

National PASS Network

Benefit QuickFacts

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How the Social Security Administration Defines Disability for Social Security Disability Benefit Eligibility

by Daniel Scarborough

The federal Social Security disability benefit programs are the most important sources of income and medical coverage for adult Americans with cognitive, intellectual and developmental disabilities. By federal statute, these programs are available only to individuals who meet and continue to meet a Social Security definition of disability. This statutory definition can be confusing to families and other advocates because it is very different from a medical definition of disability or a disability status that is typically identified with the Americans with Disabilities Act (ADA).

The purpose of this NPN *Benefit QuickFacts* is to provide understandable consumer information about the regulatory process that the Social Security Administration (SSA) is required to follow to decide if someone is disabled for Social Security benefit purposes.

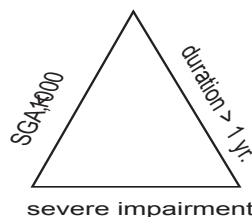
SSA administers two separate and different federal income support programs for people with disabilities: an entitlement program called Social Security disability insurance (SSDI or Title II -- sometimes called DI); and an income support program Supplemental Security Income (SSI or Title XVI). SSDI also includes disability benefits for dependents/ survivors called Disabled Adult Child(DAC) benefits. Both programs include medical coverage. SSDI provides Medicare eligibility after two years. SSI includes eligibility for a state administered medical program called Medicaid

Although there are significant differences in the purposes and eligibility requirements for SSDI and SSI, both disability programs require an applicant for benefits meet a statutory definition of disability. This definition has been used by SSA since 1956—with a few modifications—to govern determinations for eligibility for the disability benefit programs it administers.

What is the Social Security definition of disability?

In addition to meeting the specific non-disability eligibility criteria for each of the programs, an adult applicant for SSDI or SSI must demonstrate:

[an] inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.



What are the essential components of Social Security disability?

It is easier to understand how SSA determines if someone is *disabled* by examining the individual components of this definition of disability. Social Security disability has three distinct medical components which must all be present before SSA will consider an individual disabled. These components are:

- (1) an inability to do substantial work;
- (2) a severe physical or mental impairment or combination of impairments;
- (3) duration of 12 months or result in death.

What is substantial and gainful activity?

SSA disability evaluation looks not only at the presence of a severe impairment, but the process also evaluates how that impairment affects an individual's ability to provide for his or her own self-support through work. SSA uses a somewhat ambiguous concept called *substantial gainful activity* (known as SGA) to measure an individual's ability (or conversely inability or disability) to do productive self-supporting work. Substantial gainful activity is work that is both substantial and gainful. Substantial means physical or mental work that has some productive outcome. Gainful means the individual is paid for that work.

How can SSA objectively measure someone's ability to work?

It is very difficult to measure objectively if someone's work ability is substantial and gainful and if it leads to self-support. The only quantitative way of measuring whether or not a person with disability is doing substantial work is to look at the amount of gross monthly earnings the individual is able to earn through his or her own productive efforts. SSA, as policy, sets a level of earnings that the agency says measures whether or not an individual's work can be considered substantial work. For 2010, average countable earnings of under **\$1000 in** a month is generally not considered substantial work. For people who are disabled because of blindness, the amount is significantly higher at \$1,640 per month. The SGA amounts are adjusted yearly through the cost-of-living-adjustments (COLAs).

When evaluating earnings to determine disability status, SSA is only interested in the value of an individual's earnings that are directly attributable to his or her own ability to work efforts. Some earnings, then, are not counted. For example, if an individual has extra help needed to earn his or her salary, then the value of those extra supports can reduce the amount of actual earnings that are counted by SSA

to determine if the work is substantial. As an example, say our friend John's monthly salary working in a supported employment program is \$1,200. Many advocates and families might incorrectly assume that John is **NOT** disabled for Social Security because his earnings exceed that \$1000 a month SGA threshold.

It is true John's monthly income does indeed exceed \$1000, however, it should be noted that he earns the income through a supported employment program. That means John gets extra needed vocational supports that allows him to earn his monthly income. The value of these extra supports can be deducted from monthly income to determine John's SSA "real" level of earnings.

How do vocational supports impact SSA's evaluation of John's ability to do substantial work?

Federal regulations say that SSA can subtract from gross earnings the cost of certain items a person with a disability needs in order to work before SSA decides if an individual's work is at the \$1000 SGA threshold. If an individual pays these job expenses, then the needed expenses are called *impairment related work expenses (IRWEs)*. The value of needed job support provided by a source other than the person with a disability is referred to as a *subsidy* (job coaching or transportation assistance). Subsidy supports are very common for people with intellectual, developmental and cognitive disabilities.

John has documented extra-supports valued at \$350 of state VR-funded job coaching services that provide needed support for him on his job. John also pays \$100 a month for needed medications to control seizures. Without these extra supports, John would not be able to work. By deducting the value of John's work expenses, the more accurate measurement of his earning ability is not \$1000, but \$1000 minus \$450 or \$550. The

\$550 in countable earnings is well below the \$940 threshold:

\$1200 — monthly income
- 350 — job coach—subsidy
\$650 — adjusted earnings
- 100 — medications—IRWE
\$550 — countable SGA earnings

Since John's countable earnings are not considered *substantial*, he will easily meet the definition of disability. However, this will require some written proof to SSA to show the value of his job supports. Many people with cognitive and intellectual disabilities have these additional supports on the job, like John, but it is not often that these extra supports are claimed. This can have a profound effect on benefit eligibility and many people lose access to these important programs before they are able to become self-supporting.

To compound these problems, SSA is pretty much ignorant of its own programs at the operative level (local SSA office) where most people access these resources. It is important to remember that the first step of determining disability status begins with this "SGA determination" and many people will lose out on the supports before they can even start the disability evaluation process.

Second Component: Is there a severe physical and/ or mental impairment?

Applicants for SSI and SSDI must have a medically determinable impairment or combination of impairments that are supported by medical evidence. Medical evidence is physician and/ or psychologist or other medical professional reports and medical records that contain the person's medical history relating to the impairment(s). These records should describe the disabling condition that keeps the applicant for disability benefits from doing substantial work. SSA says that statements of the person applying

for benefits alone are not sufficient to show existence of a physical or mental impairment. There needs to be adequate medical documentation to show that an impairment exists. No medical evidence means no disability.

In addition to sufficient medical documentation that indicates the existence of an impairment or impairments, an additional step is required to show that an impairment is *severe*. To show that an impairment is severe, the treating medical professional must comment on how that documented impairment(s) affects an individual's ability to do regular work-related activities. Some work-related activities for people with cognitive and intellectual disabilities are speaking understanding, carrying out and remembering simple instructions, use of judgment, responding appropriately to supervision, co-workers and usual work situations, and dealing with changes in a routine work setting. If a physical impairment is alleged, then how that impairment(s) affects physical exertions like walking, standing, sitting, bending or handling should be considered.

Third Component: How long has the impairment lasted?

The Social Security disability programs do not provide support for short periods of impairment. SSA says a person must have an impairment that is so severe that it has or is expected to keep him or her from doing substantial work for at least one year or is expected to result in death.

SSA assumes (incorrectly, I say) that most people have access to other resources to provide assistance for periods of disability of less than a year such as worker's compensation, employer-provided health insurance, savings and investments. That may have been true in the past but current public policy has reduced many of these programs.

What are the vocational components of the disability definition?

In 1975, SSA's definition of disability was modified to clarify the use of vocational components in the evaluation process for disability. These additional components evaluate an individual with a severe impairment to see if he or she is able to work despite severe medical challenges. SSA refers to this evaluation process as *residual functional capacity (RFC)* evaluation. These vocational components have two steps that seek to evaluate a person's remaining ability to work after a disabling impairment:

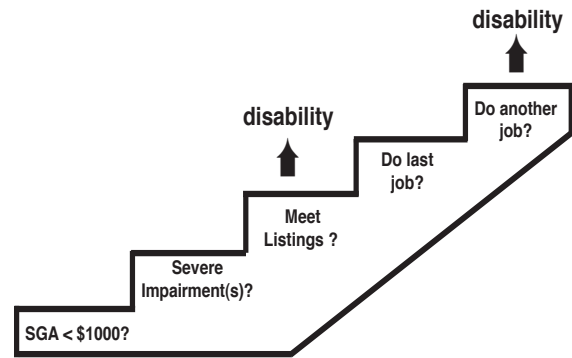
Step 1 Can an individual do any of his or her previous jobs given current functional limitations. SSA can only look at jobs over the last 15 years that had countable earnings at SGA levels.

Step 2 If the individual is unable to do any of his or her previous jobs, SSA looks to see if he or she can do any other job in the national economy given his or her documented functional limitations and age.

The Sequential Evaluation Process

Since 1975, SSA has used a systematic process to evaluate an individual's claim for disability benefits. A primary function of this process is to protect the integrity of a disability determination and to protect the rights of an applicant. This step-by-step inquiry asks five specific questions that look at both the medical and vocational components of the disability definition. Each step of the process serves a screening function and is followed in order until a fair and impartial decision of disability (or non-disability) can be made.

sequential evaluation process—adult



Step 1 Are you working at the current SGA level (\$1000/ 1,640 blind)? SGA earnings are earnings minus the value of any needed extra vocational supports (subsidy, IRWE). If your earnings exceed the SGA level, you are **NOT** disabled. If your earnings are not at SGA, then go to **Step 2**.

Step 2 Do you have an impairment that is severe? Do you have an impairment or combination of impairments — supported by medical documentation — which significantly limits your physical or mental abilities to do basic work activities? If your impairment(s) are not found to be severe then you are **NOT** disabled. If your impairment(s) are severe go to **Step 3**.

Step 3 Do your impairments meet SSA's Listings? SSA maintains a list of impairments referred to as the **Listings** that are so severe in nature that SSA disability status is assumed. If your impairment is on this list or is equal to an impairment on this list then you **ARE** disabled. If your impairment(s) do not meet the **Listings** go to **Step 4**.

Step 4 Are you able to do your past work? If your impairment is not in the Listings but is severe, SSA looks at whether you can do any of your past work (15 years). It is important to note that any past relevant work considered must have been at SGA

levels (remember to deduct extra supports that can be documented). If you can do past work, you **ARE NOT** disabled. If you are not able to do past work go to **Step 5**.

Step 5 **Can you do any other work in the national economy?** Can you do another job in the national economy considering your age, level of education, past work and residual skills. If you cannot do any other work, then you **ARE** disabled for Social Security purposes.

Summary

- ❑ Social Security disability supports are available only to individuals who meet the Social Security definition of disability.
- ❑ Families and advocates and persons with disabilities have a difficult time negotiating the SSA disability determination process. Sixty-five percent of people who apply are turned down for these essential supports.
- ❑ Many persons with intellectual disabilities who work lose continued disability status and access to needed cash supports and eligibility to Medicare and/ or Medicaid unnecessarily.
- ❑ The Social Security Administration (SSA) uses an evaluation process that focuses on whether or not an individual has a severe impairment that affects his or her ability to do substantial work. It is an economic definition of disability that looks not only at the existence of a long-term severe medical impairment, but also how that impairment affects an individual's ability to provide sustained self-support through substantial work without extensive extra vocational supports.
- ❑ To make sure that each application for disability benefits is evaluated fairly, SSA systematically evaluates applications through a

five-step sequential evaluation process. This process looks to see that a severe impairment exists; then evaluates in a vocational component, a person's ability to work in a previous job or another job in the national economy.

Resources/ Notes

The SSA statutory definition of disability can be found in the Social Security Act at Title 42, Section 423 United States Code 42 U.S.C., SECT.423(d).

The Sequential Evaluation Process regulations can be found in the Code of Federal Regulations at 20 CFR Sections 404.1520 and 416.920.

Publication Notes

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