

Social Security Disability Claims: Avoiding Mistakes the Other Guys Make

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THE OTHER GUY...

Doesn't apply for benefits soon enough. He thinks he has to wait a certain amount of time before he can apply for Social Security Disability. He waits to apply until all other claims relating to his injury or illness are settled, or he does not apply until he has run low on financial resources. He does not realize that claims can take several years to process—that the initial application takes between four and six months to process, and that the current wait for a hearing to review a claim is up to 18 months.

AVOID THE MISTAKE!

If you have a disabling condition which is expected to last for at least one year, you should apply for benefits immediately. Don't wait to apply for Social Security Disability, because retroactive benefits can only go back one year from the date of your application, no matter how long ago you became disabled. Since Social Security Disability benefits are based on your condition and NOT on how much money you have in the bank, you can only hurt yourself by waiting to apply.

THE OTHER GUY...

Takes "no" for an answer. His application is denied, and he gets frustrated and gives up. He doesn't realize that over 60% of all claims are denied at the initial application, and require a hearing to appeal this denial and get benefits paid.

AVOID THE MISTAKE!

If you are denied benefits, don't give up! You are entitled to a hearing. Your chances of winning at the hearing stage are much better: 55% of applicants nationwide win at the hearing stage. If you are represented by a good attorney, your odds of winning at a hearing can go up to 85%. Even if you are denied at a hearing, other appeal processes are still available to you.

THE OTHER GUY...

Accepts a reduced benefit award. His files are missing certain information, or there are aspects of his disability that he has failed to highlight, so he doesn't receive his full benefits. If he is granted an award, he does not check the date that the Social Security Administration says his disability began against the true onset date of his disability.

AVOID THE MISTAKE!

You should make sure that you clearly present all relevant information in your claim. You also should never accept an onset date of your disability that is later than it should be, or you won't receive all of the back benefits to which you are entitled.

THE OTHER GUY...

Thinks that in order to file a claim his disability must be permanent. He doesn't file because he believes his condition will improve. If he has been denied, he doesn't appeal because by this point his injury or disability is improving.

AVOID THE MISTAKE!

If you are disabled or expected to be disabled for at least 12 consecutive months, you may be eligible for a "closed period" of disability. Even if your condition is greatly improved by the time of your hearing, you still may be entitled to back due benefits.

THE OTHER GUY...

Files an incomplete claim. He doesn't realize that his file is missing important relevant medical information. He doesn't have all of his medical records in his file. He doesn't include a letter from his treating physician, or the letter that he has is missing information or was badly written. He fails to include all of his medical problems, not just the ones that come from his most recent illness or accident.

AVOID THE MISTAKE!

You should always review all of the possible information that should be included in your claim in order to maximize your benefits, and make sure that your claim is complete and well presented. An experienced attorney can help you with this, since he or she can read and understand medical records, and will be able to decide what important documents are missing and necessary for your claim.

THE OTHER GUY...

Does not include enough medical information in his claim. He thinks that his claim should include only the medical issues that resulted directly from the injury, illness or accident that triggered his disability.

AVOID THE MISTAKE!

Even pre-existing medical conditions may be important to your claim, particularly if they make it more difficult for you to return to work. For example, even if you suffered from diabetes or arthritis, or had cardiac trouble before you became disabled, those conditions might be relevant to your disability claim now, in which case they should become part of your claim.

THE OTHER GUY...

Does not include psychological aspects of his disability in his claim. Often, coping with a disability causes psychological strain and even anxiety or depression. The other guy assumes that it is not relevant to his claim. In fact, these are important factors in a disability claim, and failure to include them can have a major impact on his final award.

THE OTHER GUY...

Does not reapply for benefits or update his claim if his condition becomes worse or if he becomes aware of other medical conditions. He believes that once his claim is filed, he has exhausted all of his options. If his appeal time has run out, he thinks that he is out of luck.

THE OTHER GUY...

Does not request that his prior applications be reopened. He thinks that these old cases are unrelated to his current condition.

THE OTHER GUY...

Doesn't take advantage of other benefits while he is applying for Social Security Disability. He doesn't know that he can be eligible for Social Security Disability benefits and still receive workers' compensation, VA benefits, personal injury claims settlements, and other private insurance disability benefits. He thinks that he must wait until his personal injury or workers' comp case is settled before he can apply for Social Security Disability.

THE OTHER GUY...

Thinks that vocational rehabilitation will hurt his claim. He is afraid that if he takes a job, or if he enters a new job training program, he will damage his Social Security claim.

THE OTHER GUY...

Submits claim forms before retaining a lawyer. He thinks that he can manage all of the complex paperwork and understand the rules himself. He doesn't realize how simple mistakes he makes at this early stage can cause his claim to be rejected or reduce his award.

THE OTHER GUY...

Thinks that he can't afford to hire an attorney. He doesn't have enough money to pay a retainer upfront, and he is afraid of generating huge legal bills.

AVOID THE MISTAKE!

If you have suffered any emotional or psychological impact as a result of your disability, it should be included as part of your claim. Combining the psychological aspect of a disability with the physical issues that triggered it can often be the deciding factor in a finding of disability.

AVOID THE MISTAKE!

No matter where you are in your application process, if your condition becomes worse, you can and should make the Social Security Administration aware of it. Even if your case is closed, if something has changed in your medical condition, you may be able to reapply for benefits, or reopen your claim.

AVOID THE MISTAKE!

If you have prior applications, often they can be reopened, which could get you access to many months or even years of back benefits. Consult with an experienced attorney to find out the requirements for reopening your prior applications.

AVOID THE MISTAKE!

Investigate what other benefits you are entitled to collect, and educate yourself about what benefits you may receive at the same time. You should not wait to apply for Social Security Disability until your other cases settle. You can and should apply for Social Security Disability benefits before you settle your workers' compensation, personal injury or any other claim.

AVOID THE MISTAKE!

In fact, under the Social Security "Ticket to Work" programs, you may be able to return to work while maintaining your monthly benefits. While there are pros and cons to returning to work under these programs, if you arm yourself with the right information, your decision will be based on what is right for you.

AVOID THE MISTAKE!

You should contact an attorney as soon as possible. The earlier you get help, the sooner you are likely to get an award, and the less stress you will have in getting it.

AVOID THE MISTAKE!

Most Social Security attorneys only get paid if you win your case. The fee is usually based on your retroactive, "back due" benefits after they are awarded, NOT on how many hours the lawyer has worked on your claim – so you should take the earliest opportunity to get that lawyer involved. In fact, by law, all attorney fees must be approved by the Social Security Administration, and this amount is capped unless you need to appeal. Look at it this way: once you are represented by a good attorney, you are far more likely to receive the maximum award to which you are entitled, and your claim will be processed much more rapidly than if you tried to go it alone.

Provided as an educational service by Insler & Hermann, LLP. If you have any questions about a Social Security Disability claim, or if you are planning to file a claim and want to avoid making any mistakes, you are invited to call or email us. We will be glad to speak with you without cost or obligation.

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