

10 THINGS SOCIAL SECURITY WON'T TELL YOU



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INTRODUCTION

Like most Americans, you have worked hard for the majority of your life and continuously paid into the Social Security system. While you were working, you would look forward to your payday, which may have come after weeks without income. At work, you would open the envelope, pull out the check, and immediately look at the top of the paystub and hopefully, see a substantial sum. However, your excitement would diminish as your eyes scrolled down the page to the total actual amount received. As your eyes met the net income you would suddenly realize just how much less money you took home for that pay period.

On your paycheck, your employer took out a huge chunk of your hard earned money for federal and state taxes, Medicare, Medicaid, AND Social Security. The process of reducing your gross income is habitual and throughout your career seems like it would never end. At least you knew you would be covered later on in life, because the amount that was taken out of your paychecks for all of those years was a long term investment...or so you thought.

So many people, like you, have worked hard for years and paid into the system. Now, due to circumstances beyond your control, you may find yourself in a situation where you have become disabled and are unable to hold down any substantial gainful employment. You have paid into the system for years and believe that the money taken out of your paychecks was specifically done in case this would happen to



you. However, most people who have become disabled find that it is extremely difficult to actually win Social Security disability benefits.

Social Security disability benefits are administered through the Social Security Administration (SSA). Disability benefits are supposed to be the ultimate safety-net for people in case they become disabled. However, what Social Security does not tell you is that the majority of claimants who pursue disability benefits on their own are denied. In fact, more than 2 out of 3 people who believe that they are disabled will receive a denial letter from SSA.

Meanwhile, the same statistics show that Social Security disability attorneys are able to win disability benefits for many of their clients. Why is that? How are Social Security disability lawyers able to win so many of their cases? There must be something that an experienced Social Security disability attorney knows that the average claimant does not.

In this eBook, Illinois licensed Social Security disability attorney Aaron E. Rifkind reveals 10 things Social Security won't tell you about the disability benefits process. This eBook is not meant for legal professionals or scholars but for the layman who wants to know more about Social Security disability benefits. If you are unable to work due to an illness that is expected to last for at least twelve months, you have to read this eBook.



This ebook has three main sections:

10 Things Social Security Won't Tell you

Frequently Asked Questions

Conclusion



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Did you really apply for disability benefits?

Throughout the years, I have had hundreds of potential clients come into my office asking for the status of their Social Security disability benefits applications. To find out their status, I would have to call SSA with the claimant being present in my office. When I would call SSA it would not be uncommon for them to respond, “This claimant never completed the application, we have not done anything with this file.” Some of those claimants had been waiting six months for benefits before discovering in my office that they never actually completed the application! How does the happen? Rather, how could SSA allow this to happen? The problem starts with the internet application.

Like so many others out there, you may have been told by friends, relatives, or even SSA employees that it is easy to apply for disability benefits online. The process is supposed to be straightforward. You have been told to go to the SSA website at www.ssa.gov and click on the “apply for disability benefits” link. After you click on the link, you complete the application, push the “submit” button, and you are supposed to be done.

The Social Security disability benefits application process is supposed to be as easy as pushing “submit,” but toward the end of your application you realize that it is not. The last page of the application mentions that you can go on to the Adult Disability Report and Authorization to Disclose Medical Records Form. The real question at



this point is why you would want to go to those sections after you have already completed the application!

After already spending probably at least a half an hour filling out the application, it is understandable that you would want to be done with the process. Actually, you are not alone, many claimants never go on to complete the Adult Disability Report or sign the Authorization to Disclose Medical Records form. Without completing those documents, a claimant may believe he or she can sit back and wait for a determination. This IS NOT the case!

The Social Security Administration requires a claimant to complete and submit three parts of the Social Security disability benefits application: the Social Security disability application, Adult Disability Report, and Authorization to Disclose Medical Records. All three documents need to be processed for SSA to evaluate a claim.

SSA should have structured the online application page as “disability application, Part 1, Part 2, and Part 3.” By specifically stating that there are three parts, more claimants would complete the application. However, this is not the case; there is only a disability application, then two other mysterious forms that need to be completed.

DO NOT get fooled into thinking that you have fully completed a Social Security disability benefits application without reviewing whether you have submitted all three parts of the application. The Social Security disability process is tedious and you need to make sure that you start on the right foot.



Your appointment with the SSA doctors IS important.

For those of you who have completed all three parts of the benefit application, there will be periods where you have had little to no correspondence with SSA. In fact, if you take the initiative and try calling SSA about the status of your claim, more likely than not the person you speak to will say nothing more than your claim is in progress.

When your claim is further along in the process, SSA may send you a letter stating that they have scheduled an appointment for you to meet with one of their doctors. The letter typically states that it is important for you to attend the examination; however, the letter rarely states how important the visit is other than to attend. Your visit with the SSA doctor can make or break your case. In fact, the examination with the SSA doctor is so important that his or her opinion could be used as the government's chief evidence against your claim!

What do you need to know about the examination? If you do not attend the SSA doctor's examination, your claim could be denied. Also, make sure to explain all of your ailments and conditions to the doctor. If you do not, the doctor might not look at all of your conditions and then could go on to say that you are able to work. I have heard many stories where a claimant would complain that he or she had carpal tunnel syndrome for instance, and the doctor would then go on to look at the rest of the body for illnesses and completely



overlook the carpal tunnel. Be specific with what is hurting or bothering you.

Finally, your examination may only take 5 minutes. Since the examination is so quick and carries so much weight, it is imperative for you to explain everything about your ailments to the doctor.

Before you receive a Social Security determination, you may receive a letter with an appointment for you to meet with one of their doctors. The medical examination can determine the outcome of your case. You not only have to attend, but go to the examination informed and after you have reviewed this information.



Complete the “optional” remarks section of the Adult Disability Report

The Social Security disability benefits process is complicated. For an experienced Social Security disability advocate it could take several hours to complete all three parts of the disability application. The process could take much longer if you are in severe pain. Since the application takes so long to complete, Social Security left the final page of the Adult Disability Report as “optional.” FILL IT OUT! The remarks section should say REQUIRED because this is the only part of the application that gives you the ability to tell your story! The remarks section is so important, that I have required everyone in my law firm to completely fill up the allotted space.

The remarks section of the Adult Disability Report is the only area of the application where a claimant can tell his or her story. Much like an autobiography of how you became disabled and how your conditions have limited your daily activities, the remarks section is your opportunity to show SSA why you should receive disability benefits.

The key to filling out the remarks section is to be thorough. A disability can affect an entire family. Tell SSA how your disability is affecting your daily chores. Does your disability affect your ability to cook, clean, take care of your personal needs, or perform chores outside of your home? How about going shopping? Do your



conditions limit your ability to be social and communicate with others?

By explaining in detail what your conditions are and how they affect your daily living, you will give SSA a bigger picture of who you really are and why you should win disability benefits. Do not let the remarks section be “optional.” It is the time where you need to give it your all. Show SSA why you deserve disability benefits; keep in mind that you have already paid into the system, now it is time to collect!



List ALL of your conditions.

There are several places throughout the Social Security disability benefits application where a claimant has the opportunity to list all physical or mental impairments. While Social Security says that you can list all of your conditions, they do not stress how important it is. Not listing all of your conditions is one of the biggest mistakes you can make on your disability application!

When someone is suffering from one condition, that same person is usually suffering from others. However, because the pain is so intense, most claimants tend to forget about those “other” ailments. Below is the dialogue I had with a potential client recently:

Me: “What is preventing you from working?”

Claimant: “My back is killing me; I suffer from degenerative disc disease and it hurts when I get up, sit down, twist, reach, or do anything.”

Me: “I’m sure it has been very difficult for you. Degenerative disc disease can be quite serious. I noticed that you have applied for disability benefits already because of your back pain.”

Claimant: “That is correct.”



Me: “Does anything else cause you pain? Do you feel constant fatigue or perhaps suffer from any side effects from your medications?”

Claimant: “Absolutely! My asthma and congestive heart failure make me tired and make it difficult for me to get up and do stuff.”

The claimant above was in a lot of pain, so much pain that he completely forgot that asthma and congestive heart failure were other conditions that he was suffering from. All conditions need to be listed in the application!

Social Security will consider all of your conditions and whether they combine to prevent you from being able to perform substantial gainful activity. For this reason, you **MUST** list all of your conditions when you fill out the application. The person above failed to tell SSA that he was taking medications for asthma and congestive heart failure and had been hospitalized numerous times for both conditions. Had he mentioned those conditions, he would have had a much stronger disability case.

DO NOT make the same mistake; list all of your conditions on your disability application. Let Social Security see the bigger picture of why you are unable to work!



Check your medical records

The second part of the disability application is the Adult Disability Report. You have begun part 2 of the disability benefits application and now Social Security wants to know all of your medical information. Medical information consists of medical history, clinical findings, treatment, physician's statements, laboratory findings, and diagnoses. You **MUST** make sure that Social Security sees all of your medical information! After you write everything down on paper, you then have to make sure that Social Security actually receives it!

Make sure all of your medical information is included in the application. In other words, if you do not write down the medications you are taking or the doctors whom you are seeing, Social Security most likely will not use that information to determine whether you are disabled. There are specific sections of the Adult Disability Report allocated for medical information. Do your best to list everyone and everything. It will not be easy.

Social Security will require a lot of very specific details about your doctors and hospital visits. They will ask when you had certain tests done, who administered them, and why you had them. Social Security will ask you questions like "Why did you go to this hospital and what for?" The best way to answer all of these questions is to gather your records before you start the Adult Disability Report. This will make it easier for you to complete, it will go faster, and the application will be more thorough.



After you have included all of your medical information in the application, the next step is to make sure that Social Security collects it. **This is extremely important!** Most claimants who complete the application think that they are finished with what they have to do for the process after submitting the application.

However, in my experience, Social Security does not always gather all of your records. In fact, that only happens maybe half of the time. The rest of the time, Social Security is unable to collect your records. What if the records they failed to collect are the key to proving your disability? Even worse, what if the missing records are the only documents that show that you have a particular disabling condition!

Do the best you can to gather your medical information and write it down on your Social Security disability benefits application. Also, by taking the effort to gather your records, you will ensure that you have done everything you can to give yourself the best opportunity to win your case.



If your initial application is denied, appeal

The Social Security disability benefits process can be frustrating. Some disability claims have been known to last over three years. On a daily basis, I notice that many claimants are unaware that they have the right to appeal their application denial. The few claimants who know that they can appeal usually do not understand how to proceed with the case.

If you have recently been denied disability benefits, you have sixty (60) days from when you receive your denial letter to appeal their decision. Many claimants fail to read the letter carefully and miss out on the opportunity to proceed with their case. If you read the denial letter, it can be tricky because it only states that you have “a right to file a new application” and “a right to file your appeal.” By stating that a claimant has a “right” to choose either option, I find that many claimants either give up or proceed with filing a new application rather than filing an appeal.

What most people do not know and Social Security fails to mention is that the further along you are in the disability process, the better your chances of winning your case. You have already done the majority of the work necessary to get your case to the hearing level. The appeals process is straightforward and requires you to fill out and sign only a couple of forms. The odds have already started to shift in your favor; all you need to do is move the process along!



Once an appeal is filed, I often get the question, “What can I do now while I wait to improve my case?” You could see a specialist if you have not done so already. A specialist is a professional who has a particular area of focus, such as a cardiologist or orthopedist. A specialist has more expertise than your primary care physician. A specialist’s opinion will typically carry more weight than other evidence and could improve your chances of winning when you are at the hearing level. The best thing you could do while you are waiting for another decision is to get your doctor on your side. A claim is won based on the medical evidence provided. Having a doctor on your side could determine whether you end up getting disability benefits (potentially for the rest of your life).

If your claim is denied, understand that you are in good company. Most claimants receive a letter of denial off of the initial application. By appealing and moving forward you will be that much closer to your day in court where the odds increase and you get the chance to fight for your case!



Forms, forms, and yes, more forms

From the moment you submit a completed disability application, you will probably begin receiving correspondence from Social Security in the form of letters, phone calls, or emails. SSA employees are not calling you because they want to be your friend; they try to get in touch with you because they need information. If they do not get the information that they are looking for, they then tend to either prolong your case or it could lead to the denial of your claim. It is imperative for you to respond to all SSA inquiries as soon as possible.

SSA correspondence could include documents requesting more information about your work history or your daily activities. Typically, most correspondence will include a statement in bold letters that they require the documents to be completed and sent back to them within 10 days. Why do they pick 10 days, especially when SSA understands that the forms are complicated and take a long time to fill out? SSA has strict deadlines for completing their forms, and not meeting those deadlines could jeopardize your claim.

DO NOT fall into this trap. When you receive documents from Social Security that need to be sent back to them, complete the forms as quickly as possible. Fill them out in full, answer all of the questions that they ask you, and then send them back to Social Security. Winning a claim for Social Security disability benefits is hard enough as it is, the last thing that you want to do is compromise your claim because of basic forms that need to be completed.



Hire a Social Security disability attorney to represent you

There are a number of speed bumps in the Social Security disability benefits process. SSA knows that the process is complicated; they also know that more than 2 out of 3 people who apply for disability benefits on their own are denied. Despite all of this knowledge, Social Security continues to tell claimants like yourself to apply on your own.

There is a laundry list of reasons why you should hire a representative to help you with your case. However, due to the nature of this eBook, I will limit those reasons to a few you may not have heard about.

Unlike other areas of law, Social Security disability is regulated by the government and there are NO up-front fees. This means that you can hire whoever you want and there will be no fee unless you win your case.

The most important reason to hire a representative is for your hearing. Administrative Law Judges recommend to claimants that they should not attend the hearing unrepresented. They do this because your case will be reviewed using legal criteria. Even if your doctor says that you are disabled, in the end, your claim will come down to whether you meet the legal definition of disability.



Not only can a Social Security disability attorney significantly increase your chances of winning, but most Administrative Law Judges have a particular bias against unrepresented claimants. Judges generally approve a much greater percentage of claimants with representation than vice versa.

Putting together a winning Social Security disability case involves collecting updated medical records from hospitals, clinics, doctors, as well as statements from a treating physician collaborating the claimant's case. Social Security will readily tell claimants that they can gather all of those records on their own without a representative. What SSA fails to tell you is that medical records are not always made readily available to patients. Medical records can be very difficult to obtain. Even if you are able to retrieve them, they can be difficult to copy and send to the correct SSA officer handling your case. And, before you even get to the officer, you have to make sure that you are sending those documents to the right office.

A Social Security disability attorney can significantly increase the likelihood of your claim being approved. This eBook contains 10 things that SSA knows and if you knew them, you could increase the chances of winning. All of these 10 bits of information are known by most Social Security disability attorneys. It is vital to have a representative by your side to wade through the government red-tape and move your case forward.



If you are denied at the hearing level, be cautious appealing

After years of waiting for disability benefits, you finally had your day in court. If your claim is denied, Social Security will send you a letter stating that you have a limited amount of time to appeal the decision.

Your claim has now been denied at least three times. There is no reason to believe that this appeal is any different than the others. However, if you choose to appeal this denial, you will have to do so with the Social Security Appeals Council (AC). The few claimants who take this path typically have nothing good to say about their experience.

The SSA website offers the following description for the AC and your denial options:

If you disagree with the hearing decision, you may ask for a review by Social Security's Appeals Council. We will be glad to help you ask for this review.

What Social Security fails to mention is that unlike the other appeals that you have been through, the AC can choose to reject to hear your case. In other words, they have the “option” of reviewing it. Social Security will be glad to help you request a review, but that does not mean that they will go ahead and grant your appeal request.



Furthermore, the Social Security AC is typically limited in their ability to review your claim to errors in law. What does this mean for your case? The AC is not going to review your claim and determine whether you should receive disability benefits based on whether they disagree with the previous judge and believe you cannot work. Instead, they can only review whether there was an error in law made by the Administrative Law Judge.

What happens if there really was an error in law, does this mean you win your case? If there was an error in law, this does not necessarily mean that you will win Social Security disability benefits.

The appeals process after you have lost your hearing is very different than the other appeals that you have gone through. It can be disheartening and it does not help that SSA typically does not tell claimants what the AC process involves. For so many claimants it can be a terrible experience, one that can take many, many months to go through. I am not saying that you should not appeal your hearing denial. I am not saying that no one is successful at this stage. I am only suggesting that you make an informed decision and be careful if you choose to proceed to this level in the process. This is especially true as of July 2011. While claimants used to be able to complete a new application while a claim was pending at the AC, now he or she has to choose between doing one or the other. In other words, jumping right into an appeal could significantly hurt you depending on your particular situation.



You have won disability benefits, how much money do you receive and when?

One question I hear often is, “When will I get paid and how much will that be?” Most claimants who talk to me are under the impression that they will begin receiving disability benefits shortly after their day in court. This is not the case. Not only is that almost never the case, but Social Security will rarely go out of their way to tell you when you can expect to get paid.

Before you get paid, you need a decision. Administrative Law Judges sometimes make final decisions in court; however, that is not typically what happens. The Administrative Law Judge will probably tell you that you will receive his or her decision at a later date in the mail. So, how long does that take? I have seen letters take as few as a couple of weeks and as long as a year to arrive.

If you receive a favorable decision in the mail there are two different types of decisions that you could receive: fully favorable or partially favorable. What does this mean for you?

If you receive a fully favorable decision it most likely means that the judge agrees with your claim for Social Security disability benefits. The judge believes that you are disabled and your onset date of your disability was accurately stated on your application. You would then be eligible for the full amount of your back benefit award.



If you receive a partially favorable decision, you could receive a fairly complex ruling in the mail. I have seen these rulings spelled out in as many as 20 pages. What this usually means is that you are or were disabled at some point, but the judge disagrees with the dates of your disability. You will be awarded disability benefits, but for a specific time period, not from the onset that you stated.

Whether you receive a fully or partially favorable decision, when do you receive your first check in the mail? After you are approved for disability benefits, your claim will be forwarded to the Social Security payment center for disbursement of benefits. Once the payment center receives your case, no one really knows when you will receive your benefits. The Notice of Award should give you an idea when you can expect to receive your first check. However, even if you ask the Social Security claims representative when you will receive your benefits, he or she most likely will have no idea.



Frequently Asked Questions

Am I disabled? This is probably the most commonly asked question and unfortunately there are no easy answers. Social Security disability attorneys are able to make predictions based on the law and case experience, but there is no definitive answer to this question. It really boils down to if YOU feel like you are disabled. If you have a condition that you believe is preventing you from working, you should apply for Social Security disability benefits. If you want a better indication of where you stand, talk to an attorney about your case.

What is the difference between SSDI and SSI? SSDI and SSI are two government run programs for people with disabilities. SSDI stands for Social Security Disability Insurance. SSDI is a federal “insurance program” for people who are disabled and are unable to work. Like other types of insurance, you must have paid into it to qualify, in other words, you had to have had Social Security taken out of your paychecks for the required period of time to qualify. SSI stands for Supplemental Security Income and is a program funded by tax revenues. SSI pays monthly benefits to people with disabilities who have low income and few assets.

How much money will I get if I win? It is very difficult to know how much you will win because it depends on numerous factors such as what program you qualify for. If you qualify for SSDI a good indicator is to look at your most recent Social Security Statement. On the top



part of the second page, Social Security tells you how much money you would get if you became disabled.

How long does the process take? The process can take as little as a couple of months to several years. Few claimants win right off of the initial application, but if you are one of these people you will most likely receive that initial decision within 120 days of filing. If you go through the entire denial and appeals process, you may have to wait several years before your day in court.

Does the Social Security Administration misplace documents? Our office has sent documents certified mail and UPS to different SSA offices and on numerous occasions they have claimed that they never received the documents. This is especially true when it comes to faxing documents to SSA. Often we have to fax a single document multiple times to insure that it was received. Make sure to keep copies of all of your documents, just in case you experience this as well.

I just became disabled, when can I apply? Many claimants make the mistake of waiting to apply after they have become disabled. Actually, you can and should apply for disability benefits the day you become disabled and are unable to work do to your conditions.

I am currently receiving Medicaid coverage; will it be affected if I receive disability benefits? No, if you are currently receiving Medicaid and win disability benefits, your coverage will continue.



How does Social Security back pay work? Social Security back pay is based upon the date that you became unable to work due to your disabling conditions. The onset date of your disability is usually the day that you stopped working.

If you qualify for SSDI, you will be entitled to back pay from the date of the onset of your disability. It is important to note that there is a five month waiting period, which means that SSA will not count the first five months of benefits. It may seem like a very arbitrary rule, but that is how Social Security has structured back pay for SSDI.

For SSI, if you meet all of the financial and medical requirements, you will be entitled to back pay from the date of your application. There is no five month waiting period for SSI. So, the sooner that you apply for SSI, the more money you can potentially win if your claim is approved.

Will my age affect my disability application? Age is an extremely important component when determining a claimant's eligibility for disability benefits. SSA assumes that someone who is younger will have the ability to learn new jobs and will not be affected as greatly from similar conditions. Social Security groups individuals into different age categories for evaluation purposes. In general, SSA makes it slightly easier to get disability benefits when you are an older individual, especially if you are over 55.



What questions should I ask an attorney I am thinking of hiring? The first question you should ask anyone you are thinking of hiring is what fees and additional expenses you will be charged for. Next, you should ask whether the representative handles cases at all stages of the disability process or just at the hearing level. You should hire someone who is willing and able to help you throughout the entire process. Finally, ask the representative what percent of his or her practice is devoted to Social Security disability cases. Ideally, you should hire an attorney who focuses his practice on disability cases.



Conclusion

You have paid into the system, you have worked hard for most of your life, and now, you are unable to work due to a disability. You deserve disability benefits! However, the process to win disability benefits is extremely complex and tedious. Trying to get disability benefits is a fight to win something that can change you and your family's lives forever. DO NOT make the same mistakes so many claimants make throughout the process. This booklet is meant for you, the average claimant who became disabled and needs to fight for the benefits you deserve. Hopefully, after reading this booklet, you will significantly improve your chances to get those benefits. Whatever happens, DO NOT give up, keep trying, and keep fighting!

For more free and helpful disability information, you can visit my website www.socialsecuritydefenders.com. There, you will find more answers to your questions about Social Security disability benefits. You will also find our blog and published articles discussing different medical conditions and Social Security disability benefits.

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DISCLAIMER

This booklet provides general information about Social Security disability benefits and not legal advice. Information in this booklet may not be appropriate in every case and should not be relied upon without obtaining legal advice. No attorney-client relationship is formed via unsolicited communications.

