

Special Event Marketing



Periodically, SSA will find itself faced with a special circumstance concerning how it handles a particular class of disability cases. These circumstances are most often as a result of legal action taken against SSA. These circumstances often force SSA to reevaluate a particular internal policy or practice. If successful, these challenges may force SSA to change some aspect of how it makes a disability decisions.

A Historical Example

One such special circumstance occurred in April of 1996 and represented a real opportunity for the experienced disability consultant. This example of a special marketing opportunity will explain how one takes advantage of an event.

Below, you will find a copy of the March 1996 issue of the Denver Post. This article began with the headline, "Decision reverses denial of benefits." This not so unusual article represents a subtle but important financial opportunity for those of us in the disability consulting field. The article reads as follows:

"Thousands of people in Colorado and five adjacent states who were denied SSA disability benefits, will get another chance to obtain benefits with the recent settlement of an eleven year old lawsuit. The US District Court settlement which includes Wyoming, New Mexico, Kansas, Oklahoma and Utah, require the Social Security Administration to reconsider the eligibility of applicants who were ruled ineligible between 1984-1991. Colorado rural legal services, a government funded legal aide agency, filed the class action lawsuit in 1984, alleging that Social Security employees were disobeying the law by giving too much consideration to the opinion of government hired doctors and not enough weight to the opinions of the applicant's doctors. This action led to benefits being denied to eligible disabled persons."

This is not the first time we have seen this type of ruling against SSA. In the early and mid eighties, there were no fewer than three major suits against SSA.

These suits resulted in the Social Security Administration being forced to reconsider thousands upon thousands of individual cases that had been previously denied.

Two of the more famous cases against SSA were HHS v Polasky and HHS v Luna. These two lawsuits forced SSA to reevaluate tens of thousands of cases. The issue in both cases centered around how SSA used or considered pain in making their final decision as to eligibility for disability benefits.

It came to light during these suits that SSA did not consider pain as a factor in causing disability, which of course is fundamentally ridiculous. SSA immediately found itself buried in thousands of additional cases nationwide that needed to be reevaluated. This was in addition to the ever-increasing caseloads generated by day-to-day operations.

The reevaluation of these tens of thousands of cases during the eighties caused a backlog at SSA that took until the early nineties to clear up. SSA was forced to hire additional staff to handle the new workload. However, in today's fiscal environment, I'm not so sure SSA will be granted the additional funds needed to dig its way out of this new situation.

What this all means

This blow to the Social Security administration has cost SSA millions of dollars in staff time and administrative costs. SSA is having enough difficulty handling current caseloads, not to mention the surplus of cases left over as a result of the two politically motivated government shutdowns that occurred in the late nineties.

This ruling has also forced SSA to reconsider how much weight it gives to the opinion of personal physicians in making a final disability decision. SSA has issued a policy statement nationwide and directions on how to reevaluate the previously denied cases. This process took months to resolve.

An incredible opportunity

This above mentioned suit has quietly created an incredible opportunity for the experienced disability consultant. Suddenly, an additional 100,000 plus new cases came on line and were perfectly suited for private representation.

If you would recall from the newspaper article, these cases are dated from 1984-1991. These dates are extremely important and represent the potential profitability of these types cases. Here's why! Recall from your training the concept of onset date. In all of these cases from 1984-1991, the onset dates will be from as early as 1982 to no later than 1991. If for example a person has an onset date of 1/1/1990 and was denied benefits in one of the above-mentioned states, that person's case must be reevaluated. If the person is found to be disabled on this second review, he will receive back benefit payments from five months after onset to the present date if he is currently disabled. This could represent some six years of back benefits paid in one lump sum. If the claimant did recover and return to work, let's say in 1994, he would still receive benefits for the closed period of 1990-1994. That's four full years of possible cash payments to the client.

If you were to represent a case like this, at twenty five percent of back benefits, this case would easily pay the consultant up to six thousand dollars in maximum fees. If you were to acquire just ten of these types of cases over the next year, you have sixty thousand dollars in earnings potential with no more work than you would have in an ordinary case.

Another historical event

This special situation is called the CDR or Continuing Disability Review. A CDR is a case on a person that has already been allowed benefits and is now up for review to determine if the disability is continuing.

The CDR claimant has usually been on benefits for three to seven years. SSA has a policy of periodically reviewing these cases to see if any of the claimants can be removed from the disability rolls.

On 3/17/96, SSA announced that it would review some 1.4 million CDR cases at a cost of \$750 million dollars with the hope of removing a third of the recipients from the rolls. The last time this happened was during the Reagan administration. I'll never forget the community outrage against SSA when some 500,000 people had their benefits temporarily halted. SSA probably won't make that mistake again! SSA's new approach will allow a person to continue on benefits until a CDR decision is made. If the claimant is discontinued from benefits, SSA will allow benefit payments during the appeal process to avoid a public outcry.

Disability consultants can take advantage of this situation by targeting these

CDR cases in the market place. CDR cases usually take less than a month or two to complete and uses a similar criteria to sequential analysis in making a decision. CDR cases use a formula called medical improvement. If medical improvement of the claimant's condition has occurred, the next question is, does that improvement allow the claimant to return to work. If the answer to both these questions is yes, the case is denied and the claimant will be cut from the rolls.

Medical improvement is determined by

1. Looking at medical evidence since the claimant was found disabled and determining from that evidence if the claimant's condition has shown significant medical improvement.
2. SSA will often contact the attending physician and inquire as to current medical status. If the AP says that there is medical improvement, SSA must then determine if the improvement is significant enough for that claimant to return to work.
3. SSA will usually order a physical or psychological examination to determine if medical improvement has occurred. Vocational evaluations may also be ordered by SSA to determine at what level the claimant is currently functioning on.

As a disability consultant, you must be sure that the claimant does not shoot himself in the foot when his case is reviewed for CDR. You do this by acquiring as much evidence as possible that supports a continuation of the claimant's disability status.

Since CDR cases are not part of your basic training course, we are considering putting together a simple CDR training program for those of you who may be interested. This current round of CDR reviews will take years so there is no need to rush this training. We will keep you informed as to when the actual CDR process will begin, how to get the attention of these customers and what strategies work best with CDR cases.

The reason for presenting these historical situations is to emphasize how a current event like the change of an SSA policy can create an enormous opportunity for the astute representative. Keep your eye on your local Newspaper. If you note a conflict between SSA and the public or a direct policy change from SSA, review it carefully and determine how it might be used to

create profit for your firm.

Other Events

We don't want to ignore community events that can be used as an opportunity to get the word out about your service. Go to and sponsor community events as a means of exposing your service. Hand out business cards and flyers. Talk to people. Become a known entity in your community!