

Frequently Asked Questions

HOW LONG DOES DISABILITY LAST FOR?

Disability lasts for as long as your condition continues to keep you from maintaining substantial gainful employment.

CAN THE GOVERNMENT CUT OFF MY BENEFITS?

The government can review your case every few years.

CAN I STILL WORK?

SSA has special rules called “work incentives” that enable you to keep your monthly entitlement and Medicare. There is a trial work period which lasts up to nine months (not necessarily in a row) in which you can earn up to \$620.00. After the trial work period ends, your benefits will stop for months your earnings are over \$860.00. (This figure is subject to change).

WHAT IF I EARN MORE, DO I AUTOMATICALLY LOSE BENEFITS?

Not necessarily. There is a “Ticket to Work” program in which the government encourages people on disability to attempt to return to work. There are restrictions to this program. For an additional 36 months after completing the trial work period, the benefits can begin again if your earnings fall below the \$860.00.

WHAT IF THE GOVERNMENT MADE A MISTAKE IN CALCULATING MY BENEFITS?

You could owe that money back even if the mistake is the government’s fault.



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Bruce Lipsey has represented clients before the Social Security Administration and Workers’ Compensation board for over 10 years. Attorney Lipsey is the former Chairman of the *Massachusetts Workers’ Compensation Sub Committee*, and is a frequent lecturer on workers’ compensation issues. Attorney Lipsey is also a member of the *National Organization of Social Security Claimant’s Representatives*.

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Social Security Disability



What You Need to Know and What the Government Fails to Tell You

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Understanding the Disability System

When people think about Social Security, they think about the money they receive when they retire. The golden age of 65 is meaningful to most because it signals the start of a new relationship with the U.S. government. However, what most people don't think about is receiving Social Security earlier due to disability. This article focuses on the disability system put in place by our government and how to access it if one finds the need to.

There are two different programs within the Social Security system:

Social Security Disability Insurance (SSDI)
Supplemental Security Income (SSI)

SSDI ("disability") is a program that provides income to injured or ill individuals who have paid into the system over the years and who have been disabled for over 12 months or expect to be disabled for at least that long. One must have built up "credits" over the years and have worked **five** out of the last **ten** years while paying into the Social Security system.

SSI is in essence the same type of program but it is geared for those who have not paid into the system over the years sufficiently to have built up credits

and have assets below poverty level. The asset levels change but suffice it to say that if you have income from a spouse or other individuals in your household or you have assets above a few thousand dollars excluding your home or primary automobile, you will be denied SSI. Few people qualify for SSI because of the rigid standards.

The Process

APPLICATION

Your first introduction to Social Security will be the application stage. It is a lengthy application and is usually associated with an interview at the local Social Security office. **DON'T GET INTIMIDATED!** These folks simply want to get the information completed and forward it along for review. Most claimants get rejected at this stage. **Due to the new system that will go into effect in August of 2006, attorneys are recommended at the application stage.**

FEDERAL REVIEWING OFFICIAL LEVEL

Once you have been rejected, you will have to file an appeal. A lot of documents have to be gathered and filed. However, even with counsel, most applicants will

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potentially fail at this point. It is hard to explain why this happens except that the government wants people to give up. **DON'T GIVE UP!**

REQUEST FOR HEARING

The third stage involves the request for a hearing before an administrative judge. This could take an additional 8-10 months. Why? The government wants you to throw up your hands and walk away. As hard as it is to literally survive during this waiting period, the odds of prevailing ultimately when you appear before a

judge with competent counsel goes up dramatically. A hearing is relatively informal but it is absolutely critical that the case is prepared properly with the medical evidence securely in place.

A decision will be made in writing and sent to the parties shortly thereafter. Benefits start from the date your disability started (but no more than 12 months prior to your application). For example, let's say you became disabled on 1/1/03. You applied 8/1/04. The award would go back to 8/1/03. There is also a five-month waiting period to start collecting the benefits.

You would also become entitled to **MEDICARE** after two years of qualifying for disability.

Conclusion

The system is confusing and discouraging. But don't give up. **Get help and keep moving forward.**

I have practiced Disability Law for over 10 years and am proud to be a member of the *National Organization of Social Security Claimant's Representatives*. Call me today to discuss any of these issues.

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