



- Over 47 Years Experience in Social Security Law
- Over 250 Cases Every Year
- Over 6,000 Successful Disability Cases

Our firm has been helping clients successfully apply for Social Security benefits for decades. It can be a challenging time for applicants and their families. There are many questions commonly asked. We've compiled several in this handout to help you understand both the terminology and the process.

Q: I have been out of work for several months and do not believe I will be able to return to work. I want to file for social security disability, but I don't know where to start. What should I do?

A: There are four ways to begin your application:

- 1) you can go to your local district social security office;
- 2) you can contact SSA by telephone at 1-800-772-1213; or
- 3) you can apply online at ssa.gov.
- 4) Call Nelson, Bryan & Cross at 205-387-7777 and we will help you fill out all the complicated paperwork.

The first two forms you will have to complete will be the Application for Disability Benefits and the "DISABILITY REPORT-ADULT". The disability report appeal is the form that begins to tell SSA the information they will need to determine if you are eligible for benefits. One section will ask you to list the types of jobs you have performed in the last 15 years. A critical part of this form requires you to list the doctors, hospitals, counselors, etc. from which you have received treatment for your impairments. Make sure you provide the address as well as the name of your treating sources.

Another section of the disability report requests a list of medications that you are currently taking along with the doctor who prescribes them, the reason for the medication, and any side effects.

After these forms have been submitted, your case will be sent to Disability Determination Services for medical evaluation. You will receive additional forms such as a work history report, a pain questionnaire, an adult function report, or activity of daily living report. No further

evaluation of your claim will be made without those completed forms, so return them as quickly as possible.

The next step in the process will be the obtaining of your medical records. Try to obtain these records yourself and submit them to SSA, as this will help speed up your case. The objective medical findings within your medical records will be the biggest factor used in determining if you are or are not disabled.

In 2012, Nelson, Bryan & Cross decided to begin offering claimants the opportunity for our office to assist in filling out the initial application. We came to this conclusion because we regularly saw clients lose cases at the hearing level because of inaccurate information in the initial application. We now help claimants present their case at the application level in a way that gives them the best chance of winning at the ultimate hearing. We were disappointed to see clients make mistakes in the application and those form the basis of an unfavorable decision by an Administrative Law Judge.

Q: I am 60 years old. I had to stop work because of various medical problems. I would like to apply for Social Security disability benefits. But my husband and I have a retirement nest egg worth about \$250,000, so I guess we are not eligible. Do I just wait until I am 62 to sign up for retirement benefits?

A: I am constantly amazed by the number of people, yourself apparently, who equate the Social Security disability program with welfare. It is not. You paid for this protection with Social Security tax deductibles each pay period. You can be rich or poor and qualify for Social Security retirement. And you can be rich or poor and qualify for Social Security disability. If Bill Gates became disabled tomorrow, he could file for Social Security disability benefits. And so can you.

Maybe it would help if you think of the Social Security disability program as an early disability retirement benefit, which is what it really is.

Q: My 59-year-old wife recently became disabled. I called Social Security's 800 number to ask about SSI, but they said because of my income that she isn't eligible. (I work, so we have my salary and I also get a military retirement pension.) But my wife worked all her life. So why can't she get disability now?

A: I purposely put your question after the prior one to further help clear up confusion many people have about disability benefits — in this case, about two entirely separate government disability programs.

If you used the same terminology with Social Security's call center people as you did in your question to me, then I understand why you got the answer you did.

You said you asked about getting your wife "on SSI." SSI is short for Supplemental Security Income. That is a federal welfare program that pays a small monthly stipend (about \$725 per month) to poor people who are disabled.

The Social Security Administration manages the SSI program for the federal government. And this leads to all kinds of confusion because so many people think that SSI is some kind of Social Security benefit. It is NOT.

Also, many other people think that SSI is the same thing as Social Security disability. Again, it is not. Supplemental Security Income is for poor people. To repeat, it makes monthly payments to poor people who have disabilities. Social Security is for anyone (rich or poor) who has worked and paid Social Security taxes. Social Security retirement is for folks 62 or older. Social Security disability goes to people under 65 who are unable to work because of a physical or mental impairment.

Q: I applied for Social Security Disability and was denied. How do I request a hearing in front of a Judge?

A: SSA Time Limits

The Social Security Administration (SSA) enforces strict time limits for

SSD appeals. After the initial denial, a claimant has only 60 days to request an appeal. Unless you can prove that you received the notice late, the SSA presumes that you received their denial letter five days after they mailed it. Claimants who fail to appeal by the deadline may have their claims dismissed. If you miss this deadline, you may have to start the application process all over again. If you are truly disabled and cannot work, the consequences of missing a deadline and not appealing are simply too high to risk.

If you miss a deadline, you can file a Request for Good Cause with SSA. You must explain why you waited more than 60 days to request an appeal. SSA has set forth certain reasons that they will accept. It helps to be familiar with the federal disability Regulations, Rulings and Case Law to succeed when making such a request.

“Good Cause” for Missing SSD Appeal Request Deadline

The Code of Federal Regulations, Section 404.911 sets forth reasons the SSA will accept for a late filed appeal. The SSA will consider the following when deciding whether a person has established “good cause” for missing a deadline:

- circumstances that may have prevented an individual from making the request on time;
- an action on the part of the SSA was misleading;
- a person’s difficulty understanding the requirements and deadlines;
- an individual’s physical, mental, educational, or linguistic limitations (including any lack of ability to understand the English language) hindered them from filing a timely request or from understanding or knowing about the requirement to file a timely request for review;
- a person’s health condition and whether they were so ill that they couldn’t contact the SSA in person, in writing, or have a friend, relative, or other person do so;
- a death or serious illness in the immediate family;
- the destruction or damage of important records due to a fire or other accident;

- an individual's attempt to find necessary data to support their claim was difficult and wasn't accomplished within the stated time limit;
- inaccurate or partial information was given about when and how to request administrative review or to file a civil suit;
- notice of determination or decision was not received; or,
- other atypical or unavoidable circumstances caused a person to be unaware of the need to file within a certain time frame, or prevented a person from filing within the time frame.

Applying for Social Security disability? Here are some tips to increase your odds of success.

First, Nelson, Bryan & Cross attorneys will gladly help you fill out the initial application. We will help you put into words what causes your disability. Applying for Social Security disability benefits is not easy or quick for most people. The process can be particularly daunting given that in Alabama, less than 30% percent of initial cases are approved and when denied, the appeal process will stretch on for months--and sometimes years.

Applicants are out of work and facing a disabling medical condition, dwindling funds and a potentially long wait. Most know little about the records they'll need to provide to prove they're disabled, or even how to get them. Incomplete applications are one of the most common reasons for an initial denial.

What's the best way to get your application into the "yes" pile? Here are a few tips to help increase your odds of success early on:

When to file?

Advice on this varies. Some advocates say it's best to file immediately when it's no longer possible to work, others say to file when it's clear you will be unemployed for at least a year. Still others suggest a specific timeframe--three to four months after unemployment. Regardless, be prepared for a long wait. The initial application process can take three to six months. We can help you make the best decision based on the specific facts of your case.

Make sure your doctor is on board.

At the very least, it's best to have the support of doctors who will be part of the application process. While it's not necessary to receive benefits, it's very helpful to put an opinion from a treating doctor in applications. A medical opinion that only states that someone is disabled is not helpful. Rather, it is important for the doctor to outline the functional restrictions, meaning the reasons someone is unable to work eight hours a day, five days a week.

Reduce your expenses.

Many people waiting for benefits lose their savings, retirement funds, cars and even their homes. The majority of disability cases are initially denied, so have a backup plan to cover your costs if you end up with a long wait.

One expense we do not recommend cutting is health insurance. Medical evidence is absolutely critical to your claim and new reports from a doctor during the waiting period for a decision are important to a case. For those who can't afford health insurance, there are free medical clinics. Most people are unaware of what's available. You also may be able to sign up for an Obamacare marketplace plan with lower deductibles and copayments, depending on household income.

Hire an attorney.

Attorneys who represent social security disability claimants are not paid upfront. They receive a portion of the past-due benefits awarded to applicants. That means that an attorney who helps an applicant win benefits early is less expensive than one hired for an appeal after a failed application, when more time has elapsed, and more benefits have accrued.

The accident and injury lawyers at Nelson, Bryan & Cross represent clients in most areas including Motor Vehicle Accidents, Wrongful Death Cases, Personal Injury Actions, Social Security Disability, Defective Products, Insurance Disputes and Bad Faith, Fire Loss cases, Trucking Accidents, Worker's Compensation, Drug Recalls, Employment Law and Property Damage Claims. Call 387-7777 for a free consultation.

No representation is made that the quality of legal services to be performed is greater than the quality legal services performed by other lawyers.