

# The Social Security Disability Process

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## WHAT BENEFITS CAN SOCIAL SECURITY PROVIDE?

If you are unable to work because of physical or mental health limitations, the Social Security Administration (“SSA”) can provide you replacement income. There are two different programs.

- Social Security Disability Insurance (“SSDI”), also called Title II. This program provides a monthly payment based on your recent work history, and the amount can vary a lot based on individual circumstances.
- Supplemental Security Income (“SSI”) also called Title XVI. This program provides a monthly payment that is not based on your recent work history. SSI cannot pay more than a certain amount each month which is \$750 in 2018.

## WHO IS ELIGIBLE?

To be eligible for SSDI or SSI:

- You must be unable to work because of physical and/or mental problems; and
- Your disability must be expected to last a continuous period of 12 months or result in death

Note: The Social Security Administration (SSA) determines if you are disabled based on the way your medical conditions affect your functioning. To get disability benefits, they must have all of your medical records. They will assist you in getting these records. Ask your doctor to write a letter telling the Social Security Administration how your condition limits your ability to do work.

# STAGES OF APPEAL

## *Step 1: Initial Application*

You can apply for benefits by visiting the Social Security website or your local Social Security Office. After they receive your application and any medical information you have, SSA will send your file to the Disability Determination Services (DDS) in Nashville for review. Additional medical records will be requested if necessary. Your medical records will be reviewed and you will be notified by mail of the disability decision. This first step may take several months.

## *Other Step 1: Notice of Cessation*

If you are receiving SSI/SSDI benefits, you may receive a notice from SSA that your benefits are ending. Beginning at Step 2, the process for appealing cessation is the same as the process for appealing a denial.

## *Step 2: Reconsideration*

If your Application is denied, you need to request a Reconsideration of your case within 60 days of the date of the denial letter. The denial letter will tell you how.

Note: Requesting a reconsideration instead of reapplying is very important to those people applying for SSI because you can only get back benefits based on your initial application date if you continue with each step.

When you request a Reconsideration, you can request a review of records or an informal interview with a DDS employee called a Hearing Officer. Either way, DDS will review your information and confirm or overturn the previous decision. This can also take a few months. Most claims are denied at this level. **DON'T GIVE UP!**

Note: If Reconsideration results in a denial of your benefits and you want representation at a hearing, you should contact an attorney immediately.

### *Step 3: ALJ*

If your claim is denied at Reconsideration, you have 60 days to ask for a hearing with an administrative law judge (“ALJ”). This is the most important step in the entire process. In this step, you will have the opportunity to go in front of a judge, provide testimony, bring witnesses, and hear what other witnesses have to say about you. The ALJ will decide whether you are disabled, and you will get a detailed written decision. All of Step 3 could take up to a year to complete.

### *Step 4: Appeals Council*

If your claim is denied by the ALJ, you can request a review of the ALJ’s decision by the Appeals Council within 60 days of the date of the denial letter. The Appeals Council will review the ALJ’s decision and the evidence considered by the ALJ. You cannot introduce new evidence or provide testimony to the Appeals Council. This step may take 18-24 months.

If you are denied at this level, the Appeals Council will send you a letter stating that they will not review your case. You have 60 days to go to step five.

### *Step 5: Federal Court Level*

If the Appeals Council denies your case, your attorney can file an appeal in Federal court within 60 days of the date of the denial letter from the Appeals Council. (You must have an attorney at step 5). The court will review the information from your hearing and the reasons why the Appeals Council turned you down. The court can award you benefits, decide you should not receive benefits, or send your case back to SSA for an additional hearing.

## GETTING AN ATTORNEY

- When? If you want an attorney for your case, it is very important to hire one before Step 3. After Step 3, no additional evidence can be submitted and witnesses cannot be questioned again.
- Who? Ask friends and neighbors if they have an attorney they trust. You can also contact the Lawyer Referral Service or consult the local yellow pages.
- How? Even if you can't pay the attorney in cash, most private attorneys can work on your case without payment up front. Instead, they may request a portion of any money you win from SSA. Ask the attorney specific questions about their fee.

LAET may be able to help! Please contact one of our offices to see if we can provide you additional information or representation in an upcoming appeal.

# LAET'S OFFICES ARE OPEN MONDAY THROUGH FRIDAY FROM 8:30 AM TO 5:00 PM

## GENERAL OFFICES

Providing civil legal assistance to East Tennessee residents

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(800) 821-1312

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(865) 981-1818

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### BRANCH HOUSE - THE FAMILY JUSTICE CENTER OF SULLIVAN COUNTY

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This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.

