

Your Guide to the Social Security Disability Process

You've always worked hard...
Now you can't.

Initial Questions

- Do I qualify for disability?
- How do I apply?
- What do I do if I am denied?
- How long does it take?
- If I win, what benefits am I entitled to?
- Do I have to testify in Court?
- Do I need an attorney?

Social Security Disability Today

Times have changed. While it was never easy to get disability, it is now even harder. If you are no longer able to work due to a health condition, physical or mental, you are the person that the system was designed to help. But it may feel like the process is too complicated and the Administration is hostile to those in need. We hope that this pamphlet is helpful to you.

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The disability process

If your health condition results in your being unable to work, and as a result you are fired, or you resign from work, you may be entitled to social security disability. The first step is to file an application. That can be done on-line, on the

telephone or in person with an Administration representative at your local social security office. The on-line system has been made more usable in recent years, and the local offices encourage claimants to use it.

The first question in determining your eligibility is whether you have enough work credits to qualify for disability benefits. This will depend on your age and how long and how recently you have worked. If you do not qualify for social

Filing your application.....

security disability benefits, you may qualify for supplemental security income benefits (SSI), if your income and assets are low enough to meet the financial rules.

Your application will be evaluated by the Disability Determination Services (DDS) office, where they will review your medical and other records and evaluate

your medical claim. Request a copy of your own records from your doctors!

Social Security’s definition of “Disability”

Remember:

while your doctor does not decide if you are disabled, his opinion on your condition is very important to your case.

“The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.”

Disability, as defined in the federal regulations, has a strict definition. It is not the same as the definition used by other programs—for example workers’ compensation. And the Administration makes the decision as to whether you are disabled, not your doctors.

There are several elements in the definition, each of which is further refined by other social security rules and regulations as well as cases decided in court. But basically, in order to be disabled, you have to have a severe medical impairment that prevents you from working in

your own occupation, or in any other occupation. That impairment must have lasted for 12 months, or be expected to last for 12 months or result in death.

Breaking it down: you must have a “severe” impairment—it must significantly limit you from performing basic work activities.

If you have such a condition, you may qualify if the condition is severe enough to meet the requirements included in the “Listings.” Those are conditions that are listed in the regulations and

that have reached such a serious point that the Administration can decide without more that you are disabled.

If you do not meet that standard, the Administration decides whether you can do your past work. If you can, you are not disabled.

If you cannot perform your past work, the Administration will decide whether there is other work that you could do.

There are special rules for blind claimants. See- <http://www.socialsecurity.gov/pubs/EN-05-10052.pdf>.

What Happens Next?

Over half of initial applications are denied. If you are denied, you have 60 days from the date of receipt of the denial to file a request for reconsideration. (You are presumed to have received the denial five days after the date of the decision.)

At this stage, you should be sure you have all updated records from your doctors and that they reach the Administration's file.

If you don't get a decision within a month

or two after filing, call the office to check on its status. And always let the Administration know right away if your address or contact information changes.

If you are denied a second time, as is common, you again have 60 days to file an appeal, this time a request for a hearing before an administrative law judge.

Due to the backlog, it currently takes over a year from the time you file your request until you get your hearing.

At your hearing, the judge will give your case a new review. He or she will hear your testimony, and accept other testimony or evidence. The judge may also take testimony from a medical or vocational expert who is hired by the Administration to provide these opinions.

If you have not already retained an attorney to represent you at the time of your hearing, the judge may postpone your hearing and recommend that you find a representative

The Administrative Law Judge Hearing

The administrative law judge hearing is your best opportunity to win your case. It is, however, a complicated legal proceeding and you are well advised to retain the services of an attorney who is experienced in

social security disability law to represent you at your hearing.

In fact, in this political climate, where disability claimants are viewed with

distrust, and more and more cases are being denied—at all levels---we recommend speaking with an attorney even before you file your claim.

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You should also know
that most attorneys
charge fees on a
“contingency basis.”

You only owe the
attorney a fee if you
win your case. The fee
is 25% of any past
benefits that you are
awarded, and the fee
after an ALJ hearing
cannot be more than
\$6000. At our firm,
we also charge for the
costs of handling the
file, only if you win
your case.

Attorney Marjorie Drake
provides experienced and
compassionate representation.

She represents people who are disabled
and are seeking social security
disability. She can assist you at every
step in this long and frustrating process.

No fees or costs unless you win.

Call us today at (860) 278-1270

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