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SOCIAL SECURITY NEWSLETTER

This is a newsletter of interest to professionals who provide services to potential Social Security Disability and SSI Claimants.

DEFINING "DISABILITY"

What does it mean when a friend, family member, client, patient or other acquaintance says they are disabled? In any case, they may or may not be speaking the same language that the Social Security Administration speaks when defining disability.

The Social Security Administration (SSA) has a rather specific legal definition to classify an individual as disabled, and therefore medically eligible to receive Social Security disability benefits. The term as the SSA defines it has a much narrower scope than that perceived by a layperson. When people normally describe themselves or others as having a "disability," they may mean that they have a physical or mental impairment that creates occupational limitations, but does not preclude all work. For example, an individual who is injured on the job is generally assessed with a percentage of partial "disability" of the injured body part. This is basically a number rating the loss of that person's use of a particular body part. However, if the person's injury allows him or her to return to some other occupation despite that loss of use, he or she would not be disabled under the SSA's regulations.

In other words, there is no partial disability under the SSA's regulations. Unlike the Department of Veteran's Affairs, which pays different amounts of benefits based on a person's percentage disability rating, SSA pays either 100% or nothing. You either are disabled or you are not disabled. There is no in between.

Essentially, a person is disabled under SSA's regulations if he or she:

- 1) Is currently not working at a level of substantial gainful activity;
- 2) Has one or more medically determinable impairments that significantly limits the person's ability to do basic work activities and;
- 3) Has been unable to engage in (or is expected to be unable to engage in) any competitive employment on a **sustained and full-time** basis for 12 months or more as a result of the impairment(s).

Substantial gainful activity is fairly straightforward. This encompasses work activity in which a person earns more than \$980 per month (for the year 2009; cost-of-living raises this amount every year).

Medically determinable impairments encompass physical and mental injuries, diseases and disorders that cause exertional and/or non-exertional limitations. These limitations must affect a person's ability to do basic work activities such as standing, sitting, lifting, seeing, hearing, handling, communicating, etc.

A person's impairment or combination of impairments must prevent him or her from engaging in competitive employment on a sustained and full-time basis. In other words if a person with chronic back pain is unable to complete a normal workday without having to take unscheduled extended breaks due to the severity of his or her pain, then full-time employment will likely be out of the question. Likewise, a person with a mental illness may have periods during which he or she functions normally. However if there are intermittent

periods of decompensation in which the individual is unable to leave his or her house, sustained and full-time employment would not be possible. ***Even if a person is able to work regularly on no more than a part-time basis, then he or she would meet the medical requirements of disability under SSA's regulations.***

The SSA has specific medical criteria listed in their regulations. If a claimant meets or equals the severity described in these criteria, he or she is deemed disabled. If the claimant does not meet these criteria, then SSA determines whether he or she is able to work based on a finding of residual functional capacity. SSA has special regulations that may make it easier for older claimants to be approved, depending on education and past work experience.

Doctors and other medical professionals should take care to specify a patient's limitations caused by a medical condition. If the limitations caused by a condition would prevent **sustained, full-time employment**, then the patient may be rightfully entitled to disability benefits under the law until the point that he or she is able to return to full-time work.

Training for Your Group or Office

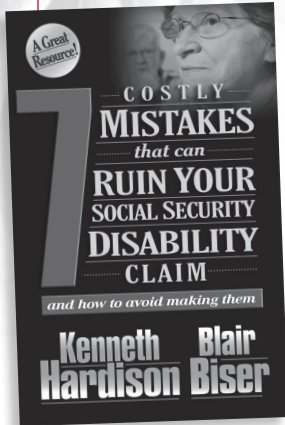
We are available to conduct workshops or short training meetings, tailored to the needs of your office staff. **There is no charge for this.** Please call our office to make arrangements for in-service training, or talks to groups and organization on any area of Social Security Disability Law.

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Call or visit www.asklawyernc.com and enter your questions. You will get answers by an attorney the same day, confidentially and with no obligation.

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Social Security Disability Book For FREE



Blair Biser and Ken Hardison have written a new book to help guide Social Security claimants through the landmine of traps they face with filing Social Security Disability claims. *7 Costly Mistakes That Can Ruin Your Social Security Disability Claim and How to Avoid Making Them* is written in plain English without the legal mumbo jumbo. This book will help you learn what you should and should not do when pursuing a Social Security Disability claim.

If you or your office would like some free copies for your staff, patients or clients, please call 1-800-600-7969 and we will get you as many copies as you need.



**Do you
know
someone
who is
disabled?**

The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period not less than 12 months. To meet this definition, you must have a severe impairment, which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy.