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Social Security Disability FAQ

By Sheri Abrams, Attorney at Law

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by: **Sheri Abrams, Attorney at Law**

WHAT ARE SOCIAL SECURITY DISABILITY BENEFITS?

Social Security Disability is a benefit received from the Social Security Administration by disabled workers and in some cases their dependents, similar to those received by retired workers.

WHO QUALIFIES?

To receive benefits under the Social Security Disability program, you must have a physical or mental health problem (or a combination of problems) severe enough to keep you from working in any regular paying job for at least one year. The test isn't whether or not you are able to go back to your old job, and the test isn't whether or not you have been able to find a job lately. Rather, the test is whether you are capable of doing any job available in the national economy. By using an extensive set of regulations, the Social Security Administration takes into account your medical condition, your age, your abilities, your training and your work experience in deciding your case.

WHAT HAPPENS IF I QUALIFY FOR SOCIAL SECURITY DISABILITY BENEFITS?

If you are found eligible for Social Security Disability benefits, you will get paid retroactive benefits beginning 5 full months after you become disabled, but only for a maximum of 12 months before you applied for benefits. (Please see below for additional information on duration and amount.)

HOW MUCH MONEY WILL I RECEIVE IF I QUALIFY FOR SOCIAL SECURITY DISABILITY BENEFITS?

A disabled claimant will receive the same monthly benefit that he would receive had he retired at full retirement age (65 years old or more depending on age). The sum of money received will depend on one's previous work record.

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HOW LONG WILL I BE ABLE TO RECEIVE SOCIAL SECURITY DISABILITY BENEFITS?

You will receive Social Security Disability benefits as long as you remain disabled and unable to work. Your benefits will not run out because you did not contribute enough into the Social Security system.

WHEN SHOULD I APPLY FOR SOCIAL SECURITY DISABILITY BENEFITS?

You should apply for Social Security Disability benefits as soon as possible after you become disabled and unable to work. You do not need to wait 12 months to apply, your disability need only be expected to last for at least one year or will result in death.

HOW DO I APPLY FOR SOCIAL SECURITY DISABILITY BENEFITS?

You can fill out an application for Social Security Disability benefits at the local Social Security office nearest to your home or by telephone. The address and telephone number of your local Social Security office can be obtained by calling 1-800-772-1213. When applying you should be prepared to give Social Security a list with the names, addresses and phone numbers of all the doctors, hospitals or clinics who have treated you for your condition. You should also bring a list of where you have worked in the past 15 years.

You will also need to provide Social Security with an original or certified copy of your birth certificate, your last earnings documents (W-2, last pay stub, statement of your employer, etc.) and copies (keep the originals) of any medical records you may be able to obtain.

Please note, however, that you should not delay filing for benefits if all documents are not immediately available.

WHAT DO I DO IF I AM DENIED BENEFITS?

Appeal! Many disabled people become disheartened and frustrated after they receive a disability benefits denial notice and do not appeal. This is often a mistake. Nationally, about 75% of all applicants are denied initially and about 90% are denied at the first appeal stage—Reconsideration. But many of these people ultimately receive their benefits, nationally about 70%.

What may be most frustrating about applying for Social Security Disability benefits is the process itself. Those who apply are often made to feel like they are asking for something that they do not deserve, and nothing could be further from the truth. Social Security Disability is not a welfare program; these benefits are paid for by you and were intended to act as a financial buffer in case you or a family member became seriously ill or injured. Therefore if you are unable to work, but you have been denied benefits, you should appeal.

DO I NEED AN ATTORNEY?

You have the right to have an Attorney represent you in your Social Security Disability case. Statistics have shown that claimants represented by Attorneys have been much more successful than people

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without representation. You should seriously consider the advantages of having an Attorney represent you by examining what an Attorney would do in your Social Security Disability case.

WHAT WOULD MY ATTORNEY DO TO REPRESENT ME IN MY SOCIAL SECURITY DISABILITY CASE?

Every case is different. Your Attorney's role depends on the particular facts of your case. However, a few of the things an Attorney may do are: Gather medical and other evidence Analyze your case under Social Security Regulations Contact your doctor and explain Social Security Regulations to obtain a report consistent with those regulations Obtain documents from your Social Security Disability file Ask that a prior application for benefits be reopened Advise you how to best prepare yourself to testify at your hearing Protect your right to a fair hearing by objecting to improper evidence and procedures If you win, make sure that the Social Security Administration correctly calculates your benefits If you lose, request review of the hearing decision by the Social Security Administration's Appeals Council If necessary, represent you in a Federal Court review of your case

HOW MUCH DOES IT COST TO HIRE AN ATTORNEY?

Most Attorneys who handle Social Security Disability cases will accept them on a contingent fee basis of 25% of past-due benefit or \$5,300 whichever is less. That is, there is no fee if you lose, although you will be obligated to pay any out-of-pocket expenses incurred by the Attorney in your representation. Such expenses usually involve charges for photocopying and payments to doctors and hospitals for medical records and reports, and other miscellaneous charges. Total expenses usually are less than \$100.

WHEN SHOULD I CONTACT AN ATTORNEY?

As soon as possible, preferably as soon as your initial application is denied. An Attorney will then be able to start assisting you in determining if you are disabled, as that term is defined by the Social Security Act. You will then be able to decide whether or not you want to pursue the first appeal stage—Reconsideration; and your Attorney can begin developing ways to prove to the Social Security Administration that you are disabled.

Attorneys in Social Security Disability cases do much more than sit in at a hearing and ask a few questions. Much pre-hearing preparation, analysis and evidence gathering go into adequate representation for your case. For this reason you should not wait until a week or two before your hearing to contact an Attorney. The earlier an Attorney is able to start working on your case, the better your chances of winning.

Please note that not all Attorneys practice before the Social Security Administration. You will do best to find an Attorney familiar with the complex Social Security Disability regulations and the somewhat unusual Social Security Disability procedures.

Sheri R. Abrams, is an Attorney who practices Social Security Disability Law in Virginia, DC and Maryland. Ms. Abrams graduated from the George Washington University Law School and the Boston

University School of Management. For more information please see Ms. Abrams's web site at

Should I Appeal My Social Security Disability Denial?

By Gerald G. Lutkenhaus

YOU APPLIED FOR SOCIAL SECURITY DISABILITY AND YOUR CLAIM WAS DENIED AND YOU WONDER IF YOU SHOULD APPEAL?

The answer is if you are working you usually cannot obtain disability especially if you make more than \$800.00 per month. Also, if your disability is temporary less than 12 months in duration then you cannot obtain disability. You also have to have a severe impairment in order to qualify. The impairment would be such that it prevents you from working. If you are under age 50, then it is difficult to obtain disability if you retain the capacity to any form of light work. If you are over 50 but yet 55, it can also be difficult to obtain disability if you can still do light work.

WHEN SHOULD I TALK TO AN ATTORNEY ABOUT MY CASE?

If you feel you have a meritorious case, then you should call an attorney who specializes in Social Security Disability. He will screen your case and will advise you if it is worthwhile to continue to appeal.

Gerald G. Lutkenhaus has been representing disabled people in Social Security Hearings for over 25 years. He has been given Martindale and Hubbell's highest rating for his legal work.

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