

Social Security Disability: Change & Confusion

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Introduction

- General Law.
- The Programs: Title II, SSI.
- The analysis: How to analyze disability claims.
- The 3 keys to application approval.
- How to apply, appeal and not make mistakes.
- Returning to work and protecting your rights.

What's been happening since Covid???

- ❑ Cases at initial are just stuck – 8 months to begin processing.
- ❑ Cases at reconsideration are almost as bad
- ❑ Understaffed by 100+ adjudicators in Region 5.
- ❑ ALJ Hearings are on MS Teams and phone and are going faster – with more denials.
- ❑ Make appointments to go to the District Offices.

Being Totally Disabled Means:

- Unable to perform any Substantial Gainful Activity
- By reason of a medically determinable impairment
- That has lasted, or is expected to last, at least one year, or result in death.
- Covid Disease disabling for “long haulers” only.

The focus is on “function”



How do the symptoms related to these medical problems affect the ability to work?

The Programs - Social Security Disability

- Title II (SSDI) - Two Tests:
 - *Must be totally disabled;*
 - *Worked and paid FICA taxes 40 quarters and at least 5 years of the 10 before onset of disability;*
 - *Monthly benefits to claimant and eligible dependents;*
 - *Annual COLAs;*
 - *Medicare eligibility 29 months after onset date;*
 - *Protects Retirement Account.*

Supplemental Security Income (Title XVI)

- SSI also has two tests:
 - *You must be totally disabled;*
 - *must be indigent - single individual less than \$2,000.00 in non-exempt resources;*
 - *\$943/mth in 2024 (\$914/mth in 2023) plus Medicaid and food stamps;*
 - *Spouse's assets and income are deemed;*
 - *May need Supplemental Needs Trust/ABLE Account.*

Climbing the Adult “Analysis Ladder”

- ❑ Compassionate Allowance?
- ❑ Involved in SGA?
- ❑ Severe Impairment?
- ❑ Meet or Equal the Listings?
- ❑ Able to perform Past Relevant Work?
- ❑ Other jobs considering age, education, work skills and Residual Functional Capacity?

Systemic lupus erythematosus

Listing 14.02 A

Involvement of two or more organs/body systems, with:

- 1. One of the organs/body systems involved to at least a moderate level of severity; and
- 2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

Systemic lupus erythematosus 14.02 B

Repeated manifestations of SLE, with at least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss) and one of the following at the marked level:

- 1. Limitation of activities of daily living.
- 2. Limitation in maintaining social functioning.
- 3. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace.

General Symptoms

- Listing focuses upon evidence of symptoms such as fatigue, fever, malaise, and involuntary weight loss;
- SSA acknowledges that Lupus can impact a variety of organs and body systems, including mental and cognition;
- “Criteria for the Classification of Systemic Lupus Erythematosus” by the American College of Rheumatology.

The 4 Functional issues – Where the Rubber Meets the Road!

These are now 4 key lupus issues which focus on functional limitations in the ability to:

1. Understand, Remember or Apply Information
2. Interact with Others
3. Concentrate, Persist or Maintain Pace
4. Adapt or Manage Oneself

Rating B Criteria finally defined

- ❑ Most Listings require at least two B Criteria at “Marked” or one “Extreme.”
- ❑ These are defined as “Mild, Moderate, Marked and Severe.”
- ❑ “Marked” means a ***serious limitation*** in the ability to function independently, appropriately and effectively on a sustained basis in this area.
- ❑ “Extreme” means ability to function in this area independently, appropriately and effectively on a sustained basis ***is precluded*** by mental health symptoms.
- ❑ Most common is: “Moderate” meaning a fair ability to sustain activity.

These claims can be won!



3 Key Rules:

- ❑ Must be seeing doctors regularly.
- ❑ Must be describing symptoms.
- ❑ Must be treating with the right medical specialists.

It's all about the Charts, 'bout the Charts



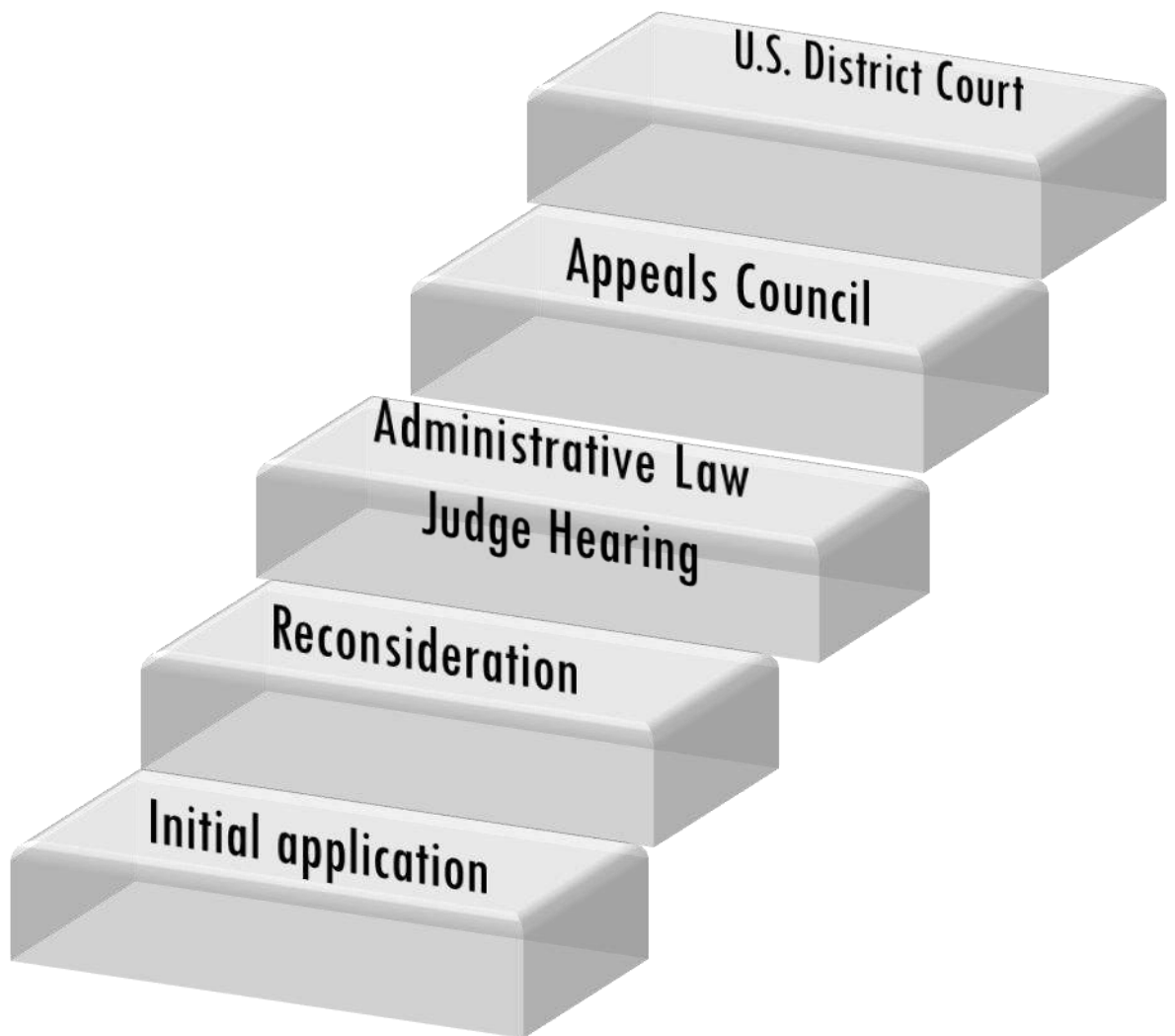
- Clinical charts, even more than test results, determine outcome;
- Words like mild, moderate, stable, all matter.

“Evidence” Expanded!



- Longitudinal evidence is key.
- SSA will now consider P.A.s, Psych Nurse Practitioners, LCSWs and clinical mental health counselors as Medical Sources.
- Case Managers, social workers, shelter staff, friends all relevant.

Apply and Appeal Process



CONTINUING DISABILITY REVIEWS (CDRS)

- Issue is “medical improvement sufficient to allow return to work”
- Millions to be reviewed.
- More SSA surveillance



Returning to work: Title II (SSDI) rules

- Trial Work Period
 - Can be paid for work and still collect benefit check
 - Allowed 9 months out of any 60-month block of time
 - \$1,110.00 gross/mth is a TWP month in 2024 (\$1,050 in 2023)
 - Will increase annually with Cost of Living.
 - Obligation to report to SSA!

Additional Protection after Trial Work Period



- ❑ **EXTENDED PERIOD OF ELIGIBILITY**
 - Lasts for 36 months after TWP.
 - If less than \$1550/mth in 2024 (\$1470 in 2023) benefits continue.
- ❑ **EXTENDED MEDICARE**

Supplemental Security Income (Title 16) rules

- Work income offsets benefits
- After \$85.00 exclusion SSI grant is reduced by \$1.00 for every \$2.00 earned.
- Additional exclusions for impairment-related work expenses.
- PASS programs can be set up with local office.
- Avoid overpayments: Report to SSA.

Thank you for attending!

- Thanks to Mary Dollear and the Lupus Society of Illinois for arranging this session – it always takes a lot of work.
- Your support of the Lupus Society of Illinois makes a difference– whether supporting individuals or families or advocating in the community – LSI works every day to help Lupus patients and their families.

Recent updates

- ❑ Current Exec. Dir. of NAMI CCNS: Past Chairperson of Board of NAMI DuPage.
- ❑ Past Chair of Alliance to End Homelessness in Suburban Cook County.
- ❑ Emma Drozdowski - Chairperson of TN Bar Assoc. SSD committee.
- ❑ Join “My Social Security” on SSA website.
- ❑ Subscribe to our newsletter!

WE ARE HERE TO HELP!

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(We are working with new referrals via
Zoom, MS Teams or phone.)