



# H&S

**HEARD & SMITH**

**SOCIAL SECURITY DISABILITY GUIDEBOOK**

Understanding Social Security Disability/SSI



## John R. Heard Attorney-at-Law

At Heard & Smith, we are dedicated to helping you win your Social Security Disability claim. We have had the privilege of representing more than 30,000 clients before the Social Security Administration beginning in 1976.

I hope you find this Guidebook helpful. It provides an outline of Social Security Disability and SSI benefits, the process and procedures, and what Heard & Smith can do for you.

If you have any questions, please contact our disability specialists toll free at 1-877-435-3737. We look forward to helping you.

Sincerely,



John Heard

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# WHAT IS SOCIAL SECURITY DISABILITY?

## HISTORY OF SOCIAL SECURITY DISABILITY

Social Security is a social insurance program funded through dedicated payroll taxes called Federal Insurance Contributions Act (FICA). There are four main benefits provided by Social Security; retirement, disability, survivorship, and death. Social Security is attributed to President Franklin D. Roosevelt when he enacted the New Deal in 1935. The U.S. Social Security program is currently the largest government program in the world.

When you are healthy and working, it is hard to imagine being disabled by illness or injury. But it can happen.

– In fact:

- One in three working Americans will become disabled before the age of 65
- What would happen if your paychecks were to suddenly stop and you couldn't support your family?
- What if you couldn't work for months or years?
- You would still have to pay all your monthly bills including food, utilities, and car payments.

Many people look to Social Security for help when they can no longer work.

Social Security disability is a federal program that offers monthly benefits for people whose disabilities last at least 12 months or longer. To qualify for Social Security disability, you must be able to show that you are unable to perform the work that you have done in the past, or any other jobs that exist in significant numbers.

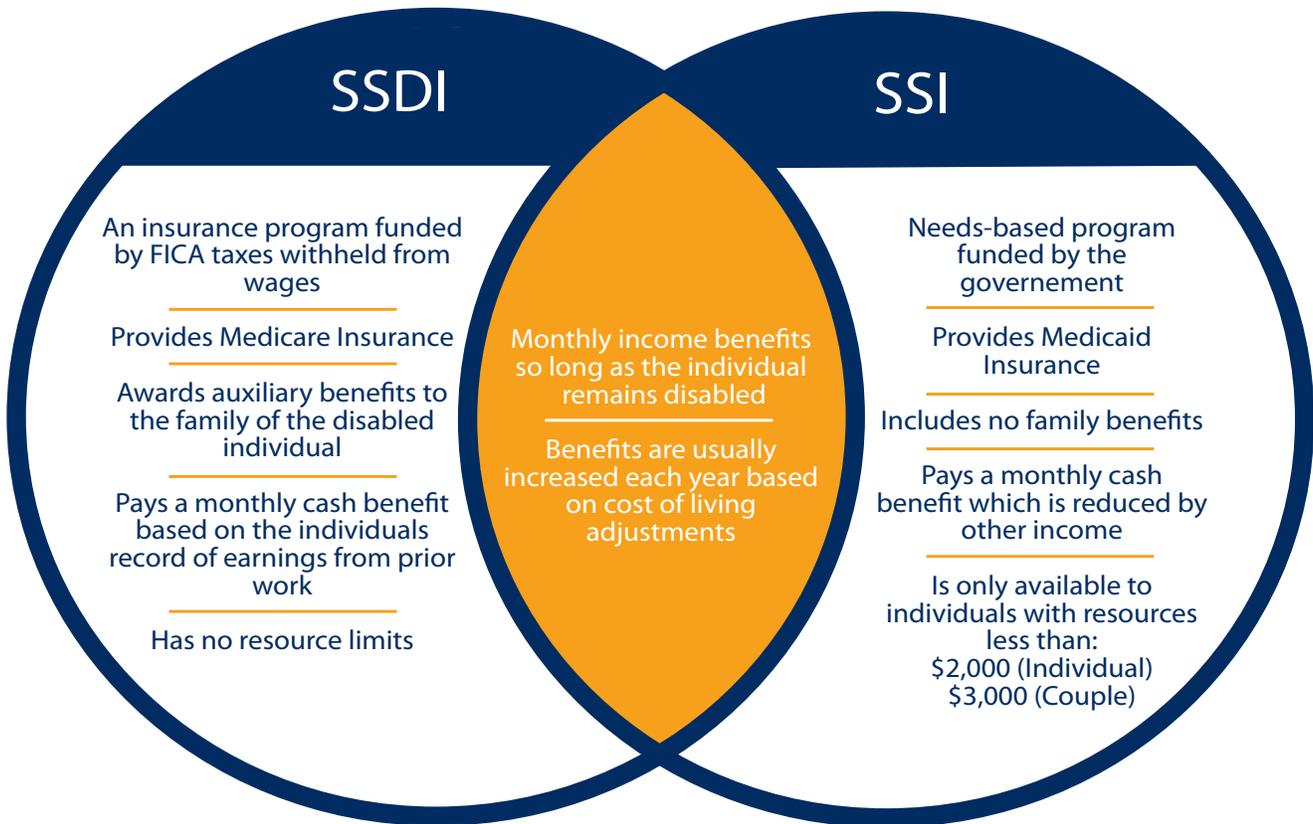
## OVERVIEW OF SSI & SSDI

Social Security Disability has two main programs:

- Social Security Disability Insurance (SSDI), and
- Supplemental Security Income (SSI)

These programs are for individuals who cannot work due to a disability that is recognized by the Social Security Administration (SSA). SSA defines disability as any physical or mental impairment which can be expected to result in death or can be expected to last for more than 12 months and prevents an individual from engaging in any substantial gainful activity (SGA).

## THE DIFFERENCES BETWEEN SSDI & SSI



## WHAT MEDICAL INSURANCE DO I GET?

- When awarded Social Security Disability Insurance (SSDI), you will be entitled to Medicare Insurance benefits.
- When awarded Supplemental Security Income (SSI), you will be entitled to Medicaid Insurance benefits.
- Both insurance programs help pay for regular doctor visits, hospitalizations, and prescription drugs.

# WHO GETS SOCIAL SECURITY DISABILITY?

## ELIGIBILITY REQUIREMENTS

Social Security Disability Insurance (SSDI) is a program for people who have worked and paid into the Social Security system by paying FICA taxes every pay period. The earnings record that you receive from Social Security explains this in more detail and gives you an estimate of what your monthly benefit amount would be if you were to become disabled and unable to work.

Supplemental Security Income (SSI) is a program that is “needs-based” and eligibility is based on household income and resources. As an example, if you have worked for 15 years and become disabled and therefore applied for Social Security Disability, the Social Security Administration will look at which program you are eligible for. Based on your income and other requirements, you may be eligible for both, SSDI and SSI, or for only one.

## How much work must I do to receive Social Security Disability Benefits?

It takes a little more to qualify for disability than it does to qualify for retirement. To qualify for Social Security Disability benefits, you must have worked long enough and recently enough under the current laws. For each year you work, you can earn up to four credits, maximum. Each credit is based on a certain amount of money earned; the amount of earnings required for a credit usually increases each year, as general wage levels increase. So how many work credits will you need to qualify for disability benefits? That depends on the age at which you became disabled. The older you are, the more credits required. In most cases, you would need 20 credits earned in the last ten years. However, younger workers may qualify with fewer credits.



**Heard & Smith, LLP**  
SOCIAL SECURITY DISABILITY/SSI

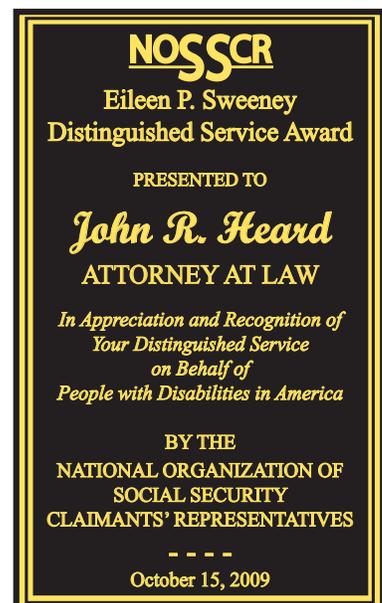
## ABOUT HEARD & SMITH

John R. Heard received his B.A. with honors from the University of Texas in 1971, and graduated from the University of Texas at Austin Law School with honors in 1975. In Law School, Mr. Heard was on the Law Review, and also served as a Teaching Quizmaster. After serving as law clerk for a United States District Court Judge, he began his own law practice in San Antonio in 1976. Mr. Heard is a frequent lecturer at legal seminars addressing social security issues. He has successfully represented Social Security claimants for over 30 years.

Mr. Heard is the Past President of the National Organization of Social Security Claimants' Representatives and is Board Certified in Civil Trial Law by the Texas Board of Legal Specialization. He is licensed to practice in all Texas Courts, the Federal Courts of the Eastern, Western and Southern Districts of Texas, the United States Court of Appeals for the Fifth Circuit, and the United States Court of Veterans Appeals. He was admitted to practice in the Supreme Court of the United States in 2001. He is a maintaining member of the College of the State Bar of Texas, and is a Fellow of the Texas Bar Foundation.

In October of 2009, the National Organization of Social Security Claimants' Representatives awarded John the Distinguished Service Award, which is given to individuals "whose outstanding service has resulted in a significant improvement in the quality of advocacy for Social Security claimants, a significant increase in the availability of advocacy for Social Security claimants, or a significant improvement in the Social Security adjudicatory process."

*"John Heard is a leader on a national level with fellow Social Security Disability lawyers."*





## HOW HEARD & SMITH CAN HELP YOU

Many attorneys and organizations will not help those who seek Social Security benefits until they have applied on their own and have been denied by the Social Security Administration. This is because the process is very time consuming and the amount of paperwork involved is substantial. At Heard & Smith we believe in working with the client from the beginning of the process to ensure Social Security receives all the necessary paperwork and correct information from the applicant in order for Social Security to make a proper determination in the case.

- We understand the daunting process of applying for benefits and the paperwork SSA asks you to fill out. SSA wants to look at the jobs you have performed in the last 15 years as well as all of the doctors and treatments you have had. You are required to send all of this information to Social Security before they can consider your claim.
- One of the problems with claimants applying on their own without legal help is that SSA may request medical records from a provider but before the records are sent to SSA they may make a determination on your case and find you not disabled. Since Heard & Smith represents clients at the Initial Application level, we make sure SSA obtains all the medical records from your treating sources and we follow-up with SSA if they fail to do so.

## HOW WE HELP

### We're here for you, every step of the way.

Without any cost or commitment on your part, we will review your case and evaluate whether you qualify for Social Security Disability or SSI or any other Social Security program that provides benefits to the disabled.

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At the hearing level, we will obtain your medical records from your providers and send them directly to Social Security.

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We will give you status letters that show you are being represented by an attorney for SSI/SSDI. These letters may be helpful in obtaining food stamps, temporary shelter, or other resources.

An advocate will help you prepare for and go with you to your hearing to present your case to an Administrative Law Judge (ALJ), if necessary.

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We understand that you may have trouble getting around. At Heard & Smith we have phone appointments to allow us to assist you without the necessity of an office visit.

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We make sure that you meet all deadlines in accordance with Social Security rules.



CHECKLIST

## The Process of applying for Disability Benefits

If you have never applied for Social Security Disability before, the process can be confusing and lengthy. Completing the application form for disability benefits usually takes about an hour. Our legal staff will walk you through the process of filling out all the forms required to be submitted to SSA.

– SSA asks questions about about:

- How far you went in school;
- What type of work you have done in the last 15 years;
- What health problems you have that prevent you from working;
- What medications you are taking;
- How your health problems affect your daily life;
- Whether you can do any of your prior jobs; and
- What type of work you could do with your skills from other jobs

Although Social Security Disability is a Federal Program, your claim will be forwarded to a state agency in your state, generally referred to as the Disability Determination Service, or DDS. A Disability Examiner, who is not a medical doctor, will determine if your health conditions meet the qualifications for disability.



## 5 Step Evaluation Process

### HOW DOES SSA EVALUATE YOUR CASE?

To decide whether you are disabled, the Social Security Administration uses a step-by-step process involving five questions.

#### 5 Step Sequential Evaluation Process

1. Is the claimant working at Substantial Gainful Activity (SGA) levels?
  - Are you currently earning above the pre-determined SGA limit? (Currently, \$1,000 per month)
2. Does the claimant have a severe impairment?
  - Do you have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities?
3. Does the impairment meet or equal a medical listing?
  - If your impairment is severe, Social Security decides if it meets or equals one of the medical conditions in a list of impairments. If it does, you are awarded your benefits at this stage.
4. Is the claimant able to perform prior work?
  - With your impairment, are you able to perform one of the jobs you worked at in the past fifteen years?
5. Is the claimant able to do other work?
  - If you can't do your prior work, are there any other jobs you can perform considering your age, education, and prior work experience?

## IMPROVING YOUR CHANCES: Checklist for Success



Be honest and thorough in telling SSA why you are disabled and what limitations physically and/or mentally you are experiencing.



Have your doctors complete RFC forms (See Glossary, pg. 22). Your doctor's opinion about you is crucial evidence that can help your case.



Be open to sharing signs of mental disability (even depression) or learning disabilities.



Continue to get medical treatment and take your prescribed medication(s).



Make sure ALL relevant medical records are submitted.



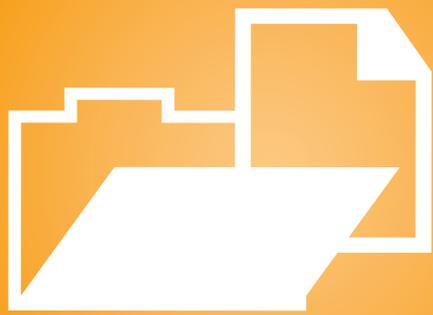
Complete and return all SSA forms in a timely manner.



Keep a journal - take some time to write down notes about your treatment & how your condition limits you on a daily basis.



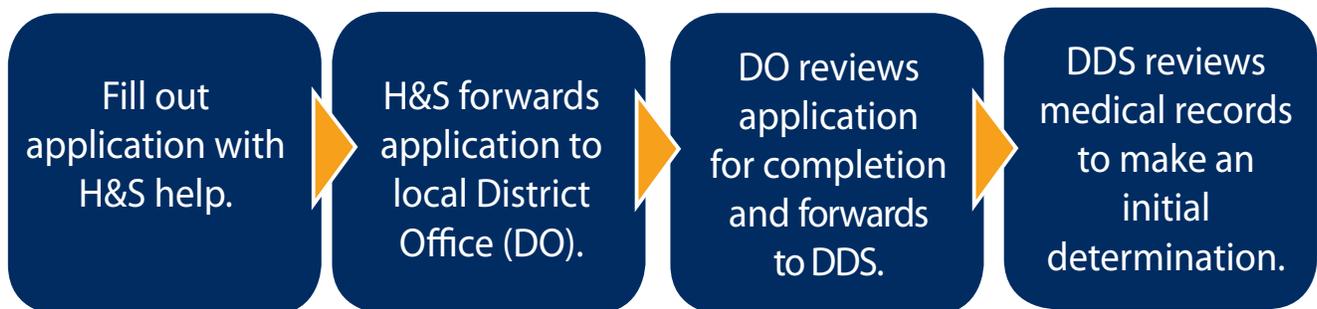
Keep us informed of any provider or contact information updates.



***“Straight forward,  
informative and  
to the point.” - B.V.,  
a Satisfied Client***

## INITIAL DETERMINATIONS 3-6 MONTHS

After filling out your application, each claim gets processed at the local District Office (DO) and Disability Determination Services (DDS) office.



# THE APPEALS PROCESS

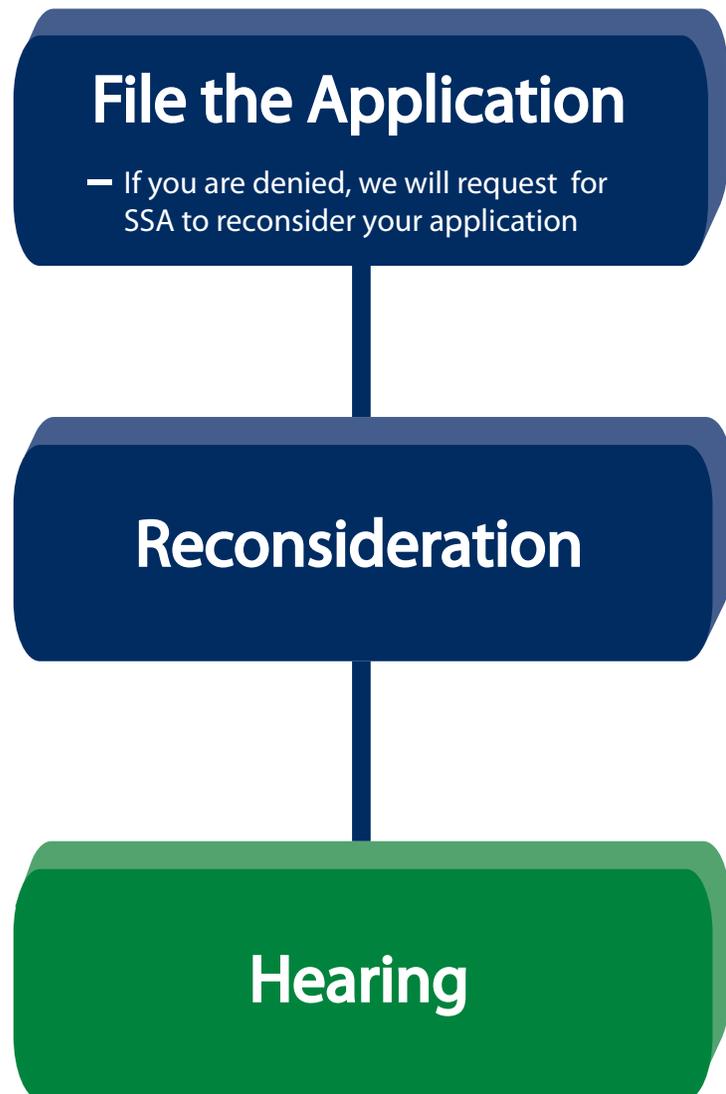
It is important to know that the process of obtaining your benefits can go through several stages before it is finally approved. This means that you may see a denial letter during the process stating that you have been denied your disability benefits. The Social Security Administration (SSA) will say that they see you have health problems, but they still believe you can work full-time with your health condition(s). This is where Heard & Smith will assist you in providing SSA with evidence proving that your health problems keep you from performing a full-time work week.

In figure 1, you'll see the different stages a claim can go through before it is closed. Once the application is submitted to the local Social Security office, it is filed and routed to the state level where it is reviewed by a Disability Determination Services (DDS) employee. The DDS employee will review all submitted medical evidence, work history, and the application to determine if you meet the Social Security Administration's disability guidelines. This initial process could take between 2 to 4 months. At this stage, approximately 60% of all claimants are denied leaving 40% who are awarded. If you are denied, you have the right to appeal the decision and ask the Social Security Administration to reconsider your claim.

At the reconsideration stage, your claim repeats the initial process where a DDS employee will review your claim and determine if you are disabled based on any new evidence that they are presented with. At the reconsideration stage, approximately 80% of the claims are denied and 20% are awarded. If you are denied at the reconsideration stage, you may appeal the decision and ask for a hearing before an Administrative Law Judge.

The hearing is informal and includes the judge, the clerk, and possibly a medical and/or vocational expert. At this stage your chances of winning your benefits can dramatically increase, especially if you have an attorney.

Figure 1





## WHAT IS A HEARING?

### A Social Security hearing room is very different from court rooms you see on TV.

If Social Security has denied your claim for benefits and there is an appeal at some point you may go before an Administrative Law Judge (ALJ). This is where your advocate comes in. Our legal team at Heard & Smith will show the judge how your health problem prevents you from performing a full

time job. Before your hearing, you will have the opportunity to meet with your advocate to discuss any questions and or concerns you may have. Your hearing will be held before an Administrative Law Judge (ALJ) and will last approximately 45 minutes. Your advocate will attend the hearing with you and be prepared to argue for your disability benefits. At the hearing, the ALJ may ask for a Medical Expert and/or a Vocational Expert to testify. The ALJ will usually not issue a decision at the hearing; however, a decision notice will be mailed to you usually within 2 to 4 months.

## WHAT FEES DO I PAY FOR HEARD & SMITH HELPING ME?

**At Heard & Smith, we can significantly improve your chances of obtaining benefits.**

Our fee is limited to 25% of the back award, or a maximum fee set by the Social Security Administration, (which is currently \$6,000) whichever is less. No fees are taken from the monthly checks you receive after benefits are awarded. If you do not receive benefits, or if there is no back award in your case, then no fee is charged. We will help you file your application, complete all necessary paperwork, represent you at your hearing, file any necessary appeals, and if at the end you don't receive a back award but are awarded monthly checks, you will not be charged a fee.

*“If you do not receive benefits, or if there is no back award in your case, then no fee is charged.”*

*“It was the easiest thing I've ever had to do.”  
- R.Y, a Satisfied Client*



# FREQUENTLY ASKED QUESTIONS

## 1) What is SSDI?

- Social Security Disability Insurance (SSDI) is a payroll tax-funded, federal insurance program. Its purpose is to provide income to people unable to work because of a disability.

## 2) How do you qualify for SSDI?

- You must be insured. That generally means you must have worked and paid into the program (payroll taxes) for five of the last 10 years. You must also have been disabled before reaching full-retirement age (65-67) and you must meet Social Security's definition of disability. Your full-retirement age varies depending on your birth date.

## 3) Do I qualify for SSDI and/or SSI?

- There are often numerous factors that involve qualifying for SSDI and/or SSI, making every case different. In order to know if you qualify for disability benefits, please call our disability specialist team at 1-877-435-3737 for a private case evaluation.

*We provide you  
with answers*



### 4) What is Social Security's definition of "disability"?

- Generally, it's being unable to work because of a mental or physical impairment expected to result in death, or which has lasted, or is expected to last, for at least 12 months.

### 5) Is it difficult to get Social Security disability benefits?

- It can be. The Social Security Administration (SSA) denies about 60 percent of the people filing initial disability applications.

### 6) Do I need a disability representative or disability advocate working for me?

- You can apply on your own. However, a disability representative may dramatically improve your chances of receiving disability benefits.

### 7) Why should I choose Heard & Smith to help me get SSDI?

- We will represent you at all levels of the SSDI process, from application through appeals.
- We have a high success rate and more than 30 years of experience representing claimants before SSA.
- We simplify a very complicated process and do all of the paperwork, collect medical records, prepare you for hearings and speak to SSA on your behalf.
- We actively check the status of your claim on a regular basis.
- We're here when you need us and we keep you informed throughout the process of applying for Social Security Disability and/or SSI.

### 8) What are Heard & Smith's fees?

- SSA governs the fees of representatives. Our fee is 25 percent of the retroactive (back) award, not to exceed \$6,000. We do not charge a fee unless we are successful in obtaining your benefits.

### 9) How long does it take to get a decision?

- Unfortunately, it's not a quick process. Generally, it takes about three to five months for the initial decision. If you are denied on your initial application Heard & Smith will appeal your claim to SSA.

### 10) How much will I receive?

- It's a complicated formula largely determined by the amount of your past earnings that have been subjected to FICA taxes. The current maximum monthly benefit for an individual is about \$2,000. The current maximum that a family can receive is about \$3,400 a month.

### 11) Why apply for Social Security Disability Insurance (SSDI) benefits?

- SSDI provides income until your condition improves, offers assistance to help you return to work and provides ongoing income if your condition does not improve. You are entitled to it based on payroll taxes you have paid and your employer has matched. Also, when you receive SSDI, you qualify for other important programs like Medicare and prescription drug assistance, and protect your future Social Security retirement benefits.

### 12) What is Supplemental Security Income (SSI)?

- Supplemental Security Income (SSI) is a welfare based program. Monthly benefits are paid to people with limited income and resources who are disabled, blind or age 65 or older. Blind or disabled children, as well as adults, can get SSI benefits. If a claimant's household income exceeds \$674.00 per month for an individual and \$1,011.00 for a couple, or the value of their resources are above \$2,000 for an individual and \$3,000 for a couple, then they are not eligible for SSI.



## CALL HEARD & SMITH TODAY FOR A FREE CONSULTATION

### WHO CAN I CONTACT?

#### Disability Specialist Team at Heard & Smith: 1-877-435-3737

Our Disability Specialists have years of experience helping individuals with Social Security Disability cases. The Disability Specialist will:

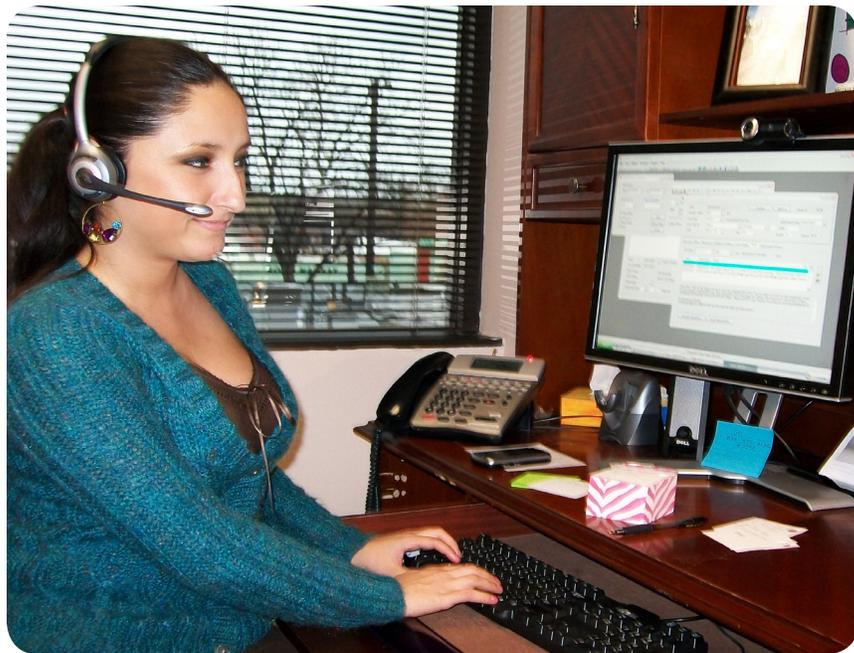
- Have a phone consultation with you at no cost to evaluate your potential case.
- Answer any questions you may have regarding obtaining Social Security Disability benefits, and what benefits you could receive.
- If your case is accepted, we schedule an in-office or phone appointment at your convenience to get started on forms.
- If your case is not initially accepted, the DS worker will:
  - Assist you with locating helpful services, &
  - Provide RFC forms to be filled out by your treating physician to improve your chances of qualifying for benefits and of getting accepted by Heard & Smith.

Heard & Smith representatives assist clients with:

- Questions/concerns regarding your case
- Affordable healthcare and returning to work questions
- Provide status letters to local organizations/agencies
- Document new information for attorney review
- Update your file with address/phone changes and medical condition updates



*"The staff was friendly and I never felt alone. They kept me notified and up to date." - C.R*



*Se Habla Español*

## CONTACT US

# CALL A DISABILITY SPECIALIST TODAY

- If you want a free case evaluation to discuss your prospective disability claim.
- If you have already been denied you may have time limits to appeal the decision, delaying could hurt your case.
- If you have any questions about Social Security or anything in this guidebook.
- If you are ready to get started call us today.

**1-877-435-3737**

## COMMON ACRONYMS & GLOSSARY

**AC:** The Appeals Council (AC) considers appeals after a hearing decision made by your local Office of Disability Adjudication and Review (ODAR). The AC acts as the final level of administrative review for the Social Security Administration.

**ADL Forms:** Activities of Daily Living (ADL) forms let the Social Security Administration know about your ability to perform certain everyday tasks. These forms, sometimes called DDS forms, help Social Security understand more about your limitations.

**CE:** A Consultative Examination (CE) is an exam that Social Security may request in order to have a report on your current medical condition. If Social Security orders you to attend a CE it is important that you show up on time. Social Security pays for the CE.

**DDS:** Disability Determination Services (DDS) is the state-level agency that decides who is eligible to receive Social Security Disability benefits at the initial application and reconsidered application levels.

**DIB/SSDI:** Disability Insurance Benefits (DIB), also known as Title 2 benefits, are paid to disabled people who have earned enough quarters of coverage through employment to qualify for the program. DIB is funded through FICA taxes taken out of your paycheck.

**DO:** District Office (DO) refers to the local Social Security “field office” where applications and forms are submitted to the Social Security Administration.

**ODAR:** Office of Disability Adjudication and Review. The ODAR is the local Social Security office that organizes and holds the hearings for the Social Security Administration. Administrative Law Judges (ALJs) hold the hearings at an ODAR near your home.

**RFC Forms:** Residual Functional Capacity (RFC) forms help rate your ability to perform certain tasks. RFC forms can be completed by your Doctors who may have good insight into your limitations. RFC forms can be a valuable tool to help Social Security decide a case.

**SGA:** Substantial Gainful Activity (SGA) is a limit on earnings that Social Security publishes each year. For 2010 SGA earnings are \$1,000 a month. Check with us about SGA levels for any other year. Working above SGA will make you not eligible to receive Social Security Disability benefits.

**SSA:** Social Security Administration. The SSA is an agency of the federal government which administers both the Social Security Retirement system and the Social Security Disability program.

**SSI:** Supplemental Security Income (SSI), also known as Title 16 benefits, are paid to disabled people who meet eligibility requirements based on their income and financial resources. Unlike DIB, SSI has no work requirement.

**We are a Nationwide Social Security Disability  
Law Firm with over 30 years of experience.**



**“Your Social Security Disability Claim Is Too Important,  
Get The Experience Of Heard & Smith On Your Side Today.”**

**- John R. Heard**

**Contact a Disability Specialist for a Free Case Evaluation**

**Call our toll free number: 1-877-435-3737**



**Heard & Smith, LLP**  
**SOCIAL SECURITY DISABILITY/SSI**

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