

SOCIAL SECURITY DISABILITY

What is Social Security Disability?

Social Security Disability (SSDI) is a payment that is made from the Social Security Administration (SSA) to people who have a severe medical condition that prevents them from working. To receive SSDI, you must

- ! be *insured* under the Social Security Act and
- ! have a *qualifying medical condition*. (If you are blind, you may qualify under a separate, less-restrictive SSA program and SSDI will not apply to you.)

A general overview of the requirements for receiving SSDI follows, but if there is a possibility that you might qualify, you should APPLY for benefits. The SSDI program is complex with many technical exceptions and clarifications and cannot be easily “summarized.”

How do I know whether or not I am “insured?”

A portion of the money that was withheld from your wages by your employer as part of your FICA payment goes toward the Disability Insurance Program. SSA will decide whether you have paid in enough to be fully and currently insured under SSDI. You have to have worked and earned a minimum number of Social Security credits according to your age at the time of your disability. For instance, a general rule is that out of the last 10 years before you became disabled, you must have worked at least five years. This requirement is somewhat less if you are below 30 years of age at the time you became disabled.

If I am not “insured” under Social Security Disability, can I still get a benefit if I am disabled?

If you have not met the requirements to be insured under SSDI, you may still qualify for a benefit under the Supplemental Security Income (SSI) program. SSI does not require that you be “insured” in order to receive a benefit. See the fact sheet that describes that program.

If I am “insured,” how do I know whether my medical condition qualifies me for Disability?

Your medical condition (or disability) must be so serious that it either will prevent you from working for at least one full year or will cause you to die. You cannot get a partial disability or a short-term disability payment from Social Security. And it is not enough that no one will hire you for any job or that you cannot do your old job anymore.

In determining whether your disability qualifies you for SSDI, SSA describes a 5step review process:

- ! **Step 1. Are you working?** If you are working and your earnings average more than a certain amount each month, you generally will not be considered disabled. The

amount changes each year (\$860 in 2006, \$900 in 2007). If you are not working, or your monthly earnings average the current amount or less, then you move on to Step 2.

- ! Step 2.** **Is your medical condition “severe”?** Your medical condition(s) must have more than a slight negative impact on your basic work activities—such as walking, sitting and remembering—for at least one year. If your medical condition is not that severe, you will not be considered you disabled. If your condition is that severe, you move on to Step 3.
- ! Step 3.** **Is your medical condition on (or equal to) the List of Impairments?** SSA has a List of Impairments that describes medical conditions that are considered so severe that they automatically mean that you are disabled. If your condition is not specifically on this list, then it must be as severe as a condition that is on the list in order for you to be considered disabled. If your medical condition does not meet this requirement, then you have to move on to step four.
- ! Step 4.** **Can you do the work you did before?** If your medical condition does not prevent you from being able to do the same kind of work you have done during the last 15 years, then you are not disabled. If it does prevent you from doing that kind of work, then you have to move on to step five.
- ! Step 5.** **Can you do any other type of work?** If you cannot do the work you did in the past, can you do other work considering your age, education, past work experience and any skills you may have that could be used to do other work? Even if no one will hire you to do this other work if you physically can do that work, you are not disabled. If you cannot perform other work, you are disabled.

Do I need to see a special doctor before I can apply?

In determining whether you are disabled, all your relevant medical records will be examined by the evaluator. If an additional, specialized examination is required, however, you will usually be sent to a private doctor to conduct that examination. You do not have to pay for that exam.

What do I need to do to apply?

You can:

- !** Apply online at www.socialsecurity.gov or
- !** Call Social Security at 1-800-772-1213, to make an appointment to either file your claim at your local Social Security office or to have your claim taken over the telephone.

Although it is helpful to have certain information available when you apply (Social Security number, birth certificate, medical and work records, etc.), SSA will tell you what

information or documents you need and will help you get them. Do not wait to apply for benefits while you try to gather information or documents. It can take a long time for SSA to investigate and make a decision on whether you qualify for SSDI. And every day you delay in applying is a day you may not receive a benefit.

Do I need a lawyer to help me apply?

You have the right to be represented by an attorney or other qualified person of your choice (your representative) when you do business with Social Security. Although you generally do not need a lawyer to help you fill out the initial application, some people may find it helpful to talk to a lawyer before they apply. You probably want to have a lawyer review your case if SSA denies your application. Your representative cannot charge or collect a fee from you without first getting written approval from Social Security.

If I qualify for Disability Benefits, can my family also receive benefits?

Certain members of your family may qualify for benefits if you receive SSDI, including:

- ! Your spouse, if he or she is 62 or older;
- ! Your spouse, at any age if he or she is caring for a child of yours who is younger than age 16 or disabled;
- ! Your unmarried child, including an adopted child, or, in some cases, a stepchild or grandchild of the child if the child is under age 18 or is under age 19 if in elementary or secondary school full time;
- ! Your unmarried child, age 18 or older, if he or she has a disability that started before age 22. (The child's disability also must meet the definition of disability for adults.); and
- ! In some situations, a divorced spouse may qualify for benefits based on your earnings if he or she was married to you for at least 10 years, is not currently married and is at least age 62. The money paid to a divorced spouse does not reduce your benefit or any benefits due to your current spouse or children.

Will I get Medicare if I qualify for Disability?

You will get Medicare coverage automatically after you have received disability benefits for two years.

When do my benefits start?

If your application is approved, benefits cannot begin until five (5) months after the date your disability began. You may be able to receive benefits back to a date even before you applied, but your application date, along with the date you became disabled, determine how far back SSA will pay you.

How much will my benefits be?

The amount of your monthly disability benefit is based on your average lifetime earnings.

The Social Security Statement that you receive each year displays your lifetime earnings and estimates your disability benefit. If you do not have your Social Security Statement and would like one, you can request one from Social Security. Website: www.socialsecurity.gov; Toll-free number: 1-800-772-1213.

What if my application for disability is denied?

If you disagree with a decision made on your claim, you can appeal it. SSA will send you a letter when any decision is made on your claim and will tell you how to appeal that decision if you wish. Generally, you must first make a request for reconsideration in writing within 60 days from the date you receive SSA's letter. If your reconsideration request is denied, you can then request a hearing which will usually be held within 75 miles of your home. The next steps include an appeal to the "Appeals Council" and then to a federal District Court.

Because many claims of disability are initially rejected by SSA through the reconsideration stage of appeal, it is usually advisable to appeal a finding that you are not disabled at least through the hearing stage.