



Social Security and Supplemental Security Disability Claims

The federal government has two programs for disabled persons, called Social Security disability (SS) and Supplemental Security Income (SSI), both administrated by the Social Security Administration (SSA). The purpose of this newsletter is to briefly explain these programs and the claim procedures.

Proof of Disability

To qualify as disabled, a person must have a severe physical or mental impairment and be unable to do jobs he or she has done in the past. In addition, a claimant must be unable to perform any other jobs that he or she would be suited for by age, education and past work experience. The standards are based largely upon age, and it becomes easier to prove disability as a person gets older. For example, a laborer with limited education who can only do light work because of an injury will probably be considered disabled if he is over 55 years old, but would not qualify if he is under 50 years old.

In claims based on mental disorders, the rules focus on a claimant's symptoms and other significant signs of mental impairment, and the functional limitations imposed by the mental impairment that keep the person from working. There must be clinical evidence of a mental disorder. The evaluation also looks at a claimant's daily living activities; their social functioning; their ability to concentrate, be persistent, and maintain pace; and any history of deterioration or decompensation in work or work-like settings.

There are somewhat different rules for disability claims by widows and children. In all cases, the disability must be expected to last 12 months or more.

SSA relies heavily on medical records. It is important to tell the SSA office about all medical providers, so they can get the records. And, it is important to tell medical

providers about the symptoms and conditions that are causing disability, so that they can treat them and so that the medical records show these problems when read by SSA.

Difference between SS and SSI

Generally, individuals entitled to SS disability benefits must have worked in the past and their employer must have paid into the SS program. Individuals who have never been employed or were not recently employed will most likely not be entitled to SS disability benefits, unless they are entitled under another person's social security number, (for example, a surviving spouse). The SS disability program does not have a financial eligibility component. Getting income from some other source, such as a pension, or living with someone who has income, does not make any difference to the amount of SS disability benefits, as long as the claimant is disabled.

SSI disability, on the other hand, does not require individuals to have a work history or that their employer paid into the program. But, a claimant who meets the SSI disability criteria must also qualify financially. SSI is income based, and having income from another source or living with a person who has income may reduce or eliminate a person's SSI checks.

The Claims Process

Many people who are denied SS and/or SSI benefits do not appeal their initial denials. This is likely due to the complex nature of the SS and SSI appeals process, and the claimants' lack of understanding as to how the process works. Clearly, for those unfamiliar with this process, it can be intimidating and frustrating.

If you apply for SS, SSI or both and are denied benefits for either claim, you have a right to appeal this denial. You

have 60 days to file a written appeal at **any** Social Security office. There are four levels or stages to the appeal process: reconsideration, hearing, appeals council review, and appeal to federal district court.

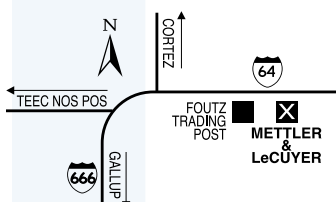
At the reconsideration stage, your claim is reviewed by individuals who did not take part in your initial denial. At the hearing stage, you can appear before an administrative law judge to present your case. At the appeals council stage, the appeals council will first decide whether a review is warranted, and if it decides your case should be reviewed, it will either decide your case or return it to the administrative law judge for further review. At the federal district court stage, you can file a lawsuit in federal district court. The court will review the record and decide whether the decision of the administrative law judge is legally correct.

Things to Remember

An attorney can represent a claimant at any stage. It is especially important to have an attorney at the administrative law judge hearing.

As stated above, if you are denied at any stage, you have 60 days to appeal to the next stage. If you wish to pursue your claim it is very important to file your appeal within 60 days. If you do not appeal within the 60 days, the SSA will generally deny your appeal as untimely.

The SSA is usually backlogged, and claims that are appealed through the hearing stage can realistically take up to two years. This is due to the increasing number of individuals who file disability claims and the increasing number of claimants who pursue their claims through the appeals process. Claimants must therefore be patient as well as persistent while their claim proceeds through the claims process.



Mettler & LeCuyer, P.C., is a law firm serving the Navajo Reservation area from its office at Shiprock, handling primarily personal injury and accident cases, on-the-job injuries, medical claims, disability and insurance claims, uranium miners and Social Security. The firm has a branch office in Albuquerque. The office in Shiprock is located on Highway 64, just east of Foutz Trading Co., and is open 9:00a.m. - 5:00p.m. Monday through Friday.