

Navigating Mainstream Benefits: SSDI and SSI (Part One)

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Health, a Program of The Law Foundation of Silicon Valley

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About the Law Foundation of Silicon Valley

- ▶ The Law Foundation provides free legal services in three subject areas: Health, Housing, and Children/Youth.
- ▶ Our Health practice focuses on providing legal services to people living with physical and mental health disabilities in a variety of practice areas including:
 - ▶ Mental Health Patients' Rights
 - ▶ Public Benefits, including Social Security and State/Local benefits such as Medi-Cal, General Assistance, CalFresh, etc.
 - ▶ Federal Student Loan Discharges
 - ▶ Name & Gender Marker Changes

Training Roadmap

- ▶ **Basic Eligibility for Social Security Benefits, including:**
 - ▶ Major differences between the two programs (SSI & SSDI)
 - ▶ Establishing Disability
 - ▶ Eligibility for Immigrants
- ▶ **Application and Appeals Process**
 - ▶ Getting started
 - ▶ Questionnaires
 - ▶ Consultative Exams
 - ▶ Appeals Process
 - ▶ Deadlines
- ▶ **Continuing Disability Reviews**

Before we begin...

- ▶ Social Security has lots of complex rules that are frustrating, confusing, and hard to understand.
 - ▶ You don't have to memorize all the information we are sharing with you today.
 - ▶ Our goal is to give you a lot of information so you can identify issues when they come up and know when to refer clients for help.
 - ▶ Bottom line: if your client gets a notice from Social Security that you don't understand or your client has a problem with their Social Security payments, we are here to help.
- ▶ Interacting with Social Security can be very difficult - *for everyone*.
 - ▶ This, unfortunately, is not something we can fix!

Basic Eligibility for Social Security Benefits

Two Types of Social Security Benefits: SSDI and SSI

- ▶ The Social Security Administration (SSA) is a federal agency that administers two different disability programs:
 - ▶ Social Security Disability Insurance (SSDI)
 - ▶ Supplemental Security Income (SSI)
- ▶ Both programs require the same finding of disability.
- ▶ Program differences:
 - ▶ SSDI requires a sufficient work history to be insured;
 - ▶ SSI has income/asset limits.

Social Security Disability Insurance (SSDI)

- ▶ Cash benefits to people who are disabled or blind and who are insured by contributions through payroll taxes (FICA).
- ▶ The monthly benefit amount depends on the amount the claimant has contributed through FICA.
- ▶ For 2023, the maximum monthly SSDI payment is \$3,627.
- ▶ If the “earned” monthly benefit to which a beneficiary is entitled is less than the SSI payment amount, SSI may be able to make up the difference.
- ▶ Eligibility for SSDI also depends on how many quarters of earnings a client has over their working lifetime.
- ▶ After 24 months, SSDI beneficiaries automatically start receiving Medicare.

Supplemental Security Income (SSI)

- ▶ SSI also provides cash assistance to people who are aged, blind, or disabled and have limited income and resources.
- ▶ The amount of benefits for which a person is eligible differs, based on a variety of factors.
- ▶ SSI is seen as a “safety net” program. To be financially eligible, an individual:
 - ▶ Must not have monthly income from other sources of more than the maximum SSI amount; and
 - ▶ Must not have resources in excess of \$2,000 (\$3,000 for couples).
- ▶ Automatically eligible for Medi-Cal with no share of cost.

Maximum SSI Benefits for Single People in 2023

Category	2022 Total Monthly Payment		
<i>Single People</i>	<i>Aged</i>	<i>With Qualifying Disability</i>	<i>Blind</i>
Independent Living Status	\$1,133.73	\$1,133.73	\$1,211.00
Non-medical out-of-home care	\$1,492.82	\$1,492.82	\$1,492.82
Independent living status, no cooking facilities	\$1,251.74	\$1,251.74	N/A
Living in the household of someone else	\$833.89	\$833.89	\$911.16
Minor child with a disability		\$1,003.07	
Minor child with a disability in the household of another		\$703.23	

Social Security's Definition of Disability

- ▶ Inability to do any Substantial Gainful Activity (“SGA”)
 - ▶ Work earnings > \$1,470/month in 2023 (SGA adjusts upwards every year);
or
 - ▶ If blind, work earnings > \$2,460/month in 2023
- ▶ Due to a medically determinable physical or mental impairment(s)
- ▶ That has lasted or can be expected to last for a continuous period 12 months or more, or result in death

5-Step Disability Evaluation Process

1.

Is the claimant engaged in substantial gainful activity?

If yes, not disabled. If no, proceed to step 2.

2.

Does the claimant have a severe impairment?

If no, not disabled. If yes, proceed to step 3.

3.

Does the claimant have an impairment that meets or equals a listed impairment?

If yes, disabled. Process stops, you win! If no, proceed to step 4.

4.

Can the claimant return to his or her past relevant work?

If yes, not disabled. If no, proceed to step 5.

5.

Can the individual do any type of work that exists in significant numbers in the national economy?

If yes, not disabled. ***If no, disabled.*** You win!

Step 3: The Listings

- ▶ Social Security listings provide examples of conditions that are presumed to be disabling
- ▶ DDS compares an individual's diagnosis, symptoms, clinical findings, and functional limitations to the criteria of the listings
- ▶ If medical records show claimant's condition meets or equals a listing, then patient should be found disabled
- ▶ Organized into 14 Body Systems

Steps 4 & 5: Ability to Work

- ▶ Based on “Residual Functional Capacity”:
 - ▶ The most the person can do despite their physical and mental limitations
- ▶ Exertional Limitations - examples:
 - ▶ Sedentary, light, medium, heavy - based on how much a person can lift/carry
 - ▶ Ability to stand, walk, sit, hold, twist, etc.
- ▶ Non-Exertional Limitations - examples:
 - ▶ Concentration, persistence & pace
 - ▶ Interaction with peers/supervisors/general public
- ▶ ***Not looking at whether the person can do their dream job, but rather ANY job that will earn them over \$1,470/month.***

Substance Use & Applications for Social Security Benefits

- ▶ Clients do not need to be clean and sober to qualify for Social Security benefits.

BUT...

- ▶ If a client has an alcohol or substance use disorder, they must show that impairments would still meet disability criteria even with total sobriety from alcohol or substances.
- ▶ Tips:
 - ▶ Do problems continue to occur when the client is sober, or only when using?
 - ▶ Document functional impairments that pre-date substance use, or ones that exist when the client is sober.
 - ▶ Look for organic impairments (TBI, neurocognitive disorders), trauma, Axis II disorders (personality disorders)

Eligibility for Immigrants - SSDI

- ▶ Immigrants to the United States are eligible for SSDI if they have worked and paid into the Social Security system prior to the onset of their disability.
- ▶ Workers with sufficient work quarters are eligible for SSDI.
- ▶ For an immigrant to qualify for SSDI, the immigrant must be lawfully present in the United States.
 - ▶ Lawfully present:
 - ▶ Individual has a valid Social Security number
 - ▶ Individual has been inspected by the Department of Homeland Security (DHS)
 - ▶ Individual has not violated the terms of admission to the United States

Eligibility for Immigrants - SSI

- ▶ SSI is typically not available for non-citizens. However, DHS has granted SSI eligibility for the following categories of immigrants:
 - ▶ The individual was lawfully residing in the United States on August 22, 1996 and the individual is blind or disabled; or
 - ▶ The individual was receiving SSI on August 22, 1966 and the individual was lawfully residing in the United States; or
 - ▶ The individual was lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) and the individual has 40 credits of work in the United States (an individual may use a spouse's or parent's work credits to qualify).

Eligibility for Immigrants - SSI

- ▶ Individuals who do not qualify for SSI based on their immigration status, but who are disabled and low income, should consider applying for Cash Assistance Program for Immigrants (CAPI).
- ▶ Individuals can apply for CAPI:
 - ▶ Online: <https://socialservices.sccgov.org/financial-assistance/financial-assistance-for-aged-blind-or-disabled-immigrants>
 - ▶ By phone: 408-758-3800
 - ▶ In person: 1919 Senter Road, San Jose, Ca 95112

Application & Appeal Process

SSDI/SSI Application Process - Summary

Call SSA at 1-800-772-1213 or file claim online to establish a Protective Filing Date (PFD)

Complete Application and Disability Report

SSA Determines Non-Medical Eligibility

SSA Sends Medical Information & Releases to State DDS, Where A Disability Analyst Is Assigned

DDS Processes & Makes Disability Determination

Claimant's Folder Is Returned To Local SSA Office

SSA Notifies Claimant of Decision By Letter

Application Process - Getting Started

- ▶ Call SSA at 1-800-772-1213 or file a claim online (ssa.gov/applyfordisability)
 - ▶ The client can also visit their local Social Security office in person
 - ▶ If clients call the 1-800 number, SSA will set an appointment for a phone or in-person application interview.
 - ▶ Best to assist clients with applying online if you can, ensuring that you print the confirmation of the submission.
- ▶ If you are assisting a client with an application, you have the option of signing on as the client's "Authorized Representative" (AR).
 - ▶ It is not a bad idea for you to sign on as the AR during the application process, especially if your client has trouble receiving or responding to mail.
 - ▶ As AR, you will receive copies of all correspondence that Social Security and DDS send the client.

Application Process - Questionnaires

- ▶ The application process includes several questionnaires that applicants for benefits must fill out.
- ▶ **Disability Report**: details the client's medical history and current treatment.
 - ▶ Tip: be sure to give accurate information about all the places where the client receives medical/mental health treatment, including correct addresses and phone numbers for clinics.
 - ▶ DDS uses the provided clinic contact information to request the client's medical records. If the contact information is inaccurate, DDS will not receive records.

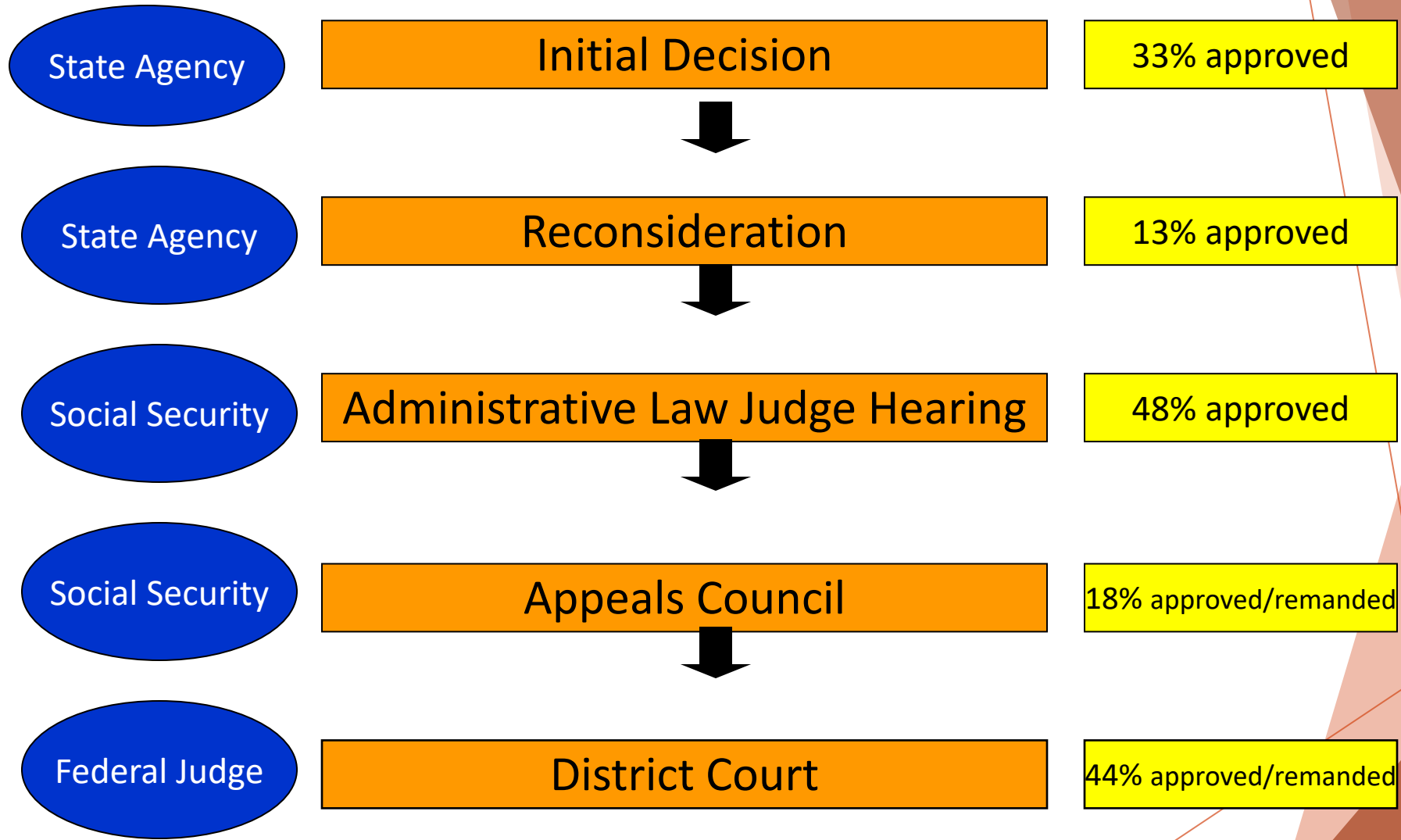
Application Process - Questionnaires

- ▶ The application process includes several questionnaires that applicants for benefits must fill out.
- ▶ **Adult Function Report**: details the client's ADLs and general functioning.
 - ▶ Tip: don't over-state the client's ability to do things on their best day; better to focus on how difficult things are on the harder days.
 - ▶ There is also a Third-Party Function Report. This is a form that the client should give to a trusted third party who knows them and their disability well, and will fill it out without the client's participation. *Case managers can fill out this form.*
- ▶ **Work History Report**: details the client's jobs for 15 years prior to application.

Application Process - Consultative Exams

- ▶ DDS will often send clients to Consultative Exams, especially if there is insufficient evidence in the record or conflicting evidence from treating providers.
- ▶ Consultative Examiners are non-treating doctors who have contracts with DDS. They provide brief, one-time exams and the reports oftentimes do not reflect the true range of a client's impairments.
- ▶ Nevertheless, it is important that clients attend scheduled CEs.
- ▶ DDS sends CE notices by mail.
- ▶ If the client is not able to attend the CE as scheduled, call the number listed on the notice to reschedule.

Appeals Process



Appeals Process - Deadlines

- ▶ If a client's application is denied, Social Security will send a notice by mail.
- ▶ **Deadlines for Social Security eligibility appeals are always 60 days + 5 days for mailing (65 days).**
 - ▶ **Count from the date on the notice.**
- ▶ Best to file appeal online, if possible.
 - ▶ If the client appeals in person at the Social Security office, make sure to get a date-stamped copy as proof.
- ▶ If a client misses an appeal deadline, there are exceptions for “good cause”. If your client needs to file a late appeal you can refer the client to our office for assistance.

Continuing Disability Reviews

Continuing Disability Review (CDR)

- ▶ SSA conducts CDRs approximately every three years.
 - ▶ May be more frequent if a disability is expected to improve.
- ▶ SSA will notify client by mail that they are reviewing their disability.
 - ▶ Client will have to fill out new questionnaires similar to the Disability Report, Function Report, etc., that they filled out at the initial application.
- ▶ Same levels of appeal as for the initial application.

Continuing Disability Review, continued

- ▶ If SSA determines that a client's disability has ended, it will send a written "Notice of Disability Cessation."
 - ▶ **IMPORTANT!!!** The deadline for appealing and continuing to receive benefits while the appeal is pending is 15 days (10 days + 5 for mailing). Do everything possible to help the client submit the appeal within these 15 days to avoid a lapse in benefits.
 - ▶ Good cause for late filing is allowed, but may result in a lapse in benefits.
 - ▶ *Refer to Law Foundation if your client needs help with filing a late appeal of a disability cessation.*
 - ▶ Otherwise, the deadline for appeal (Request for Reconsideration) is 65 days.

Your Concerns: Troubleshooting Application Issues

- ▶ Should the client apply for SSDI, SSI, or both?
- ▶ Should we screen applicants for initial eligibility, given the length and complexity of the application process?
- ▶ How do I know when a client's disability began?
- ▶ How far back should I request medical records?
- ▶ How will a client know if their SSDI/SSI application has been approved?
- ▶ How should we navigate large amounts of backpay if a client wins on an appeal or after a hearing?

Conclusion:

How to Refer Clients to the Law Foundation

- ▶ There are multiple ways to refer clients to the Law Foundation:
 - ▶ Fax a referral form to (408) 886-3850
 - ▶ Email a referral form to healthintake@lawfoundation.org
 - ▶ Online Referrals: <https://tinyurl.com/yd9aw5fc>
 - ▶ Have your client call our intake line: 408-280-2420
 - ▶ Have your client walk into our office: 4 N. 2nd Street #1300 (Tuesday and Thursday 1 pm - 4 pm)
 - ▶ Have your client attend our office hours at the VHHP clinics: Valley Specialty Center (Mondays 1-4), VHHP Re-Entry clinic (1st and 3rd Wednesdays of the month 1-4), VHHP Hope clinic (1st and 4th Thursdays 1 - 4), and VHHP Alexian clinic (Fridays 9-12).

Thank you!