

# *Self-Advocacy!*



## *Disability Insurance Benefits*

*For Chronic Disease  
Self-Managers with  
ANY Chronic Disease (CD)*



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## Situational Resolution Matrix Advocating For Disability Insurance

You have been diagnosed with a **Chronic Illness/Disease (CD)**. You are working and need help from your employer to continue working; you can no longer work and want to apply for LTD (Long Term Disability) and/or SSDI (Social Security Disability Insurance); you do not qualify for SSDI and want to apply for SSI (Supplemental Security Income); you have applied for SSDI and/or SSI and have been denied, and now have to appeal that decision.

The following Matrix discusses each of the above-mentioned situations with the associated decision points necessary for you to achieve a successful outcome from the process, and a summary of the successful outcome process. Attached are excerpts from process documents referenced.

Disability Insurance Situation	Decision Points	Successful Outcome Process
<p><b>Working while disabled. Need reasonable accommodations from Employer.</b></p>	<ul style="list-style-type: none"> <li>• Can you work full time or part time?</li> <li>• Do you want to keep your company benefits?</li> <li>• Do you have a copy of your job description? Does it indicate "essential functions" and their associated "physical, emotional, and mental" expectations?</li> <li>• Have you determined what you can and cannot do?</li> <li>• Does/do your doctor(s) agree with your conclusion that a) you are disabled with a DX of CD, and the b) you are unable to continue working without reasonable accommodations? Is he/they willing to write you a letter to that affect?</li> <li>• Have you reviewed the JAN (Job Accommodation Network) CD Information?</li> <li>• <a href="http://www.jan.wvu.edu/media/atoz.htm">http://www.jan.wvu.edu/media/atoz.htm</a></li> <li>• Have you determined what you can and cannot do based on your Job Description?</li> <li>• Have you written a letter to your Employer, and scheduled an appointment for your Reasonable Accommodations discussion?</li> </ul>	<ul style="list-style-type: none"> <li>• Complete <b>Symptom Impairment Matrix</b>.<sup>1</sup></li> <li>• Complete <b>Before &amp; After Matrix</b>.<sup>2</sup></li> <li>• Review your Job Description. Determine what you can and cannot do <b>WITHOUT</b> assistance, and what you can do <b>WITH</b> assistance. Refer to the <b>JAN</b> website.<sup>3</sup></li> <li>• Create an <b>Essential Functions Job Matrix</b>, explaining what you can and can't do without assistance, and what you can with assistance.<sup>4</sup></li> <li>• Obtain agreement from your Doctor(s) and a letter to that effect, using all above as support documents.</li> <li>• Draft a letter to your Employer asking for Reasonable Accommodations.</li> <li>• Set an appointment with your Employer to discuss your reasonable accommodations.</li> </ul>

<sup>1</sup> See page 8 for excerpt of Symptom Impairment Matrix.

<sup>2</sup> See pages 9 & 10 for excerpt of Before & After Matrix.

Disability Insurance Situation	Decision Points	Successful Outcome Process
<p>Can't work any longer. Need to apply for LTD and/or SSDI.</p>	<ul style="list-style-type: none"> <li>• Determine PRECISELY when you need to receive disability benefits.<sup>5</sup> <b>START THE PROCESS EARLY.</b> Create a "disability timeframe" for yourself, so you can pace yourself as you complete the application process CORRECTLY the first time around. Steady but systematically = success in this process!! Taking shortcuts in the process <b>GUARANTEES denial!!!!</b></li> <li>• Reviewing your STD and LTD SPD's, determine whether you can or will apply for LTD before SSDI.</li> <li>• Do you know how much money you would earn under LTD? SSDI?</li> <li>• Do you know if you are qualified for LTD? SSDI<sup>6</sup>?</li> <li>• Can you/Will you trigger LTD and continue working?</li> <li>• Do you know how you will continue receiving your health insurance benefits until you qualify for Medicare? (See footnotes 6 and 7)</li> <li>• Do your Doctors agree that you are incapable of performing gainful work?<sup>7</sup></li> <li>• Do you have a copy of ALL doctor chart notes and copies of any diagnostic tests performed on you (like MRI and Spinal Tap test results)? Have you CAREFULLY READ all, and do your matrices' contents dovetail with the doctor chart notes and test findings? If not, have you brought discrepancies to the attention of, and resolved them with your doctors so that all of your symptom impairment documentation is in agreement?</li> <li>• Are your doctors willing to write a letter for your LTD/SSDI application on your behalf?<sup>8</sup></li> <li>• Are your friends and co-workers willing to write letters for your LTD/SSDI application</li> </ul>	<ul style="list-style-type: none"> <li>• Obtain and review Company STD and LTD SPD's (Summary Plan Descriptions) and learn criteria. Determine if you need to apply for and qualify for STD before LTD.</li> <li>• Apply for STD.</li> <li>• Complete Symptom Impairment Matrix. (pgs. 9 &amp; 10)</li> <li>• Complete Before &amp; After Matrix. (pgs. 10, 11, &amp; 12)</li> <li>• Complete Essential Functions Job Matrix. (pgs. 16 - 19)</li> <li>• <b>NOTE: ALL 3 MATRICES APPLY TO LTD, SSDI, AND SSI APPLICATIONS.</b></li> <li>• <b>Complete the rest of the LTD/SSDI application process.</b><sup>9</sup></li> <li>• Resolve with your doctors any differences between your matrices and chart notes and test results.</li> <li>• Obtain letters from friends and co-workers.</li> <li>• Draft a copy of the RFC/PCE form<sup>10</sup>; work with your doctors to complete the form, with your matrices, chart notes, test results, and symptom impairment corroboration letters as verifying documentation</li> </ul>

<sup>3</sup> See pages 11, 12, & 13 for excerpt of JAN MS reasonable accommodations examples.

<sup>4</sup> See pages 15-18 for excerpt of Essential Functions Job Matrix.

<sup>5</sup> Refer to pages 6 & 7 for Insurance Timeframe.

<sup>6</sup> Refer to pages 6 & 7 for Disability Insurance Terms Definitions.

<sup>7</sup> Refer to page 14 for definition of "gainful work" for LTD and SSDI purposes.

<sup>8</sup> Refer to pages 18 & 19 for recommended content of supportive Doctor letter.

<sup>9</sup> Refer to page 20 for outline of LTD/SSDI application process. For greater details purchase \$9.95

DisabilityKey Workbook on website: <http://www.disabilitykey.com>

<sup>10</sup> RFC/PCE Form = Residual Functional Capacity/Physical Capacity Evaluation Form. Traditionally used by LTD Insurance Companies and the SSA to assess the physical, mental, and emotional capability of a disability applicant to perform NORMAL DAILY - BOTH HOME AND WORK - ACTIVITIES. Example of actual MS patient's (Carolyn Magura) sanitized free copy available for download at <http://www.disabilitykey.com>

Disability Insurance Situation	Decision Points	Successful Outcome Process
	<p>on your behalf, documenting the “before and after YOU” that they know?</p>	<p>for the form.</p> <ul style="list-style-type: none"> <li>• Gather all other documents needed to complete SSDI application<sup>11</sup>.</li> <li>• REMEMBER TO RETAIN COPIES OF ALL DOCUMENTS SENT TO LTD Insurance Company and Social Security Administration.</li> </ul>
<p>Can't work any longer. Need to apply for SSI.</p>	<ul style="list-style-type: none"> <li>• Do you qualify for SSI?<sup>12</sup></li> <li>• Will your Doctors agree that you are incapable of performing gainful work; are they willing to write a letter for your SSI application on your behalf?</li> <li>• Are you able to compile the documentation necessary to “prove” your financial eligibility for SSI?</li> </ul>	<ul style="list-style-type: none"> <li>• Complete all 3 matrices described in Situations #1 and #2 above.</li> <li>• Obtain copies of all financial documents to provide with application.</li> </ul>
<p>Applied for and been denied for, SSDI and/or SSI. Need to appeal.</p>	<ul style="list-style-type: none"> <li>• WHY, SPECIFICALLY, were you denied eligibility?</li> <li>• How long do you have to appeal?</li> <li>• Have you already appealed and are awaiting the ALJ (Social Security Administration's Administrative Law Judge) hearing?</li> <li>• If denied because you do not qualify for SSDI, are you eligible to apply for SSI?</li> </ul>	<ul style="list-style-type: none"> <li>• Make sure that you compile all of the needed documentation to appeal before the deadline!!!</li> <li>• If denied eligibility for SSDI, and eligible for SSI, apply for SSI using the above-documented process.</li> <li>• If denied eligibility for SSDI because you were found able to perform “gainful employment”<sup>13</sup> attain copy of the free ebooklet from <a href="http://www.disabilitykey.com">http://www.disabilitykey.com</a> and follow the process therein during your appeal process.</li> </ul>

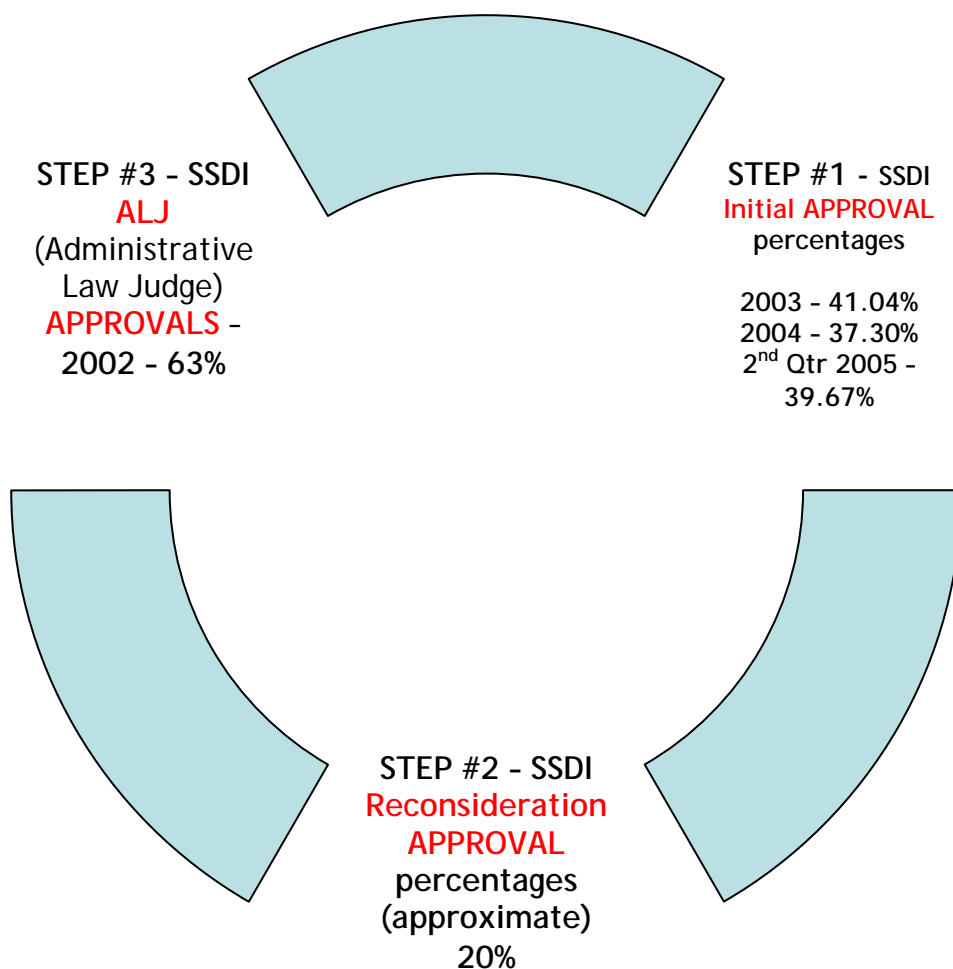
<sup>11</sup> Needed SSDI Application documents found at this weblink, under “Adult Checklist”:  
[http://www.ssa.gov/disability/disability\\_starter\\_kits\\_adult\\_eng.htm](http://www.ssa.gov/disability/disability_starter_kits_adult_eng.htm)

<sup>12</sup> Refer to pages 20, 21, & 22 for SSDI and SSI qualifying criteria and definitions.

<sup>13</sup> The SSA defines “gainful employment”, or “gainful work” as follows: Work for which your age, education, and past work experience qualifies you to perform that can earn you a minimum of \$830/month. A 20 page free downloadable ebooklet addressing how to refute this decision is available at the <http://www.disabilitykey.com>.



## Social Security Disability Insurance (SSDI) **Approval** and **Process** Timeline<sup>14, 15</sup>



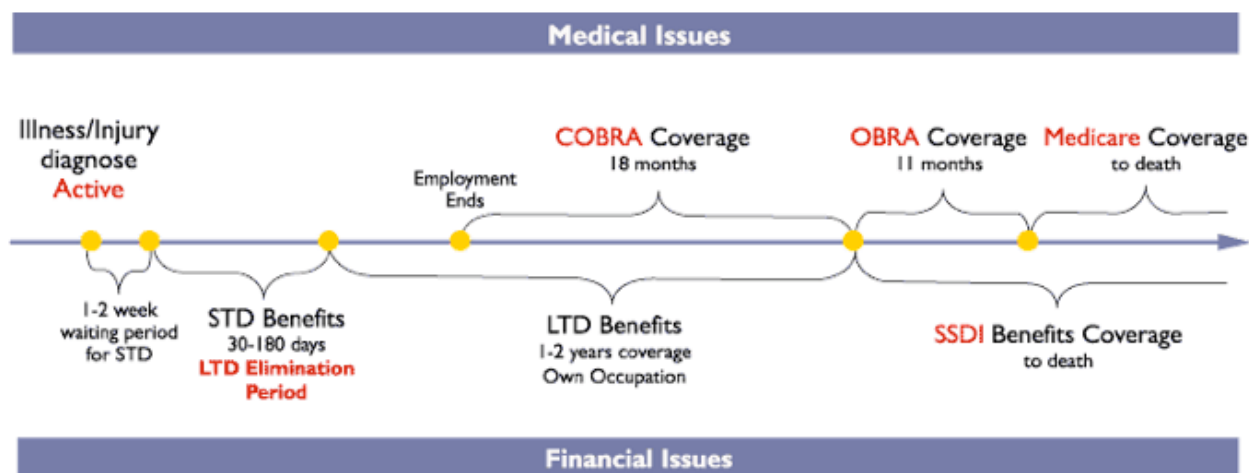
The SSA chart depicted in footnote #2 is based on 2001 data. At that time it took approximately 1,153 days (3.1 years!!!) from date of initial application until date of Appeals Council Decision. Also, it appears to take approximately 300 - 400 days from the date of the request for an ALJ hearing until the date you are notified of the ALJ's decision (Step #3).

<sup>14</sup> APPROVAL STATISTICS from the following Social Security Administration (SSA) website:  
[www.ssa.gov/OACT/STATS/dibStat.html](http://www.ssa.gov/OACT/STATS/dibStat.html)

<sup>15</sup> PROCESS TIMELINE found at SSA website:

[http://www.ssa.gov/disability/disability\\_process\\_frameset.html](http://www.ssa.gov/disability/disability_process_frameset.html)

## Disability And Medical Coverage Timelines



### Definitions:

**ACTIVE:** Active medical insurance coverage means that you and/or your family are covered by a medical insurance plan. Usually, these plans are group plans carried by you, or your spouse's employer (in which case you are the covered dependent).

**COBRA:** COBRA is an acronym for Consolidated Omnibus Consolidation Act. It refers to an active medical coverage person's ability to continue coverage as an inactive participant for 18 and, sometimes 36 months, when a triggering event occurs. Loss of active coverage status is a triggering event. A website for more information about COBRA is:

<http://www.ccd.hhs.gov/hipaa/hipaa1/cobra/default.asp>

**OBRA:** OBRA rules allow a qualified disabled person to extend COBRA for an additional 11 months based on disability. There are key conditions; 1) the person must be SSDI qualified; 2) the person must request OBRA within the first 60 (sometimes 30) days of having received the SSDI determination letter; and, 3) the Plan Administrator may charge 150% of the COBRA price for coverage. See this site for more general information:

<http://www.apla.org/apla/benefits/cobra.html>

**Medicare:** When a person becomes SSDI-qualified, s/he is eligible for Medicare, 24 months from the date of the first month of SSDI payment. As there is a 5-month waiting time from SSDI-qualification until the first month of payment (and this occurs the second Wednesday of the months AFTER the 5th month), the actual waiting time is 29 months. See the following web sites for additional information:

[http://www.ican.com/news/fullpage.cfm/articleid/3E9C3113-7F9D-4B00-A61066518467175D/cx/money.find\\_funding/article.cfm](http://www.ican.com/news/fullpage.cfm/articleid/3E9C3113-7F9D-4B00-A61066518467175D/cx/money.find_funding/article.cfm)

[http://www.medicare.com/faq\\_prescription.asp](http://www.medicare.com/faq_prescription.asp).

Also see <http://info.insure.com/medigap/medigap.html>

**HIPAA:** HIPAA is an acronym for Health Insurance Portability and Accountability Act of 1996. It is a way for people who either do not choose COBRA, or who need to trigger additional health insurance before Medicare, to obtain some coverage. For additional information, see: <http://www.cCD.hhs.gov/hipaa/hipaa1/default.asp> and <http://www.hhs.gov/ocr/hipaa/>

**30-180 day Elimination Period for LTD:** In most cases, a company's LTD plan has an elimination period of time equal to the length of the company's STD coverage. During this time, the employee is expected to obtain income any way s/he can.

**Own Occupation:** To be found disabled from your own occupation means that you have been determined to be unable to perform the work that you had successfully performed prior to evidence that your illness/injury symptoms impaired your satisfactory performance. The key here, is that the evidence must prove that your inability to successfully perform your own occupation must ONLY be attributed to impairment caused by the symptoms from your proven, documented, disabling illness/injury.

**Any Occupation:** To be found disabled from any occupation means that, in spite of your age, level of education, and previous job history, the symptoms of your proven, documented disabling illness/injury impair you from performing work of any occupation. The reason, for LTD insurance purposes, that this impairment from performing work of any occupation is periodically reviewed, is that there are times when a person's physical capabilities can improve. Disability pay only continues as long as there is proven evidence that the symptoms impair work.

**When Medicare kicks in for SSDI covered individuals:** In addition to providing health coverage for persons age 65 and over, the Federal Medicare program also covers individuals who are collecting disability benefits from Social Security Disability Insurance (SSDI). However, a person collecting SSDI benefits does not become eligible for Medicare until he/she has collected SSDI benefits for 24 months. With the five month waiting period for SSDI benefits to begin, Medicare doesn't start until 29 months after the Onset Date of the disability.



## Symptom Impairment Matrix Excerpt<sup>16</sup>

This matrix describes the Body's Basic Functional Systems based on the Expanded Disability Status Scale (EDSS); the impact Multiple Sclerosis has had on YOUR body; and how each symptom's limitations impact YOUR daily normal activities.

Body System	What it Covers	How CD Symptoms have Impacted You	How CD Symptoms Impact Your Daily Normal Activities Updated To Current Date
Pyramidal	Ability to walk	<ul style="list-style-type: none"> <li>• My left foot has been numb since about 1985; the right foot since about 1999. As of April of 2004, the numbness has climbed up the left leg to mid-thigh, and the right leg to mid-calf.</li> <li>• Both feet have the "pins &amp; needles" sensation continuously, along with severe pain when rotated or moved. In addition, as of 2004 both feet are ALWAYS COLD. While the rest of the body is hot, the feet are both cold, necessitating socks even in the heat of the summer.</li> <li>• Gait is increasingly unsteady, as feet and leg numbness/tingles turn into what I call "partially deadening" feelings. The feet, in particular, feel swollen and "thick" in their "deadness".</li> <li>• To improve my coordination in specific, and my other symptoms in general, I've been on a diet since February of 2006.</li> </ul>	<ul style="list-style-type: none"> <li>• Currently, I use a brace on my left leg, as it has the famous "CD Drop", and is unusable without the brace.</li> <li>• I have two forearm crutches. I must use the crutches at all times. They are easier to use than the wheeled walker.</li> <li>• I cannot walk more than 10 feet without assistance; the 10 feet requires "wall walking".</li> <li>• I have a 3-wheel scooter to use in any distance moving to conserve energy for the "here" and the "there".</li> <li>• I cannot stand for more than 10 minutes at a time; sometimes this is only 5 minutes.</li> <li>• Luckily, I no longer have to do dishes.</li> <li>• Having moved in with my son and daughter-in-law, I have help with household living chores that would require me to stand, walk, stoop, etc. (cooking, dishes, house cleaning, making beds, shopping of any type, etc.)</li> <li>• I have a pedicure every month, as I cannot take care of my feet properly.</li> <li>• I sit in the shower and normally avoid standing. I have a chair in the bathroom, so that activities can be accomplished sitting down.</li> <li>• I've currently lost about 35 pounds!!!!</li> <li>• Continued.....</li> </ul>

This matrix covers all the Body systems including the following: cerebella (coordination); brainstem (includes speech and swallowing); sensory (includes touch and pain); bowel (impaired function); bladder (impaired function); visual (impaired function); visual (impaired function); mental (impaired memory and cognitive functions); and other (includes any other neurological findings attributable to CD like: fatigue, sleep problems, aversion to heat, depression, panic attacks, social issues, etc.).

<sup>16</sup> ALL MATRICES CAN BE FOUND IN THEIR ENTIRETY WITH THE DISABILITYKEY WORKBOOK, along with a blank form for your own use.

## Before And After Matrix Excerpt

Now that you have successfully documented your symptoms and their impact(s) on your normal day-to-day life activities - both at home and at work - it is important to "paint a picture" of your weekly "lifestyle" before and after your symptoms adversely impacted your daily activities.

### Why is this important?

If you provide to your doctors and to your disability insurance company decision-makers just the symptom impairment matrix, all they know is what you "look like" today. They have no idea what you could do before. Therefore, it is impossible for them to assist you - in the case of your doctor(s) by attesting to your changed status and to your potential future status - or - in the case of your insurance company decision-makers - determine whether or not you could previously perform adequately the essential function of your "job", making your current inability to perform strictly disease associated! Even if your doctor has been seeing you for many years, s/he probably has seen you only for illnesses and injuries.

To properly diagnose a complex illness like CD, you must take the initiative to provide him/her with enough information to form an "informed" diagnosis. And, as for disability insurance company decision-makers, **you** need to take the initiative in "proving" to them that:

- a) you used to be able to perform all the essential functions of your job;
- b) you no longer can perform those essential functions;
- c) the reason you can no longer perform the essential functions not only of your last job, but for any "gainful job" is due STRICTLY to your CD symptoms; and,
- d) your condition is expected to last for at least a year, and probably indefinitely.

That's where the following excerpt from the "Before and After Matrix" comes into play.

ACTIVITY TIME FRAME	BEFORE	AFTER
M - F Daily Activities Typical "job duties"	<ul style="list-style-type: none"> <li>•In the early 1980's, I was the VP-HR for the Pacific Northwest's largest Savings and Loan Assn.</li> <li>•From there I went to a large manufacturing company, as Plant HR Director, and, later as a corporate Benefits Director.</li> <li>•My next job, in the mid-'90"s was as VP-HR for an investment company.</li> <li>•From 1994 to early 1996 I was a Senior Consultant for a Human Resources</li> </ul>	<ul style="list-style-type: none"> <li>•Computer work is great as long as I keep my time limited to 15-30 minutes at a time, take a break, read some, and get back to it - correcting all of my typing errors resulting from the lesions in my brain that inhibit my mental cognition and my left-right small motor skill instructions. Also, I have a large computer screen to assist in the visual problems. I</li> </ul>

ACTIVITY TIME FRAME	BEFORE	AFTER
	<p>Consulting company.</p> <ul style="list-style-type: none"> <li>• One of my consulting clients was the 23344 Company, the Portland Shipyard (a privately owned, 100million \$/year company). I worked at the Shipyard as a consultant from July 1996 until I joined their staff as the VP-HR in May of 2997. I retained that position until I went on LTD 4-13-00.</li> <li>• As a "Type A" personality, my jobs always have required me to work 55-60 hour of work per week. This time commitment increased at the Shipyard to average about 70 hours per week. We had anywhere from 500-2,500 employees at any one time, and from one day to the next. We had 11 unions. I supervised up to 25 employees, and started the very first Human Resources Department that the Shipyard had ever had, in over 100 years of operations!</li> <li>• I was responsible for, and/or did all the work for Employee Relations; Labor Relations; compensation; benefits; Workers' Compensation (averaging 300-400 incidents per year). We had a Training Center on site that was my responsibility. I also personally handled all of the Employment litigation. This meant representing the company in court and in other legal/labor proceedings.</li> <li>• Each day was crammed full of meetings, crises, activities, etc.</li> <li>• The job required extensive patience, experience, maturity, tact, expertise, multi-tasking, and the ability to remain calm in the middle of multiple crises.</li> <li>• The day I knew that I had to cut back will remain always in my mind. I had a Craft Manager and his Union Business Agent and Shop Steward in my office, very agitated; I had the Safety Director and an employee out in the hallway; I had the Executive VP for Production on my cell phone; and I had the Owner on my land line (phone). All were talking (yelling) at me at once. Now, this was typical, and I could usually handle all situations calmly and effectively; but this time I froze. I could not multi-task effectively to provide the customer service to all of these clients in the manner that they needed and deserved. My vision left (big black hole in my right eye; "heat waves" in my left - Optic Neuritis); my back clenched; my feet and hands went totally numb. My CD symptoms had reached the stage that I was too fatigued and too</li> </ul>	<p>find that by changing my "up close" reading/typing with my watching TV or looking out my back yard window helps with the vision.</p> <ul style="list-style-type: none"> <li>• I do various volunteer work with people with disabilities nationwide. My assistance vehicles include, but are not limited to:</li> <li>• My website: <a href="http://www.disabilitykey.com">http://www.disabilitykey.com</a></li> <li>• A "virtual internet village" for people with autoimmune diseases called: <a href="http://www.butyoudontlooksick.com">http://www.butyoudontlooksick.com</a></li> <li>• Providing periodic seminars to people with CD for the Portland Chapter, NCDS, and its partners (i.e., Kaiser).</li> <li>• Authoring articles for national magazines about CD issues.</li> <li>• I provide answers about CD and disability insurance on the YAHOO answers website.</li> <li>• Periodically, I assist people with disabilities via phone, and for different church groups. <ul style="list-style-type: none"> <li>▪ I have the pleasure of having an apartment on the first floor of my son and daughter-in-law's home. This allows me the opportunity to play with my grandchildren on a daily basis.</li> <li>▪ My "work day" usually begins between noon and 1 PM. On shower and hair washing days, that is the only activity I can perform. On all other days, I have about a 2 - 3 hour window of opportunity to do computer volunteer work; in 15 - 30 minute "bites" of time.</li> <li>▪ My "day" starts to end about 2 am each morning. It takes me about 3 hours to get to sleep; once asleep, my fatigue makes getting up again a challenge for the new day.</li> </ul> </li> </ul> <p>NOTE: this matrix also includes information about:</p> <p>NON-WORK Monday - Friday daily activities; and, Weekend activities.</p>

ACTIVITY TIME FRAME	BEFORE	AFTER
	befuddled to effectively manage the work. I set in motion the process to achieve LTD.	Continued.....

## Job Accommodation Network (Jan) CD Reasonable Accommodations Examples

The Federal JAN website: <http://www.jan.wvu.edu/media/mult.htm> is an extremely valuable resource for people with disabilities to use when considering asking their employer for reasonable accommodations. The link here is to the CD section. I've copied below from this weblink, examples of "reasonable accommodations" that employers have made for people with CD.

If you have one of the following types of CD symptoms, these are some suggestions for reasonable accommodation.

### Cognitive Impairment:

- Provide written job instructions when possible
- ▶ Prioritize job assignments
- ▶ Allow flexible work hours
- Allow periodic rest periods to reorient
- ▶ Provide memory aids, such as schedulers or organizers
- ▶ Minimize distractions
- Allow a self-paced workload
- Reduce job stress
- ▶ Provide more structure

### Fatigue/Weakness:

- Reduce or eliminate physical exertion and workplace stress
- ▶ Schedule periodic rest breaks away from the workstation
- ▶ Allow a flexible work schedule and flexible use of leave time
- ▶ Allow work from home
- Implement ergonomic workstation design
- ▶ Provide a scooter or other mobility aid if walking cannot be reduced

### Fine Motor Impairment:

- ▶ Implement ergonomic workstation design
- Provide alternative computer access
- ▶ Provide alternative telephone access
- ▶ Provide arm supports
- ▶ Provide writing and grip aids

- Provide a page turner and a book holder
- ▶ Provide a note taker

### Gross Motor Impairment:

- ▶ Modify the work-site to make it accessible
  - Provide parking close to the work-site
- ▶ Provide an accessible entrance
  - Install automatic door openers
- ▶ Provide an accessible restroom and break room
  - Provide an accessible route of travel to other work areas used by the employee
- ▶ Modify the workstation to make it accessible
  - Adjust desk height if wheelchair or scooter is used
- ▶ Make sure materials and equipment are within reach range
  - Move workstation close to other work areas, office equipment, and break rooms

### ▶ Heat Sensitivity:

- Reduce work-site temperature
- ▶ Use cool vest or other cooling clothing
  - Use fan/air-conditioner at the workstation
- ▶ Allow flexible scheduling and flexible use of leave time
  - Allow work from home during hot weather

### ▶ Speech Impairment:

- Provide speech amplification, speech enhancement, or other communication device
- ▶ Use written communication, such as email or fax
  - Transfer to a position that does not require a lot of communication
- ▶ Allow flexible scheduling and flexible use of leave time
  - Allow periodic rest breaks

### ▶ Vision Impairment:

- Magnify written material using hand/stand/optical magnifiers
- ▶ Provide large print material or screen reading software
- ▶ Control glare by adding a glare screen to the computer
- ▶ Install proper office lighting
- ▶ Allow frequent rest breaks

### Actual Worksite Situations and Solutions:

- A claims representative for a government agency was having difficulty reading files due to vision impairment caused by CD. His employer purchased a stand magnifier and added task lighting to his workstation.

- A manager with CD working for a publishing company was having difficulty transferring from her wheelchair to the toilet in the employee restroom. Her employer installed additional grab bars.
- An attorney with CD was having difficulty carrying documents to meetings at various locations due to upper extremity weakness. His employer purchased a portable cart that was easy to get in and out of his car.
- An operations clerk for a large distribution center was having difficulty working at full production due to fatigue caused by CD. Her employer moved her to a shift that was not as busy so caused less stress and made less physical demands of the clerk. The clerk was also able to take more frequent breaks on the new shift.
- An engineer with CD was experiencing heat sensitivity. She was provided a private office where the temperature could be lower than in the rest of the facility. She was also encouraged to communicate with coworkers by telephone or email when possible to reduce the amount of walking she had to do.
- A resource nurse with CD was having difficulty accessing her workstation. Her employer widened the floor space in her workstation to allow her easier access from her wheelchair and added an adjustable keyboard tray, monitor holder, and telephone tray. In addition, the employee was provided a flexible schedule so she could continue her medical treatment.
- A clerical worker was having difficulty concentrating and remembering job tasks due to cognitive impairment caused by CD. Her employer added sound-baffle panels to reduce distractions in her work area. In addition, her employer gave her written job duties at the beginning of each day and provided a notebook that contained outlines of what each job duty entailed.
- A teacher with CD was having difficulty communicating with students because his speech became soft and slurred when he was fatigued. He was given a personal speech amplifier so he would not have to strain to project his voice, and he was allowed to schedule his classes so he could take periodic breaks.

## “Gainful Work” The “Why” Of The Denial By Social Security

The “yardstick” - “gainful work” - used by the Social Security Administration can be summarized as follows:

*Are you able to perform any gainful employment for which your age, education, and job history equip you to perform, that can earn you the Social Security’s minimum monthly income amount (\$830 in 2006).*

To better understand this “yardstick”, let’s take a “gainful work” job like an entry-level clerical position, which might pay \$10 per hour. \$830 divided by \$10 per hour equates to a minimum of 83 hours that needed to be worked in any given calendar month. As there are 173 “workable hours” within a calendar month, 83 hours equate to about half time, or, stated another way, about 20 hours per week. AND, since the Social Security Administration is well aware of the ADA (Americans with Disability Act) requiring Employers to make “reasonable accommodations” to allow disabled employees to continue working, they firmly believe that you, the disabled person, can work with a perspective employer to “create” a workable environment for yourself for only 20 hours a week!!

The following story, related to me by a Federal Magistrate who serves as a Social Security Hearings Administrator, rendering decisions on SSDI claims appeals, graphically explains how difficult it is to document and “to prove” the inability of many people with disabilities to “meet” this Yardstick.

Mrs. Smith appears before the Social Security ALJ with her attorney to appeal her denial of SSDI eligibility. The SSALJ asks her to describe her day.<sup>17</sup> Mrs. Smith provides the following information.

“Hello your Honor. My name is Mrs. Mary Smith. I’m here to appeal the Social Security Administration’s decision that I am not disabled. I fully believe that after you hear about my day, you will agree with me that I am disabled.

- First of all, I get up in the morning, get dressed, and have a little breakfast. Then I go outside - if the weather is good - and do some gardening.
- Then, I have to take a rest for a while; at lunchtime, I have some lunch. Then, I rest and watch a little TV while doing some crocheting. After a while, I need to take a nap until dinnertime.
- I cook dinner for my husband -I have to sit while working, I can no longer stand, and he has to do the dishes and clean up.
- We spend time together, then go to bed.

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<sup>17</sup> This story is critical in understanding the Social Security Administration’s decision-making process, and in understanding the absolute need for persons with disabilities to document - IN SPECIFIC DETAIL - how their symptoms impair their normal daily living activities so that they cannot carry out activities that would allow them to perform their “gainful work”.

That's my day, your Honor."

Thank you, Mrs. Smith, says the SSALJ. Based on your testimony, I find that you are not disabled; appeal denied.

Why was she denied, you wonder? Well, I asked the SSALJ who related this story to me, and this was his logic.

- 1) Her physicality is such that she can kneel to do gardening for a period of time.
- 2) Her small motor skills, cognitive skills and vision are sufficiently good for her to do crocheting.
- 3) Her small motor skills, cognitive skills and vision are sufficiently good for her to follow recipes and cook.
- 4) As Mrs. Smith is in her 40's; as she has a BA in English; and, as her work experience demonstrates a series of significantly more responsible jobs, I find NO EVIDENCE that Mrs. Smith can NOT perform gainful employment.

The SSALJ's logic here is the key to understanding SSDI eligibility "justification documentation". He made his decision because there was no "connect the dots" evidence to prove that Mrs. Smith COULDN'T perform gainful work -employment; therefore, she can. **The Responsibility For Proof - For Connecting The Dots - Belongs To The Applicant You!**

### EXCERPT OF ESSENTIAL FUNCTIONS JOB MATRIX

ESSENTIAL/PRIMARY JOB DUTIES	ESSENTIAL PHYSICAL REQUIREMENTS	HOW SYMPTOMS IMPAIR PERFORMANCE
<p>From <b>DATES OF YOUR LAST JOB</b> I worked as <b>YOUR JOB</b>. My responsibilities were primarily as <b>YOUR PRIMARY RESP.</b> Duties included but were not limited to:</p> <ul style="list-style-type: none"> <li>• Created and executed project work plans.</li> <li>• Identified resources needed and assigned individual responsibilities.</li> <li>• Managed day-to-day operational aspects of a project and</li> </ul>	<p><b>YOUR JOB TITLE KNOWLEDGE, SKILLS AND ABILITY EXPECTATIONS:</b></p> <ul style="list-style-type: none"> <li>• Knowledge of accepted Project Management skills.</li> <li>• Excellent communication and writing skills.</li> <li>• Good interpersonal and negotiating skills.</li> <li>• Good problem-solving skills.</li> <li>• Knowledge of software development methodologies.</li> <li>• Strong technical and analytical skills.</li> <li>• Ability to query and create reports from relational databases.</li> <li>• Excellent verbal and written communication skills.</li> <li>• Ability to work independently or in a team environment.</li> </ul>	<p>Refer to attached Symptom and Before/After Matrices for specifics. Also, please see below.</p> <p>My primary symptoms have been dizziness, fatigue and chronic pain in my right arm/neck and lower extremities. In the last year, my symptom impairments have increased to include cognitive problems such as multi-tasking, ability to concentrate, and short term memory.</p>



ESSENTIAL/PRIMARY JOB DUTIES	ESSENTIAL PHYSICAL REQUIREMENTS	HOW SYMPTOMS IMPAIR PERFORMANCE
<p>scope.</p> <ul style="list-style-type: none"> <li>Reviewed deliverables prepared by team before passing to client.</li> <li>Minimized exposure and risk on project.</li> <li>Provided technical and business expertise in the analysis of user needs and recommended software or solutions to meet internal customer needs/requests.</li> <li>Prepared requirements for enhancements/changes/new products.</li> <li>Tested enhancements/changes and new products.</li> <li>Developed business reports and performed data analysis.</li> <li>Identified needs, created curriculum and provided product training.</li> <li>Provided management with status reports on project and/or product.</li> </ul>	<ul style="list-style-type: none"> <li>Strong leadership skills. Ability to lead a cross-functional team, resolve conflict and build consensus among group members.</li> <li>Ability to manage without authority/through influence.</li> <li>Responsible for representing the organization as the primary technical contact on some projects. Interacts on technical matters often requiring coordination between business units within the corporation.</li> </ul> <p><b>PHYSICAL DEMANDS:</b> The physical demands for this position are moderate (see below). The employee is regularly required to sit, stand, walk and talk for extensive periods of time. Ability to use hands to operate a computer keyboard is required. Occasional lifting, stooping and carrying are required.</p> <p><b>WORK ENVIRONMENT:</b> Basic office environment. Occasional travel is required. Overtime is required to meet project deadlines.</p> <p><b>ESSENTIAL PHYSICAL REQUIREMENTS:</b>  <b>NR</b> = Not Required; <b>Rarely (R)</b> = 1% or less;  <b>Occasionally (O)</b> = 1-33%;  <b>Frequently (F)</b> = 34-65%;  <b>Continually (C)</b> = 66-100%</p> <p>The work performed by the employee in this position in a physical capacity requires walking, standing, sitting, lifting, and maintaining that posture for varying periods of time.</p> <p><b>Sitting - F</b> - From 6 to 7 hours per day for computer work, telephone calls and meetings.  <b>Standing - O</b> - From 5 minutes to up to a total of 60-90</p>	<p>Chronic pain is being treated with prescription medication which causes severe sedation side effects. I am able to sit upright for about 30 minutes an hour; a total of 2 hours over a 4 hour period in an 8-hour day.</p> <p>For the last 5-6 months, I have been sleeping 12-16 hours a day due to severe sedation side effects from pain medication. This coupled with the usual fatigue symptoms from my disease have made it difficult to do more than 1-2 hours of any type of activity per day. Anything more than that in a given day takes at least one additional full day of rest to recover.</p> <p>I recently have been falling 1-2 times per month. Falls usually occur late in the day when I am more fatigued. I have been fortunate so far that they have resulted in only minor bruises and strained muscles. I feel it is necessary to use my cane more frequently to avoid these accidents and more serious injuries.</p> <ul style="list-style-type: none"> <li>Because of my brain and spinal lesions, as documented in the attached matrices and in my doctor's chart notes, I can no longer sit for periods greater than 10 - 15 minutes at a time. I cannot stand, unassisted for any great period of time without developing leg pain of 7-8 on the "generally accepted" Pain Scale.</li> </ul>

ESSENTIAL/PRIMARY JOB DUTIES	ESSENTIAL PHYSICAL REQUIREMENTS	HOW SYMPTOMS IMPAIR PERFORMANCE
	<p>minutes per day attend meetings and talk with other employees.</p> <p><b>Walking - O</b> - Walks up to ½ mile accumulatively throughout the day in the office. Walking is normal paced and sometimes sporadic.</p> <p><b>Twisting - R</b></p> <p><b>Knees: R</b></p> <p><b>Waist: R</b></p> <p><b>Wrists &amp; Arms: C</b> - Wrists and arms are held in computer operating and phone usage for 6-8 hours per day with few breaks in position.</p> <p><b>Neck: C</b> - while using computer monitor, using phone; 7-8 hours per day</p> <p><b>Stooping/Bending: R</b></p> <p><b>Kneeling: R</b></p> <p><b>Crouching: R</b></p> <p><b>Crawling: R</b></p> <p><b>Climbing: R</b></p> <p><b>Balancing: R</b></p> <p><b>Pushing/Pulling: O</b></p> <p><b>Reaching above Shoulder height: O</b> - Reaches for books and supplies when working at desk.</p> <p><b>Grasping (firm): O</b></p> <p><b>Manipulating hands or fingers (e.g., typing): F</b> - Uses fingers to manipulate the computer and calculator and phone. Can be using hands in small motor coordination 6-8 hours per day.</p> <p><b>Using feet to operate controls: R</b></p> <p><b>Lifting/Carrying: O</b> - lifts books, manuals and office supplies from under one pound to up to 10 pounds.</p> <p><b>ESSENTIAL USE OF SENSES:</b></p> <p><b>Talking:</b> Continually talks in person or on the phone with employees from all levels of the organization and with outside vendors. Conducts meetings and makes group presentations.</p> <p><b>Hearing:</b> Continually listens to information from all sources to carry out functions under</p>	<ul style="list-style-type: none"> <li>• My visual and mobility impairments cause severe nausea whenever I attempt to stand and concentrate on anything; and, especially when moving.</li> <li>• I cannot walk unassisted for lengths greater than 1 short block (4-6 houses), nor for longer than 15 - 20 minutes at a time.</li> <li>• Due to neck/arm/wrist pain, I cannot hold my arms up in a horizontal position for an extended period of time and or do any repetitive motion, such as on a PC keyboard beyond 5-10 minutes at a time. I must rest my limbs for an hour or longer in between usages.</li> <li>• The dizziness occurs when scanning from left to right and affects everything I do from viewing a PC monitor, reading books or doing simple household chores. Symptoms get worse when doing any type of physical activity or when I am fatigued. Activities like gardening or shopping cause symptoms so severe that I reach the point of losing my balance and falling. I do these activities in 30 minute "blocks", or avoid altogether.</li> <li>• Last week I woke up two mornings with true double-vision that gradually went away after 20-30 minutes. I am concerned it may be a sign of worsening symptoms.</li> <li>• Dizziness causes nausea and I must do any of reading or work on the PC in 5-10 minute increments and then rest for 30+ minutes.</li> </ul>

ESSENTIAL/PRIMARY JOB DUTIES	ESSENTIAL PHYSICAL REQUIREMENTS	HOW SYMPTOMS IMPAIR PERFORMANCE
	<p>"talking". Also, must have acute hearing to "read" the work environment and people in various situations.</p> <p><b>Vision:</b> Continually observes surrounding activities.</p> <p><b>Near Acuity</b> (clarity of vision at 20 inches or less): C - while typing, reading and writing for 6-8 hours each day.</p> <p><b>Far Acuity</b> (clarity of vision at 20 feet or more): O - while in meetings, presentations and various office situations.</p> <p><b>Smell:</b> R</p> <p><b>Mental Agility:</b> As indicated above under Knowledge Skills and Abilities, this is a combination position requiring a wide variety of tasks and activities. The employee is expected to draw upon her substantial versatility of skills to accomplish the variety of tasks on a daily basis. She must have superior deduction, induction, communication, activity sequential and customer service skills. Functions in a leadership role to resolve conflict and build consensus among team members. <b>Mastery of multi-tasking is critical.</b></p>	<ul style="list-style-type: none"> <li>As a result of dizziness and the cumulative impact of my other symptoms, it is difficult and sometimes impossible for me to do anything that requires concentration for a period of time longer than 5 or 10 minutes at a time. <b>In order to get anything done, I must focus on one thing at a time and I am totally unable to multi-task.</b></li> <li>Due to sedation side effects from the prescription pain medication, for the last 5 or 6 months I have been sleeping 12-16 hours a day. After a few minutes on the PC or watching TV, I literally cannot keep my eyes open and am forced to lie down and sleep for a few minutes before I can resume activity.</li> </ul> <p><b>CONTINUED.....</b></p>

Please note: This entire 20 page document is downloadable for free at: <http://www.disabilitykey.com>

## RECOMMENDED CONTENT OF SUPPORTIVE DOCTOR LETTER

Dear Dr. XXXXX:

Your assistance is needed in this process as follows:

**A letter to the SSA, (or, to the LTD Insurance Company) on your letterhead, stating that you have been treating me since (date;).**

- Your prognosis about my condition. Specifically, that I have been diagnosed with Multiple Sclerosis, and, like you have said, that the symptoms of this disease when someone reaches my stage don't go away! That I may have an occasional good day, but that once I reach the point in my disease progression I have, I'm at a degenerative point where remission is not to be expected.
- Your prognosis about my ability to return to any type of work (**never**).

- A statement about my overall physical condition. For example: I also am providing a copy of how I believe that each bodily system is impacted by my disease that I am providing to SSA/LTD. A letter from you could look like this:

"[Your Name]'s Multiple Sclerosis symptoms have been steadily increasing in magnitude since conclusive diagnosis through YOUR DIAGNOSTIC TESTS (i.e., MRI, Spinal Tap, etc.) in (appropriate date). The impact of these symptoms on the patient's daily activities is adequately described in my chart notes, in the attached diagnostic test findings, and in the patient's matrices.

Due to the magnitude, scope, and complexity of this patient's condition, it is unreasonable at this time to expect that she will be able to work at any time in the near or distant future. At best, medication can only decrease the rate of increase of this chronic disease. In my opinion, this patient would be a liability to any employer, and would be unable to sustain gainful employment of any sort, due to her physical, mental, emotional, and psychological limitations."

The following SSA criteria explain the need for your information; it comes from their Blue Book used to evaluate candidates for SSDI approval.

Disability Evaluation under Social Security (The Blue Book) Medical criteria for evaluating Social Security disability claims

#### **Medical Evidence from Treating Sources**

Currently, many disability claims are decided on the basis of medical evidence from treating sources. SSA regulations place special emphasis on evidence from treating sources because they are likely to be the medical professionals most able to provide a detailed longitudinal picture of the claimant's impairments and may bring a unique perspective to the medical evidence that cannot be obtained from the medical findings alone or from reports of individual examinations or brief hospitalizations. Therefore, timely, accurate, and adequate medical reports from treating sources accelerate the processing of the claim because they can greatly reduce or eliminate the need for additional medical evidence to complete the claim.

THANK YOU FOR YOUR CONTINUED SUPPORT AND HELP!

YOUR SIGNATURE

## LTD/SSDI Application Process Outline

- 1) Complete all matrices.
- 2) Obtain copies of chart notes and test results from doctor(s). Review and ensure they dovetail with your matrices or resolve differences with doctor(s).
- 3) Obtain supportive letters from friends and co-workers.
- 4) Complete draft of RFC/PCE form; take it along with blank form, copies of matrices and letters to doctor(s). Ask for form to be completed in your presence. Take finalized form home with you, leaving copies of matrices and supportive letters for doctors' file on you. Leave copy of supportive doctor letter for doctor, and ask for such a letter by a determined date.
- 5) Compile all other documents needed to file for LTD and/or SSDI.
- 6) Obtain copy of application form. Complete it, and attach a copy of all documents discussed above in 1 - 5. REMEMBER TO KEEP THE ORIGINALS IN YOUR FILES. If mailing, send by registered mail so that you have proof of receipt. Hand carry all documents into your local SSA office as attachments to your application.

### SSI versus SSDI

The SSDI and SSI programs are the largest of the Federal programs that provide assistance to people with disabilities. Generally, the medical requirements for disability eligibility are the same under SSDI and SSI programs, but the way these programs are funded differs. The SSDI program is funded by the Social Security taxes paid by employed individuals. Therefore, the SSDI program is based on a person's work experience. The SSI program is funded by general tax revenues and pays benefits to people with disabilities who have limited income and assets, and is based on a person's financial need.

**SSDI:** Social Security Disability Insurance is an insurance program that sends out monthly checks to disabled workers who have paid Social Security taxes (called "FICA" on your paycheck stubs). You must have worked for at least 5 of the past 10 years before you apply to be "currently insured", or covered, but the minimum time is less if you're under age 31 when you become disabled. The amount you get depends upon how much you have paid in taxes and for how long, since SSDI is an insurance - not a welfare - program. In general, the higher your earnings have been and the longer you have earned them, the higher your SSDI check will be. Benefit amounts vary from a low of about \$200 monthly to a high of about \$1,600; the average SSDI check is about \$850, but this average does reflect low wages paid in the South, in rural areas, and in small towns.

SSDI checks start at the end of the fifth month after the "date of onset," the day you became "disabled" under the Social Security rules by meeting the medical rules as well as not engaging in substantial gainful activity ("SGA").

The number of work credits you need for disability benefits depends on your age when you became disabled. Generally you need 20 credits earned in the last 10 years ending with the year you became disabled. However, younger workers may qualify with fewer credits. The rules are as follows:

**Before age 24**—You may qualify if you have six credits earned in the three-year period ending when your disability starts.

**Age 24 to 31**—You may qualify if you have credit for having worked half the time between age 21 and the time you become disabled. For example, if you become disabled at age 27, you would need credit for three years of work (12 credits) out of the past six years (between age 21 and age 27).

**Age 31 or older**—In general, you will need to have the number of work credits shown in the chart shown below. Unless you are blind, at least 20 of the credits must have been earned in the 10 years immediately before you became disabled.

Born After 1929, Become Disabled At Age	Credits You Need
31 through 42	20
44	22
46	24
48	26
50	28
52	30
54	32
56	34
58	36
60	38
62 or older	40

The easiest way to check your financial eligibility is to request a Summary of Earnings and Benefits. You can obtain a request form as well as apply on-line at <http://www.ssa.gov/howto.htm> and click on: "How To Request a Social Security Statement of Earnings and Benefits."

You may also obtain a form to request the Statement at any Social Security office and most post offices. Ask for: "Request for Social Security Statement (SSA-7004)."

SSI: Supplemental Security Income is a welfare program for disabled people who meet the Social Security medical and SGA disability rules and whose income and assets are below the eligibility levels. SSI allows assets of \$2,000 liquid; a separate bank account of up to \$1,500 for "burial"; a vehicle of any value, if used to go to medical care; household furnishings; certain self-employment business equity and equipment; and a lived-in home of any value. The SSI income level in 2002 is \$545 per month (but it's higher in most wealthy industrial states, which supplement this amount). All gross

income counts against this level: SSDI, earnings, pensions, gifts, contributions, bank interest, dividends, veterans' benefits, etc. If your SSDI check is below the SSI level, you can get SSI as well as SSDI.

Before comparing gross income to this level, SSI disregards (i.e., doesn't count) \$20 per month of any income, out-of-pocket Impairment Related Working Expenses (IRWEs: medical costs you pay to enable you to work) and \$65 and half the rest of any earnings. If the resulting countable income is above the SSI income level (again, \$545 in most---but not all-- states), you're not eligible. If it's computed to be less, you get an SSI check for the difference between your countable income and the SSI level - and, as a "fringe" benefit in most but not all states, a Medicaid card.

SSI—This is known as Title XVI (16) Supplemental Security Income. This program is for people who either:

Have not paid enough quarters (earnings) into Social Security for any reason. Have limited resources and income. Although you must be disabled according to SSA's definition, you must first meet SSA's strict resource eligibility test prior to your medical condition being considered. If your resources exceed SSA's limit, you cannot collect SSI irrespective of your medical disability.

## Conclusion

This presentation is a summary of all the information available from my website: <http://www.disabilitykey.com>. The absolute best way to follow the information I've summarized here is to obtain the entire Disabilitykey Workbook through the website.





## Carolyn Magura's Disability Biography

Carolyn Magura is a pro-active advocate for assisting people with disabilities learn how to advocate for themselves to receive the care and financial assistance they qualify for and need. She also helps people with disabilities learn to help themselves through better life and symptom management. Her expertise has been gained through a combination of 35+ years as a Human Resources Executive, and through 45+ years of successfully managing the myriad symptoms of Multiple Sclerosis.

Carolyn doesn't do the work for others; she doesn't tell others what to do. What she has done is to create a website, [www.disabilitykey.com](http://www.disabilitykey.com) that contains a wealth of information to guide people in doing the work for themselves. In this way, they are better prepared both to understand their illness/injury, and to communicate with others who can help them.

The process Carolyn discusses at [www.disabilitykey.com](http://www.disabilitykey.com) is the same one she used to become the first person in the State of Oregon to receive Social Security Disability Insurance (SSDI) on the first attempt and in less than 30 days. Roughly 60% of all SSDI claims are rejected on the first attempt, and 80% of those are rejected at the Reconsideration stage.

Carolyn has turned her successful process into a "How To" Workbook. This Workbook contains not only the step-by-step process to file for Long Term Disability (LTD) and SSDI, it contains the actual forms and letters that she used, as well as blank forms and letters that anyone else can use for themselves.

In addition to the Workbook, Carolyn is dedicated to working with others as they use the Workbook for themselves. After being misdiagnosed for many years, Carolyn's Multiple Sclerosis was conclusively diagnosed in 1997. She tested her process on herself, first. She then appeared on numerous local television shows, and was published in local articles and magazines about her successes. In June of 2003, she was published as a Mentor in BIOGEN's Avonex Alliance news magazine, explaining her process to others. Since then, she has published numerous articles<sup>18</sup> worldwide, and has been assisting people with disabilities better communicate, advocate for themselves, and attain disability insurances for which they qualify, WORLDWIDE (over 1,000 and counting)!!!! One EXCELLENT "virtual village" where Carolyn has been very successful in working with and supporting people with disabilities can be found at: <http://www.butyoudontlooksick.com> Please visit the site and become a "resident of Spoonville"!!

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<sup>18</sup> Article in the April 2007 issue of the NMSS's Bimonthly issue of InsideMS.