

Social Security Disability News

Summer 2009

A Publication of Melvin E. Irvin Disability Representative, Inc.

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Social Security Revisits Age Stretching Proposal

Announced in the May 8, 2009 Federal Register, the SSA has revisited their proposed rules intending to stretch out the age definitions for the Medical-Vocational Guidelines, commonly referred to as the Grids. The revision appears to be dead—for now.

By stretching out the age definitions, the SSA would have made it more difficult for disabled persons in certain years of their life to obtain disabled workers benefits. For example, currently a disabled worker age 50 is considered to be approaching advanced age and the rules for determining disability under the SSA change significantly if the worker has attained age 50 at the time of disability. The reason is that the Administration will not require the worker to make significant vocational adjustment to perform other work. Under the previously proposed rules, the age would be extended from 50 to 52, leaving those age 50-52 attempting to meet a much more rigorous standard for disability.



Melvin E. Irvin
President

Judges' Decisions Now Searchable on the Internet

Thanks to a Freedom of Information Act Request by The Oregonian Newspaper in Portland, Oregon, the public can now access an Administrative Law Judge's allowance and denial rates.

If you have a hearing pending and know who the particular judge is that is hearing your case, go to http://www.oregonlive.com/special/index.ssf/2008/12/social_security_database.html?app.

Hearing Office Backlog

Social Security disability appeals are heard by Administrative Law Judges (ALJ's) in Offices of Disability Adjudication and Review (ODAR) throughout the U.S. and its territories. The Administration is frequently criticized for the delay in giving a disabled claimant a hearing due to the backlog at the hearing offices. In Northern California, in the Offices of Disability Adjudication and Review, the backlogs are significant. We are fairly fortunate compared with the rest of the U.S. Below, are the ranking and number of days published by the SSA to obtain a hearing in the San Francisco Bay Area ODAR's after the Claimant files a Request for Hearing before an ALJ. *Continued on page 2...*

"I build relationships, not clientele"—Mel Irvin

“In the Offices of Disability Adjudication and Review, the backlogs are significant”.

Hearing Office Backlog (continued from page 1)

San Jose	424 days
San Francisco	499 days
San Rafael	503 days
Oakland	513 days
Sacramento	397 days
Stockton	453 days
Fresno	501 days

These are the Average Processing Times for each hearing office as published by the SSA on March 27, 2009.

State Budgets and Disability Determinations Services

In California, the Social Security Administration contracts with the California Department of Social Services, Disability Determinations Services, to make all of the SSA disability decisions at both the initial application level and at reconsideration.

The SSA Office of the Inspector General of the United States has issued a report assessing

the impact of State employee furloughs on the SSA disability claims making process.

California furloughs DDS workers due to the state budget crisis.

Many states are either furloughing their employees or laying them off indefinitely.

Social Security Payments and Income Taxes

For income tax purposes, both Social Security disability and Social Security retirement benefits are treated the same.

The basic rule is that up to 50% of Social Security benefits are taxable if the total adjusted gross income, plus tax-exempt interest and one half of the Social Security benefits exceeds a base amount based on marital status. For single tax-

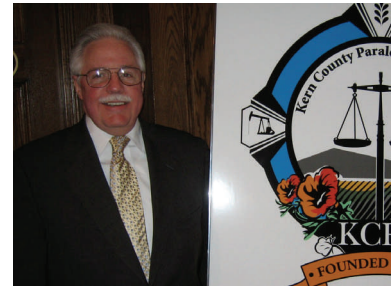
payers, the amount is \$25,000 and for married taxpayers filing jointly, \$32,000.

85% of the disability benefits may be taxed if a single taxpayer exceeds \$34,000 and a married couple exceeds \$44,000, or if the married taxpayers file separately. See your tax representative for details and how this may relate to your tax situation.

One-time Stimulus Payment of \$250

The United States Government has provided for a one-time stimulus payment of \$250 to nearly all Social Security and Supplemental Security Income beneficiaries. No action is required by the beneficiary to obtain the stimulus payment. If you have not received yours it should be forthcoming in the same manner as your monthly Social Security or SSI benefits. disability benefits are eligible.

All Social Security recipients and SSI recipients are eligible for the payment **except** minor beneficiaries and SSI beneficiaries residing in Medicaid-funded institutions. Note that beneficiaries of childhood SSI



Mel Irvin on the road speaking at the Petroleum Club in Bakersfield

Bills Introduced in Congress to End Medicare Waiting Period

Bills were introduced earlier this year in both Houses of Congress to eliminate the 24-month period that a beneficiary must wait to receive Medicare benefits after a favorable determination of disability.

Currently, most beneficiaries must wait 24 months from the month they first received disability benefits. The exception is a beneficiary who suffers

from ALA (Lou Gehrig Disease).

Disabled persons under Social Security rules know that medical coverage is as critical, or more so, than monthly income.

There are indications that the waiting period will be an issue in the expected debate this year over health care reform.

Under the bills, the 24-month waiting period would be phased

out over the next 10 years. In 2010 it would be reduced to 18 months and then reduced by 2 months each year until January 2019, when it would be completely eliminated.

Disability Representatives Get a Pay Raise!

For Favorable Disability Decisions on or after June 22, 2009, the allowable fee to the Claimant's representative will be 25% of past due benefits or a maximum of \$6,000, whichever is less.

Most representatives and attorneys have required their clients to sign new fee agreements. In the opinion of your editor, this

is not ethical and not good business practice. Consequently we have not required our disability benefits seeking clients to re-negotiate their fee agreement with us.

However, on June 22, 2009, we will begin using the new Fee Agreement with new clients.

Need a free consultation to discuss whether you need to apply for SSA disability? Call us today.

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***“I build relationships,
not clientele”—Mel Irvin***

Mel Irvin is President of the Social Security disability representation firm of Melvin E. Irvin Disability Representative, Inc. He is a non-attorney Social Security Disability Appeals Representative, legally representing disabled claimants before the Social Security Administration in their appeal for Social Security disability benefits. Mel has represented claimants before the Social Security Administration since 1996. He was the Advocate of the Year for the California Department of Rehabilitation, San Jose Division, for 2007.

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“Mel was my first real boss in business years ago..Turns out he was my best boss. I really learned business and business ethics from Mel”

[Doug Jones](#), Mortgage Broker, Mortgage Magic

Available Workshops and Seminars

Social Security Disability Overview

Supplemental Security Income Overview

Social Security Disability and Traumatic Brain Injury

Training Programs for Social Security Disability Representatives

Career Day Programs for schools

If you would like a free presentation for your group or class, call us today.