

The top half of the cover features a close-up, slightly blurred image of the American flag, focusing on the stars and stripes. The stars are white on a dark blue field, and the stripes are red and white.

Social Security Disability Benefits

A Guide to Social Security Disability



**Important information
for Veterans inside!**

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Social Security Disability Benefits

Social Security pays disability benefits under two programs: the Social Security disability insurance program (SSDI) and the Supplemental Security Income (SSI) program. The medical requirements for disability payments are the same under both programs and a person's disability is determined by the same process. While eligibility for Social Security disability is based on your prior work history, SSI disability payments are made on the basis of financial need. And there are other differences in the eligibility rules for the two programs.

Please note: This document and brochure contains general discussions regarding very complex legal issues. This is not legal advice for your specific legal issue or claim advice. There is no attorney client relationship between you and Roger Ritchie, Jr. by using this document.

12 ANSWERS TO COMMON SOCIAL SECURITY DISABILITY QUESTIONS

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1. HOW CAN I TELL IF I AM DISABLED ENOUGH TO APPLY FOR SOCIAL SECURITY DISABILITY BENEFITS?

Social Security regulations make it easier to be found disabled as you get older. It becomes easier for a few people at age 45 (those unable to read English), for some people at age 50, for more people at age 55, and even more people at age 60. If you're over age 55 and you cannot do any job you have done in the past 15 years, you should definitely apply. If you're over age 50 and have a severe impairment that keeps you from doing all but the easiest jobs, you ought to apply.

But even if you're a younger person, you don't have to be bedridden in order to be found disabled. If you're under age 45 or 50 and you cannot do your past jobs and you cannot work full time at any regular job, which ought to be enough.

Nevertheless, being unable to work and being found "disabled" by the Social Security Administration (SSA) are two different things. It is often difficult to convince SSA that someone is "disabled" even when he or she genuinely cannot work. But it is not impossible.

If you really cannot work full-time, apply for disability benefits with SSA. And keep appealing denials at least up to or through the hearing before an administrative law judge. If you lose at a hearing, sometimes a lawyer with experience handling disability cases can figure out a way to win your case by pursuing the next appeal – to the Appeals Council.

2. HOW DO I APPLY FOR SOCIAL SECURITY DISABILITY OR SSI BENEFITS?

The Social Security Administration (SSA) offers three ways for you to apply for Social Security disability benefits:

- By telephone.
- In person at a local Social Security office.
- By the Internet/online.



If you want to complete an application for SSI or Social Security disability by telephone or in person, you must first telephone SSA at **1-800-772-1213**. If you choose to go a Social Security office to complete the application, the person at the 800 number will schedule an appointment for you, give you directions to your local Social Security office, and tell you what papers you need to bring along. If you want to apply by phone, you will be given a date and an approximate time to expect a phone call from someone at the Social Security office who will take your application over the phone. The application will then be mailed to you for your signature.

If you would like to apply over the Internet, please visit <http://www.ssa.gov/applyfordisability>. If you want to apply for SSA's other disability program — Supplemental Security Income (SSI) —you cannot complete a SSI application online but you can complete one of the necessary supporting documents, the Adult Disability and Work History Report, on the Internet.

3. DO YOU HAVE ANY ADVICE ABOUT APPLYING FOR DISABILITY BENEFITS?

Yes. Give SSA all the information it asks for in a straightforward way. Be truthful and detailed. Do not exaggerate or minimize your disability. When you complete the Disability Report, a form that SSA requests completed at the time the application is submitted, explain how your medical impairment(s) keep you from working. If you're under age 50, your explanation must show why you cannot do any job you have done in the past 15 years and why you cannot do an easy full time job.

4. WHAT HAPPENS IF I AM DENIED BENEFITS AND I DO NOT APPEAL WITHIN 60 DAYS?

You may have to start over with a new application — and it may mean that you'll lose some back benefits. So it's important to appeal all denials within 60 days. Under limited circumstances and for good cause shown, you may have their original decision reversed. It's better if you appeal right away so that you get through the bureaucratic denial system faster. The quicker you can get to the hearing stage the better.

5. HOW DO I APPEAL?

Your denial letter will tell you about appealing. The first appeal is called a "reconsideration." You must request reconsideration and then, after the reconsideration is denied, you must request a hearing within the 60-day time limit.

You can appeal in one of three ways:

- (1)** Telephone the Social Security Administration and make arrangements for your appeal to be handled by phone and mail.
- (2)** Go to your local Social Security office to submit your appeal. If you go to the Social Security office, be sure to take along a copy of your denial letter. And be sure that the Social Security representative gives you a signed copy of your appeal paper showing that you appealed on time.
- (3)** Appeal online at <https://secure.ssa.gov/apps6z/iAppeals/ap001.jsp>. Be sure to print and retain the receipt for your appeal so that you can prove you appealed on time.

6. WHAT ARE THE TWO BIGGEST MISTAKES PEOPLE MAKE WHEN TRYING TO GET DISABILITY BENEFITS?

Failing to appeal. More than half of the people whose applications are denied fail to appeal. Many people who are denied on reconsideration fail to request a hearing.

Another mistake, although much less common, is made by people who fail to obtain appropriate medical care. Some people with long-term chronic medical problems feel that they have not been helped much by doctors. Thus, for the most part, they stop going for treatment. This is a mistake for both medical and legal reasons. First, no one needs good medical care more than those with chronic medical problems. Second, medical treatment records provide the most important evidence of disability in a Social Security disability case.

7. SINCE MEDICAL EVIDENCE IS SO IMPORTANT, SHOULD I HAVE MY DOCTOR WRITE A LETTER TO THE SOCIAL SECURITY ADMINISTRATION AND SHOULD I GATHER AND SEND MEDICAL RECORDS TO SSA?

SSA will gather most medical records from healthcare providers made known to them, so you can relax about this aspect. Whether you should ask your doctor to write a letter is a hard question. A few people win their cases by having their doctors write letters. You can try this if you want to. The problem is that the medical-legal issues are so complicated in most disability cases that a doctor may inadvertently give the wrong impression. Thus, obtaining medical reports may be something best left for a lawyer to do because the lawyer will seek what is especially needed for each severe medical condition.



8. WHEN IS THE BEST TIME FOR A LAWYER TO GET INVOLVED IN MY CASE?

Many people wait until it is time to request a hearing before contacting us to represent them. Although everyone agrees that a lawyer's help is essential at the hearing and the great majority of people who have lawyers win their cases at a hearing, how necessary it is to have the help of a lawyer at the early stages is a subject with arguments on both sides. Each hearing office district varies, but more than one-third of those people who apply will be found disabled after filing the initial application without a lawyer's help. About 15% of those who request reconsideration are found disabled at the reconsideration stage, mostly without a lawyer's help. If you are successful in handling the case yourself at the initial or reconsideration steps, you will save having to pay attorney's fees. With the exception of terminal illnesses and severe physical and mental conditions associated with extended hospital stays, a lawyer makes a substantial difference.

If you want us to consider representing you at the reconsideration stage, we will provide to SSA all of your medical providers' names and addresses as well as gather the missing medical records so that we have enough information to evaluate your case.

If you want us to consider becoming involved in your case at the initial or reconsideration steps, please telephone or email us to discuss your situation. Otherwise, the best time to call us is as soon as you get the reconsideration denial and have appealed and requested a hearing.



9. HOW MUCH DO LAWYERS USUALLY CHARGE?

Most clients prefer—and most lawyers offer—a “contingent fee,” a fee paid only if they win. The usual fee is 25% (one-quarter) of back benefits up to a maximum amount set by SSA, which is currently \$6,000. The fee comes from those benefits that build up by the time you are found disabled and benefits are paid. Clients are responsible for costs (costs are not fees). No fee comes out of current monthly benefits.

Although the usual fee will not normally exceed the maximum fee of \$6,000, if your lawyer has to appeal after the first administrative law judge hearing, your contract might allow for a fee greater than \$6,000. Even in this circumstance, though, your fee is likely to not be greater than 25% of back benefits. In some instances, your claim must be appealed to U.S. Federal Court.

In addition to the attorney’s fee, you are typically responsible for paying the expense and cost of gathering medical records and obtaining medical opinion letters. Your attorney’s fees should be paid by the SSA if you prevail.

10. WHAT IS THE DIFFERENCE BETWEEN MEDICARE AND MEDICAID?

Medicaid is a health care program for people with low incomes and limited assets. In most states, children who get SSI benefits qualify for Medicaid. In many states, Medicaid comes automatically with SSI eligibility. In other states, you must sign up for it. And some children can get Medicaid coverage even if they don’t qualify for SSI. Check with your local Social Security office for your state or county social services office for more information.

Medicare is a federal health insurance program for people 65 or older, and for people who have been getting Social Security disability benefits for two years. Because children, even those with disabilities, do not get Social Security disability benefits until they turn 18, *(cont.)*

(cont.) no child can get Medicare coverage until he or she is 20 years old.

The only exception to this rule is for children with chronic renal disease who need a kidney transplant or maintenance dialysis. Children in such a situation can get Medicare if a parent is getting Social Security or has worked enough to be covered by Social Security.

11. DO I HAVE TO APPEAR AT MY HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE TO WIN?

You should attend your hearing. If you do not wish to appear in person at the hearing, you must let SSA know in writing when you request the hearing. Give your reasons, and ask the Administrative Law Judge (ALJ) to make a decision based on the evidence in your file, along with any new evidence. If the ALJ has the hearing you can have witnesses appear on your behalf who can testify to your physical and/or mental limitations and impairments. However, we recommend you appear if you want to make certain that your medical problems that limit your activities and prevent you from working are fully considered.

12. DOES MY WORKERS COMPENSATION, LONG-TERM DISABILITY OR AUTOMOBILE INJURY CLAIM PAYMENTS PREVENT ME FROM OBTAINING SOCIAL SECURITY DISABILITY BENEFITS OR SSI?

Generally, these benefits do not prevent obtaining SSDI benefits. In some instances, a reduction or offset may apply to your Social Security disability benefits. However, the other benefits described above can prevent you from obtaining your SSI benefits. Many times, a lawyer can help maximize your SSDI benefits if he or she knows about the other benefits you are receiving.



SPECIAL INFORMATION FOR VETERANS

If eligible, SSA provides disability benefits to injured Veterans. The main criteria is that for at least 12 months or expected to last 12 months, you cannot engage in substantial work activity for pay or profit, also known as substantial gainful activity due to physical or mental medical conditions. Active duty status and receipt of military pay does not, in itself, necessarily prevent payment of disability benefits. Receipt of military payments should never stop you from applying for disability benefits from Social Security. If you are receiving treatment at a military medical facility and working in a designated therapy program or on limited duty, SSA will evaluate your work activity to determine your eligibility for benefits. The actual work activity is the controlling factor and not the amount of pay you receive or your military duty status. I define SGA as Full Time work— not the exact words of SSA but close.

MORE INFORMATION FOR VETERANS

Monthly retirement, disability and survivor benefits under Social Security are payable to veterans and dependents if the veteran has earned enough work credits under the program. Upon the veteran's death, a one-time payment of \$255 also may be made to the veteran's spouse or child. In addition, a veteran may qualify at age 65 for Medicare's hospital insurance and medical insurance. Medicare protection is available to people who have received Social Security disability benefits for 24 months, and to insured people and their dependents who need dialysis or kidney transplants, or who have amyotrophic lateral sclerosis (more commonly known as Lou Gehrig's disease).

Since 1957, military service earnings for active duty (including active duty for training) have counted toward Social Security and those earnings are already on Social Security records. Since 1988, inactive duty service in the Reserve Component (such as weekend drills) has also been covered by Social Security. Service members and veterans are credited with \$300 credit in additional earnings for each calendar quarter in which they received active duty basic pay after 1956 and before 1978.

Veterans who served in the military from 1978 through 2001 are credited with an additional \$100 in earnings for each \$300 in active duty basic pay, up to a maximum of \$1,200 a year. No additional Social Security taxes are withheld from pay for these extra credits. Veterans who enlisted after Sept. 7, 1980, and did not complete at least 24 months of active duty or their full tour of duty, may not be able to receive the additional earnings. Check with Social Security for details. Additional earnings will no longer be credited for military service periods after 2001.

Also, non-contributory Social Security earnings of \$160 a month may be credited to veterans who served after Sept. 15, 1940, and before 1957, including attendance at service academies. For information, call 1-800-772-1213 or visit www.socialsecurity.gov/. (Note: Social Security cannot add these extra earnings to the record until an application is filed for Social Security benefits.)

For more information, please visit:

<http://www.socialsecurity.gov/woundedwarriors/>



ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME (SSI)

Those 65 or older and those who are blind or otherwise disabled may be eligible for monthly Supplemental Security Income (SSI) payments if they have little or no income or resources. States may supplement the federal payments to eligible persons and may disregard additional income.

Although VA compensation and pension benefits are counted in determining income for SSI purposes, some other income is not counted. Also, not all resources count in determining eligibility. For example, a person's home and the land it is on do not count. Personal effects, household goods, automobiles and life insurance may not count, depending upon their value. Information and help is available at any Social Security office or by calling **1-800-772-1213**.



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Skip Ritchie is a civil lawyer and consumer advocate who has litigated hundreds of injury cases. He has extensive experience handling Social Security disability claims. Skip has been successful obtaining benefits for seriously ill and injured persons before the Social Security Administration and in U.S. Federal Court. Several of his wins in U.S. Federal Court have been featured in the monthly publication of the National Organization of Social Security Claimants' Representatives (*NOSSCR Forum*).

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