



# DISABILITY NEWS

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## Introduction

We created our newsletter, Disability News, to keep our current and former clients informed about new rules and regulations affecting social security, long-term disability, and disability insurance claims. All of our past newsletters can be found on our website at [www.buchanandisability.com](http://www.buchanandisability.com)

## Disability or Retirement, or Both?

### By Jeremy L. Bordelon

Most people know that Social Security offers both disability and retirement benefits. For disability, you have to prove you're disabled, but for retirement, you just have to be the right age.<sup>1</sup> What happens, though, if you've reached (or are close to) retirement age, and you're also disabled?

Even if you haven't reached your normal (full) retirement age, you can retire as early as age 62 and receive a reduced retirement benefit. The amount of the reduction varies depending on how long you have until your normal retirement age. For the first 36 months of your early retirement, the reduction is 5/9 of 1% for each month you're retiring early. For each additional month more than 36 months early, the reduction is 5/12 of 1%.

Here's how that works in practice: Say you were born in 1954, and you want to retire at age 62, in the year 2016. Your normal/full retirement age is

66, so you'd be retiring 4 years, or 48 months early. The first 36 months get you a 5/9 of 1% reduction each month, and the other 12 months get you a 5/12 of 1% reduction each month.

So in the end, if you retire 48 months early, you get a 25% benefit reduction. You only receive 75% of what you would have received if you waited until your full retirement age of 66. And that's locked in forever – it doesn't go back up to the full 100% once you hit your full retirement age.

However, there is a way out. Say you're not retiring at age 62 because you want to, but you have to stop working because you're disabled – you have medical problems that prevent you from doing your job anymore, and would prevent you from doing other jobs, as well. Applying for social security disability benefits is one option, but that's often a long, drawn-out process that takes years to

apply, appeal, and finally get those benefits. In the meantime, you have no income.

What you can do in that situation is to apply for *both* early retirement benefits and disability benefits. You will start receiving the retirement benefits (subject to the reduction formula above) almost immediately, and that will provide you some income while you're going through the process of proving your disability. If you're eventually approved for disability, the Agency will "undo" your early retirement and re-classify you as disabled instead of retired.

There is another way filing for disability can protect your eventual retirement benefits, because of the way Social Security calculates those benefits. Retirement benefits are based on your Average Indexed Monthly Earnings, or "AIME." Social Security calculates your average earnings per month over your whole life, and adjusts them for inflation.

<sup>1</sup>"Normal" or "Full" retirement age depends on your birth year. If you were born between 1943 and 1954, your full retirement age is 66. For 1955, it's 66 years and 2 months old. It goes up by 2 months for every year (1956, 66 years and 4 months, etc.) and anyone born in 1960 or later has a full retirement age of 67.

## Disability or Retirement, or Both? continued from page 1

If you had several years with no earnings, simple math would say that's going to bring your average monthly income down, and your retirement benefits down with it. If those years with no earnings fall during a period of disability, though, Social Security will not count those years in your average, leaving your average earnings higher, and therefore giving you a higher retirement benefit. So if you're not working because of a disability, it's always a good idea to apply for social security disability, not just for the benefits it provides now, but also for the benefits it provides when you eventually reach retirement age.

Once you reach your full retirement age, even if you've been found disabled, you are converted over to "retirement benefits" by Social Security. No one is

considered "disabled" by the Agency after they reach their full retirement age. If you applied for early retirement, but were later found disabled, you may not have any reduction to your retirement benefits because of the early retirement election, but there might be a small reduction: if there were any months where you received "early retirement" benefits that you did not eventually receive disability benefits for, those months would still reduce your retirement benefits.

For example, if someone became disabled right on his 62nd birthday, and started receiving early retirement benefits right then, and applied for disability, he would have about 6 months during which he receives early retirement, but is not eligible for disability benefits. That's because social security disability benefits

have a waiting period, but retirement benefits do not. Under that scenario, the claimant would have a 5/9 of 1% reduction to his eventual retirement benefits for each of those 6 months. In other words, when he reaches age 66, his benefit will go down by about 3% (5/9 of 1% x 6 months = 3.3%) because of those early retirement benefits. If his benefit should have been \$1,000, it would be reduced about \$30.

Most people would say that having money to live on while they're pursuing social security disability benefits is well worth a \$30 reduction, four years down the road. But these are the things you need to think about when you're deciding what to do with retirement and disability benefits. Know your rights, and protect your benefits!

## Photo Gallery

**Eric Buchanan & Associates, PLLC** celebrated their 10th Anniversary on July 1, 2013. We want to thank our clients for the opportunity to represent them in their disability cases.

Go to [buchanandisability.com](http://buchanandisability.com) and check out our new website.



Our Attorneys: Jeremy L. Bordelon, R. Scott Wilson, Rachael V. Pas, Eric L. Buchanan and Hudson T. Ellis.

# Get to Know our Attorneys & Staff

Brittany Dicorato has been a part of Eric Buchanan’s Disability Team for the past year. She has seven years of experience in customer service. Her role in the disability process is to ensure that all evidence that comes through our office gets processed and delivered to our legal assistants quickly and efficiently. For our clients that receive benefits from an insurance company, she makes sure they receive their benefit check each month.

Brittany is also learning how to

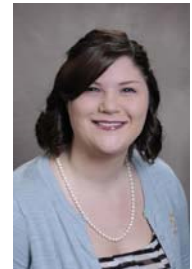
handle social security cases once benefits have been awarded and turned over to the financial department. Making sure that our clients receive the benefits they are entitled to can be very rewarding.

When she is not at work, Brittany enjoys spending time with her family. Reading, whitewater rafting and four-wheeling are also some activities she enjoys. She has been married to her husband, Ryan, since October 8, 2011, and she has two puppies, Khaleesi & Roxy, who are like her children. Khaleesi

(right) is a 2 year old Chihuahua-Dachshund mix (Chiweenie), and Roxy is a 7 month old Chihuahua-Spitz mix.



Brittany has only been with the firm for a year, but she is excited to learn different areas of disability law as she continues to grow every day.



Brittany Dicorato  
Administrative Assistant

## Social Security Press Release - April 2013

### Third Anniversary of Affordable Health Care Act

Many people who receive Social Security also get Medicare benefits. But retirees younger than age 65 and Social Security disability beneficiaries in the first 24 months they receive benefits are not eligible for

Medicare.

For them and other people who need affordable health care, it's good to know about the Affordable Care Act (ACA). Even people who are covered by Medicare or other medical insurance can benefit from the ACA.

Take health care into your own

hands by visiting [www.healthcare.gov](http://www.healthcare.gov)

to learn more about the options available under the ACA.

You can also learn more about Medicare and how to qualify for Extra Help with prescription drug plan costs by visiting [www.socialsecurity.gov/medicare](http://www.socialsecurity.gov/medicare).

**“Take health care into your own hands by visiting [www.healthcare.gov](http://www.healthcare.gov) ...”**



## Attorney Referral - Attorneys We Trust

Eric Buchanan & Associates can help with disability insurance, social security disability, long-term disability insurance, and other employee benefits, such as life insurance and health insurance. But, in order to do the best job for our clients in those areas, we don’t handle some other types of cases, such as truck and car wreck cases, workers’ compensation, or medical malpractice. For those other types of cases, there are other attorneys we recommend who do a great job on those types of cases. In addition to providing information about our firm, and the types of cases we handle, we would like to help our clients by providing information about attorneys we trust in other fields of law. Each quarter we will showcase one of these attorneys. If you decide to call one of the attorneys we recommend, be sure to mention you heard about the attorney in the Eric Buchanan & Associates newsletter.



Wes Kliner is a skilled immigration attorney at Frager Kliner who can help you address complex immigration concerns with sound advice and solutions, while providing the

understanding, care and expertise you deserve. Direct communication, personalized attention, and in-depth knowledge of immigration law is what helps his firm to tailor their work for individuals and businesses.

Visit the website for Frager Kliner to see how they can assist you with

any immigration issues you may have.

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Wes Kliner  
Managing Attorney

# Eric's Answers



## When someone applies for disability, what role does their doctor play in the process?

Under the social security disability rules, great weight is given to the opinion of someone's treating physician and if the treating physician's opinion is uncontradicted and

there are no other opinions in the records, then that doctor's opinion is given controlling weight.

If social security sends someone to a doctor for a one time visit and that doctor says that person can work, Social Security is still supposed to give more weight to the opinion of the treating physician.

So if you have a treating physician who says you are disabled, it is very important to get that doctor to say so in writing and assign your

restrictions and limitations to show that you are unable to work.

If you have that in the record, social security is supposed to follow the treating physician's opinion and find you disabled.



**Eric L. Buchanan**  
President

*"Under the social security disability rules, great weight is given to the opinion of someone's treating physician..."*



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