Social Security Disability: An Overview
By Sandra R. Kushner, Esquire & Shelley W. Elovitz, Esquire

There are four programs which are administered through the Social Security Administration which provide benefits to individuals with disabilities: Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), Disabled Widows and Widowers Benefits (DWB) and Disabled Adult Child Benefits (DAC). Calculation of benefits under SSDI is based on the extent of the applicant’s participation in the social security system, that is, whether the applicant worked and paid social security taxes. Conversely, eligibility and benefit calculation for SSI depend on financial need. A deceased spouse’s social security payment record is the standard for DWB, while DAC is based on the payment record of a parent who is either deceased or already receiving disability or retirement insurance benefits.

Many people are under the impression that it is virtually impossible to receive Social Security Disability Insurance (SSDI) benefits. Indeed, a difficult standard must be met. To qualify, an individual must have a physical or mental impairment which prevents him/her from working for twelve consecutive months. The person must be disabled to the point where he/she cannot perform ANY work found in the national economy. It is not enough to be disabled from previous employment.

While the Social Security disability benefit system may be one of the most frustrating of federal bureaucracies, individuals who are seriously ill or injured and cannot work for an extended period of time should not hesitate to file. In addition, those persons who are covered by private disability insurance may find that the carrier requires an application for benefits. It is also recommended that individuals who are totally disabled and receive worker’s compensation benefit should apply for SSDI. This can provide continued monthly income should anything adverse happen to the worker’s compensation benefits or in the event of a lump-sum settlement of the worker’s compensation claim.

Filing a claim and gaining approval for SSDI can also protect retirement benefits. For every year worked, an individual receives earnings credits. At retirement, these credits are averaged to determine the monthly retirement benefit. If an individual becomes disabled and cannot work, it is important to file for SSDI. Otherwise, the Social Security Administration will calculate a lower earnings credit average so that, upon retirement, benefits may be substantially lower. When a person receives SSDI, the period of disability is excluded from the calculation of retirement benefits, and consequently, there is no lowering of the earnings credit average and the retirement benefit will not be reduced.
There are certain family members who may also be eligible to receive separate payments to compensate for a qualified individual’s inability to provide income. These family members include children under 19 who have not finished high school; children 18 or over who become disabled before age 22; a spouse caring for a child under 16; a spouse or divorced spouse in certain circumstances, aged 62 or older; or a spouse who cares for a disabled worker’s child who is under 16 or is disabled. Further, after two years, individuals who receive SSDI benefits become eligible to apply for Medicare coverage, regardless of age.

It is important to note that, under certain circumstances, individuals who receive SSDI are entitled to a trial return to work. Disability insurance benefits are not lost if the individual tries and fails. If the individual is successful, the Social Security Administration would view it as a return to gainful employment and the SSDI benefits would end.

© 2008 Rothman Gordon, P.C. The contents of this article are intended for general information purposes only, and should not be relied upon as a substitute for obtaining legal advice applicable to your situation.