

SSDI: SOCIAL SECURITY DISABILITY INSURANCE

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WHAT IS SSDI?

(Social Security Disability Insurance)

- SSDI is a Social Security insurance program that pays a monthly cash benefit to people who are:
 - **Disabled** = same definition of disability as with SSI, and
 - **Insured** = worked and earned enough Social Security credits by paying FICA taxes. For most adults, this means working for about 5 of the last 10 years before becoming disabled.
- SSDI has no income or asset limits.

Social Security Insurance Benefits Overview

- Retirement Insurance Benefits (RSI) available to insured workers at retirement age.
- Dependents and Survivors benefits are available to certain close relatives of insured deceased wage earners eligible for SSDI or RSI.
- Social Security Insurance benefits are sometimes called Title 11 benefits.



SSDI – Overview (Continued)

- Medicare will provide health care coverage to retired workers upon retirement. Disabled beneficiaries will begin Medicare coverage in month 25 of SSDI eligibility.
- People with ALS or end stage renal disease do not have to wait for Medicare coverage.

SSDI – Overview (Continued)



- Benefits are payable, after application is filed, beginning 5 months after the “onset date,” but not more than 1 year prior to the due date of the application.
- Since December 1, 1996, you must have “lawful presence” status to receive SSDI.

Definition of Disability for Adults

20 CFR 416.905

- The inability to engage in any substantial gainful activity (SGA) by reason of medically determinable physical and/or mental impairment(s) which can be expected to last for a continuous period of not less than 12 months or result in death.



5-Step Sequential Analysis

20 CFR 416.920

STEP 1

Is the applicant engaging in Substantial Gainful Activity (SGA)?



STEP 2

Does the applicant have a severe impairment?



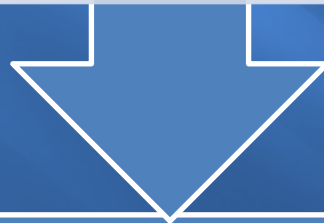
STEP 3

Does the applicant suffer from impairment which meets or equals the needs of a listed impairment?

5-Steps - Continued

STEP 4

Does claimant have the residual functional capacity (RFC) to perform his/her past relevant work (work performed in the last 15 years)?



STEP 5

Does the claimant have the RFC to perform any other work that exists in significant numbers in the national economy?

Burden of proof shifts to SSA at step 5.

STEP 1

Substantial Gainful Activity (SGA)

- **Substantial** = perform significant physical or mental duties productive in nature.
- **Gainful** = work usually done for pay or profit, whether or not it's realized.
- **Significant duties** = have a degree of economic value. Work performed in one's own household tasks, and non-paying work on hobbies, training, school, clubs, social programs, etc. does not = SGA in and of itself

*20 CFR 416.974 - .976

STEP 2 – Severity

20 CFR 416.921 – .923

- **Not Severe** = a slight abnormality that would have no more than a minimal effect on an individual's ability to work even if he or she were of advanced age, had minimal education, and limited work experience.
- *McDonald v. Sec'y HHS*, 795 F.2d 1118 (1st Cir. 1986). SSR 96-

STEP 2 – Severity – cont'd

- “Severity” test is *de minimis* test.
- All impairments must be considered in combination to determine whether the severity test is met – regardless of whether any impairment considered alone is severe.



STEP 3

Listing of Impairments

- 14 Body Systems
- Medical criteria described that presume functional limitations that preclude work.
- If medical documentation that impairments meet or equal these criteria, disability finding required. No vocational analysis.
- 20 CFR Appendix 1 to Subpart P of Part 404.



STEP 3 – Cont'd

Listing of Impairments

- Medical listings serve to screen in the most severe impairments.
 - Medical criteria presume functional limitations that prevent work.
 - Medical documentation of the listed criteria = allowance, without individual consideration of functional limitations – except for mental impairments.
- 20 CFR 416.925 - .926



STEP 3

Proving Claimant Meets or Equals a Listing

- ✓ Medical records from acceptable medical source.
- ✓ Narrative letter or detailed, listing-based form from doctor. Conclusions must be supported by medical findings in records. Psychiatrist & therapist can co-sign.
- ✓ Send letter to doctor requesting letter, include copy of the listings for guidance. Follow up with phone call.

STEP 4 – Evidence Issues

20 CFR 416.960(b), .965(a)

- Given medically determinable impairments, does claimant have the Residual Functional Capacity (RFC) to return to past relevant work?
 - PRW = work performed at SGA level in 15 years before onset of disability.
- Compare skill, strength requirements of past work with current RFC.
- Claimant has burden to prove. Don't forget this step at hearing, even if DDS determined that claimant could not do past work.

STEP 4 – Evidence Issues – cont'd



- If past work is done in foreign country, issue is whether claimant could perform work as it was done there. Language issue, lack of U.S. equivalent is irrelevant. SSR 82-40
- Irrelevant that past work is now obsolete. *Barnhart v. Thomas* (2003)
- Ability to return to past part-time SGA level work = not disabled.

Residual Functional Capacity (RFC)

20 CFR 416.945

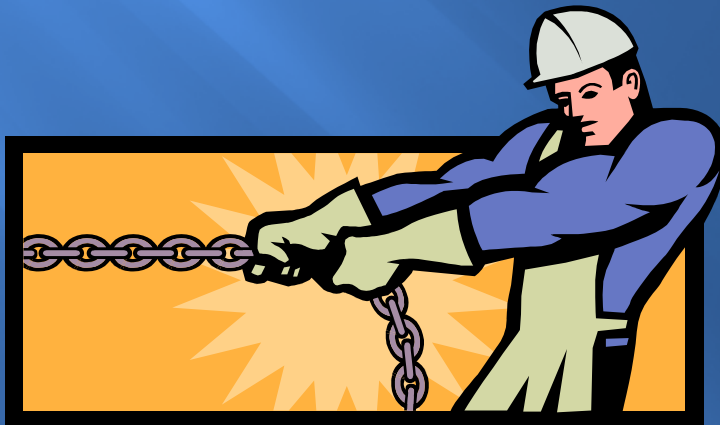
- Maximum ability to do sustained work-related physical and mental activities in a work setting, on a regular and continuing basis, despite limitations caused by their impairment(s) and related symptoms. See SSRs 96-8p, 96-9p.
- “Regular and continuing basis” means 8 hours/day, 5 days/week or equivalent.
- Must consider total limiting effects of all impairments, even non-severe ones and all relevant evidence in the record. Based on medical evidence and other evidence re: functional limitations.

Physical RFC Components

20 CFR 416.945(b)

▣ Exertional Limitations

- Standing, sitting, walking
- Alternating sitting and standing
- Lifting
- Pushing, pulling



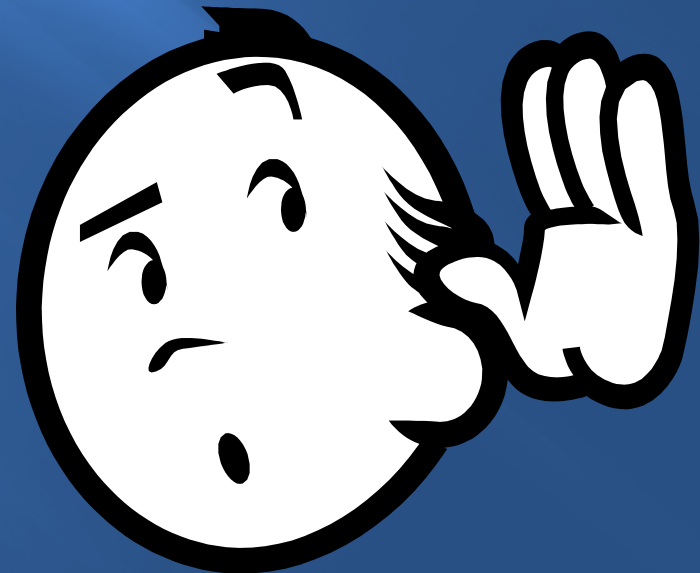
▣ Postural Limitations

- Balancing
- Climbing
- Stooping, bending, kneeling, crouching, crawling



Physical RFC Components – cont'd

- ▣ Manipulative Limitations
 - Reaching
 - Handling
 - Fine manipulation
 - Feeling (skin receptors)
- ▣ Visual Limitations
- ▣ Communicative Limitations
 - Speaking
 - Hearing



Physical RFC Components – cont'd

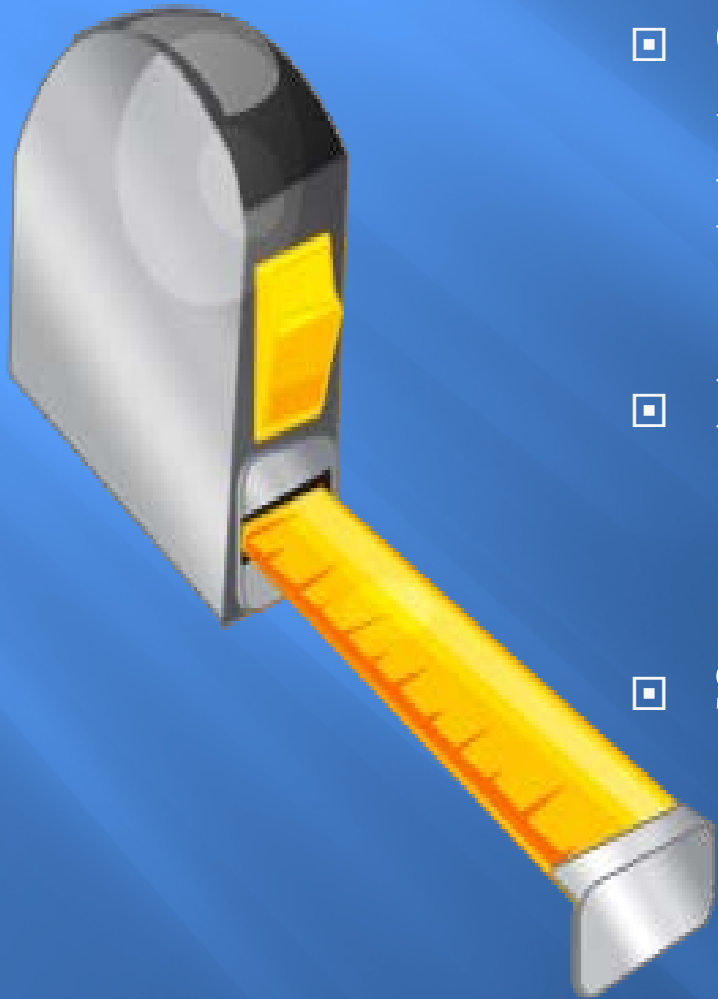
20 CFR 416.945(d)

▣ Environmental Limitations

- Cold, heat
- Wetness, humidity
- Dust
- Noise
- Vibrations
- Fumes, odors
- Heights



Measuring Physical RFC



- ▣ Occasionally = can do very little, up to 1/3 of day (up to about 2 hours in 8-hr day)
- ▣ Frequently = can do about 2/3 of day (about 6 hours in 8-hr day)
- ▣ SSR 96-9p

Exertional Demands of Work

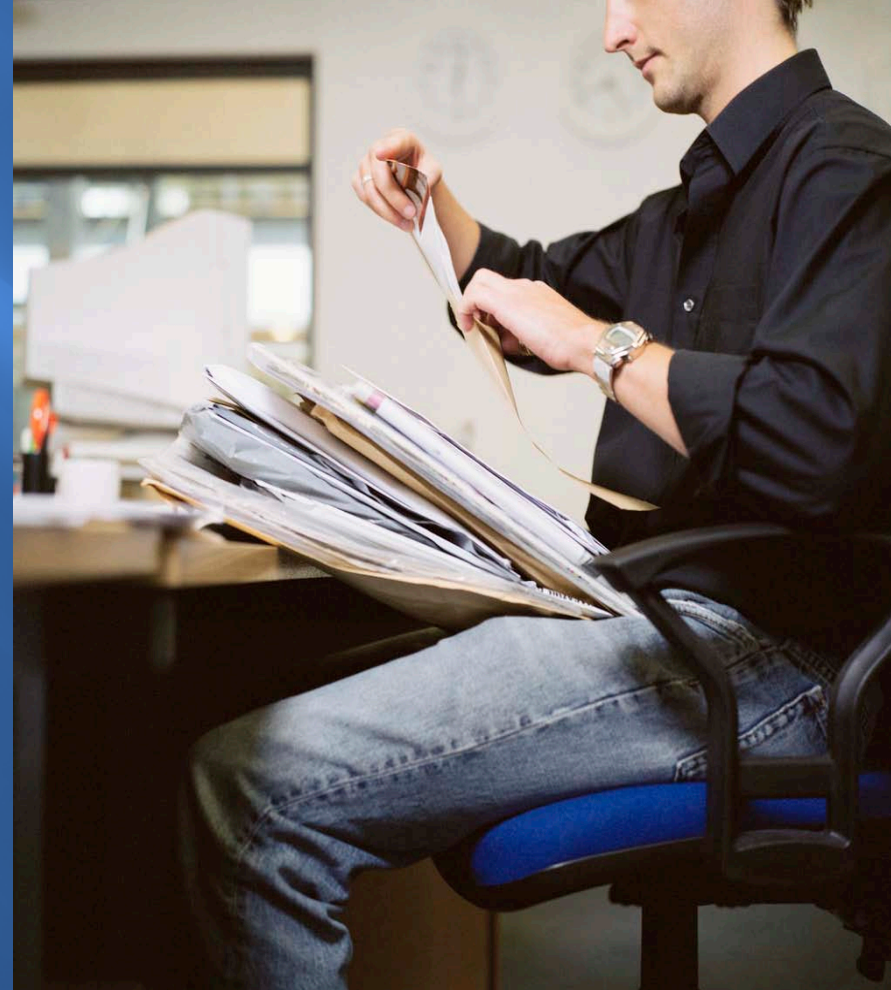
20 CFR 416.967

- Sedentary
- Light
- Medium
- Heavy



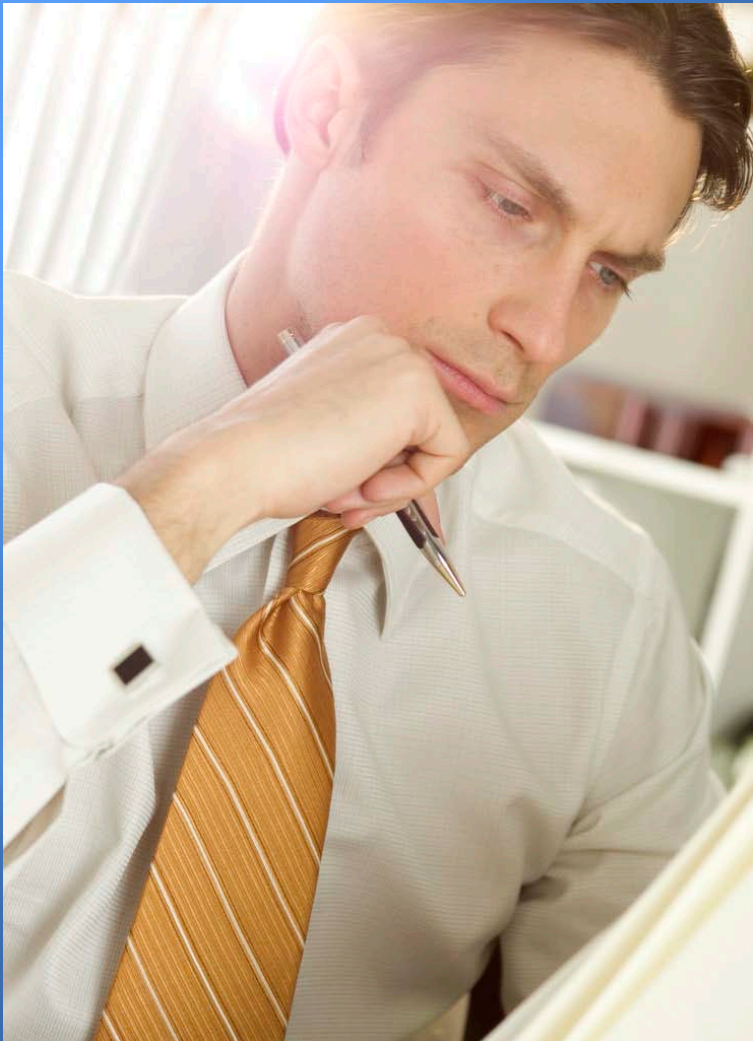
Physical Demands of Full Range of Sedentary Work

- Lifting no more than 10 pounds at a time and occasionally to lift or carry articles like docket files, ledgers, and small tools.
- Occasional walking and standing (no more than about 2 hours of an 8-hr. workday).
- Sitting about 6 hours of an 8-hour workday.
- 20 CFR 416.967(a)



Mental RFC Components

20 CFR 416.945(c)



- ▣ Nonexertional Activities
 - Concentrating
 - Remembering
 - Understanding
 - Carrying out simple instructions
 - Responding appropriately for supervision
 - Getting along with co-workers

STEP 5

Considerations

- Final step in the sequential analysis.
- Considers whether the individual can perform other work in the economy.
- SSA uses “Grids” for exertional impairments.
- Individual analysis required for solely or significant non-exertional impairments.

STEP 5

Factors

- Residual functional capacity (mental and physical, exertional and nonexertional)
- Age, 20 CFR 416.913
- Education, 20 CFR 416.964
- Past relevant work experience, 20 CFR 416.967
 - strength requirements
 - skill level
- Transferable skills, 20 CFR 416.968
- Ability to Communicate in English (Step 5 only)

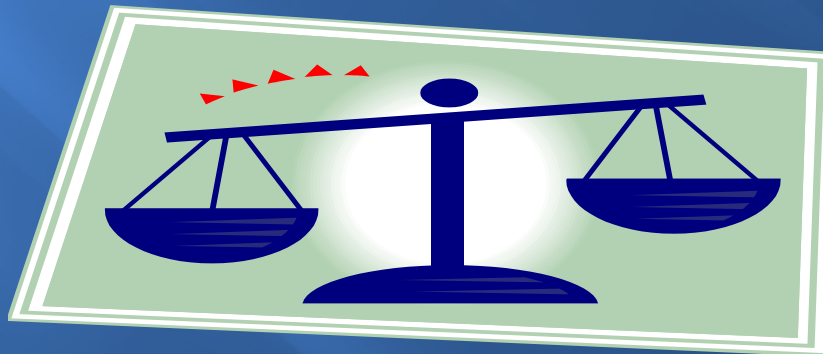
STEP 5 – Evidence Issues

20 CFR 416.960(c)

- If past work precluded, SSA has burden to prove there is other work available in significant numbers in national economy that claimant could do considering RFC, age, education & transferable work skills.
- SSA usually needs vocational expert to testify to jobs available and skill level and physical and mental demands of these jobs.

STEP 5 – Evidence Issues – cont'd

- But, claimant's burden to prove claimant's RFC, age, education, work skills, and other vocational limitations that erode the occupational base.
- ALJ weighs evidence and determines claimant's RFC and other vocational limitations. ALJ then matches RFC and vocational limitations with jobs identified by vocational expert.

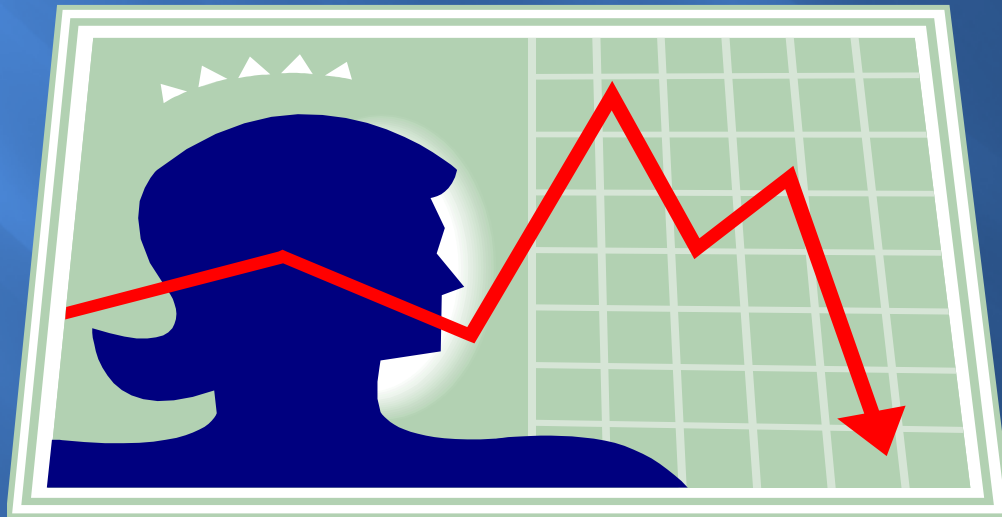


Basic Mental Demands of Competitive Work

- These mental activities are generally required by competitive, remunerative, unskilled work;
 - Understanding, remembering, and carrying out simple instructions.
 - Making judgments that are commensurate with the functions of unskilled work – i.e., simple work – related decisions.
 - Responding appropriately to supervision, co-workers and usual work situations.
 - Dealing with changes in a routine work setting. SSR 96-9p, SSR 85-15, SSR 85-16.

Basic Mental Demands of Competitive Work – Continued

- A substantial loss of ability to meet any one of several basic work-related mental activities on a sustained basis will substantially erode the unskilled sedentary occupational base and would justify a finding of disability. SSR 96-9p.



Stress

- No such thing as a “low stress job.”
- Stress “is not a job characteristic, but rather, reflects an individual’s subjective response to particular situation.” *Lancellotta v. Secy HHS*, 806 F .2d 284 (1st Cir. 1986). SSR 85-15.
- Need individualized inquiry into what job attributes are likely to produce stress in the claimant and whether jobs exist in the economy that do not possess these attributes.

Pain

20 CFR 416.929

- Pain can cause both exertional and nonexertional RFC limitations (e.g., inability to sit & problems concentrating).
- Must be medically determinable impairment, established using medically acceptable clinical and laboratory diagnostic techniques, than can reasonably be expected to produce the pain alleged. *Avery v. Secy HHS*, 797 F . 2d 19 (1st Cir. 1986).



Summary - STEP 5

Individualized Determination Analysis



Is there other work in significant numbers in the economy that the claimant can do considering his/her RFC, age, education, work history and ability to communicate in English?



Bottom Line = Does claimant have mental and physical RFC to do a sedentary unskilled job on a regular and continuing basis?

Drug Abuse and Alcoholism (DAA)

- Eliminated DAA as a basis of disability eligibility for SSI and SSDI when DAA is “material” to the disability determination. Effective 3/29/96 for new applications; 1/1/97 for those on benefits.

****Does not automatically disqualify people with a substance abuse history or current habit, or people with disabilities caused by DAA (e.g., organic brain damage, liver disease).*

Presented by...
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