

## Latest Disability News & Updates

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 Insler & Hermann, LLP

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## NY Metro Disability Bulletin June 2015

### New Medical Evidence Rules Can Hurt Your Social Security Disability Claim



As of April 20, 2015, the Social Security Administration changed some of the rules for submitting medical evidence in Social Security Disability Insurance ("SSDI") and Supplemental Security Income ("SSI") disability claims. Under the new rules someone applying for disability benefits is required to submit ALL evidence pertaining to their disability to SSA, regardless of whether it helps establish the disability or not. Previously, only "material" evidence that showed you were disabled had to be submitted.

Since the changes provide an ongoing obligation to disclose information or evidence to SSA, these changes will impact your claim, if the decision was not made prior to April 20, 2015. The new regulations are the same for both Social Security Disability and SSI. They state that you or your attorney must provide ongoing information and evidence relating to your claim to the SSA.

#### What This Means For Your SSD Claim

In a nutshell, this means that while in the past a person applying for SSD/SSI benefits only had to provide evidence that helped prove they are disabled; now they are required to provide information or submit evidence that may not help their claim or may not even be directly related to the conditions that are claimed to be disabling. For example, you might be claiming disability due to a heart problem but you also see doctors for sleep apnea or diabetes. Even if you don't claim those other conditions are disabling you, you must now make Social Security aware of them.

If you are in the process of trying to obtain SSI/SSDI, these changes will impact you and your disability claim. You must now tell Social Security about ANY medical professional you have seen for ANY condition that might limit your ability to work in any situation. Even if you were having a medical exam for life insurance, or you saw a doctor one time and chose not to use him or her, you have to report this to Social Security. While these new regulations place the burden of disclosing all contact with medical professionals on you, it places the burden of obtaining the referenced records on both you and on Social Security. This means that the already over worked staff tasked with medical development and disability evaluations will have to sort through what may turn out to be a huge volume of unnecessary medical records in every claim. We will have to just hope that the decision makers have the capacity to thoroughly and impartially review all medical evidence whether it is relevant to your disability claim or not and whether they will be capable of doing so without adding many months to the claims processing timeline.

#### How We Help

Simply put, the new regulations require that we assist our client in obtaining information and evidence that must be submitted under the Social Security Regulations. Because we now have the duty to provide all medical records that come into our possession, regardless of whether it is material to a disability or not, we cannot contact treating sources with requests to offer opinions about a disability without being absolutely certain that their opinion will be supportive of a claim.

**Even though these new regulations seem designed to justify denials and cause delays in the processing of claims, the attorneys and staff at Insler & Hermann, LLP remain committed to doing everything necessary to establish our clients' claims for Disability and make sure that those claims move through the claims process as quickly as possible.**

## Insler & Hermann, LLP Scholar Launch Program

### Assisting Law Students

Insler & Hermann, LLP are long time advocates of protecting the rights of individuals who are suffering with disabilities. Through our Scholar Launch program we will award a \$1,000 scholarship to a law student with a disability who submits the best essay on *"How they worked to succeed despite their disability and moved his or her life forward despite the challenges presented by a personal physical or mental disability."*



In addition to helping a law student complete his or her education, this scholarship is designed to encourage more students to explore the how attorneys who practice disability law assist people with disabilities receive the benefits they deserve. Applicants must be a law student in the United States, and should [submit an essay](#) exceeding 750 words, by August 15th,

2015. Applicants should write in plain English, support their contentions, and proofread their essays before submission.

### Success Story

#### How we make a difference for clients

#### Over \$100,000 Awarded in Crohn's Disease Case

LM was 46 years old and living in Rockland County, NY when she applied for SSD benefits in 2009 due to Crohn's disease that caused the need for continual access to a bathroom. She had not worked since December 2007 but her case was denied at a hearing in July 2010. We appealed and we were granted a new hearing but the claim was again denied by the original judge. This time the Appeals Council upheld the Judge's denial so we filed an action in Federal District Court in Albany as LM had moved up to the Adirondacks because she could no longer afford the cost of living in Rockland County.

In November 2011, while the case was in Federal Court, we also filed a new Social Security claim, alleging disability the day after judge's denial. The hearing in that case was held in December 2013; resulting in the payment of over \$36,000 in retroactive benefits from October 2011, and ongoing monthly payments.



The Federal Court finally decided in May of 2014 the LM was entitled to a third hearing on her original claim. That hearing was held in Albany in January 2015 before yet another judge and in March 2015 he issued a favorable decision. Based on that decision LM will receive another \$65,000 in retroactive benefits covering the period from her original claim of disability that began in December 2007 up until the benefits began on the second claim.

### For Your Free Consultation

### Call Our Disability Hotline

**[914-286-3030](tel:914-286-3030)**

[www.nymetrodisability.com](http://www.nymetrodisability.com)

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We are so confident in our abilities that we will not charge you a fee unless we win your case.

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