

MODULE 8 - Advocate Advanced Topics

BUSINESS LESSONS

L1C - SSI Pros and Cons

Although SSI cases are not the primary target market of most disability advocates, this type of case appears frequently. Because SSI cases are so prevalent, some advocates may wish to specialize in certain kinds of SSI cases. As you may already know, those applying for Supplemental Security Income benefits under the disability program are usually in a weak financial state. This is why it is called supplemental security income. These SSI applicants are either too young to have worked or have not worked for a significant period of time.

If a person has not worked for a significant period of time, he has not paid into the Social Security Disability Insurance program. There is no SSDI benefit paid unless you have paid into the system. This payment into the system satisfies the 20/40 rule making a person eligible to apply for SSDI. An SSI applicant will not have paid into the SSDI system, making him or her ineligible for SSDI.

The question then arises: Should a disability advocate accept an SSI (only) disability case? The term "only" implies that the claimant is not eligible for any other type of disability benefit. The answer, of course, is "maybe." To avoid missing a potential cash flow opportunity, disability advocates should not automatically reject SSI cases. If the case appears viable without too many complications, it may be worth accepting despite the smaller fee.

From the perspective of a disability advocate, there are three basic types of SSI disability applicants. These are the concurrent applicant, the SSI child applicant and the SSI only adult applicant. Most applicants for SSI disability benefits will fall into one of these three categories.

The Concurrent Applicant:

A concurrent applicant is one who has had a recent work history, has fulfilled the requirements of the 20/40 rule and therefore is eligible to apply for SSDI benefits. However, in a concurrent case, the applicant is also eligible to apply for SSI benefits.

Recall that in order for an applicant to be eligible to apply for SSI benefits, that person must be both disabled and without significant financial resources. This lack of resources might make a person eligible for SSI while also being eligible to apply for SSDI.

If a person is eligible to apply concurrently, you can assume that the applicant has limited resources. The concurrent applicant may have

exhausted his financial resources via medical or other survival expenses. This makes him eligible to also apply for SSI.

If a concurrent applicant has a viable case, it should be accepted for representation. Concurrent cases do not significantly increase the overall time spent processing a case. The reason for this is that the SSI and SSDI case decisions are based on the same criteria and are made at the same time. Therefore, as you develop and process an SSDI case, you do the same for the SSI simultaneously. The decision for the SSDI will be the same as the decision for the SSI. The only thing that can change this simultaneous outcome is the client's financial circumstance.

For example, if during a case, the client inherits a million dollars, you can bet he will no longer be eligible for SSI. This kind of money would also affect the claimant's SSDI benefit, but not as quickly and directly as SSI.

Generally, you should only accept a disability case if it appears to be winnable via our case assessment tool. A concurrent disability case is no different. You will usually accept concurrent cases on a contingency contract basis if the onset of the Title Two portion is remote.

If the claimant has a recent onset date in the title two portion of the case, consider using the percentage contract approach. Upon winning a concurrent case, the claimant will usually be awarded a lump sum for any prior benefit period. This award will give the concurrent claimant the ability to pay your fee for representing them.

The SSI Child Case:

The second type of SSI disability claim is called the disabled child or DC claim. A DC case is a disability claim on an individual under age eighteen with no work history.

SSI child cases are usually on young children with birth defects, serious injuries or chronic illnesses. The criteria used to assess child cases are slightly different from adult cases. An SSI disabled child case is now determined based on a criterion known as functional equivalence.

Functional equivalence provides that if a child does not meet or equal a listing, we must then assess all functional limitations. We then compare those limitations with age related activities to determine the child's level of physical or mental incapability.

If a child's impairment causes limitations as described under any listing (including adult listings), they may be found disabled as a result of those limitations. In our training program, we refer to this approach as age appropriate functioning. If a child is unable to perform age appropriate activities, that child may be found disabled as a result of these age appropriate functional limitations.

Fees for Child Cases

Generally, a disabled child claim is accepted on a “times monthly fee” basis. That is, you’ll accept the case based on the amount of the claimant’s monthly benefit and a particular number of months. For example, we usually accept SSI cases for a fee of two or three times the monthly cash benefit paid to the claimant. The fee earned in an SSI case is usually significantly smaller than those earned in an SSDI claim. This is why we focus on SSDI claims as our target market.

One of the major headaches with SSI claims is related to income and resources. There are numerous financial eligibility factors that can render a case useless, even if the claimant is suffering from a severe impairment. For example, if a child applicant lives with his parents, their income can be used in determining the child’s eligibility to apply or receive benefits. These complicated factors make it possible for a child to be both eligible for disability benefits and ineligible to actually receive them.

Also, many SSI child applicants are institutionalized and/or are otherwise directed by an outside agency other than the biological parents. If you’re accepting DC cases from institutions, here are some suggestions for making the representational process more efficient.

1. Base your fee on the two or three times monthly benefit formula.
2. Make the contract with the institution, not the child or his parents. If a contract is made with an institution, you can be paid by that institution regardless of the outcome of the case. The most common way to approach this is by having all payment options in one contract. That is, if you do not win the case, you can still charge an institution a processing fee of between \$150 and \$450 per case. If the case is won, you charge the institution the prearranged fee for a successful case.
3. Since SSI cases pay less, you must limit the amount of time and effort put into the case without reducing the quality of representation. This can be done by asking the parents and or institution to play a greater role in the development of the case.

For example, ask the institution to acquire all relevant medical evidence and supply you with copies. Have the institution supply all transportation for the claimant to medical examinations or special diagnostic testing.

The advantage of working with institutions that refer SSI cases is obvious. They can supply a steady stream of case referrals. This steady stream will offset the lower fee paid for these types of cases. Institutions also keep better medical records, which can help speed up the overall case processing time. Institutions are also excellent reference sources to other agencies or institutions, providing you with an expanding source of clients.

Specializing in Childhood Cases

For those of you who wish to specialize in the childhood or SSI market niche, here are a few suggestions:

1. Study the SSA.gov web site for information on childhood cases. These cases have many special aspects that are not covered in our basic training course. However, the basic approach we use for SSDI cases should also be used with all SSI cases including child cases. In practice, both case types follow a similar logical pattern.
2. Get a copy of the IFA criteria sheet from your local disability office. The IFA is used as a means of comparing the severity of a child-related impairment with that of an adult impairment.
3. Request a copy of the childhood listings. The childhood listings can be purchased directly from the Federal publishing office and may even be available online.
4. Direct your marketing specifically to this demographic by targeting the parent of the disabled child. In other words, contact and build a relationship with the parent and or institution responsible for the well being of the child.
5. Make sure that all fee petitions, agreements or contracts are signed by the parent, guardian or institution responsible for the child.

The Indigent Applicant

The third SSI disability claim type is called the disabled individual or DI case. This case type is also referred to as the SSI Only or Indigent applicant case. An adult who is eligible to apply for SSI only disability benefits is by definition indigent. That is, a DI applicant is eligible to apply for SSI disability benefits based on his lack of income and resources. This makes the SSI only applicant the poorest candidate for private representation because he is least able to pay for services.

A disability representative can easily determine if he is dealing with an SSI only case by asking a few key vocational questions. These questions will pertain primarily to the claimant's past work history.

Example questions:

Have you worked full time in the last five years?

Did you work consistently (month to month) over the last five years?

How long did each job last?

Did you earn above the monthly SGA level?

Negative answers to these questions may indicate that the claimant is not eligible for SSI or SSDI. People with poor or inconsistent work histories may not meet Social Security's 20/40 rule for SSDI eligibility. In this circumstance, their only option would be to seek SSI benefits if and

only if they meet SSA's income and resource criteria.

If the SSI applicant desires that you represent his case despite his poor financial circumstance, then you must question the claimant as to how he intends to pay your fee. If his answers are not acceptable to you, then it may be wiser to reject the case.