

# Lupus and Social Security Disability

How to Qualify for Benefits



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# Disclaimer

Anjel Burgess is a Partner at the law firm of Burgess & Christensen and has no affiliation with the Social Security Administration. This presentation is for informational purposes only; the opinions expressed herein are those of Attorney Burgess only, and do not represent the opinions of the Social Security Administration or its employees.

**STAY AT WORK IF YOU CAN!!**

**4 of 5 Lupus patients can work!**

**SSA DISABILITY:**

**No route to riches!**

**NO QUICK FIX:**

**Claim can take 2-3 years!**

# Continuing to Work

## Explore work accommodations:

- \* Fluorescent light shields?
- \* Handicap parking sticker?
- \* Shorter hours?
- \* Less demanding job duties?
- \* Voice activation system?

**Get disability insurance!!**

# Disability Defined

- Inability to engage in Substantial Gainful Activity (SGA \$1470) by reason of any physical or mental impairments which singly or in combination ...
- Can be expected to result in death, or which has lasted, or could be expected to last, for at least 12 months ...
- And prevents past relevant work and other gainful employment given the individual's age, education and work experience.

# The Different Programs

## Supplemental Security Income (SSI)

- Safety Net
- Income & Asset Sensitive
- Variable payment (up to \$914/mo)
- Medicaid (Health insurance)

## Social Security Disability Insurance Benefits (SSDI/DIB)

- “Workers’ Program”
- Insurance Program
- Not Asset Sensitive
- Fixed payment based on wages (up to \$3627/mo)
- Medicare (Health insurance)

# SSI

- Disabled adults and children may qualify
- The monthly payment (\$914) may vary from month to month depending on income, assets and support
- Payable as of the date of application
- There is a \$2,000 resource limit to qualify for SSI for singles and \$3,000 for couples
- For questions on financial eligibility for SSI, visit [www.ssabest.benefits.gov](http://www.ssabest.benefits.gov)

# DIB/SSDIB

- Disabled adults
- Fully and currently insured
- Less than full retirement age
- Benefits begin in 6<sup>th</sup> month of disability
- Medicare coverage begins after 29 months of disability



# Insured for DIB: How?

- Enough quarters of coverage (QC's)
  - If older than 30: 20 QC's (= 5 years)
  - If younger than 30: fewer QC's required
- Must be sufficiently recent:
  - Insured status can expire!*
- 2023: \$1,640 yields one QC; four QC's max in calendar year (\$6,560 = 4 QC's in 2023)
- If self-employed, independent contractor: Pay SECA!!!!

# Insured Status Expired: Can I Apply?

***YES!***

You must prove disability onset occurred while you were insured.

# When Should I Apply?

**Do not delay.**

**You could lose benefits!**

**Remember:**

**Process can take 2+ years!!**

**Maximum past benefits with DIB:**

**One year prior to application date.**

**Maximum past benefits with SSI:**

**One month after application date.**

# How to Apply: DIB and SSI

Online:

[www.SocialSecurity.gov](http://www.SocialSecurity.gov)

Telephone:

1-800-772-1213

In Person at local office (post-COVID)

(Call for appointment first: 1-800-772-1213)

# Information Needed to Apply

- **WORK HISTORY:**

Employer - where, when, duties

- **MEDICAL TREATMENT:**

Name, address, dates and types of treatment,  
condition(s) treated

- **ALL PRESCRIPTIONS:**

Name, dosage, when prescribed, side effects

- **EDUCATION BACKGROUND**

- **FUNCTION:**

Ability, limitations in work activity, activities of daily living

# Age Classifications

## Adults

18-49 yrs	Younger Individuals
50-54 yrs	Approaching Advanced Age
55-59 yrs	Advanced Age
60-65 yrs	Approaching Retirement

# Five Step Sequential Analysis

1. Is the applicant working? Engaged in substantial gainful activity?
2. Does the applicant have a severe impairment that will last one year or more?
3. Is the condition “listed” in the Code of Federal Regulations OR of equal severity?
4. Does the condition prevent former employment?
5. Does the condition prevent other substantial gainful employment?

# “The Listings”

## 14 Functional Categories

### Section

1.00	Musculoskeletal System
2.00	Special Senses & Speech
3.00	Respiratory Disorders
4.00	Cardiovascular System
5.00	Digestive System
6.00	Genitourinary Disorders
7.00	Hematological Disorders

### Section

8.00	Skin Disorders
9.00	Endocrine Disorders
10.00	Congenital Disorders that Affect Multiple Body Systems
11.00	Neurological Disorders
12.00	Mental Disorders
13.00	Cancer (Malignant Neoplastic Diseases)
14.00	Immune System Disorders



# Listing 14.02

## Systemic lupus erythematosus

A. Involvement of two or more organs/body systems, with:

1. One of the organs/body systems involved to at least a moderate level of severity; and
2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

OR

B. Repeated manifestations of SLE, with at least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss) and one of the following at the marked level:

1. Limitation of activities of daily living
2. Limitation in maintaining social functioning
3. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace.

# How do I prove my disability case?

- Medical Records
  - Complaints, Mental status exams, Medication changes, Flares, Photos
- Employment Records
  - Termination Letters
  - Performance Appraisals, Disciplinary Letters, Emails
- Vocational Rehabilitation Records
  - Work Readiness Assessments
- School Records
  - IEP/504 plan, Report Cards
  - Teacher Evaluations, Disciplinary Reports, Emails

# How long does it take?

- Initial Application – 8 to 12 months

*Roughly 25-33% approval at this level*

- Reconsideration – 8 to 14 months

*Roughly 7-10% approval at this level*

- Request for Hearing – 6 to 10 months

*Roughly 57-68% approval at this level*

# Who Evaluates My Claim?

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Initial Review

Disability Determination Service:

DDS

File Review

# Disability Determination Services (DDS)

State agency responsible for developing medical evidence and making a determination on disability

- Adjudicator
- Physician and/or Psychologist review
  - Impact of drug and/or alcohol use on functioning
- Consultative Examination
- Vocational Consultant

# Who Next Evaluates My Claim?

## Reconsideration

Disability Determination Service:  
DDS

\*Updated review of medical and  
other evidence

# Then Who Evaluates My Claim?

## Administrative Law Judge Hearing

- De novo review of the evidence.
- You finally get to tell your story.
- The judge gets to ask you questions.
- Your attorney gets to develop the case through questioning.

# I get it. What do I do now?

- Plan
  - Keep records of everything
  - Explore other options for financial security and health insurance
- Continue treatment
  - Report symptoms and limitations
  - Follow your doctor's recommendations
  - Comply with treatment
  - Discuss plans with your doctor, as the doctor's input and/or opinion can be extremely helpful.



# Questions?

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