

Advantage 2000 Consultants, Inc.

Differences in LTD vs. Social Security Disability Decision Making

Occasionally, we are asked why a disability claim approved by Social Security is denied by a Long Term Disability (LTD) plan. This issue is especially troubling for claimants appealing a termination of LTD benefits, but even experienced case managers can be puzzled by the differences between SSA and LTD decisions. There are clearly similarities between Social Security disability and LTD, but there are many differences too.

Technical issues of LTD

LTD plans are legal contracts between employers and underwriters containing numerous legal provisions. Claimants seeking benefits are often unaware of these plan features. LTD plans may deny benefits for technical reasons. Some examples include:

- LTD plans usually define classes of eligible employees. If the claimant is seasonal, part-time or a contract worker, they may earn enough credits to qualify for Social Security disability benefits, but not meet the requirements for coverage under the LTD plan.
- LTD plans may restrict coverage to actively working applicants. For example, while the claimant is out on a leave other than a medical leave they may be

ineligible for LTD benefits.

- LTD plans generally contain length of employment requirements. The contract may have waiting periods before an employee is eligible to enroll in LTD.
- LTD plans may have enrollment and census requirements. If the employer does not properly complete plan application documents and enrollment census forms an employee may not be eligible for LTD benefits even if they are paying LTD premiums. Employees may have a limited time to enroll for benefits, either during their initial period or during open enrollment periods. Enrollment status can also be complicated by relocations and promotions. An employee may end up in a new group or class or working at a location with a different LTD plan. If the employer does not properly coordinate these changes, an employee may lose coverage. Some plans may also deny coverage to employees working outside of the country.
- LTD plans may have deadlines for filing claims. The contract may specify filing for benefits within a set time from the onset date of disability.
- LTD plans may deny a claim based

on insufficient or inappropriate medical treatment.

- LTD plans may require the claimant to participate in a vocational rehabilitation program or the claim will be denied.

Technical Issues of Social Security Disability

By contrast, Social Security only has six basic technical factors of entitlement.

1. The claimant must be less than SSA's Full Retirement Age (FRA).
2. The claimant must be fully insured for Social Security benefits.
3. The claimant must meet SSA's 20/40 (5 out of the last 10 years worked) rule.
4. The claimant must file an application.
5. The claimant must meet Social Security's definition of disabled.
6. The claimant must serve a waiting period of 5 full calendar months from the date of disability onset.

Point by Point Contrast

A major difference between SSA disability and LTD plans is the

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ISSUE:



Differences continued

question of duration. Social Security requires that a disability last, or be expected to last, at least 12 consecutive months or result in death. LTD plans may have different elimination periods or duration requirements.

Many LTD plans have a change in definition of disability, often at 24 months. They may initially pay benefits if the claimant is unable to perform their current work, and then re-evaluate the claimant's ability to do any work at the predetermined change in definition time.

LTD plans have various methods of making disability decisions. In fact, different plans from the same underwriter may have different decision criteria in the contract. In theory, SSA has one nationwide standard for making disability decisions. When SSA makes a disability determination, they follow a process called Sequential Evaluation.

5 Step SSA Sequential Evaluation

Step 1

Is the claimant performing Substantial Gainful Activity (SGA)?

If applicants are earning more than a set amount of money each month (\$900 or \$1,500 for blindness per month for 2007), they will be denied SSDI benefits. However, someone earning below that amount could be approved for Social Security disability, but still earn too much to qualify for benefits under their LTD plan. Social Security also makes allowances for other subsidies. Some claimants can even earn more than SGA and still get SSDI benefits if part of their income is used towards an Impairment Related Work Expense (IRWE). In either case, someone with significant income could qualify for SSDI but earn too much to receive LTD benefits.

Step 2

Does the claimant have a severe impairment?

The impairment must interfere with a

claimant's ability to perform basic work related activities.

Step 3

Does the claimant meet a listing?

A listing is a set of published medical conditions and criteria. These are unique to SSA and may differ from an LTD plan's medical definition of disability. In theory, a claimant could meet a SSA medical listing, but still be considered able to work by an LTD plan.

Step 4

Is the claimant capable of performing their Past Relevant Work (PRW) despite their medically documented impairment?

SSA generally limits Past Relevant Work to the prior 15 years of work history. LTD plans may look at different time spans.

Step 5

Is the claimant able to perform other work?

If a claimant is unable to perform their PRW, are they capable of performing any work in the national economy? SSA employs a "grid" identifying vocational factors of age, education and past work experience, cross referencing with the claimant's Residual Functional Capacity. The SSA grids may produce different results with varying vocational factors than using vocational assessments for each individual. As someone gets closer to retirement age, the SSA grids assume a lower level of ability to adapt to other work. An independent vocational assessment by an LTD plan may find a well educated individual age 61 capable of retraining while the SSA grids will assume a lesser capacity to learn new skills.

The State Disability Determination Services (DDS) plays a factor in the disparity and consistency of SSA disability decisions. Each state provides the staff for making SSA disability decisions at the initial and reconsideration levels. Training, experience and

turnover greatly affect SSA disability allowance rates. Approval rates in 2004 varied from 25% in Mississippi to 60% in New Hampshire. An LTD plan will generally employ far fewer claim managers, will provide more standardized training and will manage the process to produce more consistent results.

A further possible source of differences between LTD and SSA disability decision making is the SSA Hearing process. At the end of 2005, SSA employed 1,096 Administrative Law Judges (ALJ). In making disability decisions, ALJs are able to consider numerous factors such as pain, activities of daily living, the availability of suitable jobs in the claimant's locale and prior disability case law and rulings. Additionally, the ALJ can also consider claimant observation at the time of an in-person hearing. Few LTD claims managers would have the opportunity to meet with a claimant, observe them firsthand and question them about their abilities and medical condition.

Although few people will have representation or assistance with filing an LTD disability claim, many people will retain representation for a Social Security disability claim, especially if a hearing is required. Attorneys and professional representatives are obligated to act in the claimant's best interest and vigorously work to secure approval of a claim. While LTD case managers are required to fairly adjudicate a claim, they are not required to be an advocate for an applicant.

LTD and Social Security disability decisions are complex and encompass many factors. Representatives recognize that different outcomes are possible and can be perplexing, especially for claimants not aware of all the processes. Questions about LTD decisions should be referred to LTD plan administrators and case managers assigned to their claim. Questions about Social Security decisions should be referred to the Social Security Administration and/or a skilled Social

Changes to Medicare Costs and Coverage for 2007

Beginning January 1, 2007, the Medicare Part B monthly premium will increase to \$93.50 for most individuals. However, the monthly premium will be higher if annual modified adjusted gross income exceeds \$80,000 for individuals and \$160,000 for married couples filing a joint tax return. Premiums increase based on a sliding scale as the individual or joint income increases.

Social Security will use the income reported two years prior on the IRS Income Tax return to determine the premium. If this information is unavailable, then SSA will use income from three years prior. For example, income reported on the 2005 tax return will determine the Medicare Part B monthly premium for 2007. If an individual's income has decreased since 2005, they can request that income from a more recent tax year be used to determine their premium; however, certain criteria must be met for this consideration.

Since the roll out of the Medicare program in 1966, every recipient paid 25 percent of the actual cost of Part B insurance coverage. Federal funds paid the other 75 percent of the cost of the Part B coverage. The Medicare Modernization Act of 2003 called for a five-year phase-in for the recipient to pay higher monthly premiums. The Deficit Budget Reduction Act later sped up the implementation to a three-year phase-in period.

No other Medicare costs or premiums will be adjusted based on income at this time. However, out-of-pocket costs for Medicare-billed outpatient and inpatient hospital services will increase effective January 2007. Below is a chart detailing the sliding income scale for 2007 Medicare Part B premiums. If you have questions regarding this issue, please contact Jeff Fields, Customer Relations Manager at jeff.fields@advantage2k.com

Individual Annual Income	Couples Annual Income	2007 Monthly Premium
Below \$80,000	Below 160,000	\$ 93.50
\$80,000 to \$100,000	\$160,000 to \$200,000	\$105.80
\$100,000 to \$150,000	\$200,000 to \$300,000	\$124.40
\$150,000 to \$200,000	\$300,000 to \$400,000	\$142.90
Above \$200,000	Above \$400,000	\$161.40



Mary L. Garrett
Director of Program Management



President Johnson traveled to the Presidential Library of which former president to sign Medicare into law on July 30, 1965?

- A. Franklin Roosevelt**
- B. Harry Truman**
- C. Dwight Eisenhower**
- D. John F. Kennedy**

Answer on page 4

TECH TALK.....



With: Jeff Fields
Customer Relations
Manager

Alien Status Verification for Social Security Purposes

Traditionally, the mention of verification of a Social Security beneficiary's alien status can bring tears to the eyes of Social Security representatives and benefit administrators. Most of the frustration is related to the fact that if an immigrant cannot produce the necessary documents, or cannot assist SSA in establishing their lawful presence in the U.S., long delays in release of benefits can result while the Department of Homeland Security (DHS) and United States Citizenship and Immigration Services (USICS) assist the immigrant in establishing their lawful presence in the U.S.

The classic response we hear most often is that it, "takes two years for USICS to replace lost or missing immigration documents." Well, for Social Security purposes that statement may not be entirely true. But it can place the representative in a difficult position since USICS does not recognize the SSA representation appointment. SSA folks will just keep saying the payment will be released when lawful presence is established. This situation is way too familiar to most of us.

SSA has several tools at their disposal useful in determining a person's lawful presence and reducing delays at the USCIS. If a person is present in the U.S. under lawful circumstances, obtaining the necessary proof for payment of Social Security benefits should not take much more than 30 – 40 days.

First, let's look at what SSA actually requires regarding alien status. An alien may be entitled to Social Security benefits (may have been awarded), but since 1996 is not eligible for payment until they can establish residence in the U.S. under lawful circumstances. This means they are either a naturalized citizen or they are considered to be a Lawfully Admitted for Permanent Resident (LAPR). There are a number of other alien categories that may qualify for lawful presence, but we will consider all of those under the LAPR designation for this article.

If an awarded immigrant beneficiary has the proper documents (Certificate of Citizenship, Green Card, etc...) there will generally not be a problem when it comes to verification for payment. If those documents are lost or cannot be produced, SSA can use the alien number, commonly referred to as the "A" number, to verify the person's lawful status. SSA has access to a system that links to the USICS database. It is called the Systematic Alien Verification for Entitlement (SAVE) program. By entering the "A" number in the system, SSA can query the USICS records for current status and make payments based on a positive return. If the SAVE query comes back blank or negative or if there is no "A" number available, SSA's Program Operations Manual System (POMS) directs the Claims Representative to submit a G-845 (Request for Verification) form to USICS. Since the SAVE program will only accept the "A" number or a "Confirmation" number, and may not respond with the latest data, the 845 form request can yield more current data. Also, the 845 initiates an internal USICS query so the input parameters are broader. We understand that the 845 request takes about 30 days to return with a response. SSA can pay benefits based on a positive response using either of these methods.

Additionally, in 1996 SSA began capturing the "A" number on the SSN application form (SS-5). If the alien beneficiary immigrated to the U.S. in

1996 or later, a photocopy of the SS-5 can be pulled and the "A" number gathered from that.

If a person is not present in the U.S. under lawful circumstances, release of benefits can take a very long time. There is a significant wait time at the USICS to gain legal status. Also, payment of retroactive benefits for a period when a beneficiary was not here lawfully may be curtailed.

Minimizing delays in release of SSDI benefits is always the goal of the Advantage 2000 representative. In the long run, it benefits not only the claimant but also the public and private disability benefit administrator. Understanding the tools and processes that SSA will use to adjudicate an alien claim is essential to providing excellent customer service.

Answer : **B. Harry Truman**

President Johnson, Mrs. Johnson and President & Mrs. Truman during the Medicare signing ceremony (Vice president Humphrey at far right)



EMPLOYEE SPOTLIGHT

Toby Lopez came to Advantage 2000 in May of 2002 as a Case Manager. He represents claimants at the hearing level of adjudication, traveling to appear in person before Administrative Law Judges.

Toby Lopez
Case Manager



Toby earned his Bachelor's Degree in Criminal Justice at Columbia College in Columbia, MO. He finished his education at the Fort Leonard Wood Army Education Center, receiving a Juris Doctor from the George Washington University Law School in 1999. Toby is also a retired U.S. Army Sergeant First Class (E7) with 22 years of service. Since his military retirement, Toby has spent most of his time in the legal field assisting attorneys and Judges in the Armed Forces. He has also instructed, directed and qualified emergency medical personnel .

There are 3 very successful children and 2 grandchildren in Toby's family. The oldest daughter with 2 sons has been selected to be a part of the Dean's Dozen at SIU with a psychology major. His son is a manager of a McDonald's restaurant and his youngest daughter is on the honor roll at her high school.

When he is not spending time with his grandsons, Toby likes collecting movie and sports memorabilia.

Toby's ability to apply his experience in law and medicine are greatly appreciated as well as his ability to translate for our Spanish speaking claimants.

A HELPING HAND...

During the holidays we collect donations in various ways for charitable causes, using our annual party as another reason to give back to the community. This year the Holiday Party Committee chose three different ways for our employees to contribute to those less fortunate. \$325.00 in cash donations were delivered to a Belleville, IL police sergeant's family who was shot in the line of duty in November. This officer has undergone 1 of 5 surgeries to reconstruct his face.

With only 60 employees available for donating, A2K collected 100 new toys for the Toys for Tots program. Toys bring the kid out in all of us.

The third way to donate this year produced approximately 75 coats, quite a few pairs of gloves, hats, shoes, sweaters, various items of clothing and some food items that were distributed to the homeless by Trudy Wagner's (an A2K employee) church.

The employees of Advantage 2000 continue to observe needs, open their hearts and lend..... a helping hand.

