

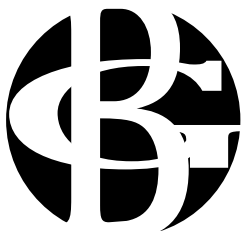
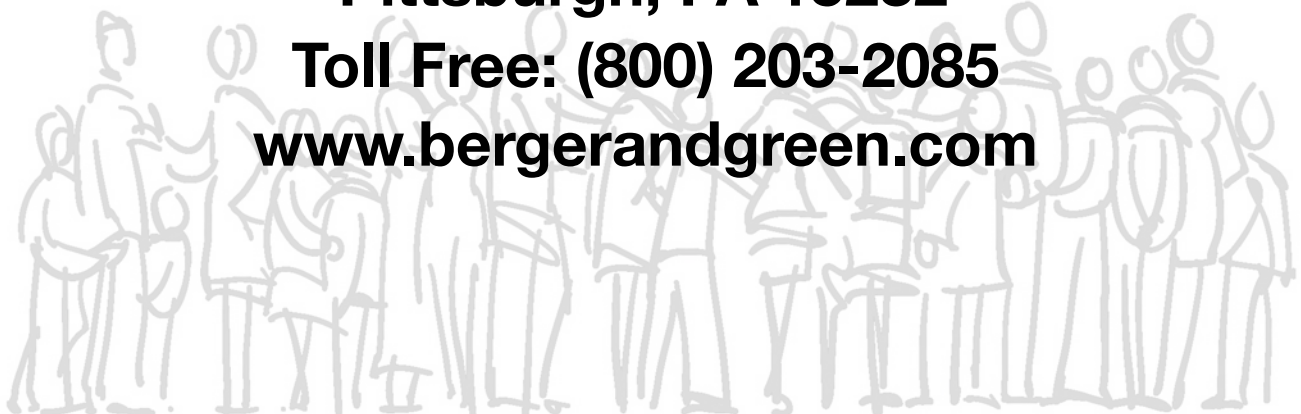
# **Your Social Security Disability Benefits**

## **What You Need to Know to Collect What's Rightfully Yours**

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# Disability may be more common than you think

Fortunately, Social Security benefits are available to disabled individuals who qualify—and are able to navigate the system to collect what’s rightfully theirs. No doubt you requested this guide because you, or someone you know, has become disabled. And you need to find out all you can about the disability benefits provided by the Social Security Administration (SSA).

The Social Security Administration offers several free booklets on disability benefits that are available in their local offices, or you can download them from their Web site: [www.socialsecurity.gov](http://www.socialsecurity.gov). They also have other, more specialized booklets (for doctors, attorneys, etc.) on disability that are available only as downloads. Their site offers hundreds of Frequently Asked Questions pertaining to Social Security benefits in general (e.g., on retirement income) and on disability benefits.

However, unless your claim is 100% “rejection proof,” there may be a delay in approving it, which can add weeks or even months to the average waiting time. If your claim is denied, you have to file an appeal to proceed further, and then have to wait even longer. Therefore, if you’re eligible, apply for benefits as soon as possible.

## **NOW** Berger and Green Attorneys At Law have the knowledge and experience to help you

**Berger and Green** provide legal representation to disabled individuals who have applied for social security benefits. At Berger and Green, we know that filing for social security disability or supplemental security income benefits can be a long, frustrating and overwhelming process. With over 33 years of experience handling Social Security cases, we can assist you at every step along the way. We handle a wide range of practice areas including Social Security Disability law.

There is no fee unless we win your case. We have enclosed our brochure but if you would like to speak to a member of our experienced legal team personally, feel free to telephone us toll free at: **(800) 203-2085**.

This guide can help you, by providing SSA-approved answers to many of the most common questions regarding Social Security disability benefits.

After reading it, feel free to contact Berger and Green for more detailed answers, for answers to any relevant questions not covered here, or to help resolve your particular situation.

- **Who is eligible?**
  - **What is considered a disability?**
  - **How do you apply?**
  - **How long does it take to get a decision?**
  - **How soon will benefits start?**
  - **Are infants and children eligible?**
  - **What should you do if you’re turned down?**
- ... And so on.

# FREQUENTLY ASKED QUESTIONS about SOCIAL SECURITY DISABILITY BENEFITS

## ***Q. How does the SSA define “disability”?***

A. The SSA has strict requirements for eligibility. Benefits are paid to adults with a physical and/or mental disability that is severe enough to keep them from working for at least 12 months, or is expected to result in death. Social Security does not pay short-term or partial disability benefits.

## ***Q. My doctor says I’m disabled. Is that enough to qualify me for Social Security disability benefits?***

A. No. First, you will need to complete an application for Social Security Benefits and the Disability Report (available online or at an SSA local office). To process your application, the SSA requires the following data (among others): Your name and complete address • Your Social Security number • Your birth certificate or baptismal certificate • The names, addresses, and phone numbers of the doctors, caseworkers, hospitals and clinics that took care of you and the dates of your visits • Medical records from your doctors, therapists, hospitals, clinics and caseworkers that you have in your possession • Names and dosages of all the medicine you take • Laboratory and test results • A summary of where you worked and the kind of work you did • A copy of your most recent W-2 Form (Wage and Tax Statement) or, if you are

self-employed, your federal tax return for the past year. You will need to fill out and submit other forms, too. One form collects information about your medical condition and how it affects your ability to work. Other forms give doctors and other health care providers who have treated you permission to send the SSA information about your medical condition.

## ***Q. What happens next?***

A. The SSA reviews your application to make sure you meet some basic requirements for disability benefits. They check whether you worked enough years (and reported your earnings) to qualify. Also, they evaluate any current work activities. If you meet these requirements, they send your application to the Disability Determination Services (DDS) office in your state.



**... and the Answers**

***Q. What does the DDS office do?***

A. This state agency completes the disability decision for the SSA. Their doctors and other disability specialists ask your doctors for information about your condition, and then consider all the facts in your case. They will use the medical evidence from your health care providers and will ask your doctors: What your medical condition is • When it began • How it limits your activities • What the medical tests have shown • What treatment you have received • How your condition limits your ability to do work-related activities, such as walking, sitting, lifting, carrying, and remembering instructions. Your doctors are not asked to decide if you are disabled. The DDS may ask for more medical information and/or ask you to go for a special examination (which the SSA would pay for).

***Q. How does the SSA make a decision in regard to my claim of disability?***

A. It's a five-step process, and requires the appropriate answers to these questions:  
1. Are you working? If you are, and your earnings average more than a certain amount each month, the SSA will generally not consider you disabled. The amount changes each year. If you are not working, or your average monthly earnings are below the amount SSA considers "substantial gainful activity", the DDS then looks at your medical condition.

2. Is your medical condition "severe"? Does it significantly limit your ability to do basic work activities for at least one year? If not, the DDS will not consider you disabled. Otherwise, they proceed to step three.

3. Is your medical condition on the official "Listing of Impairments"? This list describes medical conditions that are considered so severe—e.g., you have terminal cancer, are on a waiting list for a heart transplant, have lost the use of both legs, or other obvious disabilities—that they automatically mean that you are disabled as defined by law. It also lists severe impairments pertaining to the various parts of the body: musculoskeletal system, respiratory system, cardiovascular system, digestive system, endocrine system, neurological system, mental disorders, special senses and speech, skin disorders, etc. If your condition is not on this list, the DDS looks to see if your condition is as severe as a condition that is on the list. If so, they may decide that you are disabled. If not, they go on to step four.

4. Can you do the work you did before? If you can, they will decide you are not disabled. But if your condition prevents you from doing that kind of work, they go on to step five.

5. Can you do any other kind of work? The DDS evaluates your medical condition, age, education, work experience, and any skills you may have that could be used to do other work.

**ANSWER THESE 5 QUESTIONS**

**1. Are you working?**

**2. Is your medical condition "severe"?**

**3. Is your medical condition on the official "Listing of Impairments"?**

**4. Can you do the work you did before?**

**5. Can you do any other kind of work?**

If you cannot do other work, they will decide that you are disabled. If you can do other work, they will decide that you are not disabled. (There are special rules for the blind, explained in SSA Publication #05-10052.)

***Q. Then what happens?***

When the DDS reaches a decision on your case, the SSA will send you a letter. If your claim is approved, the letter will show the amount of your disability benefit and when your payments will start. If your claim is not approved, the letter will explain why not and tell you how to appeal the decision if you do not agree with it.

***Q. How long does it take to get a decision?***

A. Usually, it takes from three to five months. It depends, to some extent, on how long it takes to get your medical records and any other evidence needed to make a decision.

***Q. What if my claim is denied and I disagree with the decision?***

A. About 60% of all claims are denied the first time through the system. If your claim is denied, you may request reconsideration. If your reconsideration is denied, you may request a hearing before a federal administrative law judge within 60 days of the date of the reconsideration denial. If you live in Pennsylvania, there is no reconsideration level. If you live in Pennsylvania, you must file your request for hearing within 60 days of the date of the initial denial. It often takes 12 to 14 months from the date you request your hearing to receive a hearing date depending on the backlog of claims at the hearing office.



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***Do I need a lawyer?***

***Q. Do I need a lawyer to represent me?***

A. The federal government does not require applicants to have legal representation—but it's a good idea to have one. The SSA admits that claimants who have attorneys have a better chance of a successful result and, they state, "A representative who is familiar with the Social Security system may provide valuable service to you."

The legal team at Berger and Green has this experience and can help you from the beginning of the process to the end. We will walk you through the mounds of paper work and red tape and provide you with knowledgeable, competent representation.

***Q. How do disability lawyers get paid?***

A. Usually (though not always), attorneys' fees are on a contingency basis. If your claim is successful, the attorney receives one-fourth of back benefits and you receive the other three-fourths. If your claim is denied, the attorney receives no fee at all.

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***Q. What about benefits for disabled children?***

A. If you have a disabled child under the age of 18, and your family meets federal income requirements, the child could qualify for Supplemental Security Income. A child may also be entitled to disability benefits on the earnings record of a parent, if that parent is deceased or disabled and the child becomes disabled before age 22. A child may be considered disabled if he or she:

1. Is not working at a job considered by the SSA to be substantial work, and
2. Has a physical and/or mental condition that results in “marked and severe functional limitations” that seriously limit activities, and
3. The condition has lasted, or is expected to last, at least one year or is expected to result in death.

***Q. Who pays these disability benefits?***

A. The government’s disability benefits come from two sources:

1. The Social Security Disability Insurance (SSDI) program, which is for insured workers (i.e., those covered by Social Security), their disabled surviving spouses, and children (if disabled before age 22) of disabled, retired or deceased workers. (A disabled worker may sometimes also collect benefits from workers’ compensation insurance; if so, the amount Social Security pays may be reduced accordingly.)
2. The Supplemental Security Income (SSI) program, for people with little or no income or other financial resources.

***Q. If approved, when will my disability benefits begin?***

A. Your first SSDI monthly benefit will be paid for the sixth full month after the date your disability began (as determined by the SSA). This is because a “five month waiting period” is required under SSA law. For example, if your disability began on June 15, 2006, your first benefit would be paid for the month of December, 2006. SSI monthly benefits begin at the date of application or later depending on the date that SSA finds you became disabled (your “onset” date).



***When do my disability benefits begin?***

***Q. Once I start receiving disability benefits, how long will I keep receiving them?***

A. Benefits usually continue until you are able to work again on a regular basis (if that’s possible). There are also a number of special rules, called “work incentives,” that provide continued benefits and health care coverage to help you make the transition back to work. If you are receiving Social Security disability benefits when you reach full retirement age (as defined by the SSA, it ranges from 65 and two months to 67, depending on date of birth), your disability benefits automatically convert to retirement benefits, but the amount remains the same.

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***"The Government's disability benefits come from two sources."***

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***Q. What is the earliest age that I can receive disability benefits?***

A. There is no minimum age as long as you meet the very strict Social Security definition of disability (as provided earlier). But to qualify for SSDI benefits you must have worked long enough and recently enough under Social Security to earn the required number of work credits. You can earn up to a maximum of four work credits each year. The amount of earnings required for a credit increases each year as general wage levels rise.

***Q. I am receiving Social Security disability benefits. Will my benefits be affected if I work and earn money?***

A. It depends. The SSA has special rules called “work incentives” that help you keep your cash benefits and Medicare while you test your ability to work. For example, there is a trial work period during which you can receive full benefits regardless of how much you earn—as long as you report your work activity and continue to have a disabling impairment. This trial work period continues until you accumulate nine months (they need not be consecutive) of what the SSA calls “services” within a rolling 60-month period. The SSA considers your work to be “services” if you earn more than \$670 a month (the limit for 2008). After the trial work period ends, your benefits will stop for the months your earnings are at a level the SSA considers “substantial”; the amount is \$940 in 2008. Different amounts apply to the blind. Then, for an additional 36 months after completing the trial work period, your benefits can start again if your earnings fall below the then-current “substantial” level and you continue to have a disabling impairment. It is imperative that you report all of your work activity to SSA so they can determine whether your benefits will be affected.



***Will my benefits be affected if I work and earn money?***

***Q. Are there special rules for the blind or those who have low vision?***

A. Yes. The SSA considers a person to be legally blind if his/her vision cannot be corrected to better than 20/200 in the better eye (if there is one), or if the visual field is 20 degrees or less, even with a corrective lens. Many people who meet the legal definition of blindness still have some sight, and may be able to read large print and get around without a cane or guide dog. If you do not meet the legal definition of blindness, you may still qualify for disability benefits if your vision problems alone or combined with other health problems prevent you from working. There are a number of special rules for people who are blind that recognize the severe impact of blindness on a person’s ability to work. For example, the monthly earnings limit (in order to qualify for disability benefits) for people who are blind is generally higher than that for non-blind disabled workers. For Social Security disability payments, you must have worked long enough in a job where you paid Social Security taxes. Or you may be able to get benefits based on the earnings of one of your parents or your spouse. For SSI payments based on disability and blindness, you need not have worked, but your income and resources must be under certain dollar limits.



***Q. If I receive disability benefits, can members of my family receive benefits, too?***

A. Perhaps. If you are eligible for SSDI, auxiliary benefits may also be paid to your spouse, your divorced spouse, your children, and/or your disabled child if they qualify. Each family member may be eligible for a monthly benefit of up to 50 percent of your disability rate. However, there is a limit to the total amount of money that can be paid to a family on your Social Security record. The limit varies, but it is between 150 and 180 percent of your benefit.

***Q. I worked for the federal government some years ago. Was I covered by Social Security and will my earnings help qualify me for their disability benefits?***

A. It depends when you worked. Up until 1984, employment by the federal government was covered under the Civil Service Retirement System (CSRS) and not by Social Security. If you worked for a federal agency during those years, you did not pay Social Security tax on your earnings and those earnings are not shown on your record. In 1984, a second retirement system—the Federal Employees Retirement System (FERS)—was introduced. People who began working for the federal government in 1984 or later are covered by FERS instead of CSRS. Also, some workers who had been covered by the CSRS program chose to switch to the FERS program when it became available. Work under FERS is covered by Social Security. If you stayed under the CSRS program after 1983, you still are not covered by Social Security, but you are covered under the Medicare program and you pay Medicare taxes on your federal earnings.

As mentioned earlier, the legal staff at Berger and Green can help you collect all the disability benefits you rightfully deserve—whether you are filing a claim for the first time or have been turned down for benefits. Berger and Green are ready to serve your needs in Western Pennsylvania, Eastern Ohio and Northern West Virginia. For details on our services, please contact:



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