

Appealing Social Security Disability Appeals

When people talk about disability benefits, there is often confusion. There is a difference between social security disability insurance and social security supplemental income (SSI). The Social Security Administration administers both programs, but the programs are different. The social security disability program (SSDI) that workers, employers and the self-employed pay for with their social security taxes provides disability benefits based on your work history, and the amount of your benefits is based on your earnings.

SSI is a program paid for through general tax revenues, not through the social security trust funds. SSI disability benefits are paid to the people who have a disability who don't own much property or have income over the limit allowed, or do not have a sufficient work history to qualify for SSDI. It is possible that many people receive benefits from both programs under certain circumstances. The disability benefits from both programs is primarily the same. Children can receive benefits under the SSI program. The tests for disability for children are different than the tests for adults obviously because most children do not have a work history or a work record that can determine whether they can still work based on the disability that they have.

In order to be eligible, claimant must establish five steps in order to meet the requirements of the law:

- 1) The claimant was not engaging in "substantial gainful activity" which has a specific meaning under social security law, determined by the amount of money you make and the type of job you were actually doing; but if you were working and making more than a certain amount a month, you would not be eligible under that test.
- 2) The claimant has a "severe" impairment. The impairment must be proven to affect your ability to work in some way.
- 3) The impairment meets or equals one of the impairments described in the Social Security regulations known as the Listing of Impairments, or,
- 4) Considering the claimant's residual functional capacity (RFC)---that is, what the claimant can still do even with his or her impairments---the claimant is unable to do past relevant work, and
- 5) Other work within the claimant's RFC considering age, education and work experience does not exist in the national economy in significant numbers.

Most of the individuals who are denied benefits and who have the toughest time getting benefits and who need an attorney the most are denied at the 5th step, i.e., they clearly have impairments that keep them from doing their former work; however, the Administration will hire vocational experts who can determine what other jobs the claimant can do even though those jobs do not exist as open jobs at that time but only exist in Department of Labor manuals. Therefore, it is extremely important that the attorney is familiar with the various regulations concerning the functional abilities of an impaired individual to work.

Our office, when faced with a claimant who has been denied benefits and who appears to be severely impaired and not able to do their former jobs, will completely investigate all existing medical records by obtaining the Social Security file and obtain more medical evidence, if necessary.

It is simply not enough for a doctor to say that you are totally and completely disabled if the doctor has not based an opinion on medical evidence that establishes you cannot do certain types of work based on your age and experience. The claimants who ask their doctors for a "letter" usually do not get sufficient information to prove their case. Our office has over 100 questionnaires for specific medical problems that can be appropriately modified to fit the claimant's specific impairment when requesting information from a treating physician or other physicians.

I have represented over 1,000 social security clients since 1975. I believe our record will show that claimants when given the best representation possible, the success rate will be greater than 60% at the administrative law level.

We are paid on a percentage of any back benefits that are awarded to the claimant, i.e., if a claimant is found disabled prior to the disability date by the Administration, that award will create back benefits. Attorneys can only charge 25% of those back benefits, up to a maximum of \$6,000 allowable by law. There are no attorney fees awarded in the event the claimant does not win the case. If any attorney attempts to charge a fee different from this, the fee must be approved by the Social Security Administration through a fee agreement process.