

## THE DISABILITY LAW UNDER SOCIAL SECURITY

By Attorney Michael H. Wald

Everyone has the possibility of becoming disabled. Recognizing the need for some type of protection for the disabled, Wisconsin passed the first law for the disabled in 1911. Even before the Social Security Act of 1935, the federal government had already passed laws for the protection of certain disabled individuals. Under the 1935 law, taxes paid by workers and employers became the means of financing the program, and the program became more broad in its coverage. Disabled individuals who receive disability checks range from the child who was born blind, the 25 year old pilot who is disabled for more than a year because of a snow-skiing accident, to the 50 year old widow. However, requirements under the Disability Law are strict and many people who think they will qualify, don't.

Who gets disability benefits? Social Security disability benefits can be paid to: 1) disabled workers under 65 and their families; 2) people who become disabled before age 22 if a parent who is covered under Social Security retires, becomes disabled, or dies. Social Security checks received as a child stop when the child is 18 unless the child is disabled. If so, Social Security should be notified so the checks will continue to be received. 3) Disabled widows (or widowers) age 50 or over, if the deceased spouse had worked long enough under Social Security. This also applies to certain disabled surviving divorced spouses over 50.

What is meant by "disabled"? Workers under 65 and people disabled before age 22 are considered disabled if they have a physical or mental illness that prevents them from doing any important useful work and which will last for 12 or more months, or result in death. If one cannot do one's regular job, but can do other work that is useful, he or she probably will not qualify. In such

cases, the doctor or other sources should show how serious the condition is and how it prevents one from working. Here are a few examples of disabled conditions: 1) diseases of heart, lungs, blood vessels, digestive system, and kidneys that have been verified by x-ray or other tests; 2) severe arthritis which prevents one from using one's hands; 3) mental illness which results in withdrawal of activities, interests, personal habits, getting along with other people, and work-related situations; 4) damage to the brain resulting in loss of judgment, intellect, orientation, or memory; 5) cancer which cannot be cured; 6) total inability to speak; and 7) if vision is no better than 20/200 in the better eye, even with the help of lenses, or if your visual range is 20 or less, one is considered "blind" under the Social Security Law.

The rules in the Social Security Law for determining disability differ from those in other government and private programs. A person who receives disability checks under one program still may not receive it under Social Security. If payments are received from another government program, it can affect the amount of the Social Security disability check. All payments received from any government program may not exceed 80 percent of average current earnings before becoming disabled. Social Security is adjusted when necessary to keep within this limitation.

If a disability benefit has been turned down, the decision may be appealed. Whether or not the disability claim is approved, possible services by the State Vocational Rehabilitation Agency will be considered. Services include counseling and guidance, medical or surgical help, and job training and placement. If the claim is approved, checks will continue unless the illness has improved. The claim will be reviewed periodically for this reason. Sometimes new medical reports, or a special test may be needed. Social Security will pay for special tests.

Under the Social Security Law a disabled individual who wants to work may do so, and still receive payments. The individual goes through a trial work period. During this period, a decision

will be made to determine whether or not disability checks should continue. Disability ends when improvement begins.

More information about the disability program provided under the Social Security Law can be received by contacting any Social Security office.

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