

[Suing for Benefits: A Dilemma for the Disabled](#)

CBS 5

Will your disability insurance cover you if you become ill and unable to work? Many advocates say probably not.

People like Melinda Carstens say they found out how difficult it can be to try to fight an insurance company over their disability payments.

Carstens said fighting her disability is tough enough. But going up against her insurance company is excruciating.

What's the fight about? "The insurance company looking for a way to save money," said Carstens.

Carstens suffered severe nerve damage in an accident. A career woman, she tried to keep working but said, "It was my doctors who said, 'Melinda, stop. You have to quit work right now.'"

So Carstens went out on disability, believing company's disability insurance would provide two-thirds of her salary.

But she said her benefit was reduced by half under offsets in the insurance contract. Carstens says she never saw that contract while working for her employer. But a provision in the contract said that since she was also receiving social security disability payments, the company would reduce their payments by the amount of that social security benefit: the practice called "offsetting."

Carstens' attorney Cassie Springer-Sullivan fought the decision and got the payments reinstated, but the battle wasn't over. Several years later, the insurance company said it was entitled to take social security disability benefits provided to her son.

Those benefits are government funds that all children of disabled parents receive by law; money that Carstens said belongs to her son alone.

“This is my son. And this is my son’s money. It’s not my money, it’s not the insurance company’s money. It’s his,” Carstens said.

“That to me was just not fair,” said attorney Springer-Sullivan.

Attorney Ray Bourhis said insurance companies have too much latitude because of loopholes in the law. He describes it as insurance companies being “given a license to steal.”

Bourhis discussed the issues in his book about the industry, “Insult to Injury.”

“The federal government doesn’t regulate insurance at all,” said Bourhis. “In terms of claims handling practices, fraudulent practices, malicious practices, abuse practices.”

Bourhis said that means if you get disability insurance through your employer, as most people do, you’ll have little recourse if you think your insurance company isn’t playing fair.

“No matter how bad, what the company is doing, you can’t go after them under federal law,” Bourhis said.

But an attorney who represents insurance companies disagreed.

“There’s the standard statement, you know, blame the insurance company,” said attorney Kara Baysinger. “And I don’t think that’s fair in this instance.”

Baysinger said in general, disability insurance products work.

“The ones that the media picks up on are the ones where a consumer feels wronged. But for every one of those, there are thousands and thousands and thousands of people who are collecting benefits every day — who are able to move on with their lives,” said Baysinger.

But Baysinger admitted that the benefits people receive depend on the rules laid out in the insurance contract.

“That’s what it’s supposed to be controlling,” said Baysinger. “Yeah, that’s the contract that was purchased; it’s like any other contract.”

“And they know that!,” Bourhis responded. “So what they do is, they have all the leverage, they have all the chips.”

Melinda Carstens sued to get her son’s benefits back and won. But as to whether her battle with the insurance company is ever really over?



“They just keep coming,” Carstens said. “Finding ways to save money.”

To watch video, go to <http://cbs5.com/video/?id=65821@kpix.dayport.com>

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