

Social Security Disability News

Winter 2010-2011

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

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NO COST OF LIVING INCREASE—BENEFITS WILL NOT INCREASE

For the second year in a row, there will be no cost-of-living adjustment for Social Security and Supplemental Security Income recipients in 2011. This is in contrast to the change from 2008 to 2009, which saw benefits increase by 5.8 percent, the largest increase since 1982. The Social Security Act provides for automatic increase in Social Security and SSI benefits if there is an increase in the Consumer Price Index.



Melvin E. Irvin
President

OTHER BENEFIT CHANGES FOR 2011

Since there is no cost of living adjustment in 2010, the statute prohibits a change in the maximum amount of earnings subject to the Social Security tax as well as the retirement earnings test exempt amounts. These amounts will remain unchanged in 2011.

Here are some other changes, however:

Earnings Required for Quarter of Coverage	\$ 1,120 per quarter
Earnings Allowed for retired person prior to Full Retirement Age	\$14,160 per year
Substantial Gainful Employment (Not Disabled)	\$ 1,000 per month
Trial Work Period	\$ 720 per month (9 months in 60 months)
Federal SSI Rate	\$ 674.00 per month

"I build relationships, not clientele"—Mel Irvin

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

HEARING OFFICE BACKLOG CONTINUES

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.

As of September 24, 2010, the Social Security Administration reports there are 705,367 hearings pending. This is aside from the 779,854 currently pending at the initial application level and 160,642 pending at the Reconsideration level.

The Administration projects new applications will total 3,207,403 for Fiscal year 2010. Currently the hearing offices in the Greater Bay Area are still experiencing in processing the Request for Hearing:

San Jose	421 days
San Francisco	343 days
San Rafael	345

Sacramento	379 days
Stockton	453 days

These are the Average Processing times for each hearing office as published by the SSA on September 24, 2010.

COMMENTARY BY MELVIN E. IRVIN, PRESIDENT

In the last 3 years, the Social Security Administration has hired many new Administrative Law Judges as well as support staff due to significant increases in the Administration’s budgets by the U.S. Congress. In most areas of the U.S., this has resulted in a lowering of the waiting time to obtain a hearing before an Administration Law Judge. While there has been some improvement, in the San Francisco Region the hearing offices are averaging 388 days to a hearing, after the disabled claimant has been denied 2 times. Usually the delay means that if someone applies for Social Security disability benefits today, they could be very well waiting approximately 2 years for the case to be brought to fruition. Most disabled persons simply do not have the resources to carry them financially for 2 years—and then there is no guarantee they will be awarded benefits.

Unfortunately, we are seeing a 23.1% increase disability claim filings for Fiscal Year 2010 over Fiscal Year 2009. This usually happens when the economy is suffering. It is difficult for a disabled person to locate a job they can perform given their disabling condition.

As to the new class of Administrative Law Judges, the ones I have appeared before appear to be fair and willing to do what is right. No SSA judge is a “pushover”. I do not know of anyone who expects the judges to be liberal in granting benefits. On the other hand, all a claimant can ask is that the individual judge be fair.

This past summer I appeared before a judge in a hearing office outside the Greater Bay Area who egregiously mischaracterized the evidence and discredited my client. This judge has a 30% approval rate for his cases and a 70% denial rate. Nationwide the average approval rate is around 60%. It was obvious that there was some form of bias involved. I spoke with two judges who are familiar with that particular hearing office. They told me the belief in that office is that all Claimants in their area are not credible. That is, the disabled people in their area are simply trying to get money out of the Government. My client is very disabled, on a 3-point cane, 58 years of age, suffers from diabetes and is a cancer survivor. Fortunately, this judge and office are an anomaly.

CITY OF SAN JOSE DISABILITY AWARENESS DAY

Mel Irvin was re-appointed to City of San Jose Disability Awareness Day Committee by City Councilman Pete Constant for the second consecutive year. The event was held at City Hall for the City of San Jose on October 7, 2010. Most disability providers in Santa Clara County had information tables and booths. Mr. Irvin provided a workshop for residents and attendees on Social Security and SSI disability benefits. Disability Awareness Day in San Jose is one of the major events of the year and is designed specifically for the disabled.



MELVIN E. IRVIN DISABILITY REPRESENTATIVE, INC. LAUNCHES NEW WEBSITE!

In the Spring of 2010, the Corporation launched a new website to give persons seeking information on Social Security disability benefits a resource. The website has useful information regarding the Administration the the 5-Setp Sequential Evaluation method the Commissioner of Social Security uses to determine whether one qualifies for disability benefits under the Social Security Act, the Code of Federal Regulations and other Social Security Rules.

The site contains contact information to obtain a free analysis of the Claimant's disability case, as well as information regarding firm and the practice. There are also helpful links to other websites such as the Social Security Administration.

Take a look at the new website at WWW.MELIRVIN.COM

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

TRIAL WORK PERIOD

There has been much confusion about the rules of working while disabled. Social Security invokes a Trial Work Period when determining if the Claimant remains disabled under Social Security rules. For 2010, a Trial Work Period (TWP) is gross earnings of \$720.00 per month. A TWP affects only regular Social Security disability benefits, not Supplemental Security Income (SSI)

If a Social Security disability beneficiary works at TWP level of \$720.00 per month, gross, the Administration allows him to continue benefits until he has worked a total of (9) months. However, beware. The nine (9) months can occur over a rolling 60 month period. For example, a beneficiary may work 3 months at TWP level in 2005, 4 months in 2006 and 2 months in 2010, and he or she will lose their benefits. The good news is that there is an extended Period of eligibility-36 months—for start/stop working clients. This rule makes it very difficult for a beneficiary receiving Social Security Disability to work part-time. Many providers of disability services such as the California Department of Rehabilitation do a good job in helping a beneficiary to return to work. However, if the beneficiary exceeds \$720.00 in any month in the rolling 60-month period, that month will count towards the 9-month TWP period.

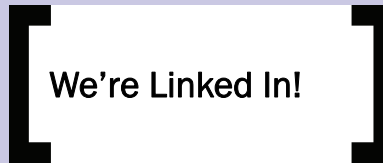
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***“I build relationships,
not clientele”—Mel Irvin***

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,



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What Others Say About Us...

“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*

“I join [the Job Club members] in extending appreciation for your Job Club training and for your training of our staff”.

—*Christine Camara, Executive Director
Services for Brain Injury*

“Mel, thank you not only for the special thing you did, but for being the kind of person to think of doing it”.

—*Rosa M.*

“Mr. Irvin, thank you very much for your talk on Social Security. You provided answers to questions I have had for many years. I wish the Social Security Administration could make it so clear!

—*Christopher G., Traumatic Brain Injury Survivor*

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

Working While Disabled

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