



*Helping Older Persons With
Legal & Long-Term Care
Problems*

Social Security Disability Benefits

1. What Disability Programs Are Available From The Social Security Administration (SSA)?

SSA offers two major programs that provide benefits based on disability. These programs are Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). For most people the disability requirements are the same under both programs and are determined by the same process. An individual must submit an application to SSA to start the process.

SSA also pays benefits to disabled widows(ers) and [surviving disabled divorced spouses](#) who must be disabled within 7 years of their spouse's death and be between 50 and 60 years old.

2. Who Is Eligible For SSDI?

SSDI pays benefits to the insured worker who is disabled or blind, to the worker's child, spouse, widow(er) or surviving divorced spouse of an insured worker. To be insured, the worker must have earned a minimum number of credits from work covered under Social Security. Generally 20 credits must be earned in the last 10 years ending with the year you became disabled. Family members who qualify for benefits on your work record do not need work credits.

3. Who Is Eligible For Supplemental Security Income (SSI) Disability?

SSI is a program based on financial need and does not require that you have a work-earnings record. However, an applicant must have limited income and resources, and meet the Social Security definition of "disabled."

4. How Do SSDI And SSI Disability Benefits Differ?

In most circumstances, SSDI requires that you be disabled for 5 months before paying you benefits. In some cases, you can receive a retroactive award for SSDI benefits if you were disabled before you applied. SSI disability benefits have no waiting period but are only paid from date of application.

SSDI benefits may also be paid to certain family members. SSI disability benefits are only available to the disabled applicant and do not provide benefits to anyone else.

The SSDI benefit amount is based on the amount of FICA taxes you contributed to Social Security. The amount of SSI disability benefits is a subsistence amount, limited to the Federal Benefit Rate (\$674) minus any other income you are entitled to receive.

5. How Does SSA Determine Disability?

SSA uses the same methods and criteria of determining disability for both SSDI and SSI disability applicants. If you claim disability, you must prove that a physical and/or mental impairment prevents you from engaging in [Substantial Gainful Activity \(SGA\)](#). SSA only pays for total disability. Your physician must confirm your disability claim and the disability must have lasted or can be expected to last 12 months or be expected to result in death.

In 1997 “disability” was redefined to exclude individuals whose alcoholism or drug addiction substantially contributed to the determination that they are disabled.

6. What Steps Does SSA Follow To Determine Disability?

The following are the sequential evaluation steps used to determine disability:

Step #1: Are you working? SSA asks if you are working and earning more than \$1000 per month. *If yes, you are not disabled. If no, go to Step #2.*

Step #2: Is your impairment severe? Do you have a physical and/or mental impairment severe enough to significantly limit your ability to do basic work? *If no, you are not disabled. If yes, go to Step #3.*

Step #3: Is your impairment on SS’s list of disabling conditions? Or is it of equal severity to a medical condition that is on the list? *If yes, you are disabled. If no, go to Step #4.*

Step #4: Does your impairment stop you from doing jobs you have held in the past 15 years? *If no, you are not disabled. If yes, go to Step #5.*

Step #5: Can you do any other type of work? Considering your age, education, work experience, and remaining work ability, can you do other work available in your geographic area? *If yes, you are not disabled. If no, you are disabled*

7. Can I Work After SSA Has Determined Me Disabled?

Yes, however, there are strict limitations on how much you can earn monthly.

SSDI:

The \$1000 Rule (2010 amount) applies to applicants and recipients. If you earn more than \$1000 in gross countable monthly income, SSA will assume that you are performing Substantial Gainful Activity (SGA). Under the sequential evaluation process of determining eligibility (*see question 6*), a person performing SGA is not considered to be disabled. When the \$1000 Rule applies, your disability benefits will be denied or terminated. Under Social Security regulations, any part of your monthly earnings from a subsidy (sheltered and supported employment and some government-sponsored training programs) does not count when measuring income against the \$1000 Rule. If your disability is blindness, you may earn up to \$1640.

Social Security provides a trial work period (TWP) of nine months for an SSDI recipient to test his or her ability to return to work without losing benefits. The nine months do not have to be consecutive and any month where you earn at least \$720 is considered a “trial work” month.

SSI:

For the SSI disabled recipient, the effect of income depends on whether the income is earned or unearned. The first \$65 of earned income, as well as one-half of remaining earned income, is not counted. The first \$20 of unearned income is not counted. Neither the \$1000 Rule nor the trial work period applies to an SSI recipient, but see <http://www.socialsecurity.gov/redbook/> for a list of SSI and other SSDI work incentives.

8. What Should I Do If My Application For Disability Is Denied?

You must file a written request for reconsideration with SSA. You have 60 days (plus 5 days mailing time) from the date on the denial notice to submit your request. If available, give SSA an updated report from your physician(s). After reviewing your file, SSA will send you a written decision.

9. What Can I Do If The Reconsideration Decision Is Unfavorable?

Ask in writing for a hearing before an Administrative Law Judge (ALJ). Submit this request to SSA within 60 days (plus 5 days mailing time) from the date on the reconsideration decision. At the hearing, you may submit updated medical reports and explain why you are disabled. See question 6. The ALJ may ask you about your work history, education, daily activities and the problems your disability causes

10. What Should I Do If I Receive A Notice Stopping My Monthly Disability Check?

You must file a written request for reconsideration within 10 days of receiving the notice. If you do this, and continue to appeal your case, SSA must continue sending you your monthly check until you receive an adverse ALJ decision. This will also require you to request an ALJ hearing within 10 days of receiving an unfavorable reconsideration determination. If you are found not disabled after you have completed all appeals, SSA can ask you to repay the benefits you received after you received the notice that it intended to stop your monthly check.

11. Where Can I Obtain The SSA Forms?

All forms are at your local SS Office and online at <http://www.ssa.gov/online/>.

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Pro Seniors provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If a matter cannot be resolved over the phone, seniors are referred to other Pro Seniors' staff or community resources for more in-depth assistance.

In southwestern Ohio, Pro Seniors' staff attorneys handle matters that many private attorneys do not, such as Medicare, Medicaid, SSI, financial abuse and landlord/tenant problems. Pro Seniors may also refer seniors to a private attorney on our referral panel. Many of these attorneys have agreed to handle cases at a fee seniors can afford.

Pro Seniors' long-term care ombudsmen work with residents of southwestern Ohio to protect their rights and resolve complaints about nursing facilities and home care.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Hotline or consult an attorney in elder law.

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