



The ins and outs of the Social Security disability maze

How you can identify which of your clients would qualify for disability benefits

By SHERI ABRAMS

The fight to obtain Social Security Disability Benefits is a long and difficult one, both for the Attorney and the claimant. In order to determine whether or not a claimant will ultimately be successful in obtaining their benefits depends on many factors.

To qualify for Social Security Disability Benefits, a claimant must have worked long enough and recently enough under Social Security. The date last insured (DLI) is critical in determining whether a claimant can obtain benefits. A claimant can earn up to a maximum of four (4) work credits per year. The amount of earnings required to earn one credit increases each year. The number of work credits you need for Social Security Disability Benefits depends on your age when you became disabled. Generally you need a total of forty (40) credits with twenty (20) credits earned in the last ten (10) years ending with the year you became disabled. However, some younger workers,

depending on their age, may qualify with fewer credits. In general if a claimant has worked steadily with few interruptions in their work history, they will have approximately 5 years after they last stopped work to establish their disability. You may be working with a client who worked off the books or for themselves and did not put in the required period of time to be currently fully insured for benefits. This is a major problem since proving a claimant is disabled at the present time can be very challenging. It is much more difficult, and in some cases impossible, to prove that a claimant was disabled in the past.

It is also very important to determine whether or not a claimant is receiving medical treatment. If you have a client who claims that he or she is not able to work but has not received and is not receiving regular medical treatment, it is very doubtful that they will be able to obtain benefits. You need to counsel your client about the need to get proper medical care. This counseling should include not only making sure that your client sees his or her doctor(s) but that he or she describes in detail to their doctors the medical problems they are having. A doctor is not going to be able to treat or document a claimant's condition accurately until they

hear it from their patient. Many of your clients will tell you that they have no medical insurance and not enough money to see a doctor on a regular basis. Unfortunately Social Security believes that in most cases a claimant should be able to obtain medical treatment no matter what. Familiarize yourself with the medical clinics in your area that offer medical treatment at little or no cost, so that you can offer a referral.

It is critically important for a claimant to be treated by a medical specialist for the condition or conditions that causes him or her to be disabled and unable to work. For example, if a claimant has arthritis they need to be treated by a Rheumatologist; if they have a brain injury they should be treated by a Neurologist, and so forth. Diagnosis and treatment by an internist or primary care doctor is not sufficient in most cases to prove disability. It is also important, of course, for the treating doctor to be supportive of his or her patient's disability case. If your client does not have a specialist treating him or her, refer him or her to a local support group for a referral.

If your client has only a physical disability then his or her age and work history are very important in determining if they will be able to receive their Social Security Disability Benefits. The Social Security Regulations make it easier for a claimant to receive benefits once they turn 50 years old and this becomes even easier when they turn 55 years old. If a claimant is under the age of 50, it must be proven that they are unable to do their past work and any other work in the national economy. This includes having to prove that a claimant is unable to do sedentary work. The Social Security Administration generally defines sedentary work as involving lifting no more than 10 pounds at a time and occasionally lifting or carrying things like files, ledgers and small tools. In addition, in general, the capacity for

sedentary work includes the ability to sit at least 6 hours in an 8 hour day and stand and walk approximately 2 hours per day. Bilateral manual dexterity is also a significant factor in sedentary work. If your client has a physical disability, is under age 50 and they believe, or their doctor(s) believe that they have the capacity to do sedentary work then they normally will not be able to receive their Social Security Disability Benefits.

Another important issue is whether your client suffers from a mental illness. A claimant can have the physical capacity to do heavy work but if he or she experiences significant problems with his or her ability to maintain attention and concentration, focus, follow directions, or deal with work-related stress, they may not have the capacity to do their past work or any other work at any physical level. It is very important that you address this issue with your client, whether they are over or under age 50.

If a client admits to having difficulties with anxiety or depression, or more specifically the symptoms of these disorders, and these problems preclude him or her from working on a sustained basis, then your client is probably eligible for Social Security Disability Benefits. To be successful in getting a claimant benefits in this type of case, your client must be willing to recognize that he or she has these problems and they must be willing to obtain the appropriate mental health treatment. It is very important that your client obtain this mental health treatment from a specialist like a Psychiatrist and not from his or her internist or primary care doctor.

In conclusion you should collect the following information from your client in order to be able to advise them of their possible eligibility for Social Security Disability Benefits:

- Have they worked for 10 years or more;
- Have they worked for 5 out of the last 10 years;
- How old are they;
- What condition(s) do they have (physical/mental) that makes them unable to work;
- Are they seeing a specialist; and
- Has their doctor told them that he/she feels that they are unable to work?



SHERI R. ABRAMS founded her own law firm in 1995. Sheri concentrated her law practice to representing clients in Virginia, Washington, DC and Maryland in their Social Security Disability appeals.

Sheri is "AV-Rated" by the Martindale-Hubbell Law Directory, and is active in many different professional organizations including the Virginia State Bar, District of Columbia Bar, American Bar Association, Academy of Special Needs Planners and is on the Board of Directors of the National Organization of Social Security Claimant's Representatives (NOSSCR).

Sheri is a volunteer Attorney for "Trial Lawyers Care" an organization that provides free legal help to those impacted by the 9/11 tragedy and for the Virginia Bar Association's Disaster Legal Assistance Program.

Sheri graduated Cum Laude from Boston University's School of Management with a Bachelor of Science degree in Business Administration and earned her Juris Doctor from George Washington University. She is admitted to all local courts, including the United States Supreme Court.

Clients often get work-related emails and letters from Sheri in the evenings, weekends, even holidays, and they ask, "Don't you ever sleep?" Sure, she does.

But Sheri loves what she does so much that it truly doesn't FEEL like work. It's a calling, not a job. Sheri feels that she couldn't possibly treat it as a 9-5 job because it is not.

Sheri loves representing people with disabilities and strongly suspects that she will be doing this till the day she dies, long after many other lawyers have retired from jobs that they merely tolerated in exchange for a paycheck.

For more information on Sheri Abrams please see her website located at: www.sheriabrams.com.