

Social Security Disability Benefits

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Overview

- SSDI versus SSI
- Insurance benefits
- Financial Planning
- Before Starting the Disability Application
- SSA Application Process
- What to do While Application is Pending
- Frequently Asked Questions

Social Security Act §223

An individual shall be determined to be under a disability only if his/her physical or mental impairment or impairments are of such severity that he/she is not only unable to do his/her previous work but cannot, considering his/her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he/she lives, or whether a specific job vacancy exists for him/her, or whether he/she would be hired if he/she applied for work.

http://www.socialsecurity.gov/OP_Home/ssact/title02/0223.htm

Benefit Types

Social Security Disability Insurance (SSDI) – Title II

Benefits

- Earnings requirement
 - Date last insured

Resource limit

- None (not based on financial need)

Payments to dependent children

- Available

Supplemental Security Income (SSI) – Title XVI

Benefits

- Based on financial need
- No earnings requirement

Resource limit

- \$2,000 individual
- \$3,000 couple

Payments to dependent children

- Not available

Insurance Benefits

SSDI

- 24 months after date of entitlement (not eligibility), individual will be automatically enrolled in **Medicare A&B**
- Can choose to opt out if already covered

SSI

- Automatically eligible for **Medicaid**
- Each state's requirements vary, some require a separate analysis with additional documentation
 - Some will automatically enroll upon receipt of favorable disability determination

Before Starting the Disability Application

- Financial planning
- Work below Substantial Gainful Activity (SGA)
- Get your Date Last Insured (DLI)
- Medical care
- Choose your Onset Date
- Advocate for yourself!

Financial planning

- Plan ahead for financial stability during the application process
 - Does your employer offer short/long term disability?
 - You can receive STD/LTD while applying for disability.
 - Most LTD providers require you apply for disability -> in the event you are approved and you receive back pay, you will likely have to pay back LTD provider.
 - Private insurance policies (wage insurance, disability insurance etc.)
 - These options may also be at a cost to you prior to being able to access the benefits provided.
 - Discuss with your employer if you're eligible to be offered FMLA
 - This could be beneficial for both the patient and their spouse/caregiver if time away from work is needed.
 - Unpaid time off, but provides job protection and insurance coverage
 - If you take limited FMLA and continue working part-time, your earned income will be counted as SGA
 - COBRA Insurance
 - Will allow you to keep your current health insurance coverage after ending employment.
 - However, cost of keeping that insurance is usually significantly greater than the premium through the employer.
- *There is no standard timeline for applying for disability, you have to determine what works best for you*
 - You can continue working while your application is pending if you meet certain criteria

Substantial Gainful Activity

- Must make less than \$1,220 per month GROSS (before taxes) before applying for disability
 - \$2,040 per month if blind
- Can continue to work while application is pending if making less than SGA
- Amount changes every year

Date Last Insured

- DLI lets you know if you are still eligible for SSDI benefits
 - Can create a mysocialsecurity.gov account to determine eligibility

Disability	
You have worked enough credits to qualify for disability benefits.	
If you become disabled right now your estimated payment would be:	\$1,189 a month
Apply Online for Disability	

- DLI is based completely on your personal work history
- Disability Credits Expire
 - Generally have 5 years to apply once you stop working
 - Gaps in work history will impact DLI
- Must call Local or National Social Security office
- Example:
 - March 31, 2020
 - June 30, 2020
 - September 30, 2020
 - December 31, 2020

Old DLI

What happens if you have an old DLI?

- It is possible to get a disability approval with an old DLI, but it is a lot more complicated
- SSDI: Need medical evidence prior to DLI indicating you had symptoms of HD at that time and it caused an inability to work
 - *It is okay if you did not have a formal dx of HD prior to DLI, but there needs to be medical evidence*
 - **If there is no medical evidence then there is no claim for SSDI**, but you may be eligible for SSI
- SSI: You have to meet the strict financial requirements
 - In some cases, couples have to get divorced so the HD patient can meet the financial eligibility requirements
 - Create a Special Needs Trust

No DLI

What happens if you do not have a DLI?

- **Did not work or did not work enough**
 - *SSI is your only option*
- **Did not pay into the SSA system**
 - *Private pension program*
 - You may still be eligible for the nonfinancial SSDI benefits - Medicare
 - Apply for disability under the private program

Medical Care

- See physicians on a regular basis
 - Get treatment from a relevant specialist
 - Collect business cards for each
 - Follow prescribed treatments
- Be mindful and honest in speaking to your physician
 - Don't undermine or discount symptoms
- Journal
 - Good and bad days
 - Symptoms
 - Medication side effects
 - Activities of daily living
 - Limitations due to symptoms

Onset Date

- Date you allege your disability started
 - Required for disability application
- Things to take into account:
 - When you stopped working
 - When you had medical evidence of your condition – HD gene test is not enough
- Date is very important and can be the difference between getting approved or denied

5 Step Sequential Evaluation

Step 1

Is the person engaged in substantial gainful activity? (SGA)

Step 2

Does the person have a medically determinable impairment or a combination of impairments that is considered “severe”?

Step 3

Does the person’s impairment or combination of impairments meet or medically equal the criteria of an impairment listing?

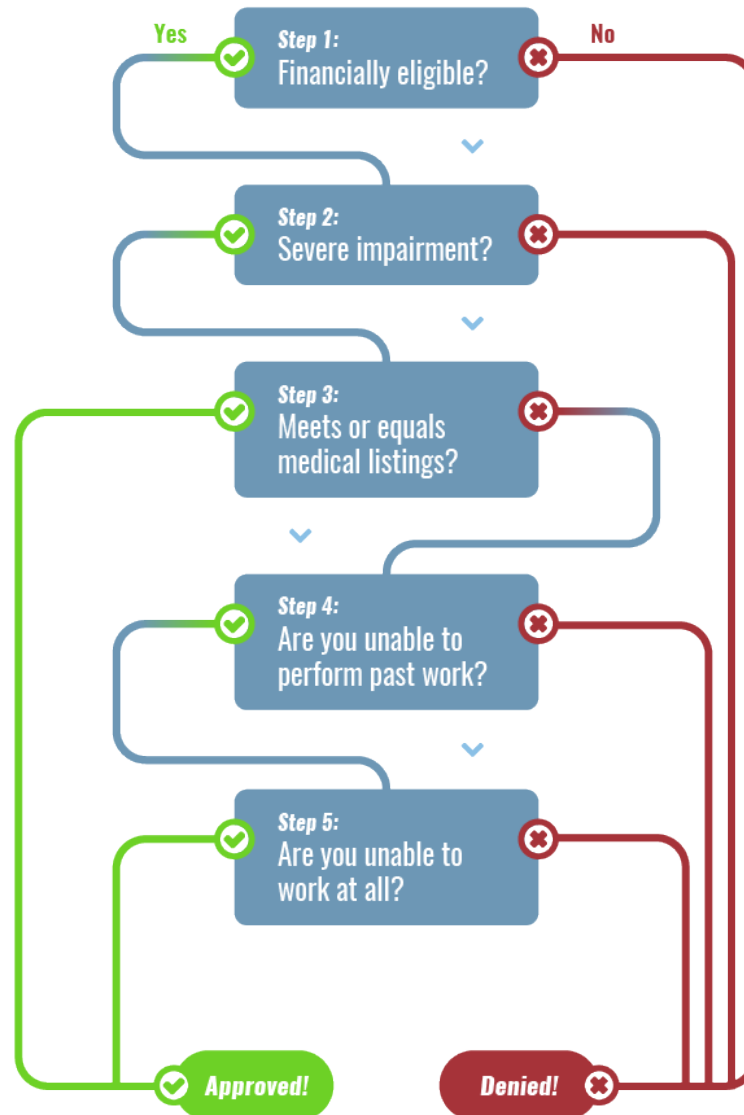
Step 4

Does the person have the residual functional capacity to perform the requirements of his/her past work?

Step 5

Is the person able to do any other work considering his/her residual functional capacity, age, education, and work experience?

5 Step Sequential Evaluation



Step 1: SGA

- Work does not have to be performed on a full-time basis to be substantial
- Substantial = involves doing significant physical and/or mental activities
- Gainful = usually done for pay or profit
- Monthly SGA amounts for 2019
 - Statutorily blind individuals: \$2,040 gross
 - Non-blind individuals: \$1,220 gross
- Unsuccessful Work Attempt (UWA)
 - 6 months or less

Step 2: Severity Requirement

Severe

*Impairment or combination of impairments is considered “severe” if it significantly limits an individual’s physical or mental abilities to do basic work activities, **and***

Duration

Impairment is expected to result in death, have lasted at least 12 months, or be expected to last 12 months or longer

Step 3: Medical Listings

- Describes, for each major body system, impairments considered severe enough to prevent an individual from doing any gainful activity

Meets A Listing	Equals a Listing
Claimant has the specific test results, symptoms, or limitations specified in the corresponding listing.	Claimant does not meet the specific qualifications outlined in the listing. Claimant must argue that their test results, symptoms, or limitations are equal in severity to a listing.

Listing 11.17: Huntington's Disease

Mandates that a person must exhibit either:

(A) Disorganization of motor function in two extremities, resulting in an extreme limitation in the ability to stand up from a seated position, balance while standing or walking, or use the upper extremities.

OR

(B) Marked limitation in physical functioning; and one of the following:

1. Understanding, remembering, or applying information; or,
2. Interacting with others; or,
3. Concentrating, persisting, or maintaining pace; or,
4. Adapting or managing oneself

Related Listings

12.02: Neurocognitive Disorders

12.04: Depressive, bipolar, and related disorders

12.06: Anxiety and obsessive-compulsive disorders

Step 4: Ability to Perform Past Work

Residual functional capacity (RFC)

- Ability to do physical and mental work activities on a sustained basis
- 8 hours per day, 5 days per week

Past relevant work (PRW)

- Performed within the last 15 years
- Must have been SGA
- Performed long enough to learn it

Step 5: Ability to Perform Any Other Work

- *The “burden of proof” shifts to SSA*
 - To show that work, other than what the individual performed in the past, exists in significant numbers
 - Considers the limiting effects of the individual’s impairment, age, education, and work experience

Medical Vocational (GRID) Rules

- Applied at Step 5
- An older individual may be found disabled based on:
 - Age
 - Education level
 - Skill level of past work
 - Whether or not skills obtained are transferable
- Particularly helpful if an individual's condition does not equal a listing

Example: Medical-Vocational Guidelines

Rule	Age	Education	Previous Work Experience	Decision
201.01	Advanced (55+)	Limited or Less	Unskilled or None (never transferable)	Disabled
201.07	Advanced	High school graduate or more (no direct entry)	Skilled or Semiskilled – skills transferable	Not Disabled
201.12	Closely Approaching Advanced Age (50-54)	High school graduate or more (no direct entry)	Unskilled or None	Disabled
201.17	Younger (45-49)	Illiterate or unable to communicate in English	Unskilled or None	Disabled

Completing the Application

- **Before you Begin**
 - Gather all necessary documents, medical records, education records, and medication list
- **Tips**
 - Include ALL of your diagnoses and limitations
 - Indicate Listings when possible
 - Include ALL treating physicians
 - List relevant medical and educational tests
 - Provide accurate and up-to-date contact information for physicians
 - Let physicians know you are applying for disability
 - Create a list of persons with firsthand knowledge of your symptoms and the impact your condition has on your quality of life

SSA Application Process

- File initial application
 - ssa.gov, or
 - in-person
- Local Social Security Field Office (FO) will verify non-medical requirements for disability
- Disability Determination Services (DDS) will make the medical determination
- Determination released back to FO and decision letter is distributed to you and your representative (if applicable)

Disability Claims Process

SSI or SSDI Benefits



The Life of an Application

Initial

- 6 months for a decision

Reconsideration

- 3-4 months for a decision

Administrative Law Judge (ALJ) Hearing

- 18-24 months for hearing to be scheduled
- 2-4 months for decision following hearing
- On the record review

What to do while Application is Pending

- Follow up with Social Security
 - SSA will not update you on status of your claim
 - Your job to confirm that SSA has the information they need for your claim
- Continue to get medical treatment
 - Contact SSA if you have any appointments while your claim is pending
- Complete any and all forms SSA sends you
 - Pay attention to deadlines, complete forms in a timely manner
 - Provide as much detail as possible
 - Call SSA if you have questions
- Attend Consultative Exams
 - SSA may request you see one of their doctor's
 - Always in your best interest to go to appointments

Tips Before Applying

- Gather your medical evidence
- Gather your work history
 - Last 15 years
- Create a list of persons with firsthand knowledge of your symptoms and the impact your condition has on your quality of life

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