

SOCIAL SECURITY DISABILITY, IT'S A MARATHON, NOT A SPRINT

By David F. Chermol, Esquire

The first thing I say to every new client is that the process of obtaining Social Security disability benefits or SSI is a marathon, not a sprint. I tell that to them because sometimes it can take years to get the benefits that people deserve. It does not seem so bad when a huge check for past due benefits is issued, but in the months and often years spent waiting for that day it seems like an eternity. Many people suffer great hardship due to delays in the disability adjudication process.

Most people wonder why the process takes so long. I do not have all of the answers, but I will give you some of them. First let me give you a rough time line for how long a case can take. None of these delay periods are set in stone. In a rare case they might be shorter. In many more cases they will be longer.

If you call over the phone to set up an appointment to file benefits, you generally get an appointment within about three weeks. After you actually have your appointment where you formally file your application, it will take between three and six months to get an initial determination. The vast majority of people are denied at the initial level.

If you wish to pursue your case further, in Pennsylvania you can file a request for hearing within 60 days of your initial denial notice. You will wait between a year and 18 months to get a hearing date.

This seems incredibly long and it is. But Pennsylvania is far better than most other states. In most other states there is an additional step before the hearing level called reconsideration.

Reconsideration adds about another 6 months to one year of delay to the process and very few people get benefits upon reconsideration. In the Atlanta area, people often wait up to 5 years just for a hearing! As with so many aspects of the disability system, these additional steps and delays appear to be designed to make people just give up.

Once you have your hearing, you will be waiting anywhere from a week to several months to receive the administrative law judge's formal decision. Assuming you win, you will have to wait another few months until your award is actually processed and a first check issued.

If you lose at the hearing level and you wish to pursue your case further, you must file a request for Appeals Council review within 60 days of the judge's decision. The Appeals Council

process can be very random. You may wait only a few months or you may wait a few years. Generally though it will take at least a year for the Appeals Council to issue a ruling on your case.

If the Appeals Council denies your appeal, you are then permitted to sue the government in federal court. After a complaint in federal court is filed, it generally takes the government between one and four months to file an answer. After an answer is filed, you generally have 45 days to file your brief (at least in the greater Philadelphia area). The government will then take between 30 and 60 days to file a response to your brief. You think have about 10-15 days to file a reply brief. At that point, the case is in the federal judge's hands.

Some federal judges issue decisions within a couple of months of receiving the final brief, but generally they take between six months and a year. Few people win outright in federal court. If you prevail, the best you can really hope for is to have your case sent back to the agency for a new hearing and decision. So you go back in line waiting for a hearing again.

There are many reasons for these delays. To begin with, the process is really designed, although this is never said publically, to make people give up. In addition, SSA's resources keep being cut while its workload grows exponentially. The agency simply does not have enough people to handle its growing workload and Congress is not going to be coming forward with any additional resources to help SSA in the foreseeable future. Keep in mind, there are about 2,500,000 new applications for disability and/or SSI every year. There are millions of people already on benefits. Moreover, SSA maintains active accounts on hundreds of millions people. But in the end, there is really no good reason at all. We could do much better and we should. Write your Congressman and Senators and let them know that you are sick and tired of the unbearable delays in the Social Security disability adjudication system.

Overall, the process of getting Social Security disability benefits or SSI can be extremely lengthy, frustrating, and complex. Don't go through it alone. Get a good lawyer who knows the system inside and out to help. Generally the fees you pay are set by law. So if you are going to hire a lawyer, you might as well hire one of the best.

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