

9 Deadly Sins

That can Destroy a Social Security Disability Claim

By Joseph P. Hanyon
& Patrick J. Best



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**9 Deadly Sins That Can Destroy A Social Security Claim
& How To Avoid Them**

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Printed in the United States of America.

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Introduction

First congratulations on taking the first step toward winning your disability claim. We have heard a lot of reasons why people don't reach out for help. Our clients tell us that they did not come forward sooner because they did not know a lawyer, or could not afford a lawyer or weren't sure they could trust a lawyer. Sometimes they think it's too late or a lawyer can't help them. For our law firm it's never too late. Our experience is that we can always help clients no matter what stage of the application process they are in.

If you have picked up this book, you will have lots of questions. You may even have more questions after you learn some things about Social Security Disability claims. We try to answer some of the basic questions here. This helps you during the process and, if we have the honor of representing you, your knowledge will assist us in winning your claim.

The US Government created the Social Security Administration to help people who are under financial distress and that have no or little means of providing for themselves, but it is not necessarily easy to apply and be awarded social security benefits.

The system can be complicated at times for those who have never been involved with the Administration. Attorneys should help you with every stage of the process. Many attorneys will not help you with the initial application. We have had many clients that tell us an attorney told them to come back if they lose the initial appeal. Some attorneys require you to come

into their office to make an appointment. None of these things are true of MHK Attorneys. We will handle every stage of the process in person, over the phone, or on the computer.

We aim to make the process convenient and painless. Of course if there comes a time when we must accompany you to a hearing, we will meet with you in person to prepare for it.

Thus we have written this book and created a staff of attorneys and paralegals to make the application process as simple and as comfortable as possible.

WARNING AND DISCLAIMER

THIS BOOK IS NOT LEGAL ADVICE

The Social Security Administration handles thousands of claims like yours every day. We know this because people like you call our offices every day. Often, these people have been wrongfully denied Social Security benefits. We wrote this book for YOU.

That being said, this book is not legal advice. We are not your attorneys until we enter into a written agreement that we will be your attorney. This book is for information purposes only and should not be construed as legal advice. Every disability case is different. Once your attorney fully understands your case, he or she should be able to give you quality legal advice to protect your interests. Receiving this book does not imply an attorney/client relationship between MHK Attorneys and the reader.

After reading this book, if you have any other unanswered questions, we would be happy to meet to talk with you and discuss whether or not you need an attorney as well as the rights available to you.

If you have a lawyer and have question about your claim after you read this book, go ahead and address those question to your lawyer. This book is not meant to interfere with an existing relationship. Each lawyer and each law firm does things differently. Your lawyer may be doing a fantastic job for you but in a different way than MHK Attorneys does. This does not mean he is not a good lawyer.

About the Authors

For years, Social Security Disability Attorney Joseph P. Hanyon and Patrick J. Best have been helping Social Security Disability and SSI Claimants who have been wrongfully denied benefits by the Social Security Administration.

Attorney Joseph P. Hanyon has been a partner and practicing attorney with MHK Attorneys since they opened their doors in 1997. He is a graduate of New York Law School '90 and earned a Masters Degree in Trial Advocacy from Temple University '95. He has authored several books in the personal injury field, including the *10 Biggest Secrets to Winning Your Pennsylvania Car Accident Case* and concurrently with the publishing of this book is authoring a book to help drivers understand how to buy car insurance that will really protect their families.

Attorney Hanyon was born and raised in Northeastern Pennsylvania and currently resides in Pocono Mountains Pennsylvania with his wife and law partner Connie J. Merwine and their 3 children Marshall, Meara, and Harrison.

Attorney Best began representing Social Security Disability Claimants as a volunteer while attending the University of Pittsburgh School of Law. At the Law School's Health Law Clinic, Best was given the opportunity and privilege to represent those who were unable to afford private legal counsel.

Upon the completion of law school, Best began concentrating his law practice more and more on

Social Security Disability representation. At present, Best practices almost exclusively in this area. This includes both Social Security Disability Insurance (SSD) and Supplemental Security Income (SSI).

Best is a member of the National Organization of Social Security Claimants' Representatives (NOSSCR) and frequently provides free information to current and prospective Social Security Disability Claimants through books, brochures, videos, websites, and seminars.

Best is a graduate of the University of Pittsburgh School of Law and the Rochester Institute of Technology. He was born and raised in Luzerne County, Pennsylvania. After graduating from law school he served as Law Clerk to the Honorable Carmen D. Minora of the Lackawanna County Court of Common Pleas in Pennsylvania.

Chapter 1:

Social Security the Basics

If you're reading this book, you are most likely considering applying for Social Security Disability benefits or have already applied and have been denied. If you are considering applying for benefits, I wish you luck and hope that this book will help you in your endeavor. If you have been denied, take solace in the fact that you are not alone. In fact, approximately 65% of the applicants were denied last year. Now, relax. Take a breath. Here is the good news: Claimants who appeal the denial of their initial application face a far more favorable process on appeal. Your chances increase significantly if you have an experienced and hard working attorney on your side.

We wrote this book to provide you with the information you'll need to maximize your chances of success on your application or appeal. As with everything in life, however, we must start from the beginning and work our way through the process until we can finally address your initial application or appeal and the 9 Deadly Sins That Can Destroy A Social Security Claim.

So what is Social Security?

Generally speaking, Social Security refers to a group of social welfare and insurance programs administered by the United States federal government. Social Security is a broad based social

insurance program that includes a vast array of more specific, targeted programs. Many people think of Social Security only as a retirement program, but this could not be further from the truth. Although it is true that most of the people receiving Social Security receive retirement benefits, many others get Social Security because they are:

- Disabled; or
- A spouse or child of someone who gets Social Security; or
- A spouse or child of a worker who died; or
- A dependent parent of a worker who died

Depending on your specific set of circumstances, you may be eligible for Social Security at any age. In fact, most of my clients are surprised to learn that Social Security pays more benefits to children than any other government program.

Each program under the Social Security umbrella has its own requirements of eligibility. This book will focus on two of those programs which provide benefits to the disabled: Social Security Disability Insurance and Supplemental Security Income.

Chapter 2:

Social Security Disability Insurance and SSI Programs

If you cannot work because of a physical or mental condition that is expected to last at least one year or result in death, you may be eligible for Social Security Disability benefits.

When people refer to Social Security Disability, they are often referring to the Social Security Disability Insurance program (abbreviated SSD or SSDI); however, people with disabilities, including children, who have little income and few resources, may also be eligible for disability payments through the Supplemental Security Income (SSI) program. We will also note that there are special disability programs under both SSD and SSI that serve a much smaller group of claimants than the regular SSD and SSI disability claims. For certain claimants these lesser known programs can be a lifeline and are therefore worth mentioning here; however, we will not be addressing these in great detail.

These programs include:

- SSD - Disabled Adult Children
- SSD - Widow(er)s and Surviving Divorced Spouses
- SSD/SSI - Blindness
- SSI - Children

A vast majority of disability claimants fall under the SSD and/or the SSI disability programs. We will briefly discuss both programs and then provide a

chart for you to compare and contrast the two side-by-side.

Social Security Disability Insurance

The Social Security Disability Insurance (SSD or SSDI) program pays Disability Insurance Benefits (DIB) to qualified individuals.

This program is separate and distinct from the Supplemental Security Income (SSI) program, although there are some similarities between the programs.

The easiest way to understand the SSD program is to view it as an insurance plan. Workers pay premiums in the form of taxes, which are automatically withheld in their paychecks. These taxes are referred to as FICA taxes. In order to be eligible to receive benefits under this program, the worker must contribute over a sufficiently long period of time and must also have contributed to the program recently enough to have disability insured status. As with private insurance, you must pay the premium to be insured. After stopping work (and stopping FICA tax payment), there will come a time when insured status will lapse, just like with a private insurance policy.

The regulations which determine how much you must contribute to Social Security before reaching insured status are complex. A Social Security Disability attorney will be able to discuss your eligibility with you at no charge.

To meet all the requirements to receive SSD a claimant must:

- Be disabled using the same definition as is used for the Social Security disability program (See Chapter 4 of this book, How does the Social Security Administration determine if I'm disabled?)
- Meet the program's earnings record requirements
- File an application (See Chapter 3 of this book, The Disability Application and Appeal Process)

The following is an example of a claimant who would likely be considered medically disabled and meet the earnings record requirements:

55 year old woman with a high school education. She worked in a dress factory for 20 years and has been out of work for over five years. She has a back problem diagnosed as an acute herniated disk and degenerative disease in the L4 - L5 region. As a result, she is no longer able to work.

Supplemental Security Income (SSI) program

If you are disabled, you may qualify for Supplemental Security Income (SSI) benefits if you have limited income and resources (things you own). SSI makes monthly payments to people who are ages 65 or older or who are blind or disabled. Many states supplement the federal SSI benefit. Thus, the SSI benefit amount varies from state to state. If you meet SSI's income limitations, you may qualify for SSI whether or not you qualify for SSD based on your earnings record.

To meet all the requirements to receive SSI a claimant must:

- Be disabled using the same definition as is used for the Social Security disability program (See Chapter 4 of this book, How does the Social Security Administration determine if I'm disabled?)
- Meet the income and asset requirements of the SSI program
- Be a U.S. citizen or fall into the group of limited exceptions to the citizenship rule; and
- File an application (See Chapter 3 of this book, The Disability Application and Appeal Process)
- File an application (See Chapter 3 of this book, The Disability Application and Appeal Process)

The following is an example of a claimant who would likely be considered medically disabled and meet the income and asset requirements:

55 year old woman with a high school education. She worked in a dress factory for 20 years and has been out of work for over five years. She has a back problem diagnosed as an acute herniated disk and degenerative disease in the L4 – L5 region. As a result, she is no longer able to work. She does not have any means of income. She has less than \$2,000 in her bank account and does not possess any significant assets.

The following is an example of a claimant who would likely be considered medically disabled but fail to meet the income and asset requirements:

55 year old woman with a high school education. She worked in a dress factory for 20 years and has been

out of work for one year. She has a back problem diagnosed as an acute herniated disk and degenerative disease in the L4 – L5 region. As a result, she is no longer able to work. She receives monthly payments from her 401k plan and has \$2,200 in her bank account.



SSD vs. SSI at a glance

Issue	SSD	SSI
How do I prove I'm disabled?	Same for both programs	
How much in benefits will I receive?	Based on worker's earnings record.	Federal amount set by Congress plus state supplement, if any, set by state. State supplement amount may vary according to living arrangement.
Can my children receive payments?	Yes, additional payment based on earnings record to children under age 18 or under age 19 and still in high school.	No increased federal payment for child, but some state SSI supplements add money for children. Otherwise, children may receive welfare.
Can my spouse receive payments?	Yes, if child in spouse's care is under age 16 or is disabled.	No increased federal payment but some state SSI supplements add money for spouse.
Is there an earnings or wage requirement?	Must meet the requirements for "disability insured status"	None.
What are the financial limitations?	No limitation for unearned income or assets.	Individuals must financially qualify.
What is the waiting period to receive my payments?	What is the waiting period to receive my payments?	None.
Can I receive benefits for my disability prior to my application date?	One year if all requirements are met.	No.
What will my benefits check say?	SOC SEC FOR INS	SSI
How does the medical coverage work?	Medicare begins after receipt of 24 months of benefits.	Medicaid coverage in most states begins with entitlement to SSI.
Am I eligible as a legal alien?	Eligible.	Aliens who were lawfully residing in the U.S. on Aug. 22, 1996 are eligible for SSI disability benefits, but those who arrived later are ineligible with limited exceptions.