



Stellpflug, Janssen, Hammer, Kirschling & Bartels, S.C.

Innovative Legal Solutions That Fit.

LawClips

July, 2004
Vol. 3, No. 7

Topic for the Month:

Social Security Disability - Update

Mark A. Bartels

Philip J. Danen

Marc A. Hammer

Timothy A. Hawley

Steven D. Hitzeman

Sandra L. Hupfer

Robert J. Janssen

Michael J. Kirschling

Evan Y. Lin

Jackson T. Main, Jr.

Lora A. Matzke

Peggy L. Miller

Christina L. Peterson

Patricia J. Sandoz

C. David Stellpflug

444 Reid St., Suite 200

De Pere, WI 54115

920-336-5766

920-336-5769 (fax)

866-525-5200 (toll-free)

info@wislawyers.com

www.wislawyers.com

WISCONSIN LAWYERS

EXPERT ADVISERS.
SERVING YOU.

Social Security Disability Update: In May, 2002, we provided a basic primer on social security disability. Since that time, we have received many calls inquiring into issues related to social security disability. Given the level of interest in this area of law, we wanted to provide additional information on how a Social Security Disability (SSDI) claim is evaluated. To view the first **LawClips** article related to SSDI, just go to our website (www.wislawyers.com) and click on the **LawClips** newsletter icon. You can then read and/or print out the May, 2002 article.

Basic Definition of Disability: To be found disabled, a person must be unable to engage in any substantial gainful activity, due to a medically determinable physical or mental impairment, which can be expected to last for a **continuous period of not less than 12 months** (duration requirement). For example, if a person misses 8 months of work due to back surgery and then returns to work, they will not qualify for SSDI benefits. If the same person misses 13 months of work due to surgery and then returns to work, they may have a claim for a **closed period** of disability. This topic was covered in the May, 2002 **LawClips** article.

Insured Status: The first issue to be addressed, in SSDI cases, is whether or not the individual is fully insured under the Social Security program. The Social Security Administration (SSA) determines if a person has fully insured status, currently insured status, or insured status for establishing a period of disability by the number of quarters of coverage credited to a person's Social Security record. The amount of SSDI benefits is based on a worker's earnings, as reported to the SSA. An **Earnings Report** can be obtained from the SSA office. This report will show the amount of monthly benefits a person would be entitled to if they are awarded SSDI benefits.

Severity of Disability: Once the insured status has been confirmed, the focus is on the nature and severity of the disability. To qualify for SSDI, a person's disability must be so severe that it meets or equals a set of criteria outlined in an Appendix titled: LISTING OF IMPAIRMENTS. The LISTING OF IMPAIRMENTS is divided into the following sections, dealing with different systems of the body:

- 1.00 Musculoskeletal System
- 2.00 Special Senses and Speech
- 3.00 Respiratory System
- 4.00 Cardiovascular System
- 5.00 Digestive System
- 6.00 Genito-Urinary System
- 7.00 Hemic and Lymphatic System
- 8.00 Skin
- 9.00 Endocrine System

- 10.00 Multiple Body Systems
- 11.00 Neurological
- 12.00 Mental Disorders
- 13.00 Neoplastic Diseases, Malignant

Contained within each section of the LISTINGS are various medical conditions which, if met, qualify a person for SSDI benefits. If a person's disability meets the duration requirement and a specific LISTING OF IMPAIRMENT, a finding of disability is made, without considering factors of age, education and work experience. A partial list of conditions, which are included in the LISTINGS are; arthritis in several major joints; chronic pulmonary insufficiency; congestive heart failure; chronic liver disease; chronic anemia; diabetes mellitus; brain tumors; epilepsy; multiple sclerosis; cerebral trauma; affective disorders; mental retardation and autism.

The GRID: If a person's disability does not meet the criteria in the LISTING OF IMPAIRMENTS, a finding of disability may be found by applying the criteria in Appendix 2 - Medical-Vocational Guidelines (a/k/a the GRID). The GRID is a series of Medical-Vocational Guidelines which takes into consideration the following factors: age, education, past work experience, transferability of skills and residual functional capacity (RFC). The **RFC** is what a person can still do despite permanent restrictions. The RFC must be quantified by a physician.

Transferable Skills: This is a significant issue in GRID cases. Transferable skills are those that can be used in other jobs, when the skilled or semi-skilled activities done in past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. Transferability is most meaningful among jobs which require the same or lesser degree of skill; the same or similar tools or machines and the same or similar raw materials, products, processes or services. If this is an issue, the SSA will often require the presence of a vocational expert at the time of the hearing.



Knowledge Is Power: Our firm is committed to educating and advising consumers on their rights. We have a team of litigators with experience in handling SSDI claims. Feel free to contact attorneys Steven Hitzeman or Trish Sandoz, with any questions regarding a SSDI claim.