

Filing For SSD: Social Security Disability



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Introduction

What Is a 'Disability?'

When we use the word, "disability," we tend to think of someone with outward signs of impairment. For example, we may picture a person who needs a cane, walker or wheel chair in order to move around.



However, disabilities can come in many different forms. Some are physical, and some are mental. Some can be readily observed. Many others are hidden.

At its essence, a disability is a condition that keeps us from doing what we want to do and – ultimately – what we need to do in order to survive, liking working at a job and earning income to pay for basic needs like food, housing, clothing and a wide range of other living expenses.

How the Social Security Administration Defines ‘Disability’

If a disability keeps you from being able to work for a living, you may be eligible to receive disability benefits that are provided through the Social Security Administration (SSA).

However, in order to qualify for these benefits, you must meet the SSA’s legal definition of “disability.” It is a very specific definition. To meet it, you must be totally and permanently disabled. You cannot be partially or temporarily disabled.

Specifically, you must suffer from a medically determinable impairment that:

- Has lasted or is expected to last for at least 12 months or to result in death, and
- Keeps you from doing the work you did before or any other type of work.

If the SSA determines that you meet all of the conditions that qualify you to receive disability benefits, you can receive benefits payments for as long as your disability exists.

Types of Social Security Benefits

If you suffer from a condition that meets the SSA's definition of "disability," there is no reason to delay seeking the benefits you deserve. You should feel no shame. The reality is that there are many others in West Virginia and across the country who are facing the same challenges.

In fact, the SSA reports that:

- 1 in 5 people in the U.S. live with disabilities, or 56 million people
- 1 in 10 people in the U.S. live with severe disabilities such as cancer
- 1 in 4 20-year-old workers in the U.S. will become disabled before they reach retirement age.

According to the West Virginia Division of Rehabilitation Services, in our state alone, more than 500,000 residents receive disability benefits that total a combined \$500 million in payments each year.

In other words, a disability can happen to anyone. This is why the SSA provides a wide range of benefits. These benefits include:

- **Social Security Disability Benefits (SSD)** – These benefits are paid from the Social Security Disability Insurance (SSDI) trust fund. You pay into this fund through taxes that are withheld from your paychecks or self-employment income. In addition to meeting the SSA's definition of "disability," you must have a sufficient earnings record in order to

qualify for these benefits. Based on your work history, your family members may be eligible to receive SSD benefits as well.

- **Supplemental Security Income Benefits (SSI)** – In contrast to SSD benefits, SSI benefits are paid out of general tax revenues. Your eligibility is not based on your earnings record. To qualify for these benefits, you must be “disabled” and have limited income and resources. Both children and adults can receive SSI benefits.
- **Survivors Benefits** – The spouses and children of deceased workers may be eligible to receive these benefits. Like SSD benefits, eligibility is based on work history.

These benefits are paid on a monthly basis. However, you may see a long delay between the onset of your disability and the approval of your application. If this is the case, you may be eligible to receive what is called “back pay.”

How You Can Use This Guide

The law firm of Mani Ellis & Layne, PLLC, is dedicated to helping disabled individuals and their families throughout West Virginia to secure the benefits they deserve. If you believe that you or a loved one is eligible for these benefits, we want you to use our Guide to learn more about:

- Different types of benefits which are available through the SSA
- How to apply for these benefits
- How a decision on your application will be made
- What you can do if your application is denied

- What you can expect if your application is allowed.

The Guide's primary focus is on SSD benefits. However, we also explain SSI and Survivor benefits. In our last section, we provide an easy-to-follow flow chart to help you understand how the process works.

Stay Committed and Determined – A Long Process Lies Ahead

As you embark on seeking disability benefits, we want you to know that a long, challenging and – at times – downright intimidating process lies ahead.

Don't give up hope. Stay committed. Stay determined. Keep focused on your goal.

Remember that you are not alone. Your friends, family and your lawyer are all behind you and can provide the support you need to get through this difficult period in your life. If you stay persistent, obtaining the benefits you need and deserve will be well worth any obstacles you may encounter along the way.

Sources / More Information

- [Disability Determination](#), West Virginia Division of Rehabilitation Services
- [Benefits for People with Disabilities](#), Social Security Administration (SSA)
- [Survivors Benefits](#), SSA
- [The Faces and Facts of Disability](#), SSA

Types of Disability Benefits

Life is full of surprises. Unfortunately, not all of them are pleasant. When we least expect it, we can suffer a terrible accident while driving, working or enjoying a recreational activity. We can be diagnosed with a serious physical or mental illness. We may lose someone near to us.

We can't control these events. But we can control how we respond to them.



Our federal government recognizes the need to provide assistance to those who experience these life-changing events. Today, it is known as the Old-Age, Survivors and Disability Insurance (OASDI) Program, which is administered by the Social Security Administration (SSA). It pays benefits to disabled workers and to the spouses and children of disabled and deceased workers.

The government provides another SSA-administered program, Supplemental Security Income (SSI), for adults and children with limited income and resources who suffer from a disability.

If you are facing challenges created by disability or the death of a loved one, you owe it to yourself to learn more about the types of benefits that are available through these programs. You should also seek help from an attorney who can help you to apply for these benefits and to overcome any obstacles you may face in receiving what you deserve.

The following is a summary of those benefits:

Social Security Disability Benefits

Social Security Disability (SSD) benefits are funded through taxes you pay out of your paycheck or from taxes on your self-generated income. In general, to qualify for these benefits as a **disabled worker**, you must meet three criteria:

- You must be younger than age 65,
- You must have a diagnosable medical condition that falls within the SSA's definition of a "disability" and
- You must have earned enough "work credits," which are based on your earnings.

If you are the **spouse of a disabled worker**, you may also be eligible to receive SSD benefits. To qualify, you must satisfy two criteria:

- You must be age 62 or older, or
- Regardless of your age, you must be caring for a child who is under age 16 and meets the SSA's definition of "disabled" as it is applied to children.

According to the SSA, a child is disabled if he or she:

- Has a physical or mental condition – or a combination of conditions – that has caused "marked and severe functional limitations" and which has lasted or is expected to last for at least 12 months or to result in death; and
- Either does not work or works and earns less than \$1,090 per month (the earnings limit as of 2015).

Children of disabled workers may receive SSD benefits as well. To qualify, the child must be unmarried and either:

- Younger than age 18, or
- Younger than age 19 and in elementary or secondary school full time, or
- Age 18 or older with a disability that began before the child reached age 22.

Supplemental Security Income Benefits

If you have never worked or have not worked enough to qualify for SSD benefits, you may still be eligible to receive Supplemental Security Income (SSI) benefits.

Unlike SSD benefits, SSI benefits are based on your need and not your earnings record. You can receive up to a federal maximum rate.

Also, if you qualify for SSD benefits, you will automatically qualify for Medicaid within two years after you begin receiving benefits. However, if you qualify for SSI benefits, you are eligible to receive Medicaid coverage right away.

Adults and children alike can qualify for SSI benefits. Generally speaking, you must be:

- Age 65 or older,
- Blind, or
- Disabled (meaning you meet the SSA's different definitions of "disability" as an adult or child).

Additionally, you must have:

- **Limited income** – Your countable monthly income cannot exceed the federal benefit rate. In 2015, the FBR was \$733 for individuals and \$1,100 for couples.
- **Limited resources** – You cannot own more than a certain amount in resources such as cash, cars, real property, personal property, life insurance or anything else that could be converted to cash. In 2015, the SSI limits were \$2,000 for an individual or child and \$3,000 for a couple.

Unlike most states, you cannot receive SSI supplemental benefits in West Virginia.

Survivors Benefits

Many different family members may be eligible to receive monthly survivors benefits based on a disabled worker's earnings record, including widows/widowers, divorced spouses and children. In addition to monthly payments, they may also be eligible to receive a \$255 one-time payment.

If you are a **widow or widower**, you may receive full benefits if you have reached full retirement age, which is:

- Age 66 if you were born between 1945 and 1956
- Age 67 if you were born in 1962 or later.

A widow/widower may also receive benefits if he or she:

- Has reached age 60 (albeit reduced benefits)
- Has reached age 50 and meets the SSA's definition of "disabled"
- Has reached any age and takes care of a child who is receiving SSD benefits who is younger than age 16 or disabled.

The **divorced spouse of a deceased worker** may receive survivor benefits if he or she is:

- Age 60 or older (between ages 50 to 59 if disabled), and
- The marriage lasted at least 10 years.

The divorced spouse may be eligible, regardless of his or her age and the length of the marriage, if the spouse is caring for a natural or legally adopted child who is also the deceased worker's child and is younger than age 16 or disabled.

If you are a **child of a deceased worker**, you may be eligible for survivor benefits if you are unmarried and either:

- Younger than age 18, or
- Younger than age 19 and in elementary or secondary school full time, or
- Age 18 or older with a disability that began before the child reached age 22.

The **parents of a deceased worker** may also be eligible to receive benefits on the worker's earnings record if:

- The deceased worker paid for at least half of their support, and
- They are age 62 or older.

Coordination of Benefits

It is important to understand how different benefits that you and your family may receive can be coordinated. In addition to help you to seek benefits you are due, an attorney can help you with this coordination effort.

In particular, your disability may have arisen from a work-related injury. In which case, you may be receiving **workers' compensation benefits** that will offset the amount you are eligible to receive in SSD benefits.

In general, your monthly SSD benefits may be reduced so that your "total public disability benefit" does not exceed 80 percent of your "average current earnings." This offset will end once you stop receiving workers' compensation benefits or when you reach age 65.

Your total public disability benefit *includes* what you receive in workers' compensation, SSD benefits and other disability benefits that you receive from local, state or federal sources. It *does not include*:

- Black Lung Part B benefits
- Veterans' Administration benefits
- Railroad employee illness benefits
- Jones Act payments.

Your average current earnings reflect your average monthly pay during the year of your highest earnings during the five years before your disability arose.

If you receive a lump-sum settlement of your workers' compensation claim, that sum is prorated to reflect what you would have received each month.

Another situation that may arise is when you, as a disabled worker, receive SSD benefits as well as other **members of your family**. Although your benefits are not impacted, your family members' benefits will be capped at the "maximum family benefit."

Under SSA rules, the maximum family benefit cannot:

- Exceed 85 percent of your average indexed monthly earnings (AIME). Please see Chapter 7 for an explanation of how the AIME is calculated.
- Fall lower than your primary insurance amount (PIA). Again, please see Chapter 7 for our explanation of how the SSA calculates your PIA.
- Exceed 150 percent of your PIA.

However, the SSD benefits paid to your divorced spouse do not apply towards the maximum family benefit unless he or she is taking care of your minor or disabled child.

Sources / More Information

- [Survivors Benefits](#), Social Security Administration (SSA)
- [Social Security Disability Benefits](#), SSA
- [Supplemental Security Income](#), SSA
- [Maximum Benefit for a Disabled-Worker Family](#), SSA
- [How Workers' Compensation And Other Disability Payments May Affect Your Benefits](#), SSA

Applying for Disability Benefits

Your application for Social Security Disability (SSD) benefits requires a great deal of information. The information about you must assure the Social Security Administration (SSA) that you meet the SSA's definition of "disabled." An application that is complete and accurate has a better chance of moving forward successfully.



This is why it is a good idea to work with a law firm that has experience with helping individuals in West Virginia to gather information and submit SSD benefits applications.

Here is an overview of the application process:

How You Can Prepare to Apply for SSD Benefits

Your first step in applying for disability benefits is to gather the information that will be necessary to document your disability, work history and financial information. This includes:

Personal information:

- Where and when you were born
- Social Security number
- Name, birth date and Social Security number of your spouse and any former spouse(s).
You may be required to provide the dates and places of marriage(s), and/or dates of divorce(s) or death(s) of spouses
- Names and birthdays of your minor children.

Medical information:

- Names, addresses, phone numbers, patient ID numbers and dates of all medical treatment you have received from any doctor, hospital or clinics
- Names of medicines you are taking and who prescribed them
- Names and dates of medical tests you have undergone and who referred you for those tests
- Name, address and phone number of someone the SSA can contact “who knows about your medical conditions and can help with your application.”

Employment history:

- A copy of your Social Security statement
- How much money you earned in the current and immediately prior years
- Name and address of your employer(s) for the current and immediately prior years
- The beginning and ending dates of any active U.S. military service before 1968
- A list of up to five jobs you held in the 15 years before you became unable to work and the dates you worked at those jobs.

Details of any **other disability benefits** you have applied for or intend to apply for such as:

- Workers' Compensation
- Black Lung benefits
- Civil Service (Disability) Retirement
- Federal Employees' Retirement
- Federal Employees' Compensation
- State or local government disability insurance benefits
- Disability benefits from the military, including military retirement pensions based on disability but not including Veterans' Administration (VA) benefits.

All of the information above must be documented. You cannot simply fill in the SSA's forms.

You must gather:

- Birth certificates (or baptismal certificates)

- Proof of U.S. citizenship or lawful alien status if you were not born in the U.S.
- U.S. military discharge papers ([DD Form 214](#)) if you were in the military before 1968
- Your most recent W-2 forms(s) and/or self-employment tax returns
- Medical records, doctors' reports and recent test results
- Pay stubs
- Award letters, settlement agreements or other proof of any temporary or permanent workers' compensation / disability benefits you have received.

The SSA accepts photocopies of W-2 forms, self-employment tax returns or medical documents. However, the SSA requires the original of most other documents such as your birth certificate. The SSA will return them to you.

You will also need to provide your bank or another financial institution's Routing Transit Number (RTN) and your account number if you want direct deposit of your benefits payments.

Of course, most people do not have all of this information at their fingertips. Even in the age of the Internet, it can still be difficult to find all of the documents or information you lack.

The SSA advises that you go ahead and apply for benefits even if you cannot document everything. The SSA will help you to gather missing information.

However, this is the kind of help that an attorney can handle in a much more effective and efficient manner.

How You Submit Your Application

In addition to the basic application form, which requires the information above, a second form is required for information about your medical condition and how it keeps you from working.

Additional forms are required to acknowledge that you want to allow doctors, hospitals and other health care professionals who have treated you to send information about your medical condition to the Disability Determination Services (DDS) examiner who will review your case.

You can apply for disability benefits in three ways:

- **Online** – You can fill out forms available at the [SSA website](#).
- **In person** – You can apply at your local SSA office. Go to the [SSA website](#) and type in your zip code to find the office located nearest to you. You should know that there are 16 SSA field offices that can be found throughout West Virginia.
- **By phone** – You can apply by phone and follow it up by mailing in your documentation or taking to your nearest SSA office. The number to call is 1-800-772-1213 or 1-800-325-0778 (TTY). The number is available between 7 a.m. to 7 p.m. on business days. The interview should take about one hour.

Can You Expedite a Decision on Your Application?

Under the [Compassionate Allowances \(CAL\)](#) program, a decision on your application can be

made within days instead of months or years. To be eligible, you must show that you have one of 200 rare medical conditions that automatically make you eligible for disability benefits.

You do not to undergo a different application process for consideration under the CAL program. However, the SSA will use its screening tool for online applications to look for a qualifying condition. If you apply for benefits in person or by phone, you should state that you have a condition that qualifies for the CAL program.

Additionally, the SSA considers a case to be “critical” and in need of faster processing if the applicant falls within one of six programs:

- **TERI** – The applicant has a terminal illness, or an illness that is untreatable, irreversible and expected to end in death
- **VPAT** – The applicant is a veteran with a 100 percent permanent and total disability compensation rating from the Department of Veterans Affairs (VA)
- **MC/WW** – The applicant is a current or former member of a military service who sustained an illness, injury, or wound that resulted in physical or mental impairment while on active duty status on or after October 1, 2001
- **DRND** – The applicant is in dire need, meaning without food, medicine or medical care or shelter and is unable to obtain it or otherwise does not have enough income or resources to meet an immediate threat to his or her health or safety

- **SUIC or HOMC** – The applicant is suicidal, homicidal or potentially violent
- **PD/PB** – Those who are applying for SSI and have a presumptive disability or blindness may receive up to six months of benefits payments while awaiting a decision on the applicant. In the case of a readily observable impairment, such as amputation of a leg, a PD/PB finding may be made without additional evidence. In other situations, a PD/PB finding must be based on medical or non-medical evidence that establishes a “high degree of probability” that the applicant is disabled or blind.

Financial Assistance While Awaiting Your Claim Decision

You may be struggling to make ends meet while waiting for a decision on your application. The following forms of financial assistance may be available to you to help you get through the waiting period:

- **Workers’ compensation** – If your disability arose from a work injury or illness, you should apply for workers’ compensation benefits. Keep in mind that your SSD benefits may be subject to the “workers’ compensation offset.” The reduction is to ensure that the combined amount of your total public disability benefit does not exceed 80 percent of your average earnings prior to your disability.
- **Department of Health and Human Services** – Various programs funded through DHHS help people with:
 - Temporary food assistance

- Cash assistance (if minor-age children are in the household)
 - Medical assistance
 - Child care resources
 - Other emergency support.
- **Local churches, food banks and other organizations** – If you do not qualify for a DHHS program, your local office may refer you to one of these additional local resources.

You might also want to consider refinancing your mortgage, car loan, credit card debt or other debt. Being able to tell a creditor that you have an SSD application on file with the SSA may assure them that your financial situation will stabilize. It is more reassuring if you can tell your creditor that a reputable law firm that handles SSD / SSI claims is assisting you.

You should not draw on the equity of your home or a 401(k), IRA or similar retirement account. You also should not take out additional personal loans as you await SSD benefits.

This can result in a non-recoverable financial loss as well as penalties for early retirement account withdrawals.

You should particularly stay away from “payday” loans and other predatory lenders who charge inappropriately high interest rates and can send you into a financial tailspin.

Sources / More Information

- [Apply Online for Disability Benefits](#), Social Security Administration

How Your Claim Is Decided

So, let's assume that you have submitted your application for Social Security Disability (SSD) benefits by going online, using the phone or going in person to one of the 16 Social Security Administration (SSA) field offices in West Virginia.



You have many many questions about what happens next. For instance, who will review your application? How will your claim for disability benefits be decided?

The following is a summary of the process that goes into deciding whether you meet non-medical and medical eligibility requirements in order to qualify for SSD benefits. If you do not, please remember that many other types of benefits may be available to you. Please Chapter 2 for an overview of these other options.

Non-Medical Eligibility – Have You Worked Enough?

The SSA field office that receives your application will be the first one to review it. The office will verify the non-medical information in your application such as your age, address and marital status.

The SSA also will determine whether your earnings record allows you to receive SSD benefits. You must have compiled enough work credits over the course of your working life and in the years immediately before your disability arose.

A work credit is based on your earnings. The amount you need to earn in order to receive a credit changes each year. In 2015, you would have received one work credit for every \$1,220 that you earned. You can earn no more than four work credits per year. So, if you earned \$4,880 in 2015, you earned the maximum number of credits for that year.

According to the SSA, as a general rule, you must have earned 40 work credits to qualify for SSD benefits, with 20 of those credits earned in the 10 years before the onset of your disability.

However, there are exceptions to this rule. For instance:

- **If you became disabled before age 24** – You can be eligible as long as you have earned six work credits (worked 1.5 years) in the three years before your disability arose.

- **If you became disabled between ages 24 and 31** – You can qualify for SSD benefits if you worked at least half of the period between age 21 and the date of your disability. So, if your disability arose at age 29, you would need to have compiled at least 16 work credits (four years of work).
- **If you are age 31 or older** – You should go to the SSA website and check out a [chart](#) that lists the number of credits you need based on your age when your disability starts.

Special Non-Medical Eligibility Rules for Blind Individuals

If your disability is blindness, special rules will apply to your case that will impact your non-medical eligibility.

The SSA considers you to be blind when – even though you are wearing glasses:

- Your vision is no greater than 20/200 in your better eye, or
- Your visual field is 20 degrees or less in your better eye.

If you are blind, you do not need to meet the same work credit requirements. You may be eligible for benefits as long as your visual impairment has prevented you from working for at least two years or longer.

Medical Eligibility – Are You Disabled?

After the SSA field office determines that you meet the SSA's non-medical eligibility

requirements, the offices will forward your case to the nearest Disability Determination Services (DDS) office for a determination of whether you are medically eligible for SSD benefits. In other words, are you disabled?

The two DDS offices in West Virginia are located in Charleston and Clarksburg. A two-person team at one of these offices will review your case. The team consists of a claims examiner and a medical consultant.

It is important that this team has complete and accurate medical information in your application. The team will primarily rely on this medical evidence to make its determination of whether you have a qualifying disability.

However, in some cases, the team will ask you to undergo a consultative examination (CE). The CE may be performed by your own doctor or by a doctor that the DDS chooses. Either way, you will not pay for this examination.

To determine if you are disabled, the DDS team will seek answers to these five questions (this is called the five-step sequential evaluation process):

1. Are You Engaged in Substantial Gainful Activity?

First, DDS will determine whether you are working and how much money you are earning per month. Many people are surprised to know they can qualify for SSD benefits even though they work and earn income. However, your monthly income must be below an amount that the SSA

considers “substantial gainful activity” (SGA). The amount changes each year. In 2015, the SGA limit was set at \$1,090 per month (\$1,820 for blind individuals).

2. Do You Suffer from a “Severe” Condition?

If you earn below the SGA limit, the DDS team will determine whether you have a medically determinable physical or mental impairment. The condition must be documented by what the SSA determines to be medically acceptable clinical or diagnostic techniques. The SSA will examine all of the characteristics of your condition or symptoms.

3. Is Your Medical Condition Found on the SSA’s List of Impairments?

Next, the DDS team will determine whether the symptoms of your impairment either match or are equal in severity to a condition listed in what is commonly called the “Blue Book.” The impairments are broken into 14 categories:

- Musculoskeletal
- Special senses and speech
- Respiratory system
- Cardiovascular
- Digestive system
- Genitourinary
- Hematological
- Skin
- Endocrine

- Congenital
- Neurological
- Mental
- Cancer
- Immune system.

The Blue Book describes medical evidence that you must provide to show that you suffer from a listed impairment or have an impairment that is equal in severity. If you do, then you should qualify for SSD benefits if you meet all non-medical eligibility requirements.

4. Can You Return to Your Previous Work?

If you suffer from an impairment that is not listed in the Blue Book or equal in severity to a listed condition, you may still meet the SSA's definition of "disabled." However, the DDS team will move on to performing what is called a residual functional capacity (RFC) assessment. It starts by determining whether you can still do the work you were doing before the onset of your disability.

For example, let's say that you worked in construction prior to your disability. The job may require climbing, lifting, pulling, pushing and other physical activities. It may also require performing math calculations. The SSA will determine whether your physical or mental impairment allows you to still do those work tasks.

5. Can You Do Any Other Type of Work?

If you can do the work you did before, your claim likely will be rejected. However, if not, the DDS team will move on to the last stage of your evaluation: Determining whether you are physically and mentally capable of doing any other kind of work.

To make this determination, DDS will look at your impairment as well as your:

- Age,
- Education and training
- Work history
- Transferrable skills.

If DDS determines that you cannot do any other kind of work, you can qualify for SSD benefits. The DDS would return your case to the SSA field office for processing.

However, if you would like to work (and, in reality, earn more income than you would receive in benefits), then the SSA will help you to get training so you can enter another field. Please see our discussion of the SSA's Ticket to Work program in Chapter 7.

If DDS finds that you are not medically eligible to receive SSD benefits, you can appeal the decision, starting with having your case reviewed by a different DDS team. Please see Chapter 5 to learn more about your options if your claim is denied.

The Role of Your Doctor in Your Disability Determination

Finally, it's important to point out the major role that your doctor will play in helping the DDS to determine your medical eligibility for SSD benefits. As the physician who has been treating you, the DDS team will consider your doctor to be the best source of information about your condition and your ability to work.

It will help your application if your doctor can provide a statement that describes not only your medical condition but also how it impairs your ability to do your previous job or, perhaps, any other type of work. Your doctor may also perform a consultative examination.

Your doctor should be familiar with the medical evidence that the SSA requires for conditions listed in the Blue Book. Your doctor should also know what your work involves. If your doctor can provide a clear picture of how your physical or mental condition relates to your ability to work, it will simply make the DDS team's job easier and increase your chances of success.

Sources / More Information

- [Contact Information](#), West Virginia Disability Determination Section
- [Disability Planner](#), Social Security Administration (SSA)
- [Blue Book](#), SSA
- [Social Security Blind Disability Benefits](#), SSA

If Your Claim Is Denied

If your claim for Social Security Disability (SSD) benefits has been denied, do not be discouraged. More than half of all SSD applications are initially denied, with nearly one-third of those applications rejected for reasons that have nothing to do with a person's medical condition. If a claim is wrongly denied, the Social Security Administration (SSA) provides multiple levels of appeal.



Common Reasons Why Claims Are Denied

In order to prevail on appeal, it will help you to understand why your claim was denied. Let's take a look at some of the more common problems that can arise:

- **You have earned too much income.** SSD benefits are provided to workers who cannot engage in "substantial gainful activity" due a medical condition. This does not mean that you cannot work at all. Instead, it means that your income falls below a certain level. The SSA's income limit for benefits eligibility is established annually. It is based on the national average wage index. For instance, the earnings limit for 2015 was set at \$1,090 per month (\$1,820 for those with blindness).
- **You have not worked enough.** SSD benefits are based on your prior earnings, or "work credits." You can earn up to four work credits per year. Generally, you must have earned 40 credits, with 20 from the 10 years just prior to your disability. Younger workers may be eligible with fewer credits. Special rules apply to the blind or those with low vision.
- **You made a mistake on your application.** Any omissions, contradictions or other mistakes in your application can lead to your claim being rejected. It is absolutely crucial that your application be complete and accurate.
- **You failed to show you are disabled.** To establish you have a medically determinable impairment, you must document it with information from "acceptable medical sources."
- **You failed to cooperate.** As you go through the SSD application process, you may face

questions and requests for information from the SSA and/or the local Disability Determination Services (DDS) office in West Virginia reviewing your claim. You could be asked to undergo an additional medical exam known as a consultative examination (CE). You must promptly comply with all requests or adequately explain why you cannot comply.

- **You failed to follow prescribed therapy.** If the DDS learns you are not following doctors' orders for treatment, medication and therapy, it can harm your claim. Exceptions exist for mental impairment that causes memory or defiance problems or religious exemptions. However, you must be ready to explain your lack of compliance with doctors' orders and document your reasons.
- **Drug addiction and/or alcoholism caused your disability.** In 2013, the SSA established a rule that prohibits benefits if it is determined that you would not have been disabled had it not been for your drug and/or alcohol addiction. Disorders based on nicotine or caffeine addiction, however, are not included.

Fortunately, SSD applicants are provided the opportunity to correct or explain problems that have led to the rejection of their claim. In almost all cases, you should take immediate steps to appeal a denial.

How to Appeal the Denial of Your SSD Claim

If you receive a "Notice of Disapproved Claim" after applying for SSD benefits, pay attention to the date of your denial. You will have 60 days from that date in which to appeal the denial. The

letter should also explain the reason why your claim was denied.

You will have four opportunities to appeal an adverse decision about your SSD claim:

- **Request for Reconsideration** – This is simply a review of your file by a different DDS claims examiner. You may amend your application for reconsideration. In some cases, the DDS may ask for more information. The Notice of Disapproved Claim you receive may suggest you request Reconsideration or move right to a hearing.
- **Hearing** – The second level of appeal is a hearing before an administrative law judge (ALJ). At this hearing, you can present witnesses such as medical experts or vocational counselors who have examined you. The SSA may present witnesses as well. The ALJ may question your witnesses and ask you questions. You may request a video conference hearing rather than meeting in person at your nearest Office of Disability Adjudication and Review (ODAR).
- **Appeals Council Review** – If the result of your hearing is negative, you may request a review by the SSA's Appeals Council. The Appeals Council can deny your request for a review, conduct a review without further input from you and render a decision or send your case back to the ALJ for a new review and decision.
- **Federal Court** – After an Appeals Council review or denial of a request for review, you may file a lawsuit against the SSA if you are still not satisfied. You will be allowed to present evidence and testimony before a U.S. District Court judge. The SSA will be able to present its evidence against your claim as well.

At each stage of the appeals process, your request for an additional review or hearing must be made within 60 days of the previous decision – plus five days for mailing. Your request must be made in writing and with the proper forms.

In some cases of hardship, which you must document, you may request and obtain a deadline extension. However, extensions rarely are allowed.

Should You Appeal a Denied Claim?

If you have already made as thorough and accurate a case as possible for your SSD claim and been denied, it may be that you are not eligible for benefits. If the “Notice of Disapproved Claim” letter you receive explains a reason for denial that is fully accurate, you may need to seek other sources of disability assistance.

However, if there is any further information you can add, or the SSA’s reason for denial is inaccurate or open to interpretation, you could lose a significant amount in benefits by not appealing the denial.

If there is anything at all you can add to your file to bolster your SSD benefits claim, you should file a Request for Reconsideration as soon as possible after an initial claim denial. Hearings are different. They require more from you.

The Social Security Administration describes the SSD appeals hearings process as “at times a rather lengthy one.” In almost all cases, before you reach the hearing stage, your benefits application has been reviewed twice by multiple examiners.

You should weigh whether you have sufficient additional evidence that could make an ALJ rule in your favor. It may be that appearing in person to make your case, which you would be allowed to do for the first time at a hearing, is exactly what is needed to get your claim approved.

At this point, when considering whether to appeal the second denial of your SSD claim, it may be beneficial to have an independent party with knowledge of the SSD benefits program review your application package and the circumstances of your disability. Most attorneys who handle SSD claims can conduct such a review free of charge and with no further obligation from you.

Your Right to Representation

It is your right to obtain assistance as you pursue a claim for SSD benefits. This includes legal representation from an attorney at law or the assistance of anyone whom you trust. But if this person is to officially act as your representative, you must notify the SSA.

Once your representative is duly appointed, the SSA will work directly with your representative. You may still contact the SSA, but the agency will look to your appointed representative when it has questions about the status of your claim or other information it needs. Your representative will be allowed to:

- Get information from your file and receive a copy of any decisions on your claim
- Give the SSA evidence or information to support your claim
- Go with you, or for you, to any interview, conference or hearing
- File an appeal (reconsideration, hearing or Appeals Council Review)

- Help you and your witnesses prepare for a hearing and question any witnesses at a hearing.

Is an Attorney's Representation Necessary?

As your appeal progresses, especially if it goes to federal court, the hearings become more formal in setting and procedure. In particular, they follow rules of evidence and procedure, including rules for submitting evidence and examining witnesses.

A non-attorney representative could run into problems if he or she does not understand how a courtroom works. It is not something you pick up from television or movies.

In a hearing, you must show you meet the SSA's definition of disabled. The SSA will argue that you do not. A major part of your hearing will likely be testimony by experts about medical aspects of your case. An attorney who is a trained litigator will know how to challenge testimony and object when testimony should not be allowed.

A local SSD claims attorney will know several physicians, therapists and other medical professionals that have experience with SSD cases who can review your file and testify as experts on your behalf.

Additionally, a lawyer is bound by certain professional standards, including ensuring the confidentiality of all information you share with him or her.

Sources / More Information

- [The Appeals Process](#), Social Security Administration

What To Expect At Your Hearing

If your claim for Social Security Disability (SSD) benefits has already been denied twice – first, at the application stage, and then upon your request for reconsideration – you may be discouraged. However, you should not give up.



Within 60 days after your claim is denied at the request-for-reconsideration stage, you can file a request for a hearing before an administrative law judge (ALJ). The hearing will give you an opportunity to present new evidence and will allow the judge to see in person how your medical condition has impacted your life.

For this reason, many applicants ultimately secure the benefits they need and deserve at this stage. In fact, in West Virginia, two out of every five claims are approved after a hearing.

The following is an overview of what you can expect at the hearing stage, including a few steps you can take to expedite the process.

Please note: If you have not done so by now, you should make sure to work with an attorney at this stage in your case. A lawyer will be able to review your case to determine why your claim may have been previously denied, compile new and additional medical evidence and advocate for you at your hearing.

Avoiding the Hearing

The hearing in your case will go through the nearest Office of Disability Adjudication and Review (ODAR) office located in West Virginia. The offices are in Charleston, Huntington and Morgantown.

Unfortunately, due to the high volume of cases that go through these offices, it may take a long time before your hearing is actually held. After the hearing is held, it may be several more months until you learn of the ALJ's decision on your claim.

In fact, through the first half of 2015, the average hearing wait time in West Virginia was 17.2 months, or roughly three months longer than the national average. The average processing time was 520 days (17 months) or almost 100 days longer than the national average.

Average Hearing Wait Times in West Virginia		
Office	Avg. Wait Time (in months)	Avg. Procession (in days)
Charleston	15.5	475
Huntington	19.0	558
Morgantown	17.0	529
West Virginia	17.2	520
National	14.3	452

Through July 2015

You may have options available to you to expedite the process. These options include:

- **Dire Needs Letter** – You can submit a letter to the SSA that explains that you face a dire situation such as being unable to pay for your food, housing or medical care and treatment. You may include documentation to support your claim such as an eviction notice or letter warning that your utilities will be turned off.
- **Attorney-Advisor Decision** – If you can establish that your case will result in a “fully favorable” decision, you can request a decision by an attorney-advisor. This option may be available if you can show there was an error in your file, present new or additional evidence or point to a change in the law.

- **On-the-Record Review** – You can avoid a hearing by asking the ALJ to decide your case based on the evidence in your file and a written argument, or brief. This option may be available if you can show the medical evidence in your record is complete.

It is important to note that you may request to hold your hearing by video instead of in person. While a video hearing may be more convenient or a necessity due to your condition, it likely won't help to shorten your wait time.

What Will Happen at Your Hearing

On the day of your hearing, make sure that you arrive on time. You should dress appropriately. The hearing will be held in a room at the ODAR office. Your friends and family members will not be able to enter the hearing room unless they are serving as witnesses.

The hearing typically will start with an opening statement of the facts in your case and a summary of the issues that must be resolved at the hearing. For instance, the issue may be whether you are able to do the work you did before your medical condition arose.

The ALJ will then ask you a series of questions. The ALJ's goal will be to gain a better understanding of your medical condition and how it has impacted your ability to work for a living. The ALJ may ask about your diagnosis and treatment, work history and education and training.

You should also expect testimony from experts, including medical and vocational experts. For instance, the SSA may present an expert who challenges your disability claim. However, you will have the ability to cross-examine the SSA's experts and put on expert testimony of your own.

You may also present witnesses who can testify about how your medical condition has affected you. For instance, a co-worker may discuss how you are no longer able to lift heavy objects or carry out other tasks.

You may then provide the ALJ with a closing statement in support of your SSD benefits claim.

What Happens After Your Hearing

In some cases, the ALJ will announce his or her decision at the end of the hearing. However, it may still be several months until the ALJ issues an opinion that contains factual findings and legal conclusions that support the ALJ's decision.

If the ALJ allows your claim, you should expect to start receiving benefits as soon as your claim is processed. Please see Chapter 7 for a discussion of what to expect if your claim is allowed.

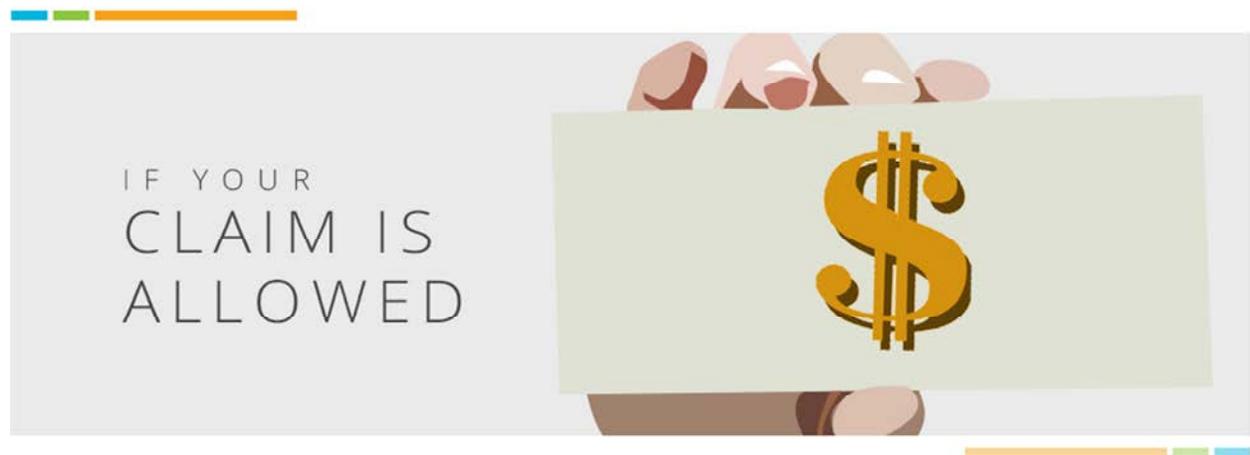
If your claim is denied, you will have 60 days to send a written request for review by the SSA's Appeals Council.

Sources / More Information

- [Average Wait Time Until Hearing Held Report](#), Social Security Administration (SSA)
- [Decisions by Attorney-Advisors](#), SSA
- [Critical Cases](#), SSA

If Your Claim Is Allowed

Because it is a problem for so many people in West Virginia and across the country, we have mainly discussed the denial of Social Security Disability (SSD) benefits claims in this Guide. However, you should also know what to expect when your claim is allowed – either on your initial application or on appeal.



Letter of Approval

If your claim is allowed, you will be notified by mail with a Social Security Disability award letter.

It will tell you how much your monthly benefits payment will be, when it will begin and when you should expect to receive your first and subsequent checks. It will also advise you about when to expect your first Continuing Disability Review (CDR), which we discuss below.

The letter will also advise you of action you may take if you disagree with the benefit amount. You can file a Request for Reconsideration within 60 days of receiving the award letter. This is a review of your file by a claims examiner who was not involved with the initial review of your application. You may add information to your application prior to this review.

Your monthly benefit will be based on your average lifetime earnings. The first payment will be made for the sixth full month after the date your disability began.

For example, if the state agency, known as Disability Determination Services (DDS) decides your disability began on January 15, your first benefits check will be for the month of July. Social Security benefits are paid in the month after the period they cover. So, you will get your July benefits check in August.

The Social Security Administration (SSA) uses a complex formula to calculate the amount you are paid in benefits, or your Primary Insurance Amount (PIA). The formula can be broken into two parts.

The first step is to calculate your Average Indexed Monthly Earnings (AIME). The SSA arrives at

your AIME by taking what you earned over the years before you were disabled and indexing it according to the national average wage index from the two years prior to your disability date. The SSA will index your earnings for each year that you earned income.

To do this, the SSA will determine the “indexing factor” for each year. The SSA will divide the national average wage index for two years prior to your injury by the average wage index for each year you worked.

For example, let’s say you became disabled in 2015. The SSA would determine your AIME by using the national average wage index for 2013, or two years prior to when your disability arose. In 2013, the index was \$44,888.16.

To determine the indexing factor for 1977, when the national average wage index was \$9,779.44, the SSA would divide \$44,888.16 by \$9,779.44. The answer: 4.59. To index your earnings for that year, the SSA would multiply your income by 4.59.

Once each year of income is indexed, the SSA adds up the 35 years in which you had your highest earnings (or all years if you worked fewer than 35 years). The SSA then divides that total by the total number of months you worked.

So, let’s say your total indexed earnings for 35 years (420 months) came out to \$1,500,000. Your AIME would be \$3,571.43 or \$3,571 when rounded down.

The second step is to apply “bend points” to your AIME. Bend points are three separate percentages applied to portions of your AIME, which are determined periodically. For 2015, the bend points are:

- 90 percent of the first \$826 of your AIME
- 32 percent of your AIME between \$826 and \$4,980
- 15 percent of your AIME over \$4,980.

So, for an AIME of \$3,571, the calculation would be:

$$(0.90 \times 826) + [0.32 \times (3,571 - 826)] = \text{PIA.}$$

$$743 + 878.4 = \$1,621.40$$

(Note: For an AIME of \$3,571, there is no third calculation of 15 percent. This is because there is no amount over \$4,980.)

Of course, the easier step to take is to determine your potential monthly benefits amount by using a basic [online calculator](#) or a more [detailed calculator](#) available on the SSA's website. If you are still working, you can also track your potential benefits by establishing an [online SSA account](#).

Changes in Your SSD Benefits

Your monthly Social Security Disability benefits payment can increase each year with a cost of living adjustment (COLA). This adjustment is based on the annual consumer price index (CPI).

Your benefits could also change if you find that you can do some work for pay, which you must report to the SSA. The SSA allows disability benefits recipients to earn some income without penalty. However, if you earn more than a designated amount, the SSA will decide you no longer need disability assistance.

There are several life events or changes in your situation that you must report to the SSA to ensure that your benefits continue. Any family members who are receiving benefits based on your work history must update the SSA on changes in their status as well. The failure to do so could disrupt or end your payments.

The SSA requires benefits recipients to report:

- Working for money while receiving SSD payments
- Applying for, receiving or ending receipt of other disability payments
- Receiving a pension from work not covered by Social Security or a change in that amount
- Moving (changing residences)
- Getting married or divorced
- Changing your name
- Changing your direct deposit account
- Becoming the parent of a child, including by adoption
- The adoption by someone else of a child in your household who is receiving benefits
- Being arrested for a felony
- Being convicted of a crime or violating a condition of parole or probation
- Leaving the U.S. or changing your citizenship status
- The death of our spouse if you are receiving both Social Security and Railroad Retirement benefits based on your spouse's work.

Additionally, if you receive a check that you know you are not due to receive, you must return it. You can take it to any Social Security office or return it to the U.S. Treasury Department at the address on the check envelope.

To report any status change, contact your local SSA office in person or call (800) 772-1213. You will need to provide:

- Date of the status change you are reporting
- Your claim number (found on your initial benefits award letter).

Your SSD Eligibility Status and Continuing Disability Review (CDR)

From time to time, the SSA will look at your file to see whether you should continue to be considered disabled and eligible for benefits. Your initial letter of benefits approval will tell you when to expect your first Continuing Disability Review (CDR).

The frequency of CDRs is determined by the severity of your disability.

- **If medical improvement is expected** – Your CDR will occur six to 18 months from the start of your benefits
- **If improvement is possible** – Your CDR will occur about every three years
- **If no improvement is expected** – Your CDR will occur every five to seven years.

When the time for a CDR arrives, you will get a letter notifying you that the SSA is conducting a review. Then, you will hear from a representative from your local SSA office who will explain the CDR process and your rights, including the right to appeal an adverse decision. The representative will also ask you to provide records of any recent medical treatment and ask if you have worked for pay.

The CDR may only be a review of your file and current medical reports by a disability examiner

and a doctor. However, the SSA might require a medical exam.

You will be notified by letter of the final decision from the CDR. If the SSA decides you are still disabled, nothing changes. If they decide you are not, your benefits will stop in three months – unless you appeal the decision.

You have 60 days from the date on your letter to file an appeal of a CDR decision. If you miss that deadline, your tardiness may be excused if you can show good reason for it. However, it is best to act without undue delay.

The appeals process is the same for any denial of SSD benefits. You will have four levels of appeal and, generally, 60 days to file your request for a new review after each decision. The levels of appeal are:

- Reconsideration
- Hearing (before an administrative law judge)
- Appeals Council review
- Lawsuit in a U.S. District Court.

Can You Return to Work? The SSA Wants to Help

If it is possible for you to handle some level of employment, you can take a job and still receive SSD benefits. The SSA will even help you to get back to work through its Ticket to Work career development program.

If you are at least 18 years old and not yet age 65, and you receive SSD benefits, you are eligible to receive free employment support services, including:

- Career counseling
- Vocational rehabilitation
- Job placement and training.

Participation in the Ticket to Work program is free and voluntary.

Ticket to Work participants work with an Employment Network (EN) or state Vocational Rehabilitation (VR) agency.

An Employment Network, which may be a public agency or private contractor, may provide such services as:

- Career planning
- Job leads and job placement
- Ongoing employment support
- Benefits counseling.

A state VR agency may provide:

- Intensive training
- Education
- Rehabilitation

- Career counseling
- Job placement assistance
- Benefits counseling.

If you are interested, you can call the Ticket to Work Help Line at (866) 968-7842 or (866) 833-2967 (TTY) to verify your eligibility and get answers to your questions. The SSA can send you a list of local ENs and VR agencies.

The SSA also offers [downloadable worksheets](#) to help you ask local agencies questions and determine which one is likely to provide you the most relevant help.

The SSA provides other incentives to return to work, including:

- **Protection from Continuing Disability Reviews** – This is available while you are participating in the Ticket to Work program and making progress.
- **Expedited Reinstatement** – This is possible if your benefits stopped because you earned too much income. You can request to have your benefits reinstated without having to complete a new benefits application. You can then get benefits for up to six months while the SSA reviews your status.
- **Trial Work Period** – This is available for Supplemental Security Income (SSI) recipients. It allows you to keep receiving benefits payments no matter how much you earn while you work on a trial basis for up to nine months.

If you have any questions about how to return to work without endangering your right to receive SSD benefits, ask your attorney.

Sources / More Information

- [Continuing Disability Reviews](#), Social Security Administration (SSA)
- [Ticket to Work](#), SSA

Support From Your Attorney

The Social Security Administration's backlog in Social Security Disability (SSD) benefits claims is a problem that seems to only get worse.



According to a Washington Post article, roughly one million people in the U.S. were waiting for a hearing on their claim by the end of 2014, when the average wait time was 435 days. That wait time, on a national level, has only increased in the months since.

In West Virginia, the backlog is one of the highest in the country. Through July 2015, SSD claimants in our state were waiting, on average, 17.2 months for a hearing to be held.

Seeking disability benefits, in other words, can be a long and challenging process. Without competent legal assistance, of course, the process may become even more challenging.

Choosing to Work with a Lawyer

As the Social Security Administration (SSA) notes, you have the right to appoint a qualified person to represent you in your dealings with the SSA. The person may be an attorney or a non-attorney representative. At Mani Ellis & Layne PLLC, we believe an attorney is the best option.

Certainly, many experienced and dedicated non-attorney representatives can be found in West Virginia. However, we believe working with an attorney provides three important advantages:

- **Educational** – Unlike a non-attorney representative, an attorney has gone to law school. The attorney has received training on how to read laws, identify issues and prepare written and oral arguments. Additionally, in order to maintain his or her license to practice law, an attorney must continue to study the law by taking continuing legal education (CLE) classes each year.
- **Professional** – An attorney has also been admitted to a State Bar. This means the lawyer has been determined to be qualified to practice law. The lawyer has passed a written examination of his or her legal skills. The lawyer has also been determined to have the character and fitness that is needed to represent individuals in legal matters.

- **Ethical** – A lawyer must adhere to rules of professional conduct. A non-attorney representative is not bound by these same rules. A lawyer, for instance, has an ethical duty to maintain confidentiality and to zealously represent his or her clients.

As you choose an attorney, you should consider his or her experience – specifically in the area of Social Security Disability law. You may also wish to consider the resources that the lawyer’s firm can use to pursue a case on your behalf.

Services a Local SSD Benefits Attorney Can Provide to You

When you work with a local West Virginia SSD benefits attorney, you should expect to receive services that include:

- **Helping you to submit an accurate and complete application** – Most delays in seeking SSD benefits arise from mistakes in the application process. An attorney can help you to avoid unnecessary delays by making your application is accurately completed and contains all of the documentation the SSA needs to determine your eligibility.
- **Coordinating with your treating doctor** – Input from the doctor who has diagnosed and/or treated your medical condition will play a major role in your claim. Your attorney can make sure your medical records are obtained and communicate with your doctor so he or she knows what information must be provided to the SSA.
- **Making sure you meet all deadlines** – If your application is initially denied, you will have 60 days to file a request for reconsideration. An attorney can ensure you meet that

deadline and all later deadlines in your case. The lawyer can also make sure that the SSA has the most up-to-date information in order to decide your case.

- **Seeking ways to expedite your appeal** – At the application and appeals stages, opportunities may exist to speed up a decision on your claim. For instance, you may be able to seek an on-the-record review or attorney-advisor decision. An attorney can pursue any available options and routinely check on the status of your claim.
- **Representing you at your hearing** – A hearing before an administrative law judge (ALJ) is similar to a hearing or trial. An attorney can advocate for you at the hearing by cross-examining witnesses and presenting persuasive arguments to the ALJ. If the attorney has experience with hearings at a local Office of Disability Adjudication and Review (ODAR) office, the lawyer may be able to anticipate questions a certain ALJ may ask.
- **Pursuing all available benefits for you and your family** – A lawyer can seek all SSD benefits that you, your spouse and children are eligible to receive. Also, while your claim is pending, a lawyer can help you to seek workers' compensation benefits or other benefits you are entitled to receive. An attorney can help you to structure these benefits so they will have a minimal impact on your SSD benefits payments.

In addition to these legal services, an attorney can keep you routinely updated about the status of your claim, answer all of your questions and lend the support you may need to get through a challenging period of your life.

Sources / More Information

- [At Social Security Office with a Million-Person Backlog](#), There's a New Chief, Washington Post
- [Average Wait Time Until Hearing Held Report](#), Social Security Administration (SSA)
- [Representing Social Security Claimants](#), SSA

Social Security Disability Benefits Flow Chart

We hope our Guide has provided you with a thorough explanation of what goes into the process of seeking Social Security Disability (SSD) benefits. The following is a flow chart that can help you to get a quick picture of the how process works from the start.

1. Onset of your disability

This is the date when, due to a physical or mental impairment, you find that you can no longer work. Your impairment may arise from a motor vehicle, work or recreational accident. It may also be a condition such as a musculoskeletal disorder, inflammatory bowel disease or carpal tunnel syndrome that has slowly progressed through the years.

Common Reasons for Disability Benefits Claims

Condition	Pct.
Musculoskeletal / connective tissue disorders	30.7%
Nervous system disorders	14.2%
Cardiovascular / circulatory system disorders	12.1%
Cancer and neoplasms (tumors)	9.0%
Injury and poisoning	7.7%
Mental disorders	7.7%
Respiratory system disorders	2.9%
Other	15.7%

2. Diagnosis by your doctor.

If you can no longer work, you must go to a doctor without delay. The doctor may perform initial tests and refer you to a specialist. These tests may include:

- X-rays
- MRIs
- CT scans
- Biopsies
- Blood and/or other bodily fluid tests.

The results of these tests, your diagnosis and your treatment plan will serve as medical evidence in your benefits claim. Make sure to explain to your doctor how your condition is affecting your ability to work.

3. Meet with an attorney.

Meet with an attorney as early as possible in the process. A lawyer will review and assess your case and advise you on whether you should pursue SSD benefits or other benefits, including:

- Workers' compensation
- Black Lung benefits
- Civil Service disability retirement
- Veterans' benefits
- Federal employees' workers' compensation
- Federal employees' disability retirement
- State or local government disability insurance

Ultimately, a lawyer can get you started in the application process by compiling your information and collecting medical evidence.

4. Submit your application.

You can apply for disability benefits in three ways:

- **Online** – You can fill out forms available at the [SSA website](#).
- **In person** – You can apply at one of 16 local SSA offices in West Virginia. Go to the [SSA website](#) and type in your zip code to find the office located nearest to you.
- **By phone** – You can apply by phone and follow it up by mailing in your documentation or taking to your nearest SSA office. The number to call is 1-800-772-1213 or 1-800-325-0778 (TTY). The number is available between 7 a.m. to 7 p.m. on business days. The interview should take about one hour.

5. Your claim is reviewed.

The review of your SSD benefits claim will involve two aspects:

- **Non-medical eligibility** – A local SSA representative will verify the information in your application and determine if your earnings record qualifies you to receive SSD benefits.
- **Medical eligibility** – The SSA will send your case to the Disability Determination Services (DDS) office in Charleston or Clarksburg. A two-person team (claims examiner and medical consultant) will determine if you meet the SSA's strict definition of "disability." This involves going through a five-step sequential evaluation process

Five-Step Sequential Evaluation Process

1. Are you engaged in substantial gainful activity?

- Do you earn less than \$1,090 per month (\$1,820 if blind individuals)?
 - Yes — Move on to Step 2
 - No — You are not disabled.

2. Do you suffer from a “severe” condition?

- Yes — Move on to Step 3
- No — You are not disabled.

3. Does your condition match or is it equal in severity to a condition listed in the Blue Book?

- Yes — You are disabled.
- No — Move on to Step 4 for a residual functional capacity assessment

4. Can you return to your previous work?

- Yes — You are not disabled.
- No — Move on to Step 5

5. Can you do any other work?

- Yes — You are not disabled.
- No — You are disabled.

After the DDS team reaches its decision, it will send your claim back to the SSA office for processing. The SSA will send you either:

- **Notice of Award** – If your claim is approved.
- **Notice of Denial** – If your claim is rejected.

6. If your claim is denied ...

You are not alone. The SSA denies 62.7% of applications for medical reasons. You have 60 days from the date on your Notice of Denial letter to file a written request for reconsideration. You can continue to appeal a denial of your claim through three more stages:

- **Hearing** – The hearing would be held at Office of Disability Adjudication and Review (ODAR) office in Charleston, Huntington or Morgantown. The most recent stats indicate that 41% of cases are approved at the hearing stage. The average wait time for a hearing is 17.2 months. An administrative law judge (ALJ) will decide your case.
- **Appeals Council** – Your case may be reviewed by the Appeals Council in Falls Church, Virginia. The average processing time is 374 days.
- **U.S. District Court** – You can file a lawsuit in your nearest U.S. District Court.
 - **U.S. District Court for the Southern District of West Virginia** – Court locations in Charleston, Huntington, Beckley and Bluefield
 - **U.S. District Court for the Northern District of West Virginia** – Court locations in Clarksburg, Elkins, Martinsburg and Wheeling

7. If your claim is approved ...

Your Notice of Approval letter will state:

- Your disability onset date
- Date you became eligible for benefits (five months after your disability onset date)
- Amount of back pay you will be awarded and when you will be paid
- Amount you will receive in monthly benefits and when you will be paid
- Date of your first continuing disability review (CDR).

Average Monthly SSD Benefits (as of July 2015)

Beneficiary Type	Avg.
Disabled worker	\$1,165.18
Spouse of disabled worker	\$317.87
Child of disabled worker	\$348.72
General	\$1,022.16

8. Continuing disability review

The frequency of your CDRs depends on the severity of your disability.

- **If medical improvement is expected** – CDR 6-18 months from the start of your benefits
- **If improvement is possible** – CDR every three years

- **If no improvement is expected** – CDR every five to seven years.

Your benefits will continue unless you are determined to be no longer disabled.

9. Return to work?

If you are able to return to work, the SSA will help you. You can receive free employment services in the SSA's Ticket to Work program, including:

- Career counseling
- Vocational rehabilitation
- Job placement and training.