

Latest Disability News & Updates



NY Metro Disability Bulletin February 2015

WARNING: Read This Before You Consider Going Back to Work

Many clients ask whether they can work while their application for Social Security Disability benefits is pending or after the claim has been approved. While you can always return to work, the impact on your claim depends on a number of factors, including when you return to work, how long you work, and how much you make.

Generally, if you have applied for benefits but have not yet been approved, **Social Security allows you to work for up to 3 months before it has any effect on your claim.** However, Social Security only considers months where your income is above a certain amount - \$1090 per month in 2015. If you stop working or reduce your wages below this amount within 3 months, you will have made an "unsuccessful work attempt," and Social Security will allow you to continue your claim.

This 3-month period can also be extended to 6-months under certain conditions, and you should always call your attorney to discuss a work attempt that lasts between three and six months. However, if your work attempt lasts longer than 6 months, Social Security considers you to be working and you will not be able to continue with your claim. If you subsequently stop working because of your impairment(s), you will need to file an entirely new claim.

If you have been approved for benefits, but then return to work, can you also continue to receive your benefits? Here too, the answer to this question depends on a number of factors, but generally speaking, Social Security gives individuals who are receiving benefits a 9-month "trial work period" before the benefits are stopped. The months do not have to be consecutive and the earnings that lead to a "trial work period" month are considerably less than the amount needed to be part of an unsuccessful work attempt.

Insler & Hermann never discourages our clients from trying to return to work, but there are a lot of variables to consider and Social Security does not make it easy. Therefore, before returning to

work, always give us (or your attorney) a call so that we can explain in detail how it may impact your claim or receipt of benefits.

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Perils & Benefits of Video Teleconference Hearings

In order to reduce case back Social Security's disability hearing offices, have increased **disability appeal hearings via video teleconference (VTC)**. Disability claimants have an **absolute right** to an in-person hearing, even if they've already been scheduled for a VTC hearing or their case is at the National Hearing Center.

If your attorney believes your case file contains overwhelming evidence of disability, or if you have a well-supported opinion from your treating physician stating that you have severe work-related limitations, you may prefer the convenience of a video hearing. Otherwise, consider an in-person hearing. If you have had a VTC hearing scheduled, contact an experienced disability attorney for advice on your case. **Remember - If you are already represented consult your attorney BEFORE returning your form.**

How a video teleconference VTC works

The disability claimant **and** his or her representative will be asked to appear at a specified location, often a Social Security field office located near the claimant, and the Administrative Law Judge (ALJ) will attend remotely by video. For Social Security video hearings offer increased efficiency and lower travel expenses for ALJs. For claimants, video hearings are usually scheduled more quickly than in-person hearings and could be more conveniently located.

Benefits of an in-person hearing

Credibility is an important factor when in deciding a disability claimant. **It is easier for an ALJ to assess your credibility in-person rather than through a video screen which is an important factor in deciding a disability claim.** For example, the cameras used in video hearings make it difficult for the judge to evaluate mental impairments or physical issues that don't appear on x-rays or MRIs, such as fibromyalgia or chronic fatigue syndrome. The ALJ may fail to see that the claimant walked with a limp while entering the hearing room, that he appeared to be in pain while seated during the hearing, or that he exhibited some other issues.

Perils of a Video Teleconference Hearing (VTC)

VTC hearings have many technical difficulties and could prevent you from having a fair hearing and request that the judge reschedule you for an in-person hearing.

Refusing a video hearing may delay a hearing on your case.

The additional wait for a face-to-face hearing could be anywhere from a few weeks to three or four months. If you're going to object to a video hearing, do so at the earliest available opportunity and the hearing notice will contain instructions for how to request an in-person hearing.

If you have had a VTC hearing scheduled, you may want to contact an experienced

disability attorney for advice on your case.

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Employee Spotlight

Meet Our New Attorney - Eugene Zaydfudim

Eugene Zaydfudim is an associate at Insler & Hermann. He represents clients seeking disability benefits from the Social Security Administration.



Prior to joining the Firm, Eugene was a property attorney. In that role, he represented banks in their civil actions throughout New York State. While there he gained extensive experience in negotiations, motions, and arguing on behalf of his clients before judges. Eugene believes that all clients should be represented vigorously, competently, and diligently. After graduating from Cornell University, Eugene worked for one of the largest labor and employment law firms in the nation for four years.

Eugene he has extensive knowledge of the administrative law process required to successfully adjudicated claims before the Social Security Administration. He is a cum laude graduate from Pace University School of Law. Eugene graduated with a Certificate in Environmental Law, was a Senior Associate on the Pace Environmental Law Review and he was member of the Peter J. Johnson National Civil Rights Moot Court team.

Eugene is admitted to practice in the State of New York and the State of New Jersey. He is also an active member of the New York County Bar Association and the Westchester Bar Association.

Eugene enjoys all things active but especially intensive cardio and cross-fit training at the gym at the end of the day. He also enjoys spending contemplative time at the beach and surrounded by nature at Bear Mountain. He lives in New York City where he embraces the livelihood of Manhattan daily.

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