

QUALIFYING FOR SOCIAL SECURITY AND SSI
DISABILITY BENEFITS:
ESSENTIAL INFORMATION TIPS AND STRATEGIES

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1. About SSA and SSI disability benefits

Contact Social Security on line (www.ssa.gov); by phone (1-800-772-1213 from 7 a.m. to 7 p.m.) or at a local office

- What benefits are available? Title II (disability insurance - DIB) and SSI
- Who may be eligible?
 - wage earners - Title II and SSI
 - non-wage earners - SSI
 - widow(er)s, surviving divorced spouses - Title II
 - children - SSI only

How does Social Security determine eligibility for these benefits?

First, the person must be financially eligible.

For DIB benefits, this means that you have paid enough into the Social Security system and have worked recently enough. If you stopped working many years ago and only recently became disabled, you may not be “insured” and therefore not be financially eligible for DIB benefits.

For SSI benefits, this means that you must be indigent, meaning have little or no income and less than \$2,000.00 in cash or cash equivalent resources.

Second, the person must meet the disability definition.

BOTH REQUIREMENTS MUST BE MET – FINANCIAL AND DISABILITY

The disability definition.

To meet the disability definition, the applicant must have one or more medical conditions that has lasted or is expected to last at least 12 consecutive months or result in death? If this is established, then a 5 Step sequential evaluation process is applied as follows:

1. Is the person currently working [earning more than \$900.00 gross per month*]?
2. Does the person have a "severe" impairment?
3. Does a medical condition meet or equal one of the "listings" of impairments? If so, person is presumptively disabled.
4. Can the person still perform their past work?
If so, they are not eligible.
5. Is there any other type of work the person can perform on a sustained competitive basis?
If so, they may not be eligible, depending on age and past work experience.

* This is the figure for 2007. It rises annually.

2. Steps in the decision making process

Application filed with Social Security

State agency (initial) determination

it usually takes 4-6 months

may involve a state agency medical exam or testing

- 60 days to appeal unfavorable decision for reconsideration or an administrative hearing

State agency reconsideration

the second level of review in most states (but not Pennsylvania and nine others)

- 60 days to appeal unfavorable decision for an administrative hearing

SSA Office of Hearings and Appeals

Administrative hearing - wait can be 12 months or more

not a trial - informal - like a formal interview

Appeals Council review if denied at hearing level

Federal Court review - if denied by Appeals Council

3. What factors influence a favorable result?

- claimant's age, education and past work experience
- nature of the medical impairments
- consistent reporting of symptoms and treatment
- accurate description of symptoms and findings in medical records
 “treatment records, treatment records, treatment records”
- submission of all medical records to Social Security
- submission of doctor's opinion concerning severity of impairment(s) on ability to work - simple assessment form used
- hearing testimony and how it is received by the administrative law judge

THINGS FOR APPLICANTS TO REMEMBER

- Apply early - can apply over the phone on the Internet (www.ssa.gov) or in person at a local Social Security office.
- Include **all** of your medical conditions in the application. If you have mental symptoms such as depression or anxiety, be sure to include them **and** obtain treatment for those symptoms.
- Provide complete information on the SSA forms
- Your primary doctor and/or specialist must support your claim
- If denied, continue with appeals - don't give up
- Continue in treatment and report **all** symptoms
- The process can take a year or more
- Keep your own copies of all forms and medical records
- Keep a record (diary) of symptoms and treatment
- Engage an attorney to improve chances for success

THINGS FOR YOUR DOCTORS TO REMEMBER

- Doctors need to provide an accurate description of symptoms and findings in the medical records. This includes clinical and objective findings (restricted range of motion, spasms, swelling, discoloration, temperature, etc.) as well as subjective symptoms (pain, fatigue, depression).
- Doctors should indicate in the treatment records that they believe the symptoms reported and why (i.e. consistent with diagnosis and known symptoms of the disorder).
- The treatment records must be legible (typed is preferred).
- Provide a diagnosis.
- Obtain objective testing as appropriate.
- Refer to specialists as appropriate (i.e. mental health).
- Include in the treatment notes information about the patient's daily activities (i.e. can't cook, can't drive, naps) and limitations in ability to perform daily activities (i.e. how many days a month are daily activities curtailed or impossible to perform?).

4. The role of an attorney

- a. gather medical records - obtain assessment forms
- b. seek early favorable decision in appropriate cases
- c. prepare client for the administrative hearing
(how the hearing is conducted - what to expect)
- d. present case - apply law - examine SSA experts
- e. write legal brief for the judge as required
- f. appeals beyond the administrative hearing

5. Attorneys are paid only if benefits are awarded

- a. Social security must approve all attorney fees
- b. Fees are normally limited to 25% of retroactive benefits or \$5,300.00*, whichever is less unless there is an unfavorable decision at the hearing level. * Figure as of July, 2007

6. Resources on the Internet

- a. **www.disability-benefits-law-center.com** Home page for the Disability Benefits Law Center
- b. **www.socialsecurity.gov** Social Security's web site