

TABLE OF CONTENTS

| | |
|---|-----|
| Important Disclaimers | i |
| About the Author | ii |
| Introduction | iii |
| Ch. 1: Disability Benefit Programs Available from the SSA | 1 |
| What Disability Benefit Programs does the SSA Offer? | |
| Do I qualify for Social Security Disability Insurance (SSDI) benefits? | |
| How recently must I have worked to get SSDI benefits? | |
| How do I earn 'work credits' to become eligible for SSDI? | |
| How much will I get in SSDI benefits? | |
| When will my SSDI payments start? | |
| Can my family members draw SSDI benefits, based on my work records? | |
| How much can my family members draw, based on my disability? | |
| Do I qualify for Supplemental Security Income (SSI) benefits? | |
| How low does my income have to be to draw SSI benefits? | |
| If I work or have other income, will my SSI benefits be reduced? | |
| Will child support or government assistance, like food stamps, reduce SSI benefits? | |
| What property or other financial resources affect SSI eligibility? | |
| How much will I get in SSI benefits? | |
| When will my SSI payments start? | |
| Can other family members draw SSI benefits, based on my disability? | |
| Do I qualify for Disabled Widow /Widower (DWB) benefits? | |
| How much does DWB pay each month? | |
| When will my DWB payments begin? | |
| Who qualifies for Disabled Adult Child (DAC) benefits? | |
| How much is the monthly DAC benefit amount? | |
| Are SSA programs available for military veterans? | |
| <i>I think I qualify for one of SSA's programs – What should I do next?</i> | |
| Ch. 2: Defining Disability | 10 |
| How does the SSA define adult disability? | |
| What kind of physical or mental conditions are covered? | |
| What is a verifiable medical condition? | |
| <i>Besides my medical records, what else does SSA look at to see if I'm disabled?</i> | |
| Is my child disabled? | |
| Should I get my own copies of my medical records? | |
| A few more words about the Blue Book | |

Ch. 3: Applying for Disability Benefits15

Do I need a lawyer to file the application?
Where can I fill out my disability application forms?
What information should I gather for the application?
What will I be asked in the disability application interview?
What information do I need to give about my work history?
What will SSA want to know about how my condition keeps me from working a job?
Can I add information or evidence to the application I filed before a decision is made?
After my disability application interview, who makes the decision?
What is a consultative examination (CE)?
Who decides if I am disabled?
When will I get a decision about my initial application?
What are my chances of getting benefits without an appeal?

Ch. 4: Reconsideration and Appeals23

What kind of unfavorable SSA action can I appeal?
Where can I appeal an unfavorable initial determination?
How do I file a Request for Reconsideration?
Is Reconsideration the only way I can appeal an initial determination?

Ch. 5: The Disability Hearing27

When can I request a Disability Hearing?
How do I request a Disability Hearing?
Where will my Disability Hearing be held?
Do I have to appear for a Disability Hearing?
How do I prepare for my Disability Hearing?
How do I know what issues have to be proved at my Disability Hearing?
What kind of evidence do I need for a Disability Hearing?
What kind of documentation or written evidence will the ALJ consider in my Disability Hearing?
How do I submit any new evidence or medical records I've received since the denial?
How do I prepare to question the SSA's witnesses?
Who should I use as witnesses, and how do I make sure they come to the hearing?
How do I question my own witnesses, to get the right evidence into the record?
When will I know the result from my Disability Hearing?

| | |
|------------------------------------|----|
| Ch. 6:Do I Need an Attorney? | 35 |
|------------------------------------|----|

Should I seek help from an experienced Social Security Disability Attorneys
The odds are high that you will be denied and appeal before you get your benefits.
The complex, time-consuming application process moves more smoothly with an attorney.
For most people, getting federal disability benefits is an uphill battle.
Having your initial application rejected due to mistakes means waiting for benefits.
An attorney can help present your very best case for getting benefits.
An attorney will keep you informed and educated about your case.
Statistically, approval rates are higher for those represented by attorneys.
At what point should I hire a Social Security Disability Attorneys

| | |
|--|----|
| Glossary: Definitions of Important Terms | 38 |
|--|----|

Important Disclaimers

Please read this page before you read anything else. It contains important information regarding the purposes of this book.

This publication is designed to provide general information prepared by professionals in regard to the subject matter covered. It is sold with the understanding that the publisher is not here engaged in rendering legal, medical, accounting or other professional service. Although prepared by professionals, this publication should not be utilized as a substitute for a professional service in specific situations. If legal advice or other expert assistance is required, the service of a professional should be sought.

(From a Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers)

This book is designed for people interested in learning more about the process for obtaining Social Security Disability benefits, but it is not a substitute for individual legal advice. This book offers a general overview, but your case may include situations not addressed in this book. No attorney-client relationship is intended or established by reading this material.

Always confer with an attorney and the appropriate state or federal agency, to ascertain the current status of the law. Every effort has been made to include up-to-date information, but the law is not static – it is in a constant state of flux. Research and background materials were completed in September, 2012.

NO CLAIM TO US GOVERNMENT WORKS
NO CLAIM TO STATE GOVERNMENT WORKS.

Copyright © 2012 Stephen K. Brooks

About the Author

Stephen K. Brooks earned his law degree from Florida's Stetson University College of Law. He also earned a Bachelor of Arts degree from Stetson and studied at the world-renowned Oxford University in England. After completing his studies, Steve joined a six-member law firm, where he gained diverse practical experience and knowledge. Having established his reputation in the legal community, with personal contacts throughout Florida and across America, Steve decided in 1992 that it was time to open his own law firm. The Brooks Law Group, PA, was born and has since opened offices in Tampa, Winter Haven, and Lakeland, Florida.

Stephen K. Brooks has focused his practice on "people problems," helping those who suffer the devastating effects of personal injury, wrongful death, and Social Security Disability issues. Steve's success in these areas has earned him a widespread reputation as a force to be reckoned with, an attorney who offers a rare combination of a "can-do" attitude with a no-nonsense approach to getting things done, and one who is warm, easy to talk to, and genuinely cares about the people he represents. Steve's persistent dedication to his profession and his firm commitment to helping those who need it most have earned him some very impressive honors. In both 2009 and 2010, the

American Trial Lawyers Association named Stephen K. Brooks one of the "Top 100 Trial Lawyers" in the state of Florida. Steve is also a member of the Million Dollar Advocates Forum, one of the most prestigious trial lawyer groups in America. Membership is limited to attorneys who have won million-dollar or higher verdicts or settlements for their clients -- an honor enjoyed by less than one percent of U.S. lawyers. In addition, Stephen K. Brooks is a member of the Florida Bar Association; the Polk County Trial Lawyers Association; the Association of Plaintiff Interstate Trucking Lawyers of America; and he is an Eagle member of the Florida Justice Association, a group of trial attorneys dedicated to strengthening and upholding Florida's civil justice system and protecting the rights of Florida's citizens and consumers. Raised in the Winter Haven area, Stephen K. Brooks believes strongly in giving back to the community that fostered him; Steve currently serves on the Board of Directors of Tri-County Human Services, Inc., and he is a past board member of Meals on Wheels. Stephen K. Brooks may be reached by calling 800-LAW-3030 (800-529-3030) or by emailing steve@brookslawgroup.com.

Introduction

. . .

Did you know that many people entitled to disability compensation from the Social Security Administration never even check it out? If you're reading this book, then it is likely that a physical or mental disability of some kind is making it difficult or impossible for you or someone you love to work and make ends meet.

Why do so many people avoid taking action to get benefits? Some don't apply simply because they don't realize they are suffering from a covered disability. Others don't know where to start because they don't understand the application process. People who are honestly suffering often fear that trying to get the help they deserve may just be a disappointing waste of time. They exist in a day-to-day life that's already made difficult by a physical or mental disability.

Should I apply for disability benefits?

The big question is: How much longer can you go on without a regular source of income? It doesn't have to be that way for you. There is no shame to be found in doing what you have to do to support your family. That's why Social Security is there for you. If you or a loved one is unable to work and earn a living due to a disability, getting the benefits you deserve can be a life-changer, and provide a level of basic financial security for you and your family. If you and your doctor agree that you are no longer able to work because you suffer from a physical or mental condition that keeps you from earning a living, you should at least investigate whether you can get disability benefits from one of the programs offered by the SSA.

How can this book help me?

There's no denying that today's legal environment is complex and intimidating to most people. Many people do not understand how to apply for disability or what happens after you apply, but far too many never try to find out more. You've already made the right first move toward getting your benefits by requesting a copy of this book.

First and foremost, *Insider's Guide to Winning Your Social Security Disability Claim* was written to help you easily learn much of what you need to know about Social Security Disability benefits, at your own pace and in the comfort of your own home, before you decide to take further steps. Part of the reason that more people don't find out about disability is that they've always been required to make attorney appointments in order to learn their rights. I understand how disability can sometimes turn the simple act of leaving home into a tiring ordeal. I don't believe you should have to endure that trouble just to get the information you want.

This book is designed to be easy to read and straightforward. Reading through it, you will learn about the four different disability benefits programs available from the Social Security Administration, who can collect, and what each offers, including:

- Social Security Disability Insurance Benefits (SSDI);
- Supplemental Security Income Benefits (SSI);
- Disabled Widows/Widowers Benefits (DWB);
- Disabled Adult Child Benefits (DAC)

You'll also find out how the Government defines disability for adults and children. Although each case is different, you'll learn in general terms how you go about proving you're disabled, including what records you'll need and where to seek help.

Another reason why I wrote this book was to serve as a guide to the application process. Once you're ready to apply for Social Security Disability benefits, this book can help you understand that process and you'll get practical tips for making a claim. In some cases, you may be able to successfully obtain benefits on your own. In other cases in which more legal knowledge is needed, you may need assistance from an experienced Social Security Disability attorney. This is particularly true if you have to appeal a denial. Finally, if you do decide to get help from an attorney, I hope that the information provided in this book will also prove useful to help keep you on track with developments in your case. It will arm you in advance with questions you want to ask, so that you can get more from every meeting with your attorney. Knowing where you stand at all times with your Social Security disability claim will reduce the stress you face as you move through the application process and better prepare you to make needed decisions as you go along.

Chapter One

Disability Benefit Programs from the SSA

...

The first question that most people ask about SSA disability benefits is the most obvious one: What programs are available, and do I qualify? In this chapter, you'll be introduced to important disability benefits programs offered by the Social Security Administration (SSA). You'll find out whether you can qualify for one or more of these programs, how your benefit amount is calculated, how soon you can start getting payments, whether you can work while drawing benefits, and whether other family members, like your children, can draw benefits based on your disability.

Question: What disability benefit programs does the SSA offer?

Four different programs from the Social Security Administration offer benefits based on disability:

1. Social Security Disability Insurance (SSDI) Benefits
2. Supplemental Security Income (SSI) Benefits
3. Disabled Widows/Widowers (DWB) Benefits
4. Disabled Adult Child (DAC) Benefits

As you will read in the next chapter, the Social Security Administration uses the same medical definition of "disability" in each of these programs, with a few adjustments for special situations. In addition to being disabled, each program requires you to meet specific qualifications, which are different for each program. For now, let's assume that you are disabled and look at each program's other requirements, including who can collect, and what benefits are paid.

1. Social Security Disability Insurance (SSDI) Benefits

SSDI is an insurance program run by the federal government. You pay the premiums when you work and pay social security taxes. However, like some insurance programs, you must pay premiums for a certain period of time, before you're covered for SSDI.

Question: Do I qualify for SSDI benefits?

SSDI benefits are available for workers who meet every one of these requirements:

- A disabled person;
- Who has worked in recent years (recently worked); and
- Has worked long enough to earn a certain number of work credits (These used to be called "quarters," and you may still see them called that here and there, when reading about SSDI elsewhere).

Question : How recently must I have worked to get SSDI benefits?

„Recently worked“ means that you must earn your credits in certain years just before you became disabled.

Question : *How do I earn “work credits” to become eligible for SSDI?*

You earn credits by earning wages from work and paying social security taxes (FICA) on those wages. Each quarter that you earn wages and pay FICA taxes into the Social Security system, you receive work credits. You can only earn up to four credits each year, and the amount it takes to earn a credit changes every year (In 2012, you could earn one credit for every \$1,130 of wages earned during the year).

There’s no minimum age required to draw SSDI, but people of different ages require different numbers of work credits. Generally, younger people need fewer credits, because they’ve not had as much time in the workforce.

Here’s how SSA decides how many credits you need, and how recently you must have earned them:

- If you’re under age 24 when you become disabled, you must have 6 credits in the three years just before you became disabled.
- If you are 24 to 31--You may qualify if you have credit for working half the time between age 21 and the time you become disabled. For example, if you become disabled at age 27, you would need credit for 3 years of work (12 credits) out of the past 6 years (between ages 21 and 27).
- From age 31 to 42, you need 20 credits.
- Over the age of 42, the requirement rises for each year you’re in the workforce.

Example: The typical SSDI applicant falls in the age 31 to 42 category, which requires 20 credits. This would usually mean working for a period of five out of the ten years just before you become disabled.

Question : How much will I get in SSDI benefits?

SSDI pays benefits monthly. The amount of your monthly SSDI benefits payment is based on your average lifetime earnings record from work. The longer you have worked and the more Social Security you have paid in over the years will increase the amount of benefits paid to you per month. It varies from person to person. Claimants, depending on their past employment history, can receive anywhere from \$100/month to \$2000+/month.

Question : When will my SSDI payments start?

There is a five-month waiting period for SSDI benefits. This means that you will begin receiving benefits beginning with the sixth full month after your disability began.

Question : Can my family members draw SSDI benefits based on my work record?

Other family members may be able to draw SSDI benefits based on your work record. They can include:

- A spouse who has reached social security retirement age (age 62 or older);
- A spouse (of any age) who cares for your child under age 16;
- A spouse (of any age) who cares for your disabled child;
A former spouse, if you were married at least 10 years and if the former spouse has reached age 62 and is not currently married.
- Your child who is not married and is either under age 18 or still in high school full-time;
- Your unmarried, disabled adult child whose disability began before age 22 (see DAC benefits, below).

Question : How much can my family members draw , based on my disability?

The amount that each eligible family member can get, based on your disability, is up to 50% of your monthly SSDI benefit. However, as a group, your family is limited to a total maximum monthly benefit of between 150% and 180% of your SSDI benefit amount. The amount that a divorced spouse can draw, based on your work record, usually is not included in this family maximum.

If you have a disabled minor child, the child may be able to draw disability benefits in his or her own right.

2. Supplemental Security Income (SSI) Benefits

Unlike the SSDI insurance-based program, SSI is a program to help low-income, disabled people who have not necessarily worked recently. Most people who seek SSI do not qualify for SSDI.

Question : Do I qualify for SSI Benefits?

Even if you haven't worked or worked much during your lifetime, the SSI program may be able to help you. SSI is a program for low-income, disabled people. To apply for SSI benefits, you must:

- Be disabled , blind , or over age 65 ;
- Meet low income guidelines; and

- Have almost no property or other financial resources (things you own) that you could use to support yourself (\$2,000 worth, or \$3,000/couple, but certain resources like your home are not counted against you).

Question : How low does my income have to be to draw SSI benefits?

The SSA looks at three things to determine your income: Earned income (from work); unearned income; and sometimes, income earned by the people you live with. If a married couple separates, the SSA will begin to treat you each as individuals in the next month after your separation. Earned income is money you make from working. When you first apply for SSI benefits, you must also prove that you are disabled. The SSA will not find you disabled if you are able to engage in an amount of work that the SSA considers “substantial gainful activity.” A person first applying for SSI benefits in 2012 who earns more than \$1,010/month from work will be found capable of substantial gainful activity and probably will not be able to get SSI benefits. For blind people, the cutoff level is a few dollars higher. The amount you’re able to earn changes every year. After you have been found disabled and are drawing SSI benefits, programs offered by the SSA may allow you to try to work and earn more money, at least for a period of time, while still drawing at least the minimum SSI benefit. For more information on working after you get SSI, see Chapter Seven, *“What Happens After I am Awarded Disability?”*

The SSA also looks at so-called unearned income, like other Social Security benefits, workers’ or veteran’s compensation, pensions, child support, spousal maintenance, annuities, rent, personal injury benefits, and other income not earned from working. In 2012, a person who has unearned income of less than \$718/month (less than \$1,068 for a couple) can still get some amount in SSI benefits. Finally, your living arrangements may mean that some of the income made by the people you live with may count as income for you.

For example, if only one member of a couple qualifies for SSI, part of the other spouse's income may be considered income for the eligible spouse.

Question : If I work or have other income, will my SSI benefits be reduced?

The income you earn or unearned income you receive will lower the total monthly amount of your SSI benefit. Here’s how it works.

In 2012, SSI pays a maximum monthly benefit of \$698/month (or \$1,048/ month for a couple). However, some states add more money to the federal SSI payment amount, making monthly benefits slightly larger for residents of those states.

The SSA uses a formula to decide how much your income will reduce your monthly benefits. Generally speaking, the SSA ignores the first \$20/month of your income, and it may ignore up to \$85/month, before your income begins reducing your benefit amount.

Practical Tip 🧠: Remember, you should report your income to the SSA every *month when you're receiving SSI to avoid having your benefits adjusted*; otherwise, the difference will come out of your next check(s)!

For more information on how benefit amounts are calculated, see Chapter Seven of this book.

Question: Will child support or government assistance, like food stamps, reduce SSI benefits?

Not everything of value that you receive counts as income that reduces your SSI benefits!

For example, low-income food or housing assistance, the first 1/3 of child support received, or the first \$20 of income you receive each month are just some of the things that will not affect your SSI benefit amount.

To qualify for SSI benefits, your property or financial resources (things you own) can be worth no more than \$2,000; a couple's resources must be worth less than \$3,000. A resource is just about anything of value that you own, except the things that the SSA says it does not count.

Common examples of what counts as a "resource" include things like savings accounts, vacation homes, or second family cars. Sometimes, money you receive in one month, if not spent within a certain time frame, can be counted as a resource in later months.

Again, not every item you own is counted as a "resource." Your family home, household goods,

In 2012, SSI pays a maximum monthly benefit of \$698/month (or \$1,048/month for a couple). This amount can change from year to year. Some states add more money to the federal SSI payment, giving their residents a slightly higher monthly benefit.

As explained above, the actual SSI benefit amounts and amounts added by states both depend on your income, on the income of those living with you, and other factors. Generally, the SSA bases your benefit amount on income earned in the previous two months.

If you work, or your income goes up and down, you should call SSA every month to report your income. If you don't do this, you take the risk of SSA deciding later that it based your benefit payments on the wrong income. When that happens, the SSA will "adjust" your benefits, by taking the difference out of your coming checks, without much notice. For many people, this is an unpleasant surprise.

Question: When will my SSI payments start?

SSI benefit payments are computed beginning with the first full month after the person applied or became eligible for SSI. The SSA will send you a letter telling you when your first payment will arrive. The SSA now requires electronic deposits of your benefits, but if you don't have a checking account, the SSA will issue you a debit card, and your payments will go into that account.

Question: Can other family members draw SSI benefits based on my disability?

Your biological child, adopted child, or stepchild can receive SSI benefit payments monthly, based on your disability. The child must be unmarried and under age 18, but if the child is still in high school, he or she can draw benefits until age 19 or graduation, whichever happens first. If you have several eligible children, each can draw the SSI benefit, but there is a total maximum amount allowed (\$375/month in 2012).

If you are a low-income family with a child who is disabled, the child can draw SSI benefits in his or her own right.

3. Disabled Widows /Widowers Benefits (DWB)

DWB are for people whose working spouse has died. They are similar to SSDI benefits, in that the spouse who has passed must have earned enough work credits to have been entitled to SSDI benefits. Even if you were divorced from the working spouse before he or she died, you may be able to collect DWB.

DWB benefits are sometimes also called "Retirement Survivors Disability Insurance" (RSDI).

Question: Do I qualify for DWB benefits?

Those who may qualify for DWB benefits are a worker's widow/widower, or a surviving divorced spouse.

If you were married to the spouse at the time of his/her death, you must:

- Be disabled under the SSA definition of adult disability;
- Be age 50 to 64;
- Have become disabled:
 - Before the worker died, or
 - Within seven years of the worker's death;
- Have been married to the spouse for at least the nine months leading up to his or her death (with some exceptions); and
- Have not remarried before age 50, unless the remarriage has ended.

If you were divorced from the spouse at the time of his/her death, you must:

- Be disabled under the SSA definition of adult disability;
- Be age 50 to 64;
- Have become disabled:
 - Before the worker died, or
 - Within seven years of the worker's death;
- Be single (unmarried); and
- Have been married to the deceased spouse for at least ten years.

In either case, if you can collect higher benefits based on your own record or on someone else's record, you should claim those benefits, rather than DWB.

Question: How much does DWB pay each month?

The actual amount of the DWB you get will be calculated by the SSA, based on the work record and Social Security/FICA taxes paid by the spouse who died. DWB are not payable for months before you turned age 50, even if you were disabled before that.

Question: When will my DWB begin?

There is a five-month waiting period before your DWB will be payable. The waiting period begins on the date when you became disabled.

4. Disabled Adult Child (DAC) Benefits

When people become disabled early in adulthood, they often don't have much of a work record to fall back on, when it comes to collecting SSDI benefits. Normally, this would mean they could not get a very high SSDI benefit on their own; but adults who become disabled before they

turn age 22 are sometimes able to collect higher benefits through the SSA's Disabled Adult Child (DAC) program, *based on a parent's SSA record*.
Question: Who qualifies for DAC benefits?

To qualify for these benefits, the disabled adult child must:

- Be unmarried;
- Be over age 18;
- Have become disabled before age 22;
- Meet the SSA's adult disability definition;
- If working, not have substantial earnings (In 2012, earn less than \$1,010/mo.);
- Be the child of a parent who has died or has begun collecting social security retirement or disability benefits.

A qualified disabled adult child can receive these higher benefits, even if he or she is already collecting SSI benefits or even SSDI benefits on his or her own work record. While the DAC benefit may not always be higher than what the adult child is collecting from SSDI or SSI, it will be higher in many cases. The adult child might also qualify for Medicaid or Medicare coverage.

For example, if a parent begins collecting Social Security retirement benefits at age 62, and he has a 17-year-old daughter who still cannot work due to severe autism diagnosed in childhood, the daughter can start collecting a disabled 'child's' benefit on her father's Social Security record.

Question: How much is the monthly DAC benefit amount?

DAC benefits are calculated based on the parent's work record and the SSDI benefit amount that the parent could collect.

Question: Are SSA disability programs available for veterans?

While veterans receive benefits through the Veterans Administration, they may also qualify to receive SSDI or SSI benefits. The SSA has implemented the Wounded Warriors program, which provides faster processing of claims for military service members who became disabled during active military service after October 1, 2001.

To receive benefits from SSA, veterans must still file the appropriate SSA application (in addition to any veterans' benefits application) and qualify as disabled, but special rules may apply to the treatment of income from military pay and other issues.

Question: I think I qualify for one of SSA's programs. What should I do next?

Now that you know the basic qualifications for each of the disability benefits offered by the SSA, there is still one thing to consider before beginning your application: The programs also require you to meet the SSA's definition of disability.

The SSA uses the same definition of disability for each program. The definition used for adults is a little different than the one used for children. In the next chapter, you will learn how the SSA defines disability, for adults and children.

Chapter Two Defining Disability

...

In this chapter, you'll learn what the SSA means by the term disability. In its common use, the term "disability" simply means a medical condition that impairs or limits what you can do in life, whether it's working or doing everyday things like washing your car or playing with your children. The SSA's definition of legal disability also looks at whether there's a reason to believe you could work some job, and if not, how long you'll be unable to work.

No one ever expects disability, but it strikes all kinds of people at all ages, and it puts a halt to more work careers than you might think.

Did you know? Three out of every ten workers who are twenty years old today can expect to be disabled from working before they get old enough to retire. The older the worker, the worse those odds get.

Federal disability programs provide a safety net, so that the majority of people, who don't have private insurance or employer-provided disability benefits, don't have to fear that disability will leave them without means to cover their family's most basic expenses.

Unlike the benefits offered by private plans, *the SSA's programs only offer* benefits for long-term and complete disability from working.

All the SSA programs covered in this book use the same definition of legal disability, and you must meet this definition, if you want to receive benefits. As explained later, the definition for children in all of these programs is slightly different (see below). We will also explore some common questions about what the definitions really mean.

Question: How does the SSA define adult disability?

As an adult, in order to be found disabled, you must meet each part of this definition:

- You must have a verifiable medical condition (physical or mental); and
- The condition must make you unable to do any substantial gainful activity and
Your condition must either
 - Prevent you from working for at least 12 continuous months; or
 - Be expected to cause your death.

To put it another way, the SSA will only consider you legally disabled if you can't do work that you did before; the SSA decides you cannot adjust to other work due to your medical condition(s); and your disability has lasted or is expected to last for at least one year or to result in death.

Question : What kind of physical or mental conditions are covered?

Disability can be based on a variety of physical or mental conditions. Physical conditions could include obvious impairments, like spinal cord injuries, limb amputations, or loss of eyesight. You could also be disabled due to serious medical conditions like neurological issues, heart disease, liver disease, kidney disease, cancer, multiple sclerosis, or many others. Mental conditions could include behavioral or psychiatric disorders. For example, many people are unable to work due to adult Attention Deficit Hyperactivity Disorder (ADHD), autism, bipolar disorder, or others.

Question : What is a verifiable medical condition?

Verifiable means that your physical or mental condition is one that has been proven or diagnosed through medical testing. As part of your application, you will have to give a medical history, including the names and addresses of your doctors, as well as the dates and illnesses treated. Your application will also involve signing forms that allow the SSA to request copies of your medical records from your medical providers. These medical records will provide the evidence that your condition is verifiable.

Question *Besides my medical records, what else does SSA look at to see if I'm disabled?*

Proving that you have a medical condition is just one step in the process of applying for SSDI or SSI benefits. In addition to your medical condition, the SSA will consider other, non-medical factors in deciding whether you are legally disabled from working. Non-medical factors include your age, your education, your employment history, and the availability of suitable employment in the job market.

The SSA asks these five-questions, step-by-

step, to decide if you're disabled:

1. Are you working?

If the answer is yes, and the SSA finds you're earning \$1,010 or more per month in 2012 (\$1,690/month, if you're blind), the SSA considers this to be substantial gainful activity and will probably find that you are not disabled.

If you're not working, the SSA moves on to the next question:

2. Is your medical condition "severe"?

Whether you suffer a physical or mental impairment, it must "interfere with basic work-related activities" to qualify as severe. If the condition is not severe, your disability will be denied.

If your condition interferes with basic work-related activities in your current job, the SSA asks the next question:

3. **Is your condition included in SSA's list of disabling conditions, or at least as severe as one of those conditions?**

The SSA publishes a document known informally as the "Blue Book," though its actual title is, "Disability Evaluation Under Social Security." The Blue Book contains a listing of common conditions that the SSA considers disabling. There is a separate list for children. You can find a copy of the Blue Book online by visiting <https://www.ssa.gov/disability/professionals/bluebook/>.

If your condition is not on the list, then you must convince SSA that it is at least **"as severe as"** one on the list. Sometimes, two or more combined conditions can produce a result as severe as a condition on the list.

If your condition is not as severe as one on the list, but it does interfere with your basic work-related activities in your current job, you may still be found disabled. The SSA will continue to the next question.

ε. **Does your condition interfere with doing work that you have done before?**

Based on your work history, the SSA will decide if your medical condition now prevents you from returning to some kind of work you've done before. The SSA looks at what you had to do in your past relevant work (usually, work that you did in the past 15 years) and compares that with what the SSA believes you are able to do now.

If you can do the type of work you've done before, your claim will be denied. If the SSA believes you can't do that work, there is still one more hurdle. The SSA asks a final question.

ο. **Are you able to do some other kind of work?**

Your condition may not prevent you from doing some other kind of work that's available in your area; **even if it's a job you've not done before**. The SSA looks at your age, education, past work experience, and any transferable skills you may have, to determine if you might be able to adjust to other work that won't conflict with your medical limitations.

Obviously, the answers to these five questions play out differently depending on your condition, the limitations it places on activity, the kinds of work you've done, and your potential for doing new, different types of work. The SSA will also look at what types of work are available in the job market within a reasonable distance of where you live.

For example, consider a 35-year-old woman who has suffered a learning disability since childhood, but was able to work as a cashier, a housekeeper, and a personal-care assistant. If she later suffered a hip injury that prevented her from working the types of jobs she was qualified for, and her learning disability prevented her from doing other kinds of jobs available where she lived, she might qualify for disability benefits.

Question: Is my child disabled?

Because children lack work histories and training, disabling conditions in children are subject to somewhat different requirements and standards than those applied to adults. A child must have:

- A physical or mental condition:
- That can be proven with medical diagnostic testing records;
- That places very serious limitations on the child's activities; and
- That is expected to:
 - Last for at least 12 continuous months; or
 - Result in death.

Another way of saying this is that the SSA will consider a child under age 18 disabled if the child's physical or mental condition (or combination of conditions) results in "marked and severe functional limitations." The condition must be expected to last at least 12 months or result in death.

Remember, there is a separate "Blue Book" list for children. Since certain conditions tend to

begin in childhood, can affect only children, or can affect children differently than they affect adults, part of the Blue Book provides further medical considerations and standards that apply only if the claimant is a minor (under the age of 18).

For example, standards for evaluating such childhood impairments as Attention Deficit Hyperactivity Disorder (ADHD), autism, and many other conditions are listed in this portion of the Blue Book.

Question: Should I get my own copies of my medical records?

If you seek help from an attorney, your attorney may get copies of your medical records before filing your application for a couple of reasons. First, a lawyer will look at your medical records to see if your case seems to be well-documented.

Example: Has your doctor written in the records that your condition is severe or that it will keep you from activity you must perform to work?

Second, your lawyer may want to research or obtain more details from your doctor to help understand what is written in the records. If there are things unclear in your records that could affect your disability benefits, it can sometimes be best to take care of that as soon as possible to avoid a denial or delay in getting benefits.

Example: You might need to see your doctor again or see a specialist for follow-up testing or to clear up issues in your medical records.

You can take care of these details on your own, with the cooperation of your medical care providers.

Practical Tip 🧠: Obtain your own copies of medical records, by contacting each of your medical care providers and following their instructions for making written requests for copies.

In some cases, you may be entitled to a free copy of your records, but in others, you may have to pay a fee to get the copies.

If you do hire an attorney to help you, you can expect that he or she, or members of his staff will help obtain your medical records and recommend things you need to do, after your lawyer takes a look at them. Many attorneys will advance the fees necessary to get copies of your records. If you already have copies, be careful not to disarrange the numbered pages or mix records from different providers, and take them with you when you consult an attorney.

A few more words about the “Blue Book”

"The Blue Book" is a nickname for Disability Evaluation under Social Security which was prepared by the SSA to provide physicians and other health professionals with an understanding of the disability programs administered by the Social Security Administration.

Most impairments in the Blue Book list are those which will almost certainly prevent you permanently from working or will result in death. The Blue Book divides these permanent or fatal conditions into broad categories, including:

- Disorders that affect the bones or muscles, such as loss of limbs, back injuries, burns, carpal tunnel syndrome, arthritis, fibromyalgia, multiple sclerosis, and others;
- • • Disorders of the senses, such as blindness, deafness, or loss of speech ability;
- Breathing disorders, like lung disease, mesothelioma, asbestosis, or emphysema;
- Failure of major organs, like the heart, liver, or kidneys; Blood disorders, like sickle cell disease or leukemia; Nervous system impairments, like seizure disorders, brain injuries, and others;
- Chronic or fatal diseases, like cancer, Crohn's Disease, lupus, Parkinson's Disease, Alzheimer's Disease, and others.

Practical Tip 🧠: The Blue Book also includes medical standards that must be met for you to be found disabled from working. These standards can be used by your doctors or other medical professionals to help understand what conditions are disabling for SSA purposes.

Find the Blue Book online at <https://www.ssa.gov/disability/professionals/bluebook/>.

Chapter Three

Applying for Disability Benefits

...

If you cannot work because of a medical condition and think you deserve disability benefits, don't be intimidated by the application process. Just take it step-by-step.

In the "initial application" phase, you will:

- Fill out and submit application forms;
- Submit all documentation that supports your application; and
- Attend a disability application interview.

When your application is complete, the SSA will forward your file to a state Disability Determination Services (DDS) office. A DDS examiner and medical review board will review your application and make the initial decision about whether or not you are disabled.

Question: Do I need a lawyer to file the application?

Many people decide to file their application for disability benefits without assistance from a lawyer. You do not have to have a disability lawyer, but you are the one who must decide whether you need one. Depending on how severely you are limited from work activity, your case could be fairly straightforward. However, some cases do become more complicated. Winning those cases could require a deeper familiarity with disability law.

Unfortunately, a high percentage of legitimate disability claims are turned down at the application stage. The SSA approves just a little over one-fourth of initial applications.

Of those who are denied, many are people who have pursued disability without getting legal advice first from a lawyer. Sometimes, this is because the interviewer's decision is wrong. However, it is very often because the application is missing something or it fails to present everything needed to support a claim.

Practical Tip 🧠: If you decide to do it on your own, it is important that your application is as complete as possible.

If you choose to seek help from a Social Security Disability Attorney from the beginning, your attorney can help you gather what you need for your application and ensure that your application is in the best possible form.

Many people who are denied in the first round do receive their benefits once their applications are reviewed by a higher decision-maker. Remember -- If you are denied at first, do not give up hope!

Following the “Practical Tips” and understanding the information you find in this guide will offer you a better chance of getting your benefits during the first round. If you are denied on the first round, later sections of this book will explain how to appeal the decision to a higher authority.

Question : Where can I fill out my disability application forms?

Your first step is to fill out the application forms. To avoid delays in getting benefits, you should fill out your forms as soon as you believe that you have become disabled from working. There are several ways to get and submit application forms for disability benefits with the SSA:

- You can visit or call your local Social Security office to fill out applications or make an appointment to meet with a representative;
- If you live in the U.S., you can call the SSA at 1-800-772-1213 (TTY 1-800-325-0778); If you live outside the U.S., contact the nearest U.S. Social Security office, U.S. Embassy or consulate, or the Veterans Affairs Regional Office (VARO) in the Philippines; or
- You can complete at least part if not all of your application online, by visiting <https://www.ssa.gov/disability>

To begin your application for SSDI benefits, you must fill out three forms:

- An Application for Benefits form;
- An Adult Disability Report (Form SSA-3368); and
- An Authorization to Disclose Information to the SSA (Form SSA-827).

If you're applying for SSDI benefits, you can fill out all three forms online. If you're applying for other benefits, you can at least complete the Adult Disability Report form online, but you must make an appointment with your local SSA office and finish the rest of your application at an in-person meeting.

If you apply online, you'll still have to meet with someone from the SSA for a disability application interview. This interview could normally take an hour or longer.

Practical Tip 🧠: Filling out available forms online can help make your disability application interview much shorter.

If you apply by phone or online, the SSA will mail you an information packet telling you what to bring with you to your appointment.

Question : What information should I gather for the application?

Before you start, gather your information. In some cases, you have to submit original or state-certified copies of “official” documentation, like your birth certificate, marriage certificate, or a death certificate. Don’t delay filing your application just because you don’t have these documents. If you have a chance, request new copies of the ones you need to avoid having your application delayed or denied.

Practical Tip 🗺️ *If you don’t have original copies of necessary birth certificates, marriage certificates, death certificates, etc., contact your state office of vital statistics and request certified copies.*

Whenever you give an original or state-certified copy of a record to the SSA, a representative will make a copy of the records and give the originals back to you. You do not need to order any extra certified copies.

On the forms, and later in the disability application interview, you will have to provide basic information about yourself and original documents to back it up. If you’re applying for a minor child or disabled adult child, you’ll need the same information and documentation for the

applicant. If you’re seeking benefits based on your marriage to a worker, you will have to give information about the worker as well. Gather this information:

- Names, addresses, and social security numbers;
- You must provide a birth certificate or alternative proof of age (usually, this means birth certificates, but the SSA also accepts medical records of birth, religious records (like a baptismal record), passports, or final adoption decrees that show an original birth date);
- • Proof you’re a lawful alien or naturalized citizen (if you weren’t born in the U.S.);
- U.S. military discharge paper(s) if you had military service before 1968;
- W-2 forms(s) and/or self-employment tax returns for the past 10 years;
- A history of the medical treatment you’ve received for this condition – Your doctors and hospitals, with names, addresses, contact information, dates treated, and more details about your illnesses, injuries or conditions;
- A list of the medications you take now;
- Any medical records, doctors’ reports, or recent test results that you already have;
- A work history. This means a list of every job you’ve worked, for at least the past 15 years; a full description of your job duties at each job; and the names and contact information for each of those employers, if you weren’t self-employed;
- Award letters, pay stubs, settlement agreements or other proof of any temporary or permanent workers’ compensation-type benefits you received.

Some of this information will be used for the Application for Benefits form and some you will need for the Adult Disability Report form. The purpose of the Authorization to Disclose Information to the SSA form is to allow the SSA to get copies of original records you need, but don’t have copies of, at the time you apply – like medical records.

Practical Tip 🗺️ *If you’re having difficulty organizing the information you need for a particular SSA benefits program, the SSA website offers free*

worksheets to help you figure out what you need for each of the available programs. Many people prefer to turn this sometimes confusing and burdensome task to an attorney.

After you have submitted all your forms, the SSA will schedule a meeting with an SSA claims representative. This meeting is called a disability application review. You can meet with your SS claims rep at the local SSA office, or you can ask to conduct this interview by telephone if leaving home is difficult for you.

Question: What will I be asked in the disability application interview?

At your disability application interview, a Social Security claims representative will ask you questions and fill in important details in your application. Here are examples of questions you may be asked:

-
- Whether you've ever filed for Social Security benefits, Medicare, or SSI benefits, or anyone else has done so for you (if so, you'll be asked for information on whose Social Security record you applied);
 - Information about your criminal record, if any;
 - Whether you've ever used any other Social Security number;
 - Whether you've been in active military service or have ever worked for a railroad company, along with details about when and where;
 - • Whether you've earned Social Security credits in another country;
 - Whether you're entitled to a government employment pension for working for federal, state, or local government;
 - Information about your current and past marriages, including names, social security numbers, birth dates, dates of marriage, length of marriages, places of marriages, and how and where your marriages ended;
 - Information about your unmarried, minor children, as well as any children who became disabled before age 22;
 - Where you have worked for the past 15 years, including employer names, contact information, dates, your recent pay rates, and whether you are owed any money from an employer;
 - The date you became unable to work because of illnesses, injuries, or conditions and if you are still unable to work; and
 - Information about any payments you might be entitled to get that are based on disability including temporary benefits, annuities, or lump-sum payments, regardless of whether they're to be paid by your employer, an insurance carrier, or a government entity, such as:
 - o Workers' Compensation
 - o Black Lung Benefits
 - o Longshore and Harbor Workers' Compensation
 - o Civil Service Retirement
 - o Federal Employees' Retirement
 - o Federal Employees' Compensation
 - o State Disability Insurance benefits
 - o Military disability retirement pensions based on disability
-

Question: What information do I need to give about my work history?

Because the question of whether you are legally disabled depends so much on what kind of work you've done and what kind of work you might be able to do, the SSA claims representative will

want details, details, and more details about your work history for the past fifteen years. Go to your disability application interview prepared to answer them!

Practical Tip: Prepare your 15-year work history before you go to your disability application interview. It is difficult to remember details during your interview without preparing ahead of time. Delay in providing details means delay in getting your benefits.

Your SSA representative will want the titles of all of your jobs in the past 15 years and he or she will also want a full description of the work you did, because two jobs with the same title sometimes have very different job duties. To the best of your ability, you should be prepared to tell your claims representative all of these details about each of your jobs:

- Main responsibilities of each job;
- Main tasks you performed;
- Dates you worked;
- Number of hours worked per day and per week;
- Rate of pay;
- Tools, machinery, and equipment you used;
- Knowledge, skills, and abilities your work required;
- Extent of supervision you had;
- Amount of independent judgment you used;
- Objects you had to lift and carry and how much they weighed;
- How much you had to sit, stand, walk, climb, stoop, kneel, crouch, crawl, balance;
- How you used your hands, arms, and legs;
- Speaking, hearing, and vision requirements of each job;
- Environmental conditions of each workplace.

Question: What will SSA want to know about how my condition keeps me from working a job?

Your claims representative will also ask questions to find out how your condition has kept you from working, whether in your current job or past jobs. You'll be asked about all job changes you made, whether you made them because the job duties changed or because your condition interfered. For example, you could be asked whether you:

- Worked fewer hours;
- Had help from coworkers;
- Took sick days;
- Had to leave your workstation frequently;
- Had to rest during the workday more often than your normal breaks;
- When your medical condition began to affect your work;
- If you became unable to do your work because of your condition;
- When and why you stopped working, if you're not working now.

You will not get a decision about your disability at the disability application interview. Instead, your case file still has to be evaluated by a state Disability Determination Services (DDS) office, as described below.

Question: Can I add information or evidence to the application I filed before a decision is made?

Generally, if no first decision has been made on your application, you can correct mistakes or add more evidence, such as more medical records.

If there has been a denial, your next step will be to ask for reconsideration of your application by a different DDS examiner and medical reviewers. You may also be allowed to add things to your application at this point.

Question: After my disability application interview, whom does the decision?

Your local SSA field office interviews you, collects documents, and verifies your non-medical eligibility requirements (like your age, employment, marital status, or Social Security coverage information, and whether you worked enough years to qualify). It also evaluates any current work activity you have.

The SSA field office does not evaluate the medical evidence in your case. Instead, the SSA sends the case to a Disability Determination Services (DDS) office where your disability will be looked into further.

The DDS are offices run by your state and paid by the federal government to do the job of putting together the medical evidence in your case. A DDS examiner and a DDS medical board is made up of doctors employed by DDS will look at your case. They will make the first decision about whether you are legally disabled from working. The DDS may ask you to provide more information or to allow an additional consultative medical examination.

Question: What is a consultative examination (CE)?

The DDS first tries to get the medical evidence it needs from your own treating doctor, clinics, and hospitals. However, if the DDS can't get that evidence, or what it does get is not enough to help it decide, then the DDS may ask you to agree to a consultative examination (CE). This is an additional medical examination that helps DDS get the additional information it wants. The SSA will pay for your CE.

Practical Tip  If you have to take a CE, ask the SSA about travel costs. You may be able to get some of the related travel costs paid for by the SSA.

Question: Who decides if I am disabled?

After all medical evidence is received, the DDS makes the initial disability determination, deciding if you are legally disabled. The DDS has staff case examiners and medical doctors who look at your case to make a decision. Once the DDS decides, it sends your file back to the SSA field office which then notifies you by mail whether your claim has been accepted or denied.

Question : When will I get a decision about my initial application?

It can take three to five months to get a decision about your first application. This is one reason why it is important to file as soon as you find out you might be disabled from work, even if you're still drawing workers' compensation or private insurance benefits.

Once a decision is made, you will receive a letter in the mail to notify you of that decision. If you were found disabled, the SSA requests any additional information it needs, computes your exact benefit amount, and begins paying benefits.

If you were denied, then you have the option to move on to the next step of appealing the decision, by asking for reconsideration. Your file will be kept in your SSA field office in case you decide to appeal. You will have a very limited time to decide whether to appeal. At this point, many applicants decide to retain an attorney.

Question : How Long Will I Wait for a Decision?

Most people have to wait anywhere from three to five months to get a decision on their first application. If you are denied, you will have a short period of time to file a request for reconsideration. If your request for reconsideration is denied, you must then request a Disability Hearing before an Administrative Law Judge (ALJ).

You may wait as long as a year or more for a hearing to be scheduled. In the meantime, you'll receive no benefits. The sooner you get started with an application, the sooner these time periods begin to pass.

Question : What are my chances of getting benefits without an appeal?

To be honest, many people who are legitimately disabled still don't face good chances of getting their benefits in the first round. The bad news is that so many applications are denied on the first round, that only just over one-fourth are approved without the need for some appeal to a higher level. The good news is that a greater percentage of people are awarded benefits after their case is presented to an Administrative Law Judge by an attorney.

Most lawyers who practice Social Security Disability law make plans from the beginning for this possibility. Being denied at first does not mean you're not disabled. SSA's reviewers can make mistakes when they review your application. That is why there is a process for reconsideration and appeal of your case.

If you've already applied once for disability and have been denied, you will have a chance to appeal that decision to the next level of review. The SSA's first review of your application could have been denied based on lack of medical treatment and/or evidence or your failure to provide them with information that they requested. That result may change with appeal. You will be under tight timelines to file an appeal. If you've missed your time to appeal, you can still file a new application, but you will have to start from the beginning, which could affect the benefits you get and the time it takes to get them.

Chapter Four

Reconsideration and Appeals

...

According to ten-year statistics, the SSA put together in 2009, nearly three-quarters of all initial applications for SSA disability benefits are denied. If yours is not one of the 28% that are approved in the first round, does that mean you're finished? The answer is **noway**.

Many, many people who get SSA disability benefits were denied on the first round. Most have to appeal to get their benefits.

Even if your initial disability application is denied, you can appeal the decision. Depending on the facts of your case and the type of mistake that you believe was made in the first decision, you may very well win.

Question: What kind of unfavorable SSA action can I appeal?

The SSA's first-level decision is called an "initial determination." There are actually many decisions or points in SSA initial determinations that you could appeal. These commonly include, among other things, decisions SSA makes about:

- Whether or not you are eligible for benefits;
- Whether you have become ineligible, if you're already getting benefits;
- The proper amount of your disability benefits;
- Whether you have been overpaid (including decisions about how the overpayment will be repaid to the government).

Question: Where can I appeal an unfavorable initial determination?

If your first application was denied, you will receive a written initial determination, along with a notice of your appeal rights. There are four levels of appeal that you might have to pursue in order to get your benefits:

1. Request for Reconsideration

Reconsideration is an appeal that can be filed and completed on paper forms provided by SSA or electronically on the SSA's website. You do not have to appear for any kind of hearing. Instead, your claim file, plus any information you add to it, will be looked at again by DDS -- but this time, the actual DDS personnel who review and decide your reconsideration will be people who took no part in the initial denial. Your entire file will go to a new case examiner and a new medical review board.

2. Administrative Law Judge Disability Hearing

If your request for reconsideration is denied, you can file an appeal by requesting a Disability Hearing before an Administrative Law Judge (ALJ). You will appear and testify under oath, have other witnesses testify, cross-examine SSA witnesses, and put evidence into a hearing record. You're not required to have an attorney, but numerous people hire one at this point.

3.

If you get an unfavorable result after the Disability Hearing, you can then file an appeal to the SSA's Appeals Council. This panel includes several federal ALJs, who will review the record you created in the Disability Hearing and decide whether the Disability Hearing decision was correct. While you're not required to have a lawyer in this kind of appeal, most people choose to hire one for a review by the Appeals Council. If the Appeals Council finds that the ALJ decision was correct, the decision will stand as written. If it finds that the ALJ made an error, the Appeals Council could send your case back to the hearing office to be scheduled for another hearing.

4.

If you disagree with the Appeals Council, you have 60 days to file a civil action in Federal District Court, where the law requires that you must be represented by an attorney. Because this is an original court action, you also have the right to appeal the District Court's decision through the United States Circuit Court of Appeals. In addition, you may ask for review of that decision by the U.S. Supreme Court although you'd only be granted review if you had a very unique case, factually and/or legally.

Question: How do I file a Request for Reconsideration?

If your initial application is denied, you will have a very short period of time within which to take action, to keep your claim alive. If you miss your deadlines, you start all over.

Practical Tip 🧠 10: You MUST file a written request for reconsideration or an appeal within 10 days of the date when you receive the letter stating that your initial application was denied; but you MIGHT want to file it within 10 days.

In some cases, if you are appealing a decision to reduce or cut off benefits that you were already getting, and you file your appeal within ten days, you may continue to receive your benefits while you wait for the appeal decision. If so, this will be mentioned in the letter that comes to you with the initial determination from SSA.

Practical Tip 🧠 11: While your filing a decision, the SSA allows an extra five days for the time it takes to receive it by mail – ***but don't cut it close unless you absolutely have to!*** ***Deadlines run from the date you "receive"***

You can file your Request for Reconsideration online, by visiting <https://www.ssa.gov/forms/ssa-561.html>, and following the instructions given there. Printable forms are also available online or from your local SSA office. You should print the forms, fill them out, and then mail or take them to your local SSA office. You will be notified by the SSA when further steps are taken in your case. You must file all three of these written forms:

- Form SSA-561, Request for Reconsideration; Form SSA-3441, Disability Report – Appeal; and
- Form SSA-827, Authorization to Disclose Information to the Social Security Administration.

Question: Is Reconsideration the only way I can appeal an initial determination?

Whether you must file for Reconsideration before you can go further varies from state to state. In some states, you can opt to go straight to the next level of appeal – a Disability Hearing before an Administrative Law Judge (ALJ). People in these states skip this step, because Reconsideration simply means that your claim is going to be looked at again, by different personnel in the very same DDS office that denied your application. Is it really a waste of time?

Reconsideration is not supposed to wind up being a “rubber stamp” process, but in reality, only a tiny percentage of reconsiderations grant benefits. Most who win benefits don't get them until they appeal to higher levels.

Still, there are sometimes good reasons to request Reconsideration, like situations where your file needs more information to be complete or where DDS has made an obvious mistake that can be easily corrected.

For example, assume you apply for SSI child benefits for your 18-year-old high school senior, who is entitled to draw them until age 19, if he is still in high school full-time. You get a denial from SSA, which says that he is not enrolled in school. Reconsideration can easily correct this mistake.

In Florida, you must request Reconsideration and get a decision before you can move on with your appeal. Either way, if you are dissatisfied with the decision you get from Reconsideration, the next appeal step is to ask for a “Hearing by an Administrative Law Judge,” also called a “Disability Hearing,” which we discuss in detail in the next chapter.

Chapter Five

The Disability Hearing

...

If you want to appeal an unfavorable reconsideration decision by SSA, you can request a Disability Hearing, to be conducted by an Administrative Law Judge (ALJ). This hearing is very much like the “trial” of your disability case. It differs from a court hearing, in that a Disability Hearing is closed to the public. Only you, your attorney (if you have one), the witnesses, the ALJ, and possibly other SSA staff will be present. At the same time, a disability hearing is conducted in some ways that are similar to court hearings:

- Witnesses for both sides are sworn and will give testimony supporting their side; you will have a chance to “cross-examine” the government’s witnesses;
- The testimony and evidence presented is placed into a court-like “record,” kept by a court reporter; and
- Any later appeals you may pursue will be based on the “facts” established in this record.

This is the point at which many people opt to hire a disability law attorney. We will address several important points to remember and practical tips for getting through a Disability Hearing. Any legal issues that may come up, along with the importance of the record you create for future appeals, means that having an experienced attorney’s knowledge of disability law, evidence law, and appeals law is usually very much to your advantage. Statistically speaking, you have a much stronger chance of winning with the help of an attorney.

Question: When can I request a Disability Hearing?

You can request a Disability Hearing after you have been denied disability benefits at the Reconsideration stage. In states that don’t have Reconsideration hearings or that let you skip the Reconsideration stage, you can request a hearing as soon as your initial application is denied. However, that is not the case in Florida.

Again, once you receive notice that the SSA ruled against you, you only have 60 days to file a request for a Disability Hearing (Remember: The SSA assumes you received their notice 5 days after they mailed it).


Question: How do I request a Disability Hearing?

You can request a Disability Hearing online by visiting the SSA website. Forms that you can download are also available online, which should be printed, completed, and mailed or taken to your local SSA office for filing. The forms you have to complete in order to request a Disability Hearing are:

- Form HA-501, Request for Hearing by Administrative Law Judge; Form SSA-3340, Disability Report – Appeal; and Form SSA-827, Authorization to Disclose Information to the Social Security Administration

Question: Where will my Disability Hearing be Held?

After you file a request for a hearing, the ALJ assigned to hear your case will notify you of the time and place of the hearing. The Disability Hearing will usually be held within 75 miles of where you live.


Practical Tip  12: If you have to travel farther than 75 miles for your Disability Hearing, the SSA may help pay for your travel and hotel expenses.

Sometimes, the Disability Hearing may be held in your local SSA office; in other cases, you may have to travel to another office for the hearing. Some Disability Hearings are even held by videoconference. This can make it more convenient for you and your witnesses to attend the hearing, possibly allowing you to have your hearing sooner.

Question: Do I have to appear for a Disability Hearing?

While you don't have to have a live hearing, you should. The Disability Hearing is like a trial of your case. It is your chance to **have your "day in court"** – to explain what your life is like with your disability and tell why it limits your ability to work. More importantly, the Disability Hearing is your opportunity to get testimony from your own witnesses, like friends who have seen your limitations, or doctors and vocational experts who do not work for SSA and who are on your side. It is also your chance to cross-examine the Government's witnesses. Finally, any further appeals will be based on the record of testimony and evidence that you create in the Disability Hearing.

If the ALJ believes your presence at the hearing is necessary to decide the case, he or she can require you to attend. If there is really a good reason why you can't attend, you should notify the SSA in writing as soon as possible.

Practical Tip  13: *If you think you can't make it to the hearing, a better option than missing it is to request in writing that the SSA change the place or time of the hearing.*

If you have good reasons for the request, the SSA can sometimes arrange to have your hearing at a different time, a different location, or by videoconference.

Question : How do I prepare for my Disability hearing?

You should prepare carefully for your Disability Hearing. A Disability Hearing is a complex, court-like proceeding, and because it is to your advantage to understand disability law and procedures, many people choose to hire an experienced Social Security Disability attorney to represent them in the hearing. If you're doing it on your own, then at a minimum, you'll need to:

- Get a copy of all the written evidence that will be used at the hearing;
 - Submit any new evidence or medical records you want considered;
 - Prepare to question the SSA's witnesses;
 - Make arrangements for your own witnesses to testify at the hearing;
 - Prepare to question your own witnesses;
 - Prepare to give your own testimony.
- Practical Tip 🧠 : It is easy to get bogged down in all this evidence and lose sight of what you need to prove. Stay focused on the main issues in your case and when you look at all the evidence that you see both before and during the hearing (including testimony), compare it to what you have to prove.

Question : How do I know what issues have to be proved at my Disability Hearing?

At your Disability Hearing, it will be your legal burden to prove that you are legally disabled. This means that if you do not prove your case, then technically, the SSA really doesn't have to do anything but rest on the laurels of its earlier denial, in order to win.

Recall the 5-step disability evaluation process used by SSA and discussed in Chapter 2 of this book:

1. That you have a disabling medical condition;
2. That it is severe;
3. That it is listed in the "Blue Book" list of disabling conditions, or is equal in severity to a Blue Book condition;
4. That you are unable to work your past jobs; and
5. That your skills will not transfer to some other job.

While you have to prove all of these things in your hearing, there may be particular areas worth extra attention when it comes to collecting your evidence. When the SSA determined that you were not disabled, you would have received a determination letter stating the reason that you were denied. Therefore, what you have to focus on proving in your unique disability hearing will depend on where the problem arose in that 5-step evaluation process.

A social security disability lawyer will examine the evidence in your case and plan to develop a winning theory of the case, after which he or she will collect evidence that supports the theory. You have to do the same thing, if you're representing yourself.

For example, assume that you already have strong evidence that you have a severe, Blue Book listed medical condition. However, the SSA said it denied benefits because *you're nevertheless capable of a level and type of physical activity that qualifies you to work certain jobs you've never worked before*. You feel that SSA is wrong about your physical capabilities. Your focus, then, might be on seeing your doctor and gathering *more medical evidence to show that you're not capable of doing as much as the SSA* said you could do.

You should begin preparing well in advance of the hearing. You can wait until your 60 days is nearly up to file your request for a hearing. In doing so, you will buy yourself more time to take a look at the evidence and get ready for the hearing; but be careful not to miss your filing deadline!

Question: What kind of evidence do I need for a Disability Hearing?

There are basically two kinds of evidence you may need to present at your Disability Hearing:

- Documentation (written evidence, like medical records, statements from witnesses, "blue book" listings, etc.); and possibly
- Witness testimony

Question: What kind of documentation or written evidence will the ALJ consider in my Disability Hearing?

Medical records are the most common form of written evidence that you will need to put into the hearing record. The best ones come from your treating physicians, because they are viewed as more reliable than records from doctors consulted only as "trial experts," who have only reviewed the same records seen by SSA and come to a different conclusion.

The "Blue Book" list of disabling conditions is usually an important piece of evidence, used by both sides to argue whether you have a disabling condition. As we previously discussed in chapter two on defining disability, if you can prove you have a condition on the list, do so.

Practical Tip 🧠: Before the hearing, find your condition in the Blue Book listing and read the list of symptoms that make it disabling. You should determine how the listing is similar to what your doctor has told you, what other witnesses know about you, and what you can testify about.

Remember from chapter two: If you cannot prove you have a Blue Book condition, you'll have to prove that your condition, or combination of conditions, is equal in severity to a Blue Book condition.

You may want to keep and put into evidence a daily diary of your condition, including its symptoms, when they occur, how long they go on for, what things make them worse, and what they prevent you from doing. This daily diary can be important evidence in your favor. It will also help to ensure that in the stress of the hearing, you won't forget important details about the effects of your disability.

It is also good to include evidence from other people who know what your limitations are and can testify about how they affect your ability to accomplish tasks. The SSA may have already requested that you submit a Function Report Adult-Third Party Form (Form SSA-3380).

You

can get this form online, at <https://www.socialsecurity.gov/online/ssa-3380.pdf>.

The SSA-3380 form must be completed by a "third-party" – someone who knows the kinds of limitations you have. The SSA may have sent this form to different people you named in your application as having knowledge of your condition. You may also want to use these people, or others, as live witnesses at your hearing (witnesses are discussed in more detail, below).

Even if you have not been asked for one of these forms, submitting one or more SSA

3380's could be helpful if you have friends or acquaintances who have seen, first-hand, the ways that your disability limits your ability to function in everyday life activities, such as housecleaning, mowing the yard, shopping, or playing with children.

In turn, the SSA may submit documents or reports from the DDS case file gathered during your initial application, to try to prove that you have enough Residual Functional Capacity (RFC) to work some kind of job or jobs. RFC refers to your skills or abilities and the limitations that your condition does or does not place on you. In other words, the SSA may argue that even if you are limited in some ways, you still have remaining abilities that you could use to work certain jobs.

The Medical-Vocational Guidelines (also called "the Grids") are an important item of evidence that may be used by both the SSA and you in a dispute over Step 5 of the disability evaluation process (whether you have abilities that transfer to new jobs you could work). What the Grids do is compare medical factors (like your RFC, your "exertional levels" and the tasks that you are still able to perform) to your vocational profile (looking at your age, work history, and education) to decide whether you are able to work some job that exists in significant numbers in the national economy.

Question: How do I submit *my new evidence or medical records I've received* since the denial?

You should submit new or updated medical evidence to be considered. You must submit additional evidence in writing to the SSA before the hearing. If you have an attorney, he or she will obtain and submit updated evidence for you.

Practical Tip 🧠: The sooner you send in your medical evidence, the better. In some cases, it could mean an early determination in your favor, leaving no reason for a hearing.

Practical Tip  17: Always keep a complete copy of anything you send to SSA. In the event that evidence gets lost in the mail or does not make it to your ALJ in time for the hearing, you don't want to be stuck without it.

Question *How do I prepare to question the SSA's witnesses?*


You will have to be ready to **question SSA's witnesses**. In general, this means you should:

- Find out who the SSA will use as witnesses;
- Ask the SSA to tell you what each of its witnesses plans to say; and
- Prepare to question (cross-examine) each of them on important points.

You can expect the SSA to present witnesses like these, to support its decision to deny or limit your benefits:

- SSA doctors or other medical professionals may testify about why your medical records support a decision that you are not impaired or do not suffer from a disabling medical condition.
- If SSA decided that there were jobs available that you could work, in spite of a physical impairment, the SSA is likely to use testimony from a "vocational expert" (VE). This individual studies employment reports, statistics, and other information to decide whether other employment is reasonably available to you.

It can be incredibly difficult for a person with no legal training to effectively cross-examine medical professionals and vocational experts.

Practical Tip  18: If you cross-examine SSA's witnesses, stick to the simple issues. Be polite and respectful, and do not argue with them. Arguing with witnesses can frustrate the ALJ and that will not help your case.

The best way to refute the SSA's witnesses is by presenting your own witnesses and your own testimony, but you will have to decide for yourself whether it seems wise to question SSA's witnesses, as the Disability Hearing progresses.

Question: Who should I use as witnesses and how do I make sure they come to the hearing?

You are your best witness when it comes to explaining how your medical condition disables you. When you testify on your own behalf, do not try to downplay or minimize your symptoms. Always tell what your life, your limitations, your pain, etc., are like on your

day. Be descriptive, but do not exaggerate. As best you can, give details, and ^{worst} for each symptom or limitation, describe it in terms of these three things:

- How often – How frequently do you suffer a limiting symptom?
- How severe – How bad is your pain?

- How long – How long does your pain endure in relevant situations? How long can you stand, walk, sit, lift, etc., before you must stop?

Explain why your symptoms limit your ability to function at home and how they prevent you from working. If your symptoms are growing worse, or expected to rapidly grow worse, say so. Your other witnesses could include:

- Medical-care professionals (usually their testimony is presented in the form of a carefully written “RFC” which is a Residual Functional Capacity assessment form dealing with your specific medical issue);
 - Vocational experts of your own;
 - Co-workers;
 - Family members;
 - Friends; or
- Anyone else who has seen your limitations in action and can tell about them.

This is not to say you should call in everyone you know who knows some small detail about your condition. Choose your witnesses wisely and limit them to the number necessary to prove your case. Your witnesses may be more than happy to come to the hearing, but they may still find it easier to get a day off of work if they receive a subpoena to appear at the Disability Hearing. This can be arranged by contacting the SSA, which will help you issue these administrative orders to appear. Also, when it comes to getting medical professionals like doctors to testify, you may not be able to get them to appear for the hearing. Instead, you may be required to simply submit medical records. If testimony from a doctor seems necessary, you may need to set up a deposition. This is a proceeding recorded by a court reporter, used to record sworn testimony in advance of the actual hearing. The other side also has an opportunity to send an attorney to question a witness during a deposition. Depositions are usually taken by video, and the video is played to the ALJ who hears your case.

Question: How do I question my own witnesses, to get the right evidence into the record?

At the Disability Hearing (or during a deposition), you will get a chance to present your own witnesses and written evidence. You should prepare in advance to:

- Know what your witnesses have to say that supports your case and contradicts the SSA;
- Know what written evidence you want in the record; and
- Know what to ask to (hopefully) obtain answers that are very on-point and relevant to the important issues in your case.

Admissibility is not as big an issue in a Disability Hearing as it would be in a court hearing. You don't have to worry as much about issues like "hearsay," for example. You can put in photocopies, letters from witnesses, or anything else that helps prove your case. However, if you want the ALJ to give your evidence serious consideration, you should ensure that your witness testimony and written evidence is relevant to prove some part of the 5-step disability determination standard.

Question: When will I know the result from my Disability Hearing?

Once your Disability Hearing is over, you are not likely to find out immediately whether you won or lost. The ALJ will look at all the evidence submitted in your case, including whatever new information you submitted at the hearing, and will use it to make the decision. You will receive a copy of the ALJ's decision by mail.

If you are still denied benefits, or you receive a partially favorable ruling, the ALJ's written decision will state the reasons. You can appeal the ALJ's decision, by filing a notice of appeal with the SSA's Appeals Council within 60 days of the date the notice was mailed to you.

Chapter Six

Do I Need an Attorney?

...

This book was designed to answer many common questions you might have when applying for Social Security Disability, SSI, or other federal disability benefits programs. However, one of the biggest questions you face right now is one that only you can answer:

Should I seek help from an experienced Social Security Disability Attorney?

If you have read this book carefully, you already know that the SSA will allow you to file your Initial Application, seek Reconsideration, conduct your own Disability Hearing, and even take your case to the Appeals Council, all without requiring that you have a Social Security Disability Attorney. In fact, you're not required to have an attorney unless your case has to be pushed all the way to a Federal District Court civil action or beyond.

On the other hand, you have to decide what would be wiser. Should you spend a lot of your own time and effort to reinvent the wheel before you ever begin moving forward? Or would it be smart to consult an attorney who has already been down this road many times and knows all the curves? This book cannot answer that question for you, but here are a few points to consider.

From the beginning, the odds are high that you will be denied and denied again before you get your benefits.

Fewer than 40% of Initial Applications are approved. Of those denied who request Reconsideration, fewer than 20% are approved. It is very likely that in order to get your SSDI or SSI benefits, you will have to go at least to a Disability Hearing or even further. A Disability Hearing is a complicated legal proceeding, in which an attorney's legal knowledge offers many advantages. What occurs at the Disability Hearing can affect the potential for success in any further appeals, if they become necessary.

Applying for SSDI, SSI or other federal disability benefits is a complex and time-consuming process that can move more smoothly with help from an attorney.

Many people who are suffering from a disability are not up to the very challenging task of pursuing their own disability benefits. This book has only touched on the very basics of the application process. You may have to learn much more in order to succeed in your particular case. If an attorney handles your case, you will not need to learn difficult legal rules or spend days, weeks, or months dealing with deadlines, thick files, obtaining records, scheduling hearings, or trying to subpoena witnesses. Your Social Security Disability Attorney will handle the details, greatly reducing your effort and avoiding delays.

For most people, getting federal disability benefits is an uphill battle.

You have the burden of proving your disability. The overburdened federal budget puts a tight squeeze on disability benefits programs. The SSA rules allow DDS to deny many Initial Applications quickly, particularly if you are young or your disability is based on a combination of conditions that do not specifically meet the criteria of the Social Security Administration's regulations.

A seasoned Social Security Disability Attorney offers advice on where to obtain medical treatment for the uninsured and other resources that can aid your case. An attorney knows how to present your evidence in its best light while avoiding legal pitfalls that can prevent you from getting the money you need.

Having your initial application rejected means waiting for benefits.

The wait can be long if your Initial Application is denied. When you first appeal that denial and ask for Reconsideration by DDS, the result is unlikely to change. After that, you may then have to wait a year or longer for a Disability Hearing to be scheduled. In the meantime, you will not be drawing benefits.

An attorney can help present your very best case for getting benefits.

A Social Security Disability Attorney will file the right forms, meet your deadlines, and help you prepare and present your evidence to meet the legal definition of disability. Your attorney will put together evidence, witnesses, experts, and clear legal arguments for your Disability Hearing. If your case is denied at the hearing level and an appeal has to be filed through the Appeals Council, an attorney will ensure that every legal issue is raised to enable the Appeals Council to remand the case back to hearing. In federal civil actions, you are required to have an attorney.

An attorney will keep you informed and educated about your case so you know where you stand at all times.

People who face the SSA without an attorney can quickly become frustrated by the process. It involves a lot of waiting, and if you're not familiar with the process, you can be left wondering whether the delay was caused by some mistake made by you. Some things obvious to an experienced attorney will make little sense to you, without further explanation or lengthy research. A lawyer can keep you up to date on the progress of your case and let you know in advance what to expect, so you're not left to worry.

Statistically, approval rates are higher for those represented by attorneys.

Consider that fewer than one-third of applicants are approved after the Initial Application. A few more are approved on Reconsideration. Of those who must go to a Disability Hearing to get benefits, roughly 40% of people who go without an attorney are approved. However, statistics show that 60% of people who are represented by an attorney win their Disability Hearings.

Talking with an attorney before you start cannot hurt, and it may make all the difference to your case.

Considering that most veteran Social Security Disability Attorneys offer a free consultation, it is a good idea that you at least talk with an attorney early in the process. Learn your legal rights. Get an informed legal opinion on your chances. Know what you're getting into before you file your application for benefits.

Question: At what point should I hire a Social Security Disability Attorney?

If you're going to hire an attorney, you should consider hiring one right from the start. Even from the beginning, mistakes or omissions in an Initial Application can doom or delay your attempt to obtain benefits.

Sometimes, your attorney can quickly correct mistakes that you made, moving your case forward. In other cases, an error may mean that your attorney must file a completely new Initial Application for you, meaning that you must start all over and delaying your benefits. Finally, in some unfortunate cases, a statement or fact included in an Initial Application can prevent you from getting benefits at all, until circumstances change.

A skilled Social Security Disability Attorney can improve your odds of getting approved for benefits. Representation by a knowledgeable attorney can help you understand the process, how your benefits could affect other aspects of your life, whether you have a good chance of winning, and how long the process normally takes.

The Brooks Law Group offers trustworthy help and diligent, highly competent legal representation to disabled people who seek SSDI or SSI. We accept personal injury cases anywhere in Florida and can assist injured persons and social security claimants throughout the United States. The Brooks Law Group has invested in exceptional staff and state-of-the-art computer systems, which enable us to provide clients with the high-quality legal representation that they deserve.

With more than two decades of Social Security Disability practice experience, The Brooks Law Group provides skilled, veteran Social Security Disability Attorneys you can depend on. Our attorneys strive hard to take the legal burdens off your shoulders and aggressively pursue your benefits.

If you are interested in receiving help on your Social Security Disability claim, we urge

you

to call us at 1-800-LAW-3030 (888-529-3030), and we will be happy to schedule your initial consultation.

Glossary

Below you will find an alphabetical glossary of important terms used throughout the book.

Administrative Law Judge (ALJ): A judge who hears the evidence presented in a Disability Hearing, after an initial application or reconsideration is denied.

Admissibility: The question whether evidence is a type that is allowed by law and court rules to be heard and relied on by an ALJ or court in making a decision.

Adult: A person over the age of 18, for SSA purposes.

Adult Disability: A medical condition expected to prevent substantial gainful activity for at least 12 continuous months or to cause death.

Adult Disability Report: SSA Form 3368, which must be completed and submitted with your initial application for disability benefits.

Appeal: A proceeding in which a higher authority reviews the SSA decision made at a previous level of the application process.

Appeal Rights: The level of appeal you are entitled to pursue after a decision, along with time limits and other requirements for filing an appeal.

Appeals Council: Level of appeal beyond the Disability Hearing, at which a panel of federal ALJs will decide whether the right decision was made in the Disability Hearing.

Applicant: *See "Claimant."*

Authorization to Disclose Information to the SSA: SSA Form 8871, which must be completed and submitted with your initial application for disability benefits; this form allows SSA to get copies of your confidential medical records.

Average Lifetime Earnings Record: A figure used to calculate SSDI monthly benefits amount.

Blue Book: Also called, "Disability Evaluation under Social Security;" contains separate adult and child listings of common conditions that the SSA considers disabling.

CE – See Consultative Examination.

Certified Copy: A copy of a crucial document, like a birth certificate, that has been issued and verified as authentic by the proper state agency that issues that kind of document.

Child: A biological child, adopted child, or certain other children who meet legal requirements and can inherit from a claimant.

Childhood Impairments: Conditions that SSA determines legally disables a child.

Claimant: Also called the “Applicant;” a person applying for Social Security benefits.

Consultative Examination (CE): A medical examination that DDS may schedule for you with a doctor who is not your regular, treating physician for the purpose of obtaining an additional medical opinion or more information about the physical or mental conditions that qualify you legally disabled.

DAC: See Disabled Adult Child benefits.

Daily Diary: A journal or record you should keep on a daily basis which should list the symptoms of your condition, when they occur, how long they last, what makes them worse, and what they prevent you from doing; this record can be important evidence in your favor.

DDS: Disability Determination Services; an office operated by your state and paid by the federal government to do the job of putting together the medical evidence in your case, reviewing your medical information, and making the first decision whether you are legally disabled.

Deposition. A proceeding recorded by a court reporter and used to record the sworn testimony of a witness in advance of an actual hearing.

Disability: A medical condition that impairs you or limits what you can do in life; the SSA requires a physical or mental condition that prevents you from working to earn minimal support for yourself and your dependents.

Disability Application Interview: A meeting with an SSA representative, to review and complete the details of your initial application for disability benefits and ensure you meet the eligibility requirements before your case is sent to a DDS disability examiner.

Disability Benefit Programs: Federal government programs that pay monthly benefits to a disabled person.

“Disability Evaluation under Social Security”: Also known as the “Blue Book;” contains adult and child listings of common conditions that the SSA considers disabling.

Disability Examiner: A person employed by DDS who examines the medical evidence in your case to decide whether you are legally disabled.

Disability Hearing: An appeal hearing before an Administrative Law Judge (ALJ), after benefits are denied on reconsideration. The claimant may appear and testify under oath, have other witnesses testify, cross-examine SSA witnesses, and put evidence into the record. Many people hire an attorney to represent them in the Disability Hearing.

Disabled: The legal status of having been found by the government to be qualified for federal disability benefits, based on having a physical or mental disability and meeting other conditions.

Disabled Adult Child Benefits: A disability benefits program that may allow certain disabled adult children to collect benefits based on a parent’s SSA work record.

Disabled Widows/Widowers Benefits (DWB): A disability benefits program for those whose working spouse has died, similar to SSDI.

Documentation: Written evidence you submit to the SSA, such as medical records, statements from witnesses, or “blue book” listings.

Earned Income: Money you make from working.

Eligible Family Member: A member of your family who can receive monthly benefits based on your disability.

Family Maximum Amount

: The highest monthly dollar amount of benefits that can be paid to any combination of family members, based on one claimant’s disability.

Federal Court Appeal: A level of appeal in which a claimant may be able to ask a Federal District Court to review a claim after benefits are denied by the SSA Appeals Council.

Financial Resources: All property you own and could use to help support yourself, except specific resources the SSA does not consider.

Grids: See Medical-Vocational Guidelines.

Impairment: A physical or mental condition that prevents you either partially or totally from functioning normally.

Income: Incoming money that can be earned from working or unearned from investment and other passive benefits.

Initial Application: The complete first application for disability benefits that you submit to SSA, with attachments which include the Adult Disability Report and the Authorization to Disclose form.

Initial Determination: The SSA’s first-level decision on an application for benefits.

Legal Burden: The responsibility placed on a party (either the claimant or the SSA) to prove some point necessary to the ultimate decision of whether you are entitled to benefits.

Legally Disabled: Disabled by a verifiable medical condition that is expected to prevent substantial gainful activity for at least 12 continuous months or to cause death.

Listings: See Blue Book.

Living Arrangements: Living with other people, whose incomes may be considered when you apply for disability benefits.

Long-Term Disability

: A disabling condition expected to endure one year or more.

Maximum Monthly Benefit

: The highest monthly amount you could receive in disability benefits

Medical Records: A chronological written record of a patient's medical history, complaints, examination, test results, diagnosis, procedures performed, treatment, medications, and responses to treatment; records held by treating doctors, examining doctors, hospitals, clinics, pharmacies, and other medical facilities visited.

Medical-Vocational Guidelines: Also called the “Grids;” Charts used by the SSA to help determine disability in claimants whose cases are not as severe as those which are approved automatically, by comparing your medical factors to your vocational profile (age, education, work history, and skills).

Mental Conditions: Diseases and injuries of the mind, such as bipolar disorder, autism, ADHD, or others.

Monthly Benefit: The monthly amount you may receive in disability benefits.

Non-Medical Factors: Considerations other than your medical condition that SSA looks at to determine whether you are legally disabled, such as your age, education, employment history, and the availability of suitable employment in the market.

Physical Conditions: Impairments such as injuries, amputations, loss of sight, serious bodily conditions or diseases.

Reconsideration: A level of appeal filed after an initial application is denied, asking the same DDS office to take a second look at the application and evidence, using new reviewers who did not take part in the first decision.

Relevant: An item of evidence is relevant if it tends to prove or disprove the truth of some issue that must be decided.

Relevant Work History: Your work history that SSA considers in deciding whether you are legally disabled; usually limited to work you’ve done in the past 15 years.

Request for Hearing by Administrative Law Judge (SSA Form HA-501):

Also called “request for hearing;” the form necessary to ask for Disability Hearing; must be submitted together with Form SSA-3340, Disability Report, Appeal and Form SSA-827, Authorization to Disclose Information to the SSA

Request for Reconsideration See Reconsideration

Residual Functional Capacity (RFC): The ability to work some kind of job or jobs that remains after a claimant’s existing disability is taken into consideration; refers to your skills or abilities and the limitations that your condition does or does not place on you.

Resource: Any property you own and could use to help support yourself, except specific items the SSA does not consider.

Retirement Survivors Disability Insurance (RSDI): Also known as “Disabled Widows /Widowers Benefits;” a disability benefits program for those whose working spouse has died, similar to SSDI.

Retroactive Payments Also called “back pay;” A lump-sum award of monthly payments from months prior to the completion of the application process. Only certain claimants become legally-entitled to a back pay award.

Severe Medical Condition: A physical or mental condition that interferes with basic work-related activities.

Social Security Administration (SSA): The agency of the federal government that administers all Social Security programs.

Social Security Disability Attorney: An attorney that pursues special training and offers focused legal services and practice in the area of Social Security Disability law.

Social Security Disability Insurance (SSDI): A disability benefits program for disabled people who have recently worked long enough to earn a certain number of work credits.

Spouse: The person to whom a claimant is legally married when an application for benefits is filed.

Subpoena: A court order that compels a witness to appear and testify at a hearing.

Substantial Earnings: Also called “substantial gainful activity;” the ability to work and earn an amount that may indicate you can support yourself and are not disabled (in 2012, \$1,010/month or more).

Substantial Gainful Activity: See Substantial Earnings.

Supplemental Security Income (SSI): A disability benefits program for elderly, blind, or disabled people who are low-income and do not qualify for SSDI.

Survivor’s Benefits: Benefits paid to certain family members, after a claimant has died, based on the claimant’s SSA work record.

Total Maximum Monthly Benefit: The maximum combined amount of disability benefits that you and any eligible family members can receive each month.

Unearned Income: Income not earned from working, such as pensions, child support, investment income, workers’ compensation, veterans’ compensation, certain government benefits, and others .

Unfavorable Decision: A decision by DDS, an ALJ, the Appeals Council, or a court, which either denies, reduces, or terminates a claimant’s ability to draw monthly disability benefits.

Verifiable Medical Condition: A physical or mental impairment that can be proven or diagnosed through medical testing.

Vocational Expert: A witness used by the government or the applicant at a Disability Hearing to provide expert testimony on the claimant’s capability to work jobs available in the local and national economy given his or her physical or mental limitations.

Waiting Period: Time which must pass after qualifying for disability benefits, before you can begin collecting monthly benefits.

Wages: Money or non-cash compensation paid to an employee, in return for work performed, unless paid in a form that is specifically exempt under SSA regulations.

Work Credits: Also called “quarters,” these credits are necessary to qualify for SSDI program benefits and are earned when you work and pay FICA taxes.

Work History: A list of every job you’ve worked for at least the past 15 years, with a full description of job duties and with names and contact information for each employer.

Wounded Warriors Program: An SSA program with faster processing and some special rules for veteran applications for social security disability benefits.

Witness Testimony: Evidence offered by calling people to give sworn testimony at a hearing or submitting sworn statements to SSA.