

¹FREQUENTLY ASKED QUESTIONS ABOUT SOCIAL SECURITY BENEFITS FOR INDIVIDUALS WITH DISABILITIES

(From the March and April 2009 NAMI News)

1. What is Social Security?

Social Security is the broad name for a collection of federal benefits programs available to people with disabilities, the aged, retirees, and dependants and spouses of deceased workers. There are two social security programs for people with disabilities: Social Security Disability Insurance and Supplemental Security Income.

2. What is the difference between Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)?

Social Security Disability Insurance (SSDI) is financed with Social Security taxes paid by workers, employers, and self-employed persons. To be eligible for a Social Security benefit, the worker must earn sufficient credits based on taxable work to be "insured" for Social Security purposes. A credit is a three-month period in which the worker was employed and earned income above a certain cut off, which changes over time based on inflation. Disability benefits are payable to blind or disabled workers, widow(er)s, or adults disabled since childhood, who are otherwise eligible in that one of their parents was a qualifying worker. The amount of the monthly disability benefit is based on the Social Security earnings record of the insured worker.

Supplemental Security Income (SSI) is a program financed through general government revenues rather than dedicated payroll taxes. SSI disability benefits are payable to adults or children who are disabled or blind, have limited income and resources, meet the living arrangement requirements, and are otherwise eligible. The monthly payment varies up to the maximum federal benefit rate, currently \$637 a month, which may be supplemented by a state or decreased by the Social Security Administration (SSA) if you have countable income and resources.

3. Can I get both SSI and SSDI benefits?

It is possible to receive both SSI and SSDI. SSDI is calculated first. Then, if your income is low enough to qualify, you may also receive SSI.

4. Are children eligible for benefits?

Yes, in certain circumstances. If the child is under 18 and has a qualifying disability and the parents' income and resources are low enough, the child may receive SSI benefits. If the child is over 18 and has a qualifying disability that began before age 22 and a parent worked long enough to be eligible for SSDI and is now retired, disabled, or deceased, the child may qualify for SSDI benefits.

5. What makes someone eligible for SSI?

To be eligible for SSI, you must be over 65, blind, or disabled. Disabled means someone who is unable to engage in substantial gainful activity due to a medically determinable physical or mental impairment that is terminal or long-term. Long-term is an impairment that has lasted or is expected to last at least one year. Children are disabled if their impairments result in severe functioning limitations and are terminal or long-term. To be eligible, one must also have a low monthly income: currently not more than \$637 for an individual or \$956 for a couple. Also, one may not own substantial amounts of real or personal property excluding one's home, car, and personal effects. Other restrictions such as residency and citizenship also apply.

¹ *Disclaimer: This summary provides basic information about social security benefits for individuals with disabilities and was prepared by the Pro-Bono Department of Hogan & Hartson LLP. This summary does not cover all the information on the subject matter, nor does it serve to provide legal advice. NAMI Montgomery County (NAMI MC) makes no representations or warranties as to the accuracy of the information contained in this summary. If you need legal advice, you should consult with an attorney. For other questions about this document please contact NAMI MC directly at 301-949-5852.*

6. What makes someone eligible for SSDI?

To be eligible for SSDI, you must have a disability that prevents you from doing your previous job as well as from adjusting to a new job. The disability must be terminal or long-term. A long-term disability is one that lasts or is expected to last for at least one year. Social Security pays only for total disability. No benefits are payable for partial disability or short-term disability. There is usually a five month waiting period for SSDI benefits. The waiting period does not apply to people who were previously disabled or to children.

7. What mental illnesses count as impairments or disabilities?

Although SSI uses the term “impairments” and SSDI uses the term “disabilities,” the same illnesses count for both; we use the term disabilities for simplicity. For any illness, you must be able to provide medical evidence of the disability, the duration of the illness, and the degree to which it affects your ability to work. The following is a list of the categories of qualifying illnesses from the SSA’s regulations:

- Organic mental disorders caused by physiological problems with the brain’s functioning;
- Schizophrenia and other psychotic disorders;
- Affective disorders including depression and bipolar disorder;
- Cognitive disabilities (referred to by SSA as “Mental retardation”);
- Anxiety-related disorders including certain phobias and obsessive compulsive disorder;
- Somatoform disorders (physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms);
- Personality disorders;
- Substance addiction disorders; and
- Autism and other developmental disorders;

In evaluating whether your illness qualifies as a disability, the agency first evaluates whether your illness satisfies the diagnostic description of the regulations. Those descriptions are available on the agency’s website. The next step is to determine the degree to which the disability affects your ability to work. The third step, which the agency only undertakes if the first two steps are indeterminate, is an evaluation of additional functional limitations posed by your illness. If your illness does not fit the diagnostic criteria in the first stage, the evidence you produce to show the degree of disability to your ability to work is especially critical.

More information is available at:

<http://www.socialsecurity.gov/disability/professionals/bluebook/12.00-MentalDisorders-Adult.htm>

8. Is substance abuse, alcoholism, or drug addiction a qualifying disability?

Possibly. The agency evaluates the severity of a substance addiction based on the underlying mental illness that triggers it or the resulting physical problems it creates such as liver damage, pancreatitis, and seizures.

9. What counts as medical evidence in determining whether your illness qualifies as a disability?

Medical evidence is symptoms, signs, and laboratory findings (including psychological test findings). Symptoms are your own description of your physical or mental disability(s). Psychiatric signs are medically demonstrable phenomena that indicate specific psychological abnormalities, e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception, as described by an appropriate medical source. Symptoms and signs generally cluster together to constitute recognizable mental disorders described in the listings.

Medical evidence can come from your medical records and doctors’ evaluations as well as from you and people who are aware of your activities of daily living, social functioning, and concentration, persistence, or pace. Health care professionals other than doctors, such as nurses and social workers, can also provide evidence.

Standardized psychological, personality, and intelligence tests may also provide relevant evidence.

10. How will the agency evaluate the scope of my disability?

The agency generally will evaluate your abilities in the following areas:

- Activities of daily living: cleaning, shopping, cooking, paying bills, using telephones, taking public transit, and caring appropriately for yourself.
- Social functioning: interacting with others independently, appropriately, and effectively on a sustained basis as well as your ability to cooperate and get along with others including your family, neighbors, and strangers.
- Concentration, persistence, or pace: staying focused on the task at hand and concentrating sufficiently long to permit completion of work tasks under the stresses of a normal work environment.
- Episodes of decompensation: temporary increases or exacerbations in your symptoms or signs along with a loss of adaptive functioning. If you suffer from such episodes lasting more than two weeks each (on average) every four months (on average), you may be impaired to the point of being unable to work.

11. How do I apply for disability benefits?

You can apply for SSI and SSDI benefits by phone or in person. Call 1-800-772-1213 to make an appointment to apply in person or by phone. Deaf and hard of hearing persons should call the TTY number: 1-800-325-0778. Language interpreters are provided free of charge when needed. You can find the most convenient Social Security office at www.socialsecurity.gov/locator/. You can also apply for SSDI benefits online at www.socialsecurity.gov/applyfordisability.

12. What information will I need when I apply for disability benefits?

During your eligibility interview, you will need the following information:

- Social Security Numbers for you, your spouse, and your minor children;
- Any checking and savings account numbers;
- Medical information including the names, addresses, and phone numbers of all doctors, hospitals, and clinics where you receive treatment; your patient ID numbers; the dates of your treatments/medical appointments; the names of the medications you take; and the medical records in your possession;
- An original or certified copy of your birth certificate or proof of your U.S. citizenship or legal residency;
- An original or certified copy of any military discharge papers;
- Your W-2 form from last year if you worked (or your 1040 with Schedules C and SE if you were self-employed);
- Any applicable workers' compensation information including date of injury, claim number, and proof of payments;
- Kinds of jobs and dates worked for the 15 years before you became unable to work; and
- Contact information for a person the agency can contact if they cannot get a hold of you.

13. Can I appeal if my SSI or SSDI application is denied?

Yes. There are four levels of appeal: reconsideration, hearing, administrative appeal, and civil action. It is very important that you file your appeal within the specified time limit, usually 60 days from the previous decision. Instructions for filing the appeal will come with the decision and are also available on the agency's website, and your lawyer can provide additional details.

Reconsideration is a basic review of your application, with or without additional evidence. If the reason for the denial of benefits is something other than the medical determination of your

disability, you may choose to participate in the process by presenting witnesses or presenting your case in person rather than simply by documentation.

A hearing is a quasi-judicial process held in front of an administrative law judge (ALJ). The ALJ will review your file. You or your representative may appear in person and provide additional evidence or testimony. The ALJ can issue subpoenas to require people to testify. Your local social security office can help you in preparing for your hearing by explaining the issues involved in your case, how the hearing will be conducted, and how to arrange for witnesses to appear. They can also advise you on how to obtain any documents you may need for your presentation.

If you are unsatisfied with the ALJ's decision, you may seek an administrative appeal to the Appeals Council. The Council usually declines to review ALJ decisions. If the Council grants your request for review, you or your representative may appear in person; the Council meets in Falls Church, Va. You may present oral arguments or file written briefs in support of your claim.

Finally, you may appeal the agency's determinations by filing a civil action in federal district court. The court will review your case on the record—this means that no new evidence is allowed. The agency's reasonable findings are binding on the court and the agency is only reversed when it applied the incorrect legal standard or made unreasonable determinations.

14. How much are SSI benefits?

The base benefit is currently \$637 per month for an individual and \$956 per month for an eligible couple. The amount increases each year based on the cost of living adjustment. Benefits can be reduced by one's income if it is over a certain threshold. An additional state supplement is available for qualified individuals who live in care homes or assisted living facilities.

15. How much are SSDI benefits?

The amount of your monthly disability benefit is based on your lifetime average earnings covered by Social Security.

16. Does my income or work affect my SSI eligibility?

Yes. The amount of your income determines your eligibility for SSI and the amount of your benefit. Generally, the more income you receive the lower your SSI benefit. If you have too much income, you are not eligible for SSI benefits. However, not all the money you may be receiving is considered income and not all income counts in determining your eligibility. In certain situations, other people are expected to share financial responsibility for an individual (like parents for children). In these situations, the income (and resources) of others are considered in determining the individual's eligibility and payment amount.

The following are not usually considered income: the value of medical services and other social services received, tax refunds, payments on credit life and disability insurance, and the proceeds of a loan. Unearned income, such as that from investments, reduces your benefit more than earned income. Currently, a person can earn up to \$1,359 in a month before the person's SSI federal cash payments stop. Additionally, if you are fully employed, you likely are not be eligible for SSI because to be "disabled" one must not be able to engage in "substantial gainful activity."

17. Does my work affect my SSDI eligibility?

Yes. SSDI was recently redesigned to provide work incentives that allow you to test out your ability to return to the workforce without automatically losing your benefits. Your benefits will not end until you earn more than \$670 a month in 9 of the past 60 months. This amount is adjusted for inflation and increases each year. After you reach this benchmark, your benefits will stop for months where you earn a substantial amount (currently at least \$940) during the next three years. If your disability persists and your income drops below the substantial level, your benefits can be reinstated.

18. What other benefits come with SSI?

In Maryland, everyone who receives SSI also receives Medicaid. You may also be eligible for food stamps and can apply for food stamps at the same time as you apply for SSI. Food stamp eligibility is based on your household circumstances, though, not just your individual income.

19. What other benefits come with SSDI?

The agency will automatically enroll you in Medicare after you have received SSDI benefits for two years. The agency starts counting the 24 months from the month you were entitled to receive Disability, not the month when you received your first check.

20. If I don't qualify for Social Security, what other assistance may be available for me?

Maryland does not offer state disability benefits. You may be eligible for food stamps and Medicaid if your income is low enough.

IMPORTANT CONTACT INFORMATION**Montgomery County Social Security Offices**

Open 9:00 a.m. to 4:00 p.m., Monday – Friday

Call the national hotline at 1-800-772-1213

Westfield Shoppingtown
11160 Viers Mill Road
Wheaton, Maryland 20902

315 North Washington Street
Rockville, Maryland 20850

State Mental Health Agency

For more information about admission, care, treatment, release, and patient follow-up in public or private psychiatric residential facilities, contact your state mental health agency. In Maryland, you should contact:

Mental Hygiene Administration
Spring Grove Hospital Center
55 Wade Avenue, Dix Building
Catonsville, MD 21228
Phone: 410-402-8300
TDD: 800-735-2258
Fax: 410-402-8301
Internet: www.dhmf.state.md.us/mha

State Substance Abuse Agency

Contact your State substance abuse agency for information about treatment and care of substance abuse disorders. In Maryland, you should contact:

Alcohol and Drug Abuse Administration
Department of Health and Mental Hygiene
55 Wade Avenue
Catonsville, MD 21228
Phone: 410-402-8600
TDD: 410-528-2258
Fax: 410-402-8601
E-mail: adaainfo@dhmf.state.md.us
Internet: <http://maryland-adaa.org/ka/index.cfm>

State Protection and Advocacy Agency

The Maryland Disability Law Center serves as the state's protection and advocacy agency for the rights of people with mental illnesses. In addition to individual advocacy and rights protection work, it investigates reports of abuse and neglect in facilities that care for or treat individuals with mental illnesses. These facilities, which may be public or private, include hospitals, nursing homes, community facilities, board and care homes, homeless shelters, jails, and prisons. The center may be contacted at:

Maryland Disability Law Center
The Walbert Building
1800 North Charles Street, 4th Floor
Baltimore, MD 21201



Phone: 410-727-6352
Toll-free: 800-233-7201
TDD: 410-727-6387
Fax: 410-727-6389
Internet: www.mdicbalto.org

Spanish language assistance available

Centers for Medicare and Medicaid Services (CMS)

The Centers for Medicare and Medicaid Services, which are part of the Department of Health and Human Services, investigate some complaints about treatment facilities that receive Medicare and Medicaid funding. For further information at the national level, contact:

Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 877-267-2323
TDD: 866-226-1819
E-mail: question@cms.gov
Internet: www.CMS.gov

You may also share your concerns with staff at the Centers for Medicare and Medicaid Services office in your area, which is Region 3. The regional office address and telephone number are:

Philadelphia Regional Office
Centers for Medicare and Medicaid Services
150 South Independence Mall West, Suite 216
Philadelphia, PA 19106
Phone: 215-861-4140
Fax: 215-861-4240
Internet: www.CMS.gov/RegionalOffices/04_RO3.asp