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How to Get a Faster Social Security Disability Decision

One question I get frequently by e-mail is, how do I get a faster Social Security disability decision? It is asked of me in many different ways. How can I get a quicker decision in my SSD or SSI claim? How do I speed up my Social Security disability? What can I do to get my Social Security disability approved fast? How do I get an SSDI or SSI decision faster? As you can see, I get asked this question in many different ways, but the bottom line is many people want to know what they can do to speed up the Social Security disability process to help them win faster. I am going to outline some suggestions on how you can speed up the Social Security disability process. That being said, it is important to keep in mind that almost everyone who applies for Social Security disability or SSI is suffering from financial hardship in some way. The Social Security Administration can not fast-track every person that can show hardship and to be quite frank, it has always been difficult to get an SSDI or SSI decision sped up. It also appears like it is getting even more difficult to get faster decisions in Social Security disability claims. The biggest reason for the increased difficulty is the growing number of cases that Social Security has to decide at all levels of the process from application through hearing. I am going to start by giving you some general tips on what you can do on your end to make your Social Security disability decision quicker. I will then explain how you can request a faster decision by using what is called a "dire need letter". I will then explain the new Social Security disability fast-track disability process that Social Security claimants will speed up cases for tens of thousands of claimants. I will also discuss how veterans are entitled to a quicker application process and decision. Lastly, I will discuss how I and other Social Security disability lawyers have seen that it has become increasingly difficult to get claims pushed through the Social Security process faster.

What Can I Do To Speed Up My Social Security Disability Claim

In this section, I will discuss what everyone who has an SSD or SSI claim should be doing to make sure there Social Security disability case is decided as quickly as possible. When filling out your application it is very important that you answer all the questions asked of you. If you don't you will delay your claim because Social Security will review your application, and then have to get back to you for the additional information you left out. If Social Security tells you they need certain information, even if this is information you have already sent them, make sure to respond with the information they are looking for as quickly as possible. Another thing you can do is to make sure that all of your medical records that are favorable to your case have been submitted to Social Security. If you have a lawyer then you should make sure to stay in touch with your lawyer every couple of months to make sure either Social Security or your lawyer has been able to get the medical evidence needed for a decision to be made on your case. If you want to have a good chance at winning at application, it is important that you include opinion evidence from your doctors that explains your medical condition and limitations your condition imposes on you that prevent you from working. This can be done by getting a report from your doctor or having your doctor fill out a residual functional capacity form also called an RFC. After you apply you should contact Social Security or your lawyer within about two months to see what information is missing. You should then do all you can to help Social Security or your Social Security disability lawyer get the information that SSA does not have yet, and that could help you win your claim at the first decision. If you are at the hearing stage it can take one or two years to get an SSDI or SSI hearing. After you request your hearing you should contact the hearing office that is handling your Social Security disability hearing or contact your SSD lawyer to find out what is in your Social Security file, and what you need to get to improve your evidence and thus your chances of winning at hearing. If you do not have a lawyer yet, you may want to consider hiring a lawyer at this point since to be at the hearing level this means you have already lost your case at least once and often twice, and it would be a good idea to have a professional look at your Social Security file and determine what is needed to improve your claim. There is a way to get a fully favorable decision without having to wait for hearing date. You can request what is called an on the record decision or OTR. A request for an on the record decision is most effective if it is done by an experienced Social Security disability lawyer, and if that lawyer has a good reputation of only doing OTR's when a case is particularly strong and has a good chance of winning without the need for hearing. If you don't have a lawyer you can

still requests an OTR, but for these requests to be most effective they need to be written in a legal letter brief format. This means the brief shows a good theory as to why you are disabled and is supported by medical evidence in the file that is clearly identified. This can be very difficult for someone with no legal experience to write an effective OTR letter brief. Since there are many requests for on the record decisions and very few lawyers and judges at the Social Security hearing office to review them if a lawyer is known to submit OTRs in all of his cases, or if a brief looks unprofessional, there is a good chance it could be ignored by the lawyers and judges at the hearing office. If you have a lawyer you can suggest to them the idea of filing an OTR, but you should respect their decision if they decide your case is not appropriate for an OTR. If your lawyer does not feel your case is ready for an OTR you can ask your lawyer what else you can do to help to improve your claim to make it strong enough for an OTR. There are some cases, that even if they are strong and have a good chance at winning at hearing, it may still not be appropriate for an on the record decision request. You must remember that an OTR is a request for a fully favorable decision without the need of testimony. Some cases, no matter how good, may require some testimony from you before a fully favorable decision can be issued. If you request a fully favorable on the record decision and it is denied, you do not lose your case, and you still have the opportunity to have a hearing. Only a small number of cases at the hearing level are approved without a hearing.

How to Get a Quicker Social Security Disability Decision by "Dire Need" Letter?

Social Security understands and has rules in place for individuals applying for Social Security disability or SSI that need faster processing of their claim which they call "critical cases" which includes a "dire need". The rules for quicker processing of claims at the hearing level can be found in HALLEX I-2-1-40 and appeals Council cases in HALLEX I-3-1-51. These rules note, that there are five situations warrant critical case processing procedures. The first situation is when the claimant's illness is terminal this is called a TERI case. The second situation, (for veterans applying for Social Security Disability) is a "military service casualty case" which is when injury occurred on or after October 1, 2001 and these are also referred to as MSCC. Third type of case are cases that are flagged as compassionate allowance cases also called CAL cases. The fourth type is a "dire need" case. This means the claimant is without and is unable to obtain food medicine or shelter. The last situation, is when there is an indication the claimant is suicidal or homicidal. I have linked a few of the above that will show you more information about those particular situations. I will spend the rest of the section on "dire need" since many of the above are self-explanatory or have links that explain them further. "A dire need situation exists when a person has insufficient income or resources to meet an immediate threat to health or safety, such as the lack of food, clothing, shelter or medical care." HALLEX I-2-1-40 B.4.a. So what do you have to show to have your claim processed quicker under the "dire need" rules. The claimant must allege specific, the media circumstances: (1) lack of food (i.e., without and unable to obtain food), (2) lack of medicine or medical care (e.g., the claimant expresses that he or she needs medicine or medical care but is without and unable to obtain it; the claimant does not have any health insurance, or indicates that access to necessary medical care is restricted because of lack of resources), and/or (3) lack of shelter (e.g. shutoff of utilities such that home is uninhabitable, homelessness, expiration of shelter stay, or imminent eviction or foreclosure with no means to remedy the situation or obtain shelter). If you have a lawyer they can help by explain to you what specific information is necessary to show you meet the requirements of dire need and therefore should be entitled designation as a critical case and to the expedited process. If you do not have a lawyer, I will try and offer some types of evidence that should be submitted with your dire need letter to show your case should be designated as a critical case. In your dire need letter you should explain in detail why you feel you meet all the requirements listed above. With that letter you should include any evidence that supports your allegations. I will give you some examples but you are not limited to these examples and there are multiple ways of showing support for your dire need letter. Letters from family or friends that are aware of your situation can be helpful. Unpaid bills, foreclosure notice, eviction notices, expiration medical coverage, bank statements, letters from your doctor including unpaid doctors bills, and any other supportive documents that can show your extreme hardship.

What Happens to Your Case if it is Designated as "Critical"?

If your case is designated as critical for any of the five reasons I noted in the above section, the hearing office handling your case must immediately start the process of expediting your case. This means they should review your case to see if an on the record fully favorable decision is appropriate. If it is found that a fully favorable decision cannot be made without a hearing, then the hearing office is required to speed up the pre-hearing development and schedule your hearing at the earliest opportunity. Management at the hearing office is responsible for tracking the progress of critical cases to make sure they are getting expedited treatment. Not only is the hearing office required to give you a hearing as quickly as possible, but the writing of the decision is also supposed to be done quicker.

Is It Now More Difficult to Get SSDI and SSI Decision Faster Based on "Dire Need"?

There has been a lot of discussion among Social Security disability lawyers, and I have also found in my practice that it has become recently more difficult to get critical case status based on dire need. I have to assume one reason for this is the poor economy and, therefore increased number of requests for claimants cases to be designated as critical cases do to dire need. It is difficult to say whether this is the case in all hearing offices, but I would imagine this will be a big topic at the next NOSSCR conference. This is a conference run by an organization of Social Security disability representatives, which I attend two times a year, and I will report back any information I find out at the next conference regarding the difficulties in speeding up Social Security disability decisions based on dire need. What you need to know now is that if you're going to send Social Security a dire need letter to get a quicker SSDI or SSI decision you should include as much supporting evidence as possible to help your chances of speeding up your Social Security disability claim. The last section is a relevant press release from Social Security which claims it will help tens of thousands of claimants get faster Social Security disability decisions.

News Release

Social Security Fast-Track Disability Processes Get Even Faster New Rules Will Further Speed Benefits to Tens of Thousands of Americans with Disabilities

Michael J. Astrue, Commissioner of Social Security, today announced that the agency has published final rules that will further reduce the time it takes to decide applications for disability benefits from those persons with the most severe disabilities—a process that currently takes less than two weeks on average. The new rules allow disability examiners to make fully favorable determinations for adult cases under the agency's Quick Disability Determination (QDD) and Compassionate Allowance (CAL) processes without medical or psychological consultant approval. It also will help the agency process cases more efficiently as it will give medical and psychological consultants more time to work on complex cases where their expertise is most needed.

"The new rules we are publishing today will help us get disability benefits to the most severely disabled Americans even faster," Commissioner Astrue said. "This year, more than 100,000 people benefited from our fast-track disability processes and received decisions in a matter of days rather than the months and years it can sometimes take. I am pleased that our fast-track processes will now be even faster and help speed much needed benefits to our most vulnerable citizens."

Under Social Security's QDD process, a predictive computer model analyzes specific data within the electronic disability file to identify cases where there is a high likelihood that the claimant is disabled and we can quickly obtain medical evidence. The CAL process currently identifies 88 specific diseases and conditions that clearly qualify for Social Security and Supplemental Security Income disability benefits and can be fast-tracked.

The final rules, 20 CFR Parts 404 and 416, can be accessed through the Federal Register on-line at www.regulations.gov. They will be effective on November 12, 2010.