

Law Bulletin

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SOCIAL SECURITY DISABILITY

By David Kimberley

If you have been seriously injured or have an illness that prevents you from working, you should consider whether you may be entitled to Social Security benefits for your disability. There are two categories of benefits to consider, depending upon your circumstances. If you have contributed to the Social Security Fund from your wages for the required period of time, then you may qualify for Social Security Disability Insurance (SSDI). If you haven't put into the fund the required number of quarters for that period, then you might still be eligible for Supplemental Security Income (SSI).

SSDI is usually a considerably larger benefit than SSI, depending on the amount you contributed to the fund during your working life. Both come with Medicare health insurance benefits. You become eligible for Medicare coverage after two years from the date you became disabled. If you are eligible for SSI, the income level of other members of your household may influence your qualification with SSDI. With SSDI, family income is not a factor.

The inability to perform any substantial, gainful employment is the requirement to qualify for SSDI and SSI benefits.. "Substantial" employment is anything that requires substantial work activity - which means, the ability to engage in work of at least a sedentary nature for at least six hours out of an eight hour day. "Gainful" means any type work activity for which a person is usually paid.

The Social Security Administration (SSA) will look at your previous work history, your age, education, and work experience to determine your abilities after your illness or injury, and your prospect of being retrained. If the SSA determines you are unable to return to your previous work, it then determines if there are any type of jobs available in the area in any substantial numbers that you could do. If the SSA determines that there are none, then you qualify. If it determines there are jobs available within your capacity and skills from your previous work, then you will be turned down, but you can appeal to the SSA Administrative Law Judge.

Lawyers can help you since they know what questions should be asked of the doctors concerning your injuries and the limitations they place on you,

whether a physical capacities evaluation should be done, and whether you need a vocational disability expert to provide you with an evaluation. There are examples of information that could be integral to the success of your case that the SSA will not necessarily obtain on its own.

You have to start the process with the Social Security Administration yourself. At that point, attorneys are generally not involved. If benefits are denied, and you apply for a hearing with an Administrative Law Judge, you can obtain a lawyer to represent you. Regulations allow "contingency" fees (**meaning there is no fee unless you win benefits**) based on 25% of "past due" benefits, along with certain other restrictions.

Once you hire an attorney, they can provide the information the Administrative Law Judge needs to make a decision. The attorney will go with you to a hearing, and present your case before the Judge. Then it will be the Administrative Law Judge's responsibility to determine if you are eligible to receive benefits.

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