



A Primer on Social Security Disability Law: What Benefits Are Available?

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A Primer on Social Security Disability Law: What Benefits Are Available?

There are several kinds of disability benefits for which a person can be eligible through the Social Security Administration. Depending on the facts, a person may be entitled to one of these benefits, both, or, unfortunately, none. The medical-vocational rules or definition of "disability" are shared for most categories, i.e. you must be just as disabled to qualify for one as for another. The non-medical requirements are different for each benefit program.

I. Title II

For Title II disability of any kind, the first step is not necessarily determining if the claimant is disabled, but it is determining insured status. If the worker is not insured, extent of disability will not matter for purposes of Title II. For disability, the worker or wage earner on whose account a dependent is applying for must be "Fully Insured" and "Disability Insured." 20 C.F.R. §§ 404.110; 404.130. Before looking at the specific definitions of Fully Insured and Disability Insured, the practitioner should first be familiar with the "Quarter of Coverage", which is the building block of insured status.

Quarters of Coverage (QC) are credited based on the wages the worker earns during certain periods of time. C.F.R. § 404.101. The Federal government changed how quarters were calculated after 1977, but basically, a quarter is awarded if a certain amount of wages equal or exceeds a required figure per quarter of the year. C.F.R. §§ 404.141 to 146. The amount necessary is published as a Notice in the Federal Register on or before November 1 of the preceding year. Under the current regulations, if the worker earns enough throughout the whole year (more than 4 times the amount for a quarter), then he/she is credited with four quarters of coverage. If it is more than two times the amount for a quarter, but less than three, then the worker is credited with only two-quarters of coverage. C.F.R. § 404.143.

“Fully Insured” status for the disabled worker is the same definition as for a worker seeking retirement benefits. 20 C.F.R. § 404.416(1)(3)(A). That definition requires that the worker must have 40 quarters of coverage or one-quarter of coverage in every calendar year after the worker attained age twenty-one with a minimum of 6 quarters of coverage in all. 20 C.F.R. § 414(a).

“Disability Insured” means fully insured and more. 20 C.F.R. § 404.130. It requires a certain number of quarters but provides more hurdles to jump through for the disabled worker depending on age and work history. The regulations provide four different ways of meeting the disability insured status:

1. Rule I – 20/40 Quarter Requirement: The worker must have 40 total quarters of coverage and at least 20 of the quarters must have been earned within the 40 quarters immediately preceding the onset of disability. 20 C.F.R. § 404.130(b). Simply put, if the worker has his 40 quarters, then five years of qualifying work must have been completed within the 10 years preceding the onset of disability.

2. Rule II – Individuals under age 31: If the worker becomes disabled before age 31, then the worker must have at least one-half quarters of coverage of the number of quarters occurring between age 21 and the date of onset of disability. 20 C.F.R. § 404.130(c). A 30-year-old individual would need 18 quarters. Obviously, the individual would also be fully insured if he/she meets this standard.

3. Rule III – Individuals with a period of disability before age 31, but then return to work only to become disabled again: The worker is insured if he/she becomes disabled at age 31 or later and had been insured under Rule II, and the individual is fully insured and has quarters of coverage in at least one-half the calendar quarters in the period beginning with the quarter after age 21 and through the quarter in which the later

period of disability begins up to a maximum of 20 quarters out of 40. 20 C.F.R. § 404.130(d). If the number of quarters is odd, then it will be reduced by one. In other words, if you have two periods of disability, count the total number of quarters in the non-disabled time periods between 21 and the last period of disability, and divide by two. That will be the number of quarters needed with the parameters as listed above.

4. Rule IV – Statutorily Blind Individuals: The worker is disability insured if he/she is disabled by blindness and fully insured. 20 C.F.R. § 404.130 (e).

If the wage earner is both fully insured and disability insured, then you go on to see what programs the claimant may be entitled to. The entitlements can be broken down into two categories: primary and auxiliary. Primary entitlement refers to the individual worker who is attempting to get benefits for himself based on his own status. Auxiliary beneficiaries need a primary beneficiary in addition to requirements for their own entitlement.

II. Title XVI or Supplemental Security Income (SSI)

SSI benefits are for needy individuals that are aged, blind, or disabled. Although Title XVI was enacted earlier, the current SSI system as we know it today was set up in 1974. It provided a “floor” of entitlement for qualified individuals to cover three basic needs: food, clothing, and shelter. 20 C.F.R. § 416.1102. The funding for SSI comes through general revenues of the federal government and, although it is administered through SSA, the funds are completely separate from Social Security trust funds. There are no insured status requirements as in SSD. Unlike SSD, SSI is paid only to the claimant, i.e., no dependent or survivor benefits. However, there are certain limited exceptions contained in 20 C.F.R. §§ 416.542(b)(1) and (2). There is no waiting period for benefits to begin.

The eligible SSI applicant must first be aged, blind, or disabled. The next question is need. The individual must have limited or no countable income (see amounts per year as listed by register) and limited or no countable resources (\$2,000.00 for an individual and \$3000.00 for a couple who are living together). 20 C.F.R. §§ 416.1201 *et seq.*, 42 U.S.C. § 1382(a). The CFR sections define what qualifies as countable income and resources. The definitions are pretty inclusive. The applicant will have to report bank accounts, assets, income of any kind to the agency in order to apply for SSI. An applicant may be entitled to both SSI and SSD if the amount of SSD is equal to or less than the SSI benefit to which the individual or couple would be entitled considering certain requirements. 20 C.F.R. §§ 416.410 *et seq.*



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