Relationship Between Social Security and Alaska Workers' Compensation

Terms

I. Workers' Compensation Benefits

Workers' compensation is compensation paid to an injured employee while he is recovering from the injury.

II. Social Security Disability, is paid to a person for a disability which prevents that person from working. The amount is paid monthly. It is calculated on the persons average monthly income. This is calculated on the income for the past five years. SSA determines the maximum amount of SSD that can be paid to the individual.

To be eligible the person must have contributed to retirement social security 20 out of the past 40 quarters prior to the date of disability and the person must be disabled under the social security law.

III. Supplemental Security Income is a national wide welfare payment program providing monthly cash benefits to eligible needy individuals or couples who are aged, blind, or disabled. disability. The amount paid is subject to various reductions based on the individual's financial situation.

There is a reduction for receipt of workers' compensation. Workers' compensation is considered unearned income. It is quite possible that if a person is receiving workers' compensation that he will receive nothing for SSI even though he is qualifies.

IV Social security offset against workers' compensation. The offset is calculated. SSA adds the month payment of SSD plus the monthly equivalent of workers compensation. If the amount exceeds 80% of the average monthly earnings than the social security monthly amount is reduced by the amount which exceeds 80% of the average current earnings.

It is possible that a recipient of social security disability could have such a high average monthly earnings from his work that there would be no offset.

V. The Alaska Workers' Compensation Act.

The Alaska Workers' Compensation Act is an insurance program paying medical and disability benefits to injured employees. It is a mandatory program. If an employer cannot obtain insurance then the State of Alaska has a pool which provides the insurance.

The benefits are paid out when ever there is an injury or occupational exposure on the job.

The benefits are classified into two categories, medical benefits, and compensation benefits. The medical benefits include, treatment, medication, diagnostic examinations, mileage, prosthesis. The benefits are paid as long as they reasonable, necessary, and related.

Compensation Benefits

There are several compensation benefits. These are temporary total disability benefits, permanent, temporary partial disability, partial disability benefits, retraining benefits, permanent total disability, and death benefits.

Temporary total disability is payment of the compensation while the injured employee is not working and not medically stable.

The compensation rate is calculated by calculating the gross weekly earnings, subtracting the payroll deductions to arrive at the spendable weekly wage.

Temporary total disability is the 80% of the spendable weekly wage. This is paid until the employee returns to work or is medically stable.

When the employee is medically stable and can return to his job, then it is determined if the employee has suffered a permanent impairment from the injury. If so the impairment will be calculated as a percentage of the whole person. That percentage is multiplied by \$177,000.00

If the employee cannot return to work and qualifies for retraining, he is paid his permanent partial impairment on a bi weekly basis. A retraining plan is developed. Compensation is paid during the plan. If the permanent impairment is exhausted than a stipend is paid. The stipend is 70% of the spendable weekly wage.

Permanent total disability is paid when the employee cannot return to any kind of employment. 80% of the gross weekly earnings is paid as long as the person cannot return to work.

VI Alaska Workers' Compensation Offset against Social Security Disability

Alaska has a reverse offset statute for both disability social security and retirement social security. The Alaska Workers' Compensation Board has ruled on several occasions that permanent partial impairment, and retraining compensation is not subject to the social security offset.

Only temporary total, temporary partial, and permanent total are subject to the disability social security benefits.

The maximum and minimum weekly compensation paid to an employee is determine on an annual basis. It is quite possible that an employee working on the slope could command a spendable weekly wage of two times the maximum compensation rate.

Calculation

AS 23.30.225(b) provides

When it is determine that, in accordance with 42 USC 401-433, periodic disability benefits are payable to an employee or the employee's dependents for an injury for which a claim has been filed under this chapter, weekly disability benefits payable under this chapter shall be offset by an amount by which the sum of (1) weekly benefits to which the employee is entitled under 42 USC 401-433, and (2) weekly disability benefits to which the employee would otherwise be entitled under this chapter, exceeds 80 percent of the employee's average weekly wages at the time of the injury.

The average weekly wages language is construed to be the employee's spendable weekly wage.

There is no offset for SSI.

Social Security Consideration of the State of Alaska offset.

For years Social Security would not honor the Alaska offset. This was based upon an opinion by an in house counsel for Social Security administration. Instead of terminating their offset SSA would offset against the lower amount of compensation after Alaska took its offset.

Finally SSA changed its mind with the assistance of Alaska Worker's Compensation attorneys and now considers the Alaska offset a true reverse offset for temporary total and partial disability, permanent total disability, but not for permanent partial impairment, and retraining stipend. POMS DI 52120.010

Examples

- I. Workers has an gross weekly wage of \$1,100 per week.. He receives 700 per week, or \$3,034 per month equivalent.
- II. His initial determination of monthly amount for Social Security \$1,500. He an average monthly earnings of \$4,766.00. The weekly equivalent for the ssd is \$346.15

Social Security offset would be calculated.

\$3,334.00 w/c \$1,500.00 ssd \$4,834.00 80% of Average monthly income is \$3,812.80. \$4,834.00 -3812.80= \$1,021.20 The SSD offset is \$1,021.20

W/c Offset is calculated as follows.

\$700.00 per week w/c \$346.15 SSD equivalent 1046.15 per week total.

Gross weekly wage is \$1,100 per week. 80% of 1,100.00 per week is \$880.00 Offset against initial monthly SSD is

\$1046.15 \$880.00

The offset is \$266.15 per week or \$1,153.31 per month.

There are now competing offsets.

- VI. Why Is This Important.
 - A. Need to ask if the person is on workers' compensation
- B If you are going for SSI it may make a difference to the amount of SSI and attorney fees.
 - C. If you going for SSD. Need to inform SSA of the offset that is being taken.
 - D. Also should inform the attorney who represent the w/c of the filing for SSD Often we don't know he has filed for SSD.
 - E. Insurance companies are required to notify Medicare of any workers' compensation claimants who are on medicare.