

How Does Social Security Decide If I'm Disabled?

By Jacques Chambers, CLU

Like any other large bureaucracy, and they are one of the biggest, the Social Security Administration makes a special effort to keep the decision-making process as uniform as possible throughout its wide network of offices.

Because of this, Social Security has a very formalized process for determining whether or not you are "disabled," according to their definition and their standards, and the more you know about *their* process, the better you can illustrate *your* disabled status to them.

One of the big reasons many people are turned down the first time they apply is that they don't learn about the process like you are doing now so they don't understand what Social Security is looking for. Once you know the process, it's much easier to present your condition in a manner that they are more likely to accept.

How Social Security DOESN'T Decide Disability

First, let's be clear what Social Security does not do.

- They do not look at you and decide how "disabled" you look. In fact, the person that decides if you are disabled never sees you, although the interviewer at Social Security does fill out a form that asks about his/her impression of your abilities and appearance during the interview.
- They don't decide if you "deserve" the benefit. They are looking strictly at whether you are "medically disabled," not whether you are having such a rough time that "you really deserve it, you poor thing."
- They also don't decide based on "what's fair," either. They follow their rules and procedures, not what seems right or fair.
- They really don't care whether your doctor thinks you are disabled or not. Many doctors will complete paperwork implying "I'm the doctor, and I say he/she's disabled, therefore he/she's disabled and that's that." It's your doctor's medical records, not opinion, that are important in getting approved. However, if your doctor does not support your disability claim, approval will be very difficult. Make sure your doctor is willing to support and assist you before you start the process.

Social Security Defines Total Disability

To qualify for disability benefits under Social Security, you must meet their definition of disability. Whether it is SSDI or SSI or any other Social Security benefit requiring disability, you are only eligible for disability benefits if you meet this definition:

"We consider you disabled under Social Security rules if you cannot do work that you did before and we decide that you cannot adjust to other



work because of your medical condition(s). Your disability must also last or be expected to last for at least one year or to result in death.”

It sounds simple enough doesn't it? Believe me, it's not after the Congress and the bureaucracy of the Social Security Administration get finished with it.

Who Decides if You Are Disabled?

It's not Social Security that decides if you are disabled. Once Social Security takes your application, your file is turned over to a state office. Called by different names in each state, Disability Determination, Disability Evaluation Department, Disability and Adult Programs, or something like that, it is that department that actually examines your medical records, your completed medical questionnaires and other medical evidence and decides whether or not you meet Social Security's definition of disabled. This is done by a person usually called a Claims Analyst.

The Process of Disability Determination

In an attempt to make the process uniform throughout the nation, Social Security has developed a formal determination process which all offices must follow. The Analyst looks for the answer to five questions when determining whether or not you meet their disability standard.

The more you know about this process and where your medical condition fits into their review, the better you will be able to complete the forms and questionnaires, and the greater the chances of getting approved the first time around. It's smart to keep these five questions in mind as you prepare to submit your evidence.

To determine if you are disabled, the Analyst seeks answers to the following questions. The Analyst is not going to sit down and ask you these questions one by one. This is the outline the Analyst will be following when he/she, reviews your medical records and the questionnaires you will complete for them.

The questions are:

Question #1. Are you working?

Social Security talks about “substantial gainful activity” and gives the impression that if you're working a little bit, it won't affect their decision. That's just not the way it works in the real world.

In my experience and that of every other benefits counselor I've talked to, you should not be earning anything during the SSDI application process. No one says that you won't be approved if you do work three or four hours a week, but it will be much more difficult and your chances for approval are greatly reduced.



Answer to Question #1:

- If the answer is “**Yes**” there will be questions about how much you work, how much you earn, plus you will have to have medical records that clearly show you cannot work any more than you do. The result will either be a denial of your claim or move on to Question #2.
- If the answer is “**No**” then they move to Question #2.

Question #2. Is there a medical problem that affects your ability to work to any degree?

Here they are simply establishing a connection between your medical condition and your ability to work. People that aren't working for reasons that aren't medical, or persons not under the care of a doctor would have their claims denied at this stage.

As you can see, this is pretty subjective, and it really doesn't weed out a lot of claims as long as there are some symptoms that interfere with work and some medical treatment.

Answer to Question #2:

- If the answer is “**Yes**” then they move to Question #3.
- If the answer is “**No**” your claim is denied.

Question #3 Is your condition found in the Listing of Impairments?

Note that a “**Yes**” answer to this question means your claim is quickly approved.

Here Social Security gets specific. They maintain a list of “Impairments” or “Disabling Conditions” to make the determination process easier for the Analysts. With this list, they also give specifics on what type of medical evidence they are looking for to the point of listing standards or criteria of severity that justify approving the claim. If you are diagnosed with one of these conditions and meet the standards, your application will be approved.

The book that contains the Listing of Impairments is called, “*Disability Evaluation Under Social Security*” or just, “*The Blue Book.*” (SSA Pub. No. 64-039). It can be ordered from Social Security or many local offices will stock it. The easiest way to see it is on-line at <http://www.ssa.gov/disability/professionals/bluebook/> .

Under the Adult Listings, Section 5.00 deals with the Digestive System. You should read the first part of that section. It will give you a lot of information of just what Social Security is looking for in reviewing the medical documentation. Section 5.05 is the listing that covers all types of chronic, active hepatitis. The listing states that the condition will result in an approval if the following criteria are met:

“5.05 Chronic liver disease (e.g., portal, postnecrotic, or biliary cirrhosis; chronic active hepatitis; Wilson's disease). With:

- A. Esophageal Varices (demonstrated by endoscopy or other appropriate medically acceptable imaging) with a documented history of massive hemorrhage attributable to these varices. Consider under disability for 3 years following the last massive hemorrhage; thereafter, evaluate the residual impairment; or
- B. Performance of a shunt operation for esophageal varices. Consider under a disability for 3 years following surgery; thereafter, evaluate the residual impairment; or
- C. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater persisting on repeated examinations for at least 5 months; or
- D. Ascites, not attributable to other causes, recurrent or persisting for at least 5 months, demonstrated by abdominal paracentesis or associated with persistent hypoalbuminemia of 3.0 gm. per deciliter (100 ml.) or less; or
- E. Hepatic encephalopathy. Evaluate under the criteria in Listing 12.02; or
- F. Confirmation of chronic liver disease by liver biopsy (obtained independent of Social Security disability evaluation) and one of the following:
1. Ascites not attributable to other causes, recurrent or persisting for at least 3 months, demonstrated by abdominal paracentesis or associated with persistent hypoalbuminemia of 3.0 gm. per deciliter (100 ml.) or less; or
 2. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater on repeated examinations for at least 3 months; or
 3. Hepatic cell necrosis or inflammation, persisting for at least 3 months, documented by repeated abnormalities of prothrombin time and enzymes indicative of hepatic dysfunction.”

It is strongly recommended that before applying for Social Security Disability, you discuss this listing with your physician. He/she can see exactly what tests must be administered to show the listing is met as well as what terminology they use to describe the condition. There may be additional tests or documentation that can more clearly demonstrate that your condition does meet one of the listings.

If you **DON'T** meet one of the specific Listings, Social Security will then look to see if the symptoms you have are equally severe to one of the listings.

Multiple Conditions: It's possible that you do not meet any one listing but have enough symptoms from several listings that the combination is considered disabling. Looking at how Social Security examines your medical evidence, it is clear that the cleanest and simplest way to get your claim approved is to carefully compare your records to the Listing of Impairments.

Answer to Question #3:

- If the answer is “**Yes**” then the Analyst stops processing the claim and sends it back to Social Security as “approved.”

If the answer is “**No**” they move to Question #4.

Question #4 Can you do the work you did previously?

Here, they compare the symptoms you have with the duties of your most recent job. How do your symptoms keep you from doing your job? Do they keep you from doing major parts of your job or just some minor tasks?

In this section, they are looking for functional problems that you have, not necessarily lab results or a specific diagnosis. This is where they will focus on the questionnaires they asked you to complete, such as the Daily Activities Questionnaire and the Pain or Fatigue Questionnaires. This is also where they will consider the Third Party Testimony letters from your friends, family, co-workers and supervisor.

Here they will be looking for all the symptoms you have that hamper your ability to work, regardless of what is causing the symptoms, including side effects of treatment and medication.

Answer to Question #4:

- If the answer is “**Yes**” then your claim is denied.
- If the answer is “**No**” then they move to Question #5.

Question #5 Can you do any other type of work?

OK, so you can't do your old job, is there something else you can do? This question is a real gray area and a difficult one to get past if your symptoms are mild or not well documented. They look at the types of jobs you have done in the past, and jobs that are similar in nature and skills.

They look at the possibility of retraining. They even consider your age. The younger you are the easier it is for them to find other jobs they believe you can do.

Answer to Question #5:

- If the answer is “**Yes**” then your claim is denied.
- If the answer is “**No**” then your claim is approved.

With this information and a careful review of your medical records with your doctor to make sure they show all that they should to support your claim of disability, your claim has a much better chance of being approved at the initial application.

If, by chance, your claim is not approved the first time, it is imperative that you appeal that through either Reconsideration or with an Administrative Law Judge, depending on what level of appeal is next in your region. Appealing a denial will preserve the original filing date so that you do not lose any retrospective benefits when you are approved.