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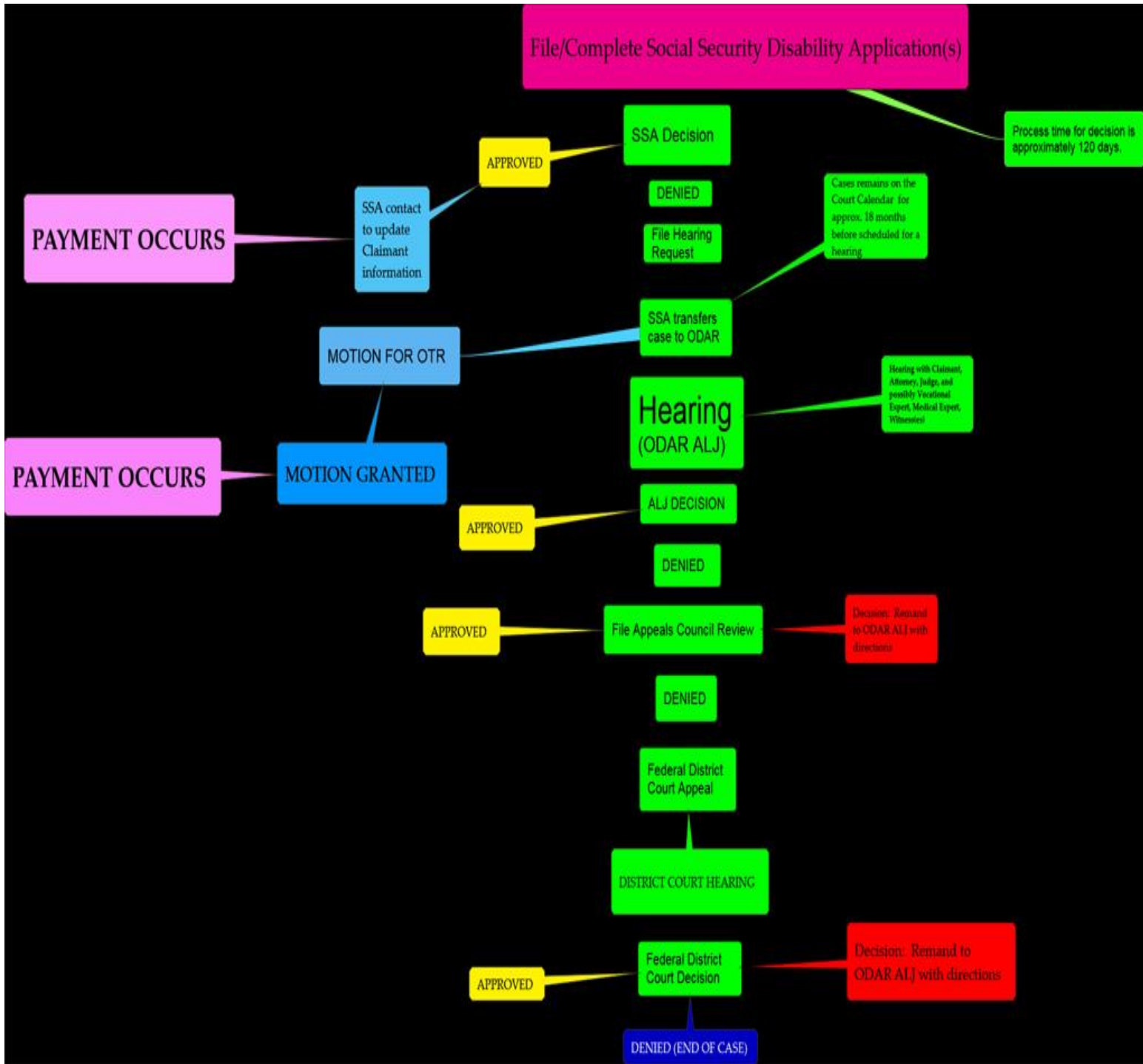
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## **WHAT TO EXPECT WHEN YOU ARE APPLYING FOR SOCIAL SECURITY DISABILITY**

You are injured or diagnosed with a disease or illness which has left you unable to work and with limited income. You begin to have discussions with your family and friends to decide whether Social Security Disability is an option for you to pursue. Unsure what to do, what to expect or how to proceed, one may become anxious and over-whelmed with the application process. In order to take the mystery out of the process, I offer a brief overview of the Social Security Disability application process from start to finish. The overview is to help those applying for Social Security Disability benefits understand what is involved and what you are up against in a brief step-by-step process format. The overview is not intended to provide legal advice. Any legal advice or legal questions should be directed to an attorney hired by you to review your specific case and to advise you accordingly. This overview is provided for simply one reason, to prepare you for the Social Security Disability application process.



Social Security Disability process flowchart

## I

# The Application

First, you must decide whether to file the Social Security Disability application(s) on your own or have someone help you complete the application(s). You have three options on how to file: online, at the Social Security Administration District office or by an attorney/representative.

## **ONLINE FILING**

In order to begin the filing process, go to [www.ssa.gov](http://www.ssa.gov), click on the “disability” button and then click on the “apply for disability” button. Filing online will require you to complete a benefit application; adult disability report on your medical, employment and educational history, medical release(s) and provide other information. You will be timed on each section and allotted approximately 30 minutes to complete each section. Failure to complete the section within the time allotted will induce a warning to either finish the section or logoff and log back on later. The Social Security Administration (SSA) will recommend you print each section upon completion in order to retain a copy and confirm a successful electronic filing. After Social Security processes your application, SSA may contact you to complete additional forms about your daily activities, pain levels and to provide further detailed information regarding your application. Overall, the application typically takes someone with minimal application processing experience multiple hours to complete the application and approximately 120 days for the Administration to render a decision regarding your application.

You must decide if you need to file a Supplemental Security Income application. A Supplemental Security Income application is for individuals who are disabled and either worked but not long enough to qualify for Social Security Disability benefits or never have worked.

## **FILE AT LOCAL SSA DISTRICT OFFICE**

In order to file your application at your local Social Security office, you must identify where the nearest SSA office is located. Website [www.socialsecurityhop.com](http://www.socialsecurityhop.com) will assist you in identifying the closest SSA branch. Just simply type your zip code and you will be informed of the closest branch address(es). Once you have located your local branch, I strongly recommend getting there at 8:30AM or 9:00AM sharp (some offices open to the public at 9:00AM). Upon arrival, you will be instructed by a security officer to logon the claimant computer located in the reception area your name and reason for your visit. Once you complete the check-in, the computer will print out a receipt with an appointment number. Once your number is called, you will proceed to the employee window to answer a couple of questions and will be escorted to the Claims Representative’s desk. Be aware, you will be in close proximity of his or her co-workers while you are divulging your marital, medical, employment, and educational histories. You should plan on spending at least an hour or more with the Claims Representative. At the

conclusion of the interview, the Claims Representative shall provide you with an application receipt. This receipt proves you completed a Social Security Disability/Supplemental Security Income application(s) and that the Administration shall render a determination of whether you qualify or not for the benefits within approximately 120 days.

Also, you may be able to complete the interview by telephone. However, you will have to wait for a telephone appointment letter. The letter will designate a date and time you and the Claims Representative shall complete the application over the phone. Upon completion of the application, the Claims Representative shall forward to you application documents. You must review, sign and return the documents to the Social Security Administration. Failure to do so shall prevent your application from being processed due to incompleteness.

### **APPLICATION FILED BY ATTORNEY**

You may decide that the complexity of completing a Social Security Disability/Supplemental Security Income application(s) should be best left to someone experienced in filing disability applications/appeals and is hired by you to represent “your best interests” during the application process. The decision to hire an attorney is an important decision. Pick the wrong attorney and you may be no better off than if you went through the process alone. Factors to consider are SSD law experience, knowledge of the process and the forms, fee arrangement, your personal needs, ability to achieve results, and other factors.

- An experienced attorney knows the Code of Federal Regulations (20 CFR), SSA rules, SSA listings, HALLEX, and current case law.
- An experienced attorney is skilled in cross-examining vocational experts, medical experts and witnesses.
- An attorney with SSD law knowledge knows how to complete the application, applicable forms and appeals in the “most favorable light”. This gives you an edge against the Administration. If you complete the application wrong or misstate your information, you can lose thousands of dollars or be denied benefits. A knowledgeable attorney can do this for you.
- Attorney fees vary. An attorney can file a fee petition or opt for a contingency fee agreement. An attorney can charge for the costs of your medical records, postage charges, photocopying charges, and other “pass through” charges. Therefore, it is best to confirm the fee for legal services.
- Do you want the attorney you hire to personally handle your case? Will you meet with the attorney you want to hire or an associate attorney employed by the firm? Is personal attention important to you? Does it matter if the attorney has an understanding that the disabled have special needs? Before you schedule that appointment, ask who you are going to meet with. What attorney will personally handle your case? The bigger the firm, the less likely these needs will be met.
- Inquire with the attorney about success rates.

- Do your research, ask questions and make an informed decision when hiring an attorney to represent you.

## II

# ODD INVESTIGATION

(Office of Disability Determinations)

Now that you have applied for Social Security Disability benefits, your application/file is transferred to the New York State Office of Temporary and Disability Assistanes Division of Disability Determinations (ODD). This Agency is responsible for completing the medical investigation about you. The ODD is designated to obtain additional personal information regarding your Social Security Disability application. A disability analyst will be assigned your case and the investigation begins. The disability analyst will canvas your medical treatment sources for medical records, contact you to verify information, and more likely than not, schedule you for a consultative examination. A consultative examination is an examination conducted by a physician or psychologist on behalf of the Socials Security Administration. The examination is conducted in order to provide further information about you to the Social Security Administration. You must cooperate and attend the examination. Failure to cooperate with the Disability Analyst shall inhibit your application and may cause you to be prematurely denied without a complete medical investigation conducted. Once the disability analyst completes his/her investigation, your file is transferred back to the local Social Security office with a decision recommendation. The Social Security Administration will then issue an official decision regarding your application in writing to you.

## III

# SOCIAL SECURITY DECISION

(appeal rights and timelines)

After approximately 120 days have passed, Social Security will render a decision regarding whether you qualify for Social Security Disability benefits or not. The Administration shall issue the decision in writing. It is presumed by the Administration that you/your representative received the decision within 5 days from the date of the decision. It should be noted that the majority of the applicants (approximately 64% in 2010) are denied Social Security Disability benefits. If you are granted benefits, Social Security will request you contact them to update their records and for you to provide other pertinent information such as; a bank account number

for direct deposit of benefits, birth certificates of any children (auxiliary beneficiaries), current address and phone number and other pertinent information.

If you were denied Social Security Disability benefits, you will have 60 days from the date of the decision to file your appeal. You may file your appeal four ways: online, by mail, in person at your local Social Security Disability office, or by a representative/attorney. *See chapter 1 for filing options.*

In order to file an appeal (better known as the hearing request), you must complete a Request for Hearing (HA-501-U5 form), medical release(s) (SSA-827) and a Disability Report – Appeal. The appeal should take you less time to complete than your application. At the conclusion of filing your appeal, you will be provided a receipt which serves as confirmation that you filed your appeal. *See Chapter one for receipt information.*

Once you file an appeal, the Social Security Administration will transfer your case to the Office of Disability Adjudications and Review (ODAR). Your case is then placed on a “waiting to schedule” calendar for approximately 18 months. Yes, it will probably take at least 18 months before you get your day in Court. It is a very slow process because the Court (ODAR) that hears these matters has a large number of cases pending for a court date and limited amount of judges to hear the cases.

#### IV

## HEARING AT ODAR

(How long and who will be there)

After about almost two years from the date you filed your initial application, you will have your day in Court. You will get to present your case and have an opportunity to convince the Administrative Law Judge that you are disabled and unable to perform substantial gainful activity on a regular basis. Your goal is to persuade the Judge to find you disabled pursuant to or equal to a Rule or listing set forth under the Code of Federal Regulations (20 CFR).

The hearing itself shall include a Judge, his or her clerk and you. The hearing may include a vocational expert and/or medical expert and any witnesses you deem appropriate to support your case. Of course, you may choose to have an attorney there with you to protect your rights and interests during the proceeding and to advocate on your behalf.

The hearing usually lasts about 1 ½ hours, but may go as long as 3 hours + due to your testimony, witness(es) testimony and the testimony of medical and/or vocational expert(s). The

Judge will begin the hearing, which is digitally recorded, by providing some basic instructions. You will be sworn in and placed under oath.

In the alternative, if your case is transferred to an ODAR Court out of your federal district, your hearing will be held via satellite at your local ODAR Court with a non-local judge. The presiding judge over your case will actually be in another city while you testify in the local ODAR Court. Therefore, it is possible to have your witnesses with you in the local ODAR Court and the Judge located in a separate ODAR Court. Also, the Administration may request the experts to appear in the ODAR Court where you are located, where the Judge is located, or in another location with testimony provided via telephone.

The hearing will end by the Judge closing the record. On a rare occasion, the Judge will hold the record open to allow you additional time to submit medical documentation to support your disability case. Thereafter, the Judge will render a written decision regarding your case. The approximate waiting period for a written decision from the Judge is 60 - 90 days. If you are approved disability benefits, your case will be transferred to the local Social Security office for payment processing. If you are denied Social Security disability benefits, you will have 60 days from the date of the hearing decision to file an appeal (Request for Review by the Appeals Council). An appeal at the Appeals Council traditionally takes over 12 months before you receive a decision.

If you are denied again, you will have 60 days from the date of the Appeals Council decision to file your last appeal available. The Court to file such an appeal is Federal District Court. Note, Federal District Court accepts only appeals which are filed in accordance to very specific standards and rules. The Court may dismiss your appeal based upon non-compliance of these appeal filing requirements, even without reviewing your case. It is for this reason, the Court basically does not allow non-attorneys to go “Pro Se”; meaning, act or represent one’s self in these cases. Further, in order for an attorney to represent you in Federal District Court, he or she must be admitted to practice in Federal District Court. Not all attorneys are admitted to practice in Federal District Court.

## V

# **LAST REMARKS**

## (OVERVIEW OF THE PROCESS)

Suffering from a disease or illness can leave you vulnerable and confused. Knowledge of the application process coupled with an understanding of how the process works gives you with an edge. Removal of the process confusion shall make you a stronger applicant and prepare you for the long process ahead. Your edge is the understanding of “what to expect when applying for

Social Security Disability benefits”. Your knowledge enables you to make informed decisions versus reactionary decisions. Thank you for your interest in my overview. The overview was provided for informational purposes only. It is not legal advice. It is simply an overview to help you know *“what to expect when you apply for Social Security Disability benefits”*.

## VI

## BEE ARTICLE

Looking for more helpful application tips? The Bee Article published September 21, 2011 is a great place to start.

### Applying for Social Security Disability benefits? Here’s what to expect and do

You may file your application(s) on your own or with the help of an attorney. You may file online at [www.SSA.gov](http://www.SSA.gov) or at a local SSA office. Be prepared to provide mandatory medical information, work history, and other pertinent information. The average application receives a decision within 120 days and about one-third are approved initially. According to the Social Security Administration, 64% of 2010 filed applications (excluding child and disabled widower applications) received a denial based on SSA guidelines. See [www.socialsecurity.gov/OACT/STATS/dibStat.html](http://www.socialsecurity.gov/OACT/STATS/dibStat.html). If you are denied, you are entitled to an appeal. However, due to a backlog in cases, expect a hearing date scheduled approximately 18 months from your appeal filing date. What can you do



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to help your case win approval?

First, complete the forms correctly. The Administration can deny you benefits based upon non-compliance issues such as; incomplete applications, inaccurate applications, and failure to submit requested forms in a timely manner. Second, gather medical and vocational evidence. Third, analyze your case under the Social Security regulations and make your argument to the Administration. Fourth, prepare your testimony and cross-examination questions for medical and vocational witnesses. For more about the process, visit [www.socialsecurityesq.net](http://www.socialsecurityesq.net).

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