

Tips for Applying for Disability Benefits



1. Application myths.

Some applicants believe that everyone who applies for Social Security disability benefits is turned down and must appeal. Not true. About 70% of the people who now receive disability benefits never had to appeal. They were found disabled when they first applied.

As a result, other applicants believe that when turned down it is best to keep filing new applications over and over. This is wrong. Not only can you lose potential back benefits by reapplying, but if the first application was denied, a new application is also likely to be denied.

Some claimants give up after their first appeal is denied, but that is also a mistake. Only 15% of requests for reconsideration are granted.

What claimants must remember is to appeal all the way to a hearing before an administrative law judge. More than half of hearing-level appeals are granted.

Don't be one of those claimants who give up too early.

2. Will I qualify?

Disability lawyers are asked this question a lot: "Am I disabled enough to qualify for benefits from the Social Security Administration?"

Unfortunately, this is a hard question to

answer directly because a lot of individual information is needed – severity of impairment, medical findings, symptoms, details of past work, whether you can read and write English, and more.

If you meet SSA's medical standards for disability, you will win your case virtually instantly. But most who ask are not that disabled.

If you don't meet SSA's medical standards, you need to show that you cannot do any regular job you have done in the past 15 years. That job must have lasted long enough for you to learn how to do it, so a job you had for a few weeks probably won't count. Your earnings from that job must exceed SSA's "substantial gainful activity" limit, which was \$500 in the 90's and is now roughly \$1,000.

Once you cross the past work hurdle, if you are under age 50 you need to show that you are incapable of doing a really easy full-time job – usually some sort of sit-down job. It does not matter to SSA that you would not be hired for such a job. What counts is whether that job exists in "significant numbers." But note this – there is no agreement on how many is a "significant number."

So for most applicants, whether you are disabled enough comes down to two questions: (1) Are you still capable of doing a past job? (2) If not, are you capable of working full-time at the easiest job that the SSA can think of?



Proof is a big factor in answering these questions, which is why there are hearings and why lawyers are so helpful in those hearings.

3. Applying.

The Social Security Administration (SSA) offers 3 ways for you apply for disability benefits: telephone, in person, or on the web. To use the web, go to www.socialsecurity.gov/applyfordisability/adult.htm.

If you want to apply for disability benefits by phone or in person, call SSA at 800-772-1213. If you visit an SSA office to complete the application, the person answering the 800 number will schedule your appointment, give you directions, and tell you what papers you need to bring.



If you choose to apply by phone, you will be given a date and approximate time to expect a phone call from someone at SSA. The caller will take your application over the phone and then mail it to you for your signature.

The most important question on the Disability Report, which is completed at the same time as your application, asks how your condition limits your ability to work. Keep it simple and be truthful, but if you are under 50 your answer should explain why you cannot (1) do any job you had in the past 15 years and (2) why you cannot do an easy sit-down job now. Be careful when answering not to exaggerate or minimize your disability.

It is also important that you provide on the Disability Report a complete medical history of treatment for your disabling impairment. The history should include names, addresses, and telephone numbers of all doctors, clinics and hospitals where you were treated, along with the approximate dates of treatment.

Lastly, SSA will ask for a list of all jobs you have worked in the last 15 years before you became disabled, along with a description of what you did on those jobs.

4. Completing the application.

When you first apply for Social Security disability, you will need to fill out a Disability Report and a Work History Report. Here are a few tips on completing those reports:

Disability Report

This form (SSA-3368-F6) asks for information on your impairments, treatment sources, medical tests, medications, vocational rehabilitation, work information, and educational background.

Included is space for an explanation of how your condition keeps you from working. Do not fall into the common trap of explaining only why you cannot do your current or most recent job – “I can’t lift 50 pounds.” To win disability you need to explain why – considering your age, education, and work experience – you cannot do any jobs existing in “significant numbers.”

Work History Report

This form (SSA-3369) is used by the SSA to gather information about your past relevant work. It asks you to describe all the jobs you held over the last 15 years.

What is most important in completing this report is not to underestimate the duties and the exertional and non-exertional requirements of each job. If you gloss over the requirements of a job on your Work History Report, but then your attorney elicits additional details from you at your hearing showing the job to be more difficult than initially described, the judge may be skeptical. Your eventual hearing testimony will be more believable if the difficulty of each job is described in detail on the initial report.

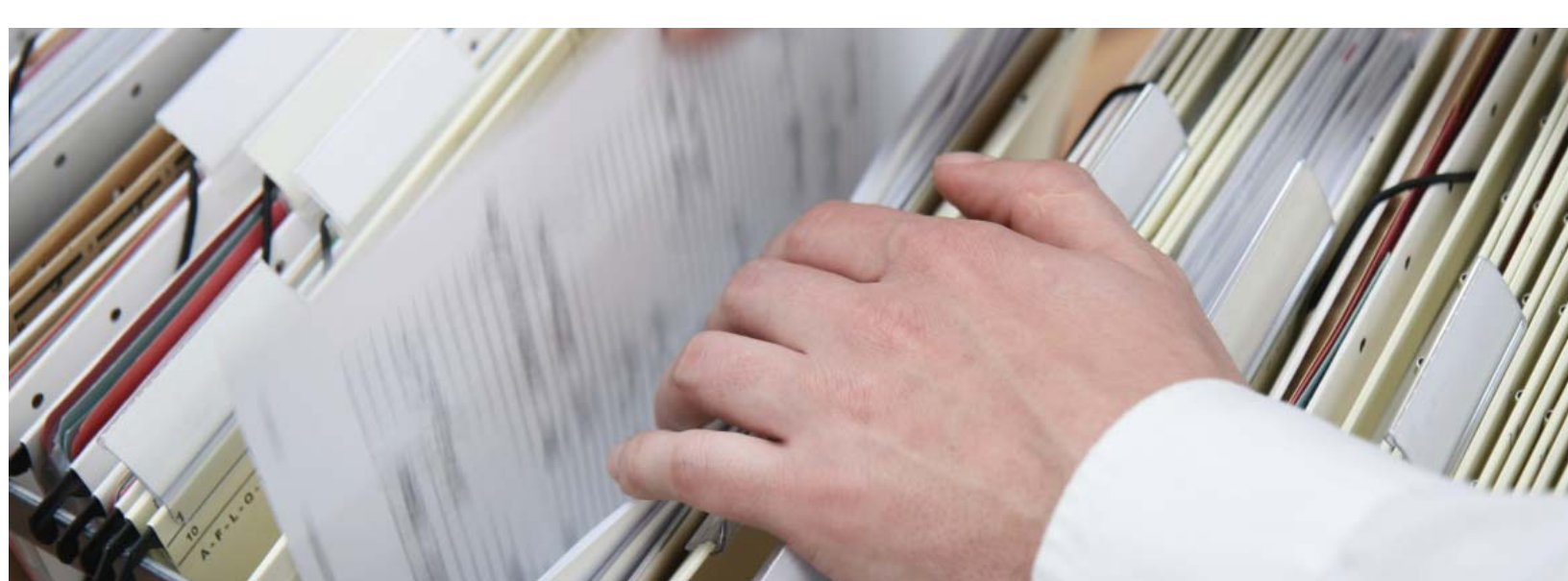
5. Medical proof.

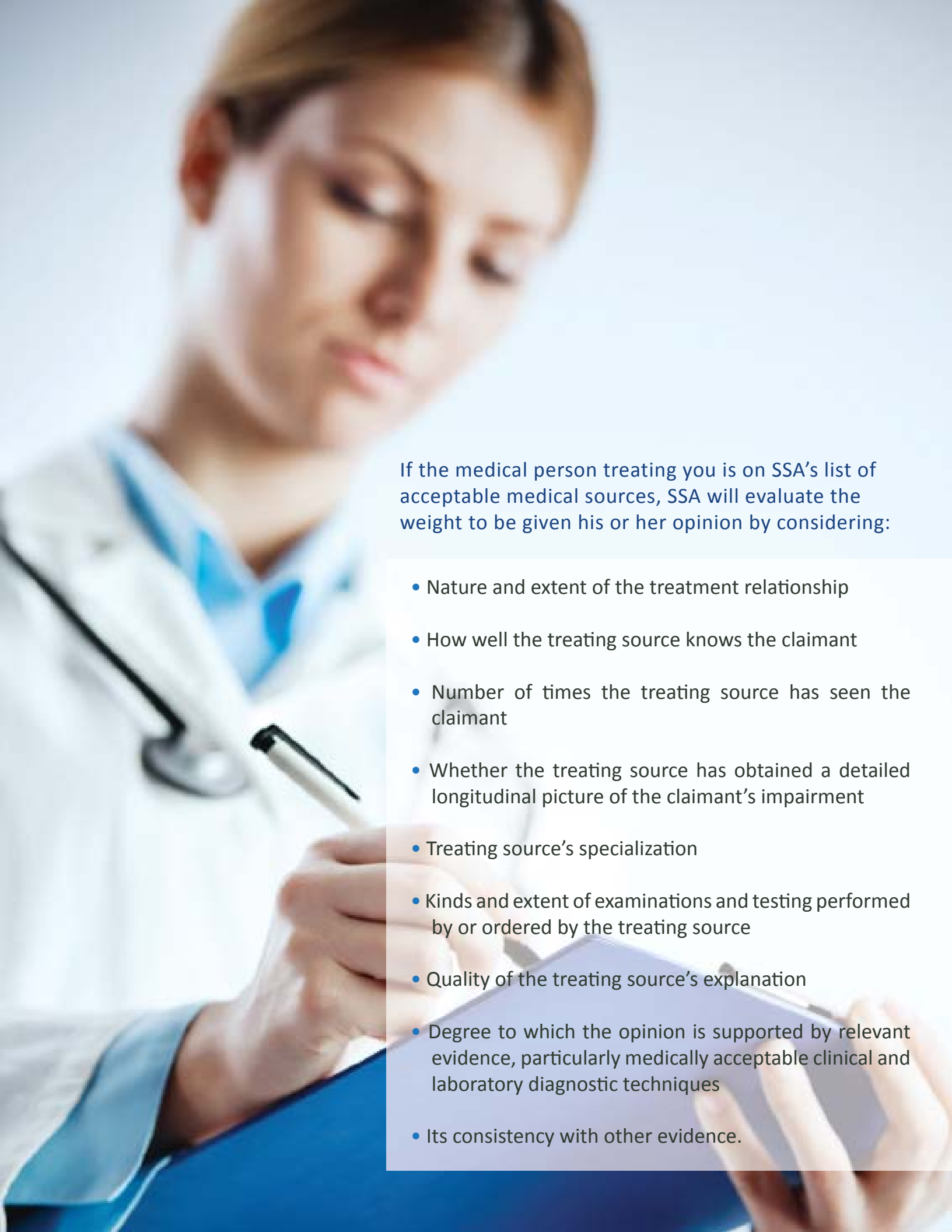
The Social Security Administration (SSA) has a list of acceptable medical sources and “other” medical sources. Treatment obtained from other medical sources is given little weight by SSA.

Physicians, osteopaths, podiatrists, optometrists, and psychologists are acceptable medical sources. Nurse-practitioners, physician’s assistants, audiologists, physical therapists, occupational therapists, and chiropractors are not.

Thus, for example, most administrative law judges will give little weight to a chiropractor’s explanation that your back problem is due to spinal misalignment. You will need an opinion about your back problem from a doctor.

If you have already seen a chiropractor, those treatment records can still be used to show that you were in enough pain to seek chiropractic manipulation. Similarly, your pharmacy’s list of pain medication refills can also be evidence of your pain.





If the medical person treating you is on SSA's list of acceptable medical sources, SSA will evaluate the weight to be given his or her opinion by considering:

- Nature and extent of the treatment relationship
- How well the treating source knows the claimant
- Number of times the treating source has seen the claimant
- Whether the treating source has obtained a detailed longitudinal picture of the claimant's impairment
- Treating source's specialization
- Kinds and extent of examinations and testing performed by or ordered by the treating source
- Quality of the treating source's explanation
- Degree to which the opinion is supported by relevant evidence, particularly medically acceptable clinical and laboratory diagnostic techniques
- Its consistency with other evidence.

6. Timing.

Applying for Social Security disability benefits too early can be a mistake. Waiting too long also creates problems, but both problems can usually be overcome.

Some claimants believe they should apply for benefits while they are working so they can get a jump on the lengthy disability evaluation process before they stop working. This is not a good idea because the Social Security Administration (SSA) will deny your claim simply because you are still working. SSA won't even look at your medical issues. If your earnings average more than \$1,000 per month (after SSA subtracts out-of-pocket medical expenses), you will get a denial letter within days of applying.

Some folks apply for disability benefits on the day they stop working. This approach causes disability examiners to wonder how you knew you wouldn't be able to work for the next 12 months and will view your claim with suspicion. Unless your case is one of an obvious disability, SSA will put it on the back burner to see if you end up disabled for an entire year.

On the flip side, if you wait more than about 17 months after you become disabled to apply, you will not receive all of your back benefits. Social Security disability only pays benefits for 12 months before the date of application. SSI, on the other hand, only pays benefits from the month after you apply.

When is the best time? Applying for disability benefits 6-9 months after you stop working increases the possibility that your claim will be successful at the initial or reconsideration steps.

7. Erroneous denials.

Almost two-thirds of initial claims for Social Security disability are denied.

Perhaps the most common single reason for an erroneous denial is that the state agency overestimated your residual functional capacity (RFC). For example, the state agency may have determined that you are capable of medium work while you are actually limited to light work. This new RFC may, if you are old enough, lead to a finding of disabled under the Medical-Vocational Guidelines.





8. Contact Congress?

Other common examples of erroneous reasons for denial are:

- An impairment was determined to be “not severe”
- Additional impairments were not considered
- The claimant’s allegations of pain were not properly evaluated
- The state agency did not gather evidence showing that the claimant’s impairment meets the Listings
- The claimant was determined to be capable of past work, but the state agency underestimated the exertional level of the past work both as the claimant actually performed it and as the occupation is usually performed
- The state agency used the claimant’s years of formal schooling for establishing educational level, but testing showed the claimant’s educational level to be considerably lower.

Other possibilities are virtually limitless.

One hears stories such as this: “I heard about a guy who contacted his congressman and a few weeks later, the Social Security Administration found him disabled.” Claimants for Social Security disability and SSI benefits often ask, “Should I contact my U.S. senator or congressman?”

If you’ve been denied benefits by the Social Security Administration (SSA) because you’re supposedly not disabled enough, contacting your U.S. senator or congressman won’t cause SSA to change its mind. This doesn’t work even if you personally know the senator or congressman. It is simply a coincidence when someone is found disabled shortly after contacting a U.S. senator or congressman.

Turning down a Social Security disability or SSI claim is normal SSA behavior. A congressional inquiry won’t have any effect on normal SSA behavior. But when SSA engages in abnormal behavior, an inquiry from a senator or congressman very well could correct the problem. That is, when SSA makes a genuine mistake -- when SSA does something truly unusual or fails to do what it is clearly supposed to do -- the office of a member of congress may be the best place to go for help.

An inquiry from a member of congress is useful because it gets SSA's attention. SSA's rules require it to promptly reply to a congressional inquiry. No comparable rules require an immediate response to an inquiry from a claimant or a lawyer.

What kinds of things can a congressional office help with? Bureaucratic mix-ups. True snafus. Inordinate delay. Trouble is, it often takes someone familiar with the SSA system to figure out if you're dealing with normal or abnormal SSA behavior. For example, one would think that waiting 18 months for a hearing represents inordinate delay. But this is common. You often need a lawyer or someone else very

familiar with how SSA operates in order to figure out when a congressional inquiry will help.

Since it is so hard to figure out when a congressional inquiry will help, some claimants take the position that they may as well contact their members of congress about every issue with SSA, whether it is abnormal SSA behavior or not. This is a bad idea. You don't want to wear out your welcome before the time comes when you genuinely need someone to go to bat for you.