer.com/2017/07/policy-reinstated-welcome-update-difficult-story/>)

Dropping the Ball on Benefits For Gulf War Syndrome? (<https://www.longtermdisabilitylawyer.com/2017/08/dropping-ball-benefits-gulf-war-syndrome/>)

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