

Social Security Disability Essentials for the Elder Law Attorney

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Social Security Disability Benefits

- ▶ There are 3 separate programs that Social Security administers.
 - Social Security Disability also known as **SSDI**, **Title II** or **DIB**.
 - Supplemental Security Income for adults and children also known as **SSI** or **Title XVI** .
 - Disabled Adult Child Benefits also known as **DAC**.

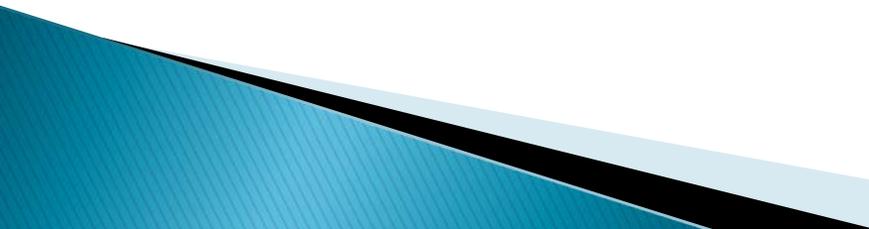
Social Security Disability (SSDI, TITLE II or DIB)

- ▶ Monthly Cash Benefit.
- ▶ Must have worked long enough and recently enough.
 - ▶ Generally need 40 quarters of coverage.
 - ▶ Worked 5 of the last 10 years.
 - ▶ Date Last Insured Problem.
- ▶ Comprised of all your FICA Earnings.
- ▶ Payment amount dependent on wage history.
 - ▶ Full retirement age amount.

Social Security Disability (SSDI, Title II or DIB)

- ▶ Can receive up to \$2,642 per month (2014).
- ▶ Your children will get extra benefits up until age 18 (19 if in school) (usually ½ more).
- ▶ Qualify for Medicare after two years of SSDI eligibility (29 months after “onset date”).
 - ▶ Medicare not free.
- ▶ 5–Month waiting period.
 - SSA can pay Retroactive Benefits up to 1 year before your application date.

Supplemental Security Income (SSI or Title XVI)

- ▶ Welfare Type Program (limited to U.S. Citizens with some exceptions).
 - ▶ Never had to work.
 - ▶ Very limited income and resources. (\$2,000 for 1 person, \$3,000 for a couple).
 - ▶ Can receive up to \$721 per month for 1 person, \$1,082 per month for a couple (2014), but this varies by State.
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Supplemental Security Income (SSI or Title XVI)

- ▶ Will receive Medicaid immediately (only need \$1 of SSI to get Medicaid)
 - Medicaid is free
 - ▶ SSI Benefits start at date of application
 - No waiting period
 - ▶ SSI does not pay any dependent benefits
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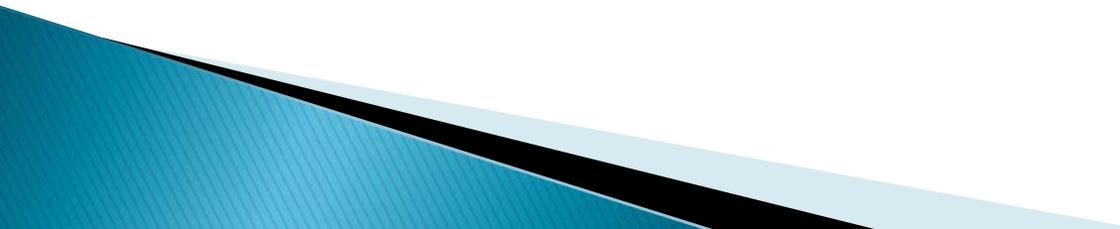
SSI For Children

- ▶ Eligible for child SSI benefits beginning at birth.
- ▶ Eligible for child SSI benefits until age 18.
 - Can then be determined eligible for adult SSI.
- ▶ Deemed Income.
 - Parents income used to determine child's financial eligibility.
 - Only until age 18.

Disabled Adult Child Benefits (DAC)

- ▶ Adults who were disabled before age 22.
- ▶ Eligible if parent is deceased or are receiving Social Security Disability or Retirement benefits.
- ▶ Can receive Social Security Disability benefits (not SSI) and Medicare.
 - -----no income/resource limitation.
- ▶ Amount normally $\frac{1}{2}$ parent's amount.
- ▶ Strict rules on marriage.

Social Security's Definition of Disability

- ▶ Severe mental or physical impairment.
 - ▶ Medically verifiable.
 - ▶ Has lasted or is expected to last twelve consecutive months, or result in death.
 - ▶ Claimant unable to engage in Substantial Gainful Activity (SGA) (\$1,070 in 2014).
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5 Step Sequential Evaluation Process

- ▶ Step 1) Is the individual currently engaging in SGA? (\$1,070 in 2014).
- ▶ Step 2) Does the individual have a severe impairment(s)?
- ▶ Step 3) Does the individual have any impairment(s) which meets or equals a listed impairment?
 - Federal Register.

5 Step Sequential Evaluation Process

- ▶ Step 4) Does the individual have any impairment(s) which prevents past relevant work? (last 15 years)
- ▶ Step 5) Does the individual's impairments prevent them from doing any other work in the national economy
 - This last step considers age, education, and work experience
 - “Grids”
 - Compassionate Allowances

SSI For Children Sequential Evaluation

- ▶ Same as for Adult except:
- ▶ Step 3---Separate set of “Listings” for child impairments
 - Federal Register
- ▶ Step 5---Child must have a mental or physical impairment which result in marked & severe functional limitations
 - Including emotional & learning problems
 - Compassionate Allowances

The Social Security Disability Process

- ▶ Almost everyone is denied Social Security Disability benefits when they first apply.
 - Initial Application (80% denial rate).
 - Reconsideration (90% denial rate).
 - Hearing before an Administrative Law Judge (56% approval rate) ([Ask me about my approval rate](#)).
 - Appeals Council Review.
 - Federal District Court.

The Hearing

- ▶ The average waiting time, nationally, to get a hearing date is 12 months.
- ▶ What's involved at the hearing?
 - Not scary.
 - The claimant, the judge, Vocational Experts, Medical Experts, Attorney, sworn testimony.
- ▶ What should be done to prepare for the hearing?
 - Electronic claim file, medical records, letters/interrogatories from treating **specialists**

Why Hire An Attorney?

- ▶ Greatly increases your chance of approval.
- ▶ What will my attorney normally do for me?
 - Complete all paperwork for you.
 - Help obtain medical records/documents.
 - Prepare you to testify before the judge.
 - Attend hearing with you and represent you in front of the Administrative Law Judge.
- ▶ What does it cost to hire an attorney for a Social Security Disability case?
 - Attorney Fee must be approved by SSA.
 - Attorney Fee set by SSA.
 - Contingency (only pay if you receive benefits).
 - 25% or \$6,000 whichever is less of back benefits, no future benefits.

How & When Should You Apply for Benefits?

- ▶ Apply as soon as possible---do not wait.
 - ▶ Apply online at [SSA.GOV](https://www.ssa.gov) or
 - ▶ Call SSA at 1-800-772-1213 and arrange for a telephone or in person appointment.
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Work After Receiving Benefits

Very tricky.

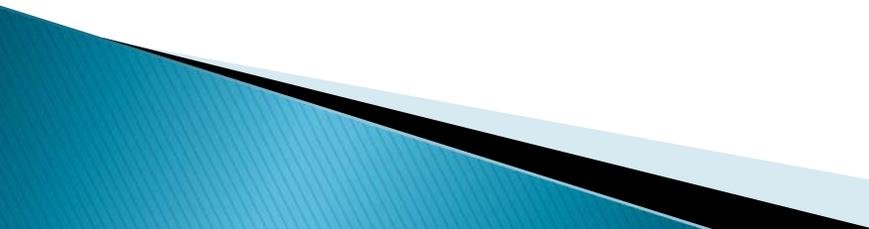
Many times not a good idea.

9-Month trial work period (SSDI only)

Trial Work Month-----\$770 (2014).

Work incentives and programs (example,
Ticket to Work).

Social Security Disability Reviews

- ▶ Don't Panic.
 - ▶ Everyone Gets Reviewed---Notebook System.
 - ▶ Sort of like an IRS Audit---your number comes up.
 - ▶ Review is all on paper---no need to go through the hearing process again.
 - ▶ If you are still not working and are still receiving treatment from a **specialist**---no worries.
 - ▶ Reviews will stop at your full retirement age.
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