

Social Security Benefits - Detailed Outline of the Process

Social Security Disability Benefits (SSDIB) -

To receive benefits under the Social Security Disability (SSDIB) program you must be found *disabled*. The law defines *disability* as “the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.”

When evaluating your claim, Social Security takes into account the severity of your condition(s), your age, education, your past work experience, transferable skills, and whether you are able to do any other substantial gainful activity. To be successful in obtaining benefits, you must have a severe impairment that is supported by medically acceptable clinical and laboratory findings.

SSDIB is available to individuals who are “insured.” This means you must have an earnings record which shows that you have worked at least five of the last 10 years or twenty out of the forty quarters before you became disabled. This is known as “quarters of coverage” or “credits.” (For individuals under age 30 years, the requirements are a somewhat different since they have not been in the work force as long.) Please call our office for so we can compute the exact number of credits you require.

To help analyze the severity of your condition or impairment, there are illnesses which are “listed” by the Social Security Administration as being so severe that they qualify you medically for disability as a matter of law without considering your age, your education, or your work experience. You will need professional help to prove that your illness or condition meets or equals a particular listing. Not all conditions are so severe but they can still prevent competitive employment. You will also need professional help to prove your case outside of the “listings.” Our office is very familiar with the rules used by Social Security, which gives us an advantage in determining whether you will be successful in your claim for benefits. Call us so we can apply the Social Security’s criteria to your case and thoroughly evaluate your claim.

Keep in mind that if you have a low SSDIB monthly benefits, you could also qualify for SSI benefits and Medicaid.

Following are the five questions Social Security will be using to determine disability:

1. Are you working?
2. Is your condition “severe”?

3. Is your condition found in the list of disabling impairments?
4. Can you do the work you did previously?
5. Can you do any other type of work?

You should apply for disability benefits as soon as possible after becoming disabled. There is no need to wait. There is a popular misunderstanding that you have to be out of work a year to qualify for benefits. Not so. Be sure when applying you give Social Security honest and complete information. Make sure what you write on your application forms is what you have been telling your doctors and what Social Security will find in your medical reports.

Process of applications and appeals. *Don't be intimidated by the application process. You should not back off, give up or go away if you receive an initial denial. If you are disabled, you have a right to disability benefits. If your case is prepared with the proper legal and medical documentation, you can significantly increase your odds of obtaining benefits.*

Our office represents individuals at all of the following levels. If you have a disabling condition, please contact us immediately for a phone or online consultation. (Link e-mail and/or interview form.) We will be pleased to stand with you through every step of the process, from initial application to the conclusion of your case.

Brief Outline of the Process

- **File Initial Application** for benefits. If denied,
- **File Request for Reconsideration**. If denied,
- **File Request for Hearing**. If denied,
- **Request Review by the Appeals Council**. If denied,
- **File in Federal Court.**

Initial application:

All SSDIB or SSI claims begin by filing an initial **application** .

Your application is forwarded to the Disability Determination Services (DDS) office in Stone Mountain to be reviewed and evaluated by a disability adjudicator and physician or psychologist. If the medial records Social Security has access to do not give them enough information, you may be asked to take a special examination called a "consultative examination." This exam may or may

not be with a doctor you have seen in the past.

You will received written notice from Social Security once your claim has been decided. If your claim is approved, the notice will show the amount of you benefits and when payments will begin. If it is denied, the notice will explain why. Unfortunately, 68% of initial applications can be expected to be denied at first. Never doubt that Social Security is more likely to deny a claim than to pay a claim! ***You do have a right to challenge an adverse determination.***

If your initial application is denied, you must file an appeal within sixty (60) days or you will lose your right to appeal and the last decision Social Security made will become final. Don't delay! Call our office today if you would like to enlist us to assist you in filing for your reconsideration. We know it is often difficult for clients to travel, therefore we have made it east to do most contact with you through the mail, telephone and e-mail. It is not necessary for your to frequently come to our offices. Social Security law is complex, and proving a disability case is not easy work.

Request for Reconsideration:

Your first appeal is to request "reconsideration" of your initial application. *Contact our office and let us assist you in determining whether you have a reasonable chance of success on appeal. There are many factors to be considered, but our training and experience will enable us to realistically analyze you case.*

"Reconsideration" is a complete review of your claim by someone who had no part in the first decision. That person is supposed to review all of the original evidence used to make the first decision, plus any new evidence which may be provided with the reconsideration process. Again, you will received a letter explaining the reconsideration decision. It will come as no surprise that the reconsideration appeal decision often seems to be a rubber stamp of the initial decision. Over 85% of the time the reconsideration decision is another denial.

If your reconsideration is denied, you must file an appeal within sixty (60) days or you will lose your right to appeal and the last decision Social Security made will become final. The next appeal process is to request a hearing. Getting a denial is discouraging, but you should not give up! Remember, benefits are often denied to people who have legitimate claims. Normally at the hearing level about 60% of the individuals are successful. At our offices, our clients have a significantly higher success rate.

Please note: If yours is a special type of case, there are certain circumstances when it can be approved without a hearing. Our office is able to determine who might

fall into this category.

Request for Administrative Hearing:

The next stage of the appeals process is to request a hearing before an Administrative Law Judge (ALJ). An ALJ is an individual who works for the Social Security Administration. This is a frustrating part of the process when many claimants become disheartened because of the long waiting time before the actual hearing itself. Currently there are backlogs of over 10,000 cases in each of the two Atlanta hearing offices. When you file your request for an administrative hearing you will get in line behind 10,000 other individuals. The waiting time for a hearing is now nearing twenty to twenty-four months. (There are some special circumstances which allow clients to move ahead of the line more quickly. Generally these circumstances include "dire need" situations where the claimant is about to become homeless or if the person has a terminal illness. Check with our office to see if you may qualify.

The judge will decide on the time and place for your hearing. You and your attorney will receive a "notice of hearing" in the mail with this information approximately 20 days before the hearing date. The hearing itself is quite informal, nevertheless it is a legal proceeding. Attendees will include the judge, an assistant, you and your attorney. In some cases there will also be a medical doctor or vocational expert present to testify. There is no jury. The hearing will be electronically recorded.

Although an attorney can be very helpful earlier, an experienced attorney is especially important in the appeals process and in presenting your case to the judge. Our office will develop and prepare your case to be sure that when your turn comes, you do the best you can at the hearing. Statistically it is at the hearing level that you have the greatest chance for success.

This is the only time in the process you and your attorney will personally be able to present your case. The judge will evaluate the medical evidence your attorney has provided, as well as your individual credibility and demeanor. Preparation with your attorney before the hearing is crucial.

Once your case has been heard by the judge, typically we will both receive a written decision from the Judge in about three to four months. In the vast majority of our cases, this decision is positive, with a finding of disability for our clients.

In those rare instances where, once again your claim should be denied, there are other levels of appeals available to you. Again, you must file for the next appeal within 60 days or lose your opportunity.

Appeals Council Review

Should your case be denied at the hearing level, you can submit a request that the decision be reviewed by the Appeals Council, which is still a part of the Social Security Administration. The Appeals Council reviews requests, but may deny a request if it believes the hearing decision was correct. The Appeals Council does not talk to you or your attorney, but will accept additional evidence if available. Should the Council decide to review your case, it will either decide your case itself, or issue an order returning it to the judge for further action. Again, you will receive a letter explaining their actions.

Federal District Court

If the Appeals Council upholds the denial of your benefits, the final appeal is to file a civil lawsuit in the Federal District Court requesting review of Social Security's decision. The District Court will review your medical evidence and a written transcript of the hearing. No new evidence is allowed. Your lawyer will file a legal brief arguing your side of the case. The District Court will issue written decision. (Usually the decision states one of three findings: reversing Social Security decisions and approving your benefits; upholding the original decision denying benefits; remanding your case back to Social Security for a new hearing.)