



Social Security & SSI Disability Programs

I. Introduction to Social Security Disability Insurance and Supplemental Security Income

A. The Two Disability Programs

1. There are two disability programs in the Social Security bureaucracy: One is Social Security Disability Insurance (SSDI), an insurance program. The other is Supplemental Security Income (SSI), a “needs-based” program.
2. At the end of this chapter you will find a chart that will help you understand all the various names by which each program is known as well as the distinguishing characteristics of each.

B. An Individual May Receive Both SSDI and SSI

C. Both Programs Have the Same Standard of Disability for Adults

The impairment must be severe enough to prevent the individual from performing any substantial gainful activity. A person earning more than \$980 per month in 2009 is presumed to be performing substantial gainful activity. (See Chapter 3.)

II. Overview Of The Appeals Process

A. Initial Application

1. Application filed with the Social Security Administration (SSA).
2. Once a disability claim is filed at the district office, it will be sent to the Disability Determination Services (DDS) for evaluation of disability. At DDS, the Single Decision Maker (SDM) will be responsible for all aspects of the claim, including evidence development, contacting the claimant and signing the final disability decision. Except in cases involving a mental impairment or a child disability claim, the SDM has full authority to render a decision without input from a DDS review physician. In mental impairment and childrens' cases, a review physician must analyze the case and make a decision.
3. If the SDM cannot issue a favorable decision, the examiner must make an effort to contact the claimant by notice and give the claimant ten days to contact the SDM and discuss the evidence contained in the record, offer any new sources of treatment, or new allegations, or otherwise supplement the existing record. DDS envisions this conference as taking place only by telephone.
4. If the application is denied, a claimant must appeal within 60 days.

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Overview of the Appeals Process

B. Reconsideration

1. In most areas of the country, the reconsideration step has been eliminated on disability claims. This means the individual must request an administrative hearing within 60 days.
2. For initial decisions on non-disability claims (e.g., overpayments, denial of waiver, denial of PASS, termination of benefits), the reconsideration step is still available and must be requested within 60 days.

C. The Administrative Hearing

1. An administrative hearing occurs before an Administrative Law Judge (ALJ).
2. At this point, a claimant must present all medical, vocational and educational documentation.
3. At an administrative hearing, a claimant can present testimony from anyone, including family, friends, doctors, not for profit agency professionals and social workers.
4. If the hearing decision is unfavorable, a claimant must appeal within 60 days. This means that the claimant is asking the Appeals Council to review the unfavorable hearing decision.
5. If you represent individuals at hearings, make sure you know the local Office of Disability Adjudication and Review (ODAR) address and telephone number.
6. Remember, all written records/reports and any testimony must be submitted at this point!!!!

D. Appeals Council

1. Advocates should submit appeal request and written argument to:

Appeals Council
5107 Leesburg Pike
Falls Church, VA 22041-3255
(703) 605-7150
Fax: (703) 605-7151

2. This is the final paper review.
3. If the Appeals Council denies review, a claimant must appeal in Federal Court within 60 days. This means that the claimant will be asking a District Court Judge to review SSA's unfavorable decision.
4. If advocates wish to request information from the Appeals Council pursuant to the Freedom Of Information Act, write to the same address listed in 1 above, but under Appeals Council write in Freedom Of Information Act Department. If you wish

to inquire about an outstanding request, you can reach the Freedom Of Information Act Department at (703) 605-8282 or by fax at (703) 605-8211.

E. Federal Court

1. A federal court judge decides whether or not the ALJ's unfavorable decision was based on substantial evidence or may have been based on legal errors.
2. In federal court, a claimant must be represented by an attorney or must file pro se (i.e., without an attorney).
3. A non-attorney cannot represent a claimant.

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| Social Security Disability Insurance | Supplemental Security Income |
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| This program may be called one of many names: RSDHI (Retirement, Survivor, Disability, Health Insurance) SSDI (Social Security Disability Insurance), Title II, DIB (Disability Insurance Benefits) | This program may be called one of two names: SSI (Supplemental Security Income) or Title XVI. |
| Wage Earner must have accrued sufficient "credits of coverage." | No work history is required. |
| Benefits to worker's (wage-earner) family: Spouses: If at least age 62, or if caring for either a child under 16 or a disabled child of the worker. Divorced Spouses: If the marriage lasted at least 10 years and the person is age 62 years old or older and remains unmarried. Child: If under age 18 (or under 19 if a full-time high school or elementary student) and dependent unmarried child of an insured eligible worker. Disabled Adult Child: Adult Children (18 or older) of a retired, disabled, or deceased worker, if the disability began before the age of 22. | No family member of the SSI recipient will be eligible for SSI benefits unless he or she independently establishes eligibility for SSI. |
| From the date one becomes disabled, there is a five-month waiting period prior to receipt of benefits. | No waiting period. An individual may receive benefits as of the first day of the month following month of application. |
| Provision for payment up to 12 months before the date of application. | Only paid as of first day of month following month of application. |
| Claimants may receive retroactive benefits up to one year before the date of application. | Retroactive benefits to first day of month following month of application. |
| Only Worker's Compensation or other Federal or State disability payments may affect payment level. | Any income (earned or unearned) affects benefits. |
| No resource limits. | Resources must be below \$2000 for an individual and \$3000 for an eligible couple. |
| Checks are paid one month behind, i.e., check received in May is recipient's April check. | Checks are paid for the month in which they are received. |
| Checks are paid on the 3rd of the month for beneficiaries who filed for benefits prior to May 1997; most beneficiaries who apply subsequently will receive checks on either the second, third or fourth Wednesday based on their dates of birth. | Checks are paid on the 1st of the month. |
| Eligible for Medicare 24 months after establishing eligibility for SSDI. No waiting period for individuals with Lou Gehrig's disease, i.e., ALS. | In two-thirds of states, eligible for Medicaid if receiving even \$1.00 of SSI. |