

Pursuing a Social Security Disability Claim: Finding Your Way Through the Legal Maze

By David Goetz, Attorney at Law

To determine if you qualify as a claimant for Social Security Disability benefits, you need to ask yourself the following questions:

- (1) Do you have a severe medical condition?
- (2) Have you paid into the Social Security system through taxes for 5 of the last 10 years?
- (3) If you have not worked 5 out of the last 10 years, are you a U.S. citizen or a green card holder?
- (4) Will you be unable to work for a period of 12 consecutive months due to a physical and/or psychological impairment?
- (5) If the claimant is a child, does he/she meet or equal the medical listing of impairments?
- (6) Have your Social Security benefits recently been terminated or ceased by the Social Security Administration?

The Social Security Disability Act is designed to provide Americans with disabilities easier access to benefits. The reality of obtaining benefits, however, is sometimes daunting and overwhelming. For many who have become disabled, the quantity of paperwork, long lines at the social security offices, and constant delays make the process difficult.

When navigating through the tedious process of applying for Social Security Disability, it is important to complete the forms as accurately as possible and before deadlines expire.

The disability process can take as little as 3 months, or as long as 2 years. A claimant can complete his/her own initial application; and even file the reconsideration appeal and appear before an Administrative Law Judge (ALJ) without the assistance of an attorney. However, it is strongly advisable to have experienced counsel assist along the way. Often times, technical rules and the standard of law are not fully understood by the layman. And on many occasions, the Administrative Law Judge will hire a Medical Expert or a Vocational Expert to be present at the hearing. Certain questionnaires or interrogatories can be provided by an attorney to a claimant's treating doctor(s) in order to assist or counteract the government's expert witnesses.

On average, most cases take 1.5 years from the initial application date to reach a favorable decision issued from an Administrative Law Judge (ALJ). In Fort Lauderdale there are 12 ALJs that cover Broward County and north up through St. Lucie County; and in Miami there are 13 ALJs that cover Dade County and south including the Keys. Other ALJs in Florida reside in Orlando, Jacksonville and Tampa. Each Judge typically hears about 15 to 20 cases per week. Many times, the hearing itself dictates whether a claimant will win or lose despite the fact that overwhelming medical evidence may have been accumulated throughout the life of the case. Credibility as a witness is a critical factor

for many Judges, as well as other issues such as a consistent work history, and constant medical treatment.

With regard to the medical impairments of fibromyalgia (FM) and chronic fatigue syndrome (CFS), it is important to have current and ongoing treatment and documentation from a medical specialist such as a rheumatologist and/or psychologist / psychiatrist, in addition to a primary physician. Documentation of symptoms is critical and must be indicated throughout the medical records. For example, the claimant must regularly indicate and share with his/her physicians the debilitating and painful symptoms that he/she experiences including his/her multiple tender points, non-restorative sleep, chronic fatigue, muscle weakness, numbness, tingling, anxiety, or depression if such symptoms exist.

Overall, although the process can be frustrating and financially and emotionally stressful, most claimants that have well documented impairments along with the appropriate preparation for the hearing will ultimately prevail.

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