

SSI Tip: 5 Things to Know Before Applying for SSI Based on Disability

QUESTION: *“I am homeless and want to apply for SSI. I have back pain but have not yet seen a doctor for this condition. I also started seeing a therapist about six months ago for depression but have not always been able to make my appointments. But I use marijuana daily to help manage my symptoms. Should I apply for SSI now or wait?”*

Supplemental Security Income (“SSI”) is a program administered by the Social Security Administration (SSA) for low-income individuals with little to no work history who are disabled and unable to work. The program has many complicated rules, and the application process for each person is different based on his or her individual circumstances. But there are some general rules that every applicant should consider.

1. Your medical problems must be severe.

In order to qualify as disabled, and therefore eligible for SSI, your physical or mental health conditions must be “severe,” which means they significantly interfere with your ability to work. General complaints—like “my back hurts”—without more, will not meet this threshold.

2. Your disability must be expected to last for at least 12 months.

SSI is not a temporary disability program; you must show that your disabling conditions are expected to last for at least 12 months. If your conditions are fairly new, unless they are very serious, it may be difficult to show that they will not improve over time. Therefore, in most cases, you should be in treatment for several months before applying for SSI.

3. Your disability must be supported by medical evidence.

SSA decides if you are disabled by reviewing your medical records. Although SSA will also ask to hear from you and those close to you about your impairments, the most important factor in your case will be whether there is sufficient medical documentation of your disability, including diagnoses, test results, letters from your doctors, etc.

4. Drug or alcohol use can affect your application.

Sometimes SSA can use the fact that you drink or use drugs as a reason to deny your SSI claim. The test used is whether your substance use is a “material contributing factor” to your underlying disability. In other words, if you stopped drinking or using drugs, would your condition improve to the point that you are no longer disabled under SSA rules? If the answer is yes, SSA can deny your claim. It is helpful to be able to show periods of sobriety of at least 6 months so SSA can consider your impairments independent of any drug or alcohol use.

5. Failing to comply with prescribed treatment can affect your application.

SSA may deny your claim if you fail to follow your doctor’s prescribed treatment plan. This is because SSA can find that you would regain the ability to work if you followed your treatment plan. While there are some exceptions to this rule, it is important to follow your doctor’s prescribed course of treatment, including showing up to your appointments.

If you believe you are ready to apply for SSI, contact The Countywide Benefits Entitlements Services Team (C.B.E.S.T.) at 1-844-804-5200, which will assess your case further and potentially assist with your application.

Disclaimer: *This tip is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact an attorney of your choice.*

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A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

5 Things to Know About your SSI/SSDI Appeal

Have you timely filed for your appeal?

What should you expect as you wait for your SSI appeal hearing?

What can you do to help your case?

Did you file your appeal request within 60 days?

If you filed an application for SSI or SSDI and it was denied, you should have received a notice of that denial with instructions on how to file an appeal.

You have only 60 days to file an appeal—that is, a request for a hearing on your denial. If you choose to appeal, do not wait until the last minute to file your appeal request.

There are several ways to request an appeal. You can file for an appeal online and print out a document that is proof that your appeal was filed. Or, you can go to a local Social Security office and fill out the paperwork for appeal there. Do not leave the office without a document that confirms that your appeal has been filed.

Caution: Sometimes people go to the Social Security office late in the day to request their appeal. A staff person gives them a lot of paperwork but no one helps them fill it out. They leave with several blank forms. This does not mean that you have filed your request for appeal. The documents need to be completed and filed with the Social Security office for your appeal to go forward.

If you miss the 60-day deadline, you can seek a good cause excuse for failing to file on time, but it is better to be timely in the first place.

After you file for appeal, it can take many months or more than a year for a hearing date to be set.

What steps should you take to get ready?

- 1. Find an attorney to represent you.**
- 2. If you are in treatment for a disability, stay in treatment. Whatever your disability is, it will be important to have a treating professional at the time of the hearing that can support your claim of disability. This is important with all disability claims, but especially important if you are claiming disability based on a mental health disability.**
- 3. If you have a medical or mental health issue that is not being treated, seek treatment for that issue. You may be able to use that additional treatment history to support your appeal.**
- 4. Keep your attorney and the Social Security Office advised of changes to your address and contact information.**
- 5. Keep a record of where you have received treatment. For your hearing, you will want to have copies of your most recent treatment records.**

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