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Social Security Disability and Supplemental Security Income Benefits:

What Are They, How Are They Different and Why Does It Matter?

I. SSD (SSDI) vs. SSI

Definition of SSD

Social Security Disability (SSD) or Social Security Disability Insurance (SSDI) is a benefit available to workers who have accumulated a sufficient number of work credits to qualify. This benefit is paid out of the Social Security trust fund.

Who is Eligible?

In order to qualify for SSD you must be disabled and must have worked and paid FICA premiums while working. Social Security calculates work credits based upon your total yearly wages. You can earn 4 credits a year. The amount needed for a credit changes from year to year. In 2018, you earn one credit for each \$1,320 of wages. Generally, you need 40 credits, 20 of which were earned in the last 10 years to qualify for SSD.

How are Benefits Calculated?

The amount of an individual's monthly benefits is based upon his/her lifetime average earnings covered by Social Security. An individual's average earnings are called Average Indexed Monthly Earnings (AIME). Using the AIME, the SSA will calculate an individual's Primary Insurance Amount (PIA). Most SSD recipients received between \$700.00 and \$1,700.00 per month.

Definition of SSI

Supplemental Security Income (SSI) is a need-based benefit program paid to qualifying individuals whose household income falls below a certain income. This benefit is funded by general fund taxes. SSI benefits are not based upon prior work history or credits.

Who is Eligible?

In order to be eligible for SSI benefits, you cannot own more than \$2,000.00 worth of assets (or \$3,000.00 as a couple). Assets include items of value such as a home or vehicle or money in savings or checking accounts, IRA's etc. Additionally, blind or disabled children may be eligible for SSI. In most states, SSI beneficiaries also can receive medical assistance (Medicaid).

How are Benefits Calculated?

In general, the maximum SSI benefit changes yearly. In 2018, the federal benefit rate for an individual is \$750.00 and \$1,125.00 for a couple. Some states do supplement federal SSI benefits with additional payments. SSI benefits are paid on the first of the month.

Application/Approval Process

Initial Application

An individual's initial application for disability can be made in person at an SSA office or online. The applicant will also submit medical records documenting disability. The decision for an initial application is generally received between 90 to 120 days from application. Approximately 30% of applications are approved at this stage.

Reconsideration

If the initial application is denied, an individual can appeal that decision within 60 days of receipt. This process is called reconsideration. During reconsideration the initial application is reviewed by the SSA for a second time. This process generally takes 3 to 5 months. Approximately 15% of appealed applications are approved during this stage.

Hearing

A hearing is the second step of the appeals process. If a reconsideration request is denied, an individual can request a hearing before an Administrative Law Judge (ALJ). This request must be made within 60 days of the denied reconsideration request. The ALJ will hold a hearing at which time the individual can appear alone

or with a representative and present medical evidence and testimony. The ALJ may also ask a medical and/or vocational expert to testify. This process can take up to 3 years to complete. Approximately 63% of applications are approved at this stage.

Appeals Council

If the application is denied at the hearing level, that decision can be appealed to the Appeals Council. A review by the Appeals Council takes between 6 months and 1 year and approximately 2% of applications are approved at this stage.

Federal Court

If the application is denied by the Appeals Council, it may be reviewed by the Federal District Court. The Court can approve or deny the application or they can send the claim back to the SSA for further review. Approximately 30% of appeals are approved at this stage.

II. 5 Step Sequential Evaluation

Both SSD and SSI follow the same evaluation to determine disability. A 5 step sequential evaluation process is followed and if an individual is disabled or not disabled at that step, the determination is made, and the adjudicator does not go on to the next step. If the adjudicator cannot find that an individual is disabled or not disabled at a step, they proceed to the next step. The steps are as follows:

Is the Individual Working Above Substantial Gainful Activity (SGA)?

The first step considers an individual's work activity, if any. If an individual is working above the SGA level, they are found not disabled. In 2018, the SGA level is \$1,970.00 month. If the individual is working and earning less than SGA or is not working, the adjudicator moves to step 2.

Does the Individual have a Severe Physical and/or Mental Condition?

An individual must have a medically determinable physical or mental impairment (or combination of impairments) that is severe and meet duration requirements. A severe impairment is an impairment that interferes with basic work-related activities. Further, the impairment must be expected to last 12 months or result in death. If the impairment is found to be non-severe or do not meet the duration requirements, the individual is found not disabled. If the impairment or impairments are severe and sufficient in duration, the adjudicator moves to step 3.

Does the Individual Meet or Equal a Listed Impairment?

The third step of the evaluation considers the severity of the individual's medical or psychiatric condition. The SSA compiled a listing of impairments that are

considered so severe that an individual is found to be disabled if his/her medical or psychiatric condition meets/or equals the listed impairment.

The Listings of Impairments contain the following categories: Musculoskeletal System, Special Senses and Speech, Respirator Disorders, Cardiovascular System, Digestive System, Genitourinary Disorders, Hematological Disorders, Skin Disorders, Endocrine Disorders, Congenital Disorders that affect Multiple Body Systems, Neurological Disorders, Mental Disorders, Cancer and Immune System Disorders.

If an individual has an impairment that meets or equals one of the listings and meets the duration requirement, he/she is found to be disabled. If they do not meet or equal a listed impairment, the adjudicator moves on to step 4.

Can the Individual Return to his/her Past Relevant Work?

Prior to proceeding to step 4, an individual's Residual Functional Capacity is assessed. This RFC is used for both steps 4 and 5. A RFC is a function-by-function assessment of an individual's ability to perform sustained work related physical and mental activities on a full time basis. The RFC assists the adjudicator in determining an individual's ability to work at steps 4 and 5.

In step 4, the RFC is compared to the individual's past relevant work (PRW). If the individual retains the capacity/RFC to perform any PRW, he/she is found to be not disabled. If no PRW can be performed within the RFC, the adjudicator moves to step 5.

Is There Any Work in Sufficient Numbers in the National Economy that the Individual Can Perform given his/her/ Residual Functional Capacity (RFC)?

At step 5, the burden of proof shifts to the SSA to show that the individual can perform work within his/her RFC, age, education and work experience in sufficient numbers in the national economy. If the individual has transferrable skills to other work or the work is unskilled and falls within the individual's RFC, he/she is found to be not disabled. If the individual cannot return to work within his/her RFC in sufficient numbers in the national economy, he/she is found to be disabled.

Also at step 5, the adjudicator considers the medical-vocational guidelines (grids). The guidelines are exceptions to the rule. Generally, the SSA gives additional consideration to individuals who are 50 or older and have performed physical work over their lifetime. If an individual falls under the guidelines/grids, they are found to be disabled.

III. Why Does It Matter?

How SSD and SSI Interact with Workers' Compensation Claims

The standards for disability under the Social Security Act are different from those under state statutes, laws, and Acts governing work-related injuries. Despite this, one must always take Medicare's interests into consideration when settling a workers' compensation claim.

Medicare should not make payment for medical bills that should be paid, or can reasonably be expected to be paid, by other insurance, including workers' compensation insurance. For this reason, when a workers' compensation claimant is also a Medicare beneficiary (or can reasonably be expected to become one) a Medicare Set Aside may be obtained. This will address the anticipated funds recommended for future treatment, including prescription medications, for the work-related injury.