

SOCIAL SECURITY DISABILITY BENEFITS

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For those people who are diagnosed with Alzheimer's at an early age obtaining Social Security Disability Benefits is often critical in avoiding financial disaster. Without it, many disabled workers would be forced to turn to welfare.

Social Security Disability benefits are available to those workers who are no longer capable of engaging in full time work and who are less than 65 years of age. The Social Security Administration has a two prong test to determine eligibility for Social Security Disability benefits. First an individual has to have a work history and have paid into the Social Security System. For the average person it is necessary to have contributed a total of at least 40 quarters of work with each quarter representing a three month period. It is also necessary that the applicant have contributed in 20 of at least 40 of the quarters previous to becoming disabled. There is rarely an issue as to whether an applicant has enough earnings to become qualified for benefits. That is typically a simple question that can be easily answered at the local Social Security District Office.

The second part of the eligibility question is much more difficult. In order to be eligible for benefits it is necessary to demonstrate disability. According to Social Security Laws, disability means an inability to engage in substantial gainful activity. In order to qualify, it is necessary to show that the applicant is incapable of returning to work for at least a year or has a condition which is expected to result in death. In determining disability consideration is given to an individual's age, previous work history and education. As a general rule the older the individual, the more physical the work and the lesser the education the easier it will be to demonstrate disability.

For an individual over the age of 50, the issue of skills acquired in previous employment as well as education is a critical part of the application. For example, a 60 year old construction worker with an eighth grade education may have a bad knee that prevents him from doing the heavy lifting and climbing required of his job. If he has performed only that type of work in the last 15 years, then the Social Security Administration would be hard pressed to show any other type of work for which he has the skills to perform. However, if that same worker had required skills as a supervisor and it was shown that he did a great deal of paperwork on the job, Social Security would attempt to show that he had developed skills that could be transferable to a less strenuous type of work such as a desk job. In such a case it would be necessary to show a more severe impairment. Possibly the applicant would also have a back condition which would prevent him from sitting for periods of time and he could then be eligible. Or, he may be suffering from the early stages of dementia which would make it impossible for him to do even the most routine paperwork. Alzheimer's or any type of dementia is a cognitive impairment which depending on the severity even standing alone would typically make it impossible to do even the most basic job, eight hours a day, five days a week. For that reason a diagnosis of dementia in and of itself can typically be found to be disabling regardless of age, education or work background.

Many people become discouraged when pursuing disability benefits because it is not unusual to be turned down on the initial application. However, the next step is a hearing in front of an Administrative Law Judge. On Long Island the hearings are held at the Office of Hearings and Appeals in Jericho. We are fortunate on Long Island that our Judges are extremely fair and will cooperate fully with a claimant in obtaining medical documentation. I know for a fact that the Chief Judge who has been in charge since before I made my first appearance before him in 1976 believes strongly that the disabled person is entitled to the benefit of the doubt.

The key to a successful claim is the opinion of the treating physician. If the claimant's treating physician is luke warm in his or her assessment, or does not provide details of the type of treatment it will be difficult to establish a claim. The burden of proof is always on the applicant not on the Social Security Administration.

The benefit to an Alzheimer's patient on Social Security is more than just the monthly check. The claimant becomes automatically eligible for Medicare coverage two years after first being entitled to benefits. Therefore, it is not necessary to wait until age 65 for Medicare coverage. Many individuals who are not able to work may decide to apply for Social Security Retirement Benefits at age 62 even though it will be approximately 20% less in benefits. If one is found eligible for disability benefits, the monthly benefit is the same rate that one would receive at age 65 when retiring.

The important thing to remember with a Social Security Disability Claim is that it must be well documented medically and the applicant should not be discouraged if the initial application is denied.