

Social Security Disability: Change & Confusion

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Lupus Society of Illinois Webinar

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Introduction

- General Law.
- The Programs: Title II, SSI.
- The analysis: How to analyze disability claims.
- How to apply, appeal and not make mistakes.
- Recent law changes -- a program under attack.
- Returning to work and protecting your rights.

Covid 19 Impact

- Social Security staff are still working.
- Social Security offices are all closed.
- Checks are being processed.
- ALJ Hearings are happening – but only “sort of.”
- No idea yet when there will be a return to “normal.”
- Disease will not impact “disability” issue unless long-term.

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.

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 for at least 20 quarters of the 40 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;*
 - *\$783/mth in 2020; \$771 in 2019 plus Medicaid and food stamps;*
 - *Spouse's assets and income are deemed;*
 - *May need Supplemental Needs Trust/ABLE Account.*

The Analysis (how to climb the SSA 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?

Lupus – Sect. 14.02

- A. Involvement of two or more organs/body systems with:
 - 1. One of the systems at least moderately severe; and
 - 2. At least two constitutional systems or signs (severe fatigue, fever, malaise, involuntary weight loss); OR
- B. Repeated signs of SLE with at least two constitutional symptoms and at least one marked:
 - 1. Limited activities of daily living;
 - 2. Limitation in maintaining social functioning;
 - 3. Limitation in concentration, persistence or pace.

Step 5: Ability to function at other work.

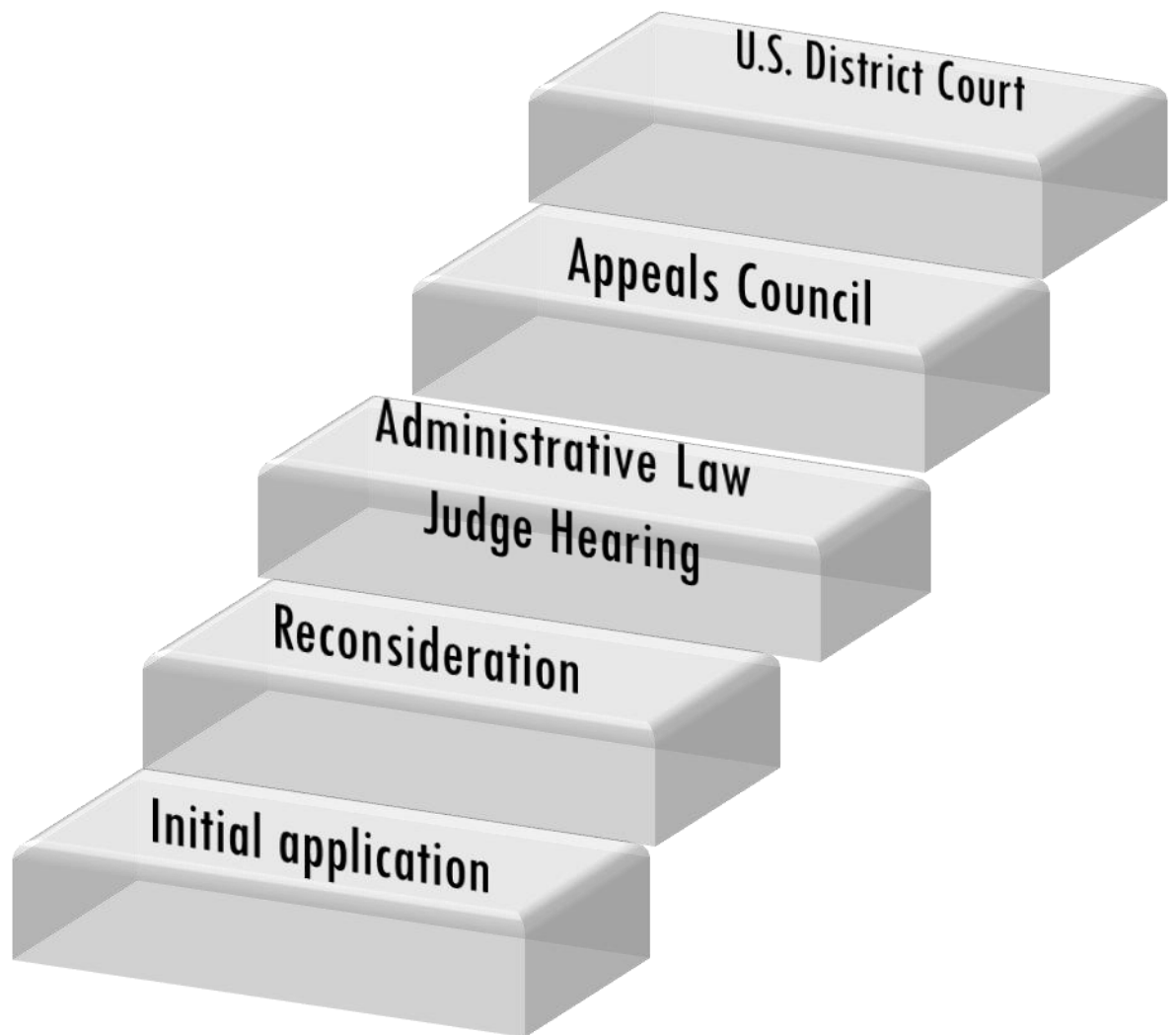
- Focus is on Residual Functional Capacity -- what activities can be performed despite the impairments?
- Issue is ability to work 5 days/wk; 8 hours/day.
- Side effects of treatment?... pain, fatigue, depression?
- Medical records must document symptoms.

These claims can be won!



- Must be seeing doctors regularly.
- Must be describing symptoms.
- Seek mental health counseling if needed.
- Persevere!

Apply and Appeal Process



Cutting through the red tape!

- ❑ File/Appeal online – avoid telephone.
- ❑ Send all mail certified, return receipt requested.
- ❑ File all appeals **AS SOON AS POSSIBLE.**
- ❑ Keep SSA advised of address changes, medical condition.
- ❑ Keep copies of all paperwork.

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
 - \$910.00 gross/mth is a TWP month in 2020 (was \$880 in 2019).
 - 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 \$1290/month in 2020, (\$1220 in 2019) 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.

RECENT UPDATES

- www.RKBlegal.com for all you need to know!
- Current Chairperson of NAMI DuPage;
- Past Chair of Alliance to End Homelessness in Suburban Cook County.
- “Like us” on Facebook, Twitter: @RabinSSLawyers;!
- S. Bacoyanis, Esq. vice-chair CBA SS Committee!
- Join “My Social Security” on SSA website.

Thank you to Lupus Society of Illinois

- LSI is community supported – we count on YOU!
- LSI runs programs for individuals, families, students, and professionals throughout Illinois.
- LSI needs YOUR support to continue its programs like this webinar and to provide resources to patients and families.
- Thanks to Mary Dollear and her team for this presentation!

WE ARE HERE TO HELP!

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