

**Social Security
Disability: Change
& Confusion**

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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.

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**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.

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The focus is on “function”



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

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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.*
 - *Trial Work Period.*

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Supplemental Security Income (Title XVI)

- SSI also has two tests:
 - You must be totally disabled;
 - must be indigent - single individual can not have more than \$2,000.00 in non-exempt resources;
 - 2016 benefit is \$733/mth (2017 will be \$735);
 - Spouse's assets and income are deemed;
 - May need Supplemental Needs Trust.

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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?

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Step 5: Ability to function at other work.

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

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These claims can be won!



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

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HOW TO APPLY FOR BENEFITS

- Initial application
- Reconsideration
- Administrative Law Judge Hearing
- Appeals Council
- United States District Court
- United States Court of Appeals

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Cutting through the red tape!

- Whenever possible, apply/appeal online
- File all appeals AS SOON AS POSSIBLE
- Advise SSA of address changes, medical condition
- Keep copies of all paperwork
- DO contact guidelines
 - Timing at office
 - Don't go alone

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CONTINUING DISABILITY REVIEWS (CDRS)

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



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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
 - \$810.00 gross/mth is a TWP month in 2016 (\$780 in 2015, \$770 in 2014)
 - Will increase annually with Cost of Living Adjustment
 - Obligation to report to SSA

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Additional Protection after Trial Work Period



- **EXTENDED PERIOD OF ELIGIBILITY**
 - Lasts for 36 months after TWP.
 - If less than \$1130/month in 2016, (\$1090 in 2015) benefits continue.
 - **Extended Medicare.**

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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.

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RECENT UPDATES

- New Mental Impairment Listings!
- 2017 COLA is 0.3%.
- Present chairperson NAMI DuPage; past chair of Alliance to End Homelessness in Suburban Cook County.
- www.ssa.gov- all you need to know!
- Twitter: @RabinSSLawyers; "Like us" on Facebook!
- Join "My Social Security" on SSA website.

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WE ARE HERE TO HELP!

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