

Age and It's Impact on Disability Determination

by Cari M. Schwartz and Megan F. DiTolla

Age is a crucial factor when it comes to evaluating Social Security Disability Insurance (SSDI) claims. It can be more difficult for an individual under the age of 50 to receive Social Security Disability benefits, than it may be for an individual who is a few years older. The reason is that there are different standards to meet depending on the age bracket that the Social Security Administration ("Administration") has assigned to a particular group of people.

The Social Security Administration places people in four different age categories. A *Younger Individual* is someone under the age of 50. A person *Closely Approaching Advanced Age* is an individual who is 50 to 54 years old. A person who is 55 or older is categorized as *Advanced Age* and a person over the age of 60 falls into the *Closely Approaching Retirement Age* bracket.

While a *Younger Individual* can be granted Social Security Disability Insurance benefits or Supplemental Security Income, the Social Security Administration looks more favorably upon claimants over the age of 50. Specifically, the Administration considers such factors as the exertional requirements and transferability of skills (from prior employment) in determining whether a claimant over the age of 50 can return to any other form of employment other than a past occupation. By doing so, the Administration takes into account real-life issues such as ageism and vocational adjustment in its assessment. The outcome is that claimants over the age of 50 have statistically proven to be much more successful in their pursuits of disability benefits. According to Social Security's Annual Statistical Supplement (released in April 2008), disability benefits were paid to more than 7.8 million people in 2006. The average age for a recipient was 52.

Claimants under the age of 50 can certainly be granted benefits, provided that the evidence supports a finding that this *Younger Individual* would not be able to do a single job in the local or national economy. In spite of the fact that this *Younger Individual* may not currently have the skills required to change career paths, if this individual has the capacity to do unskilled work, he/she will not be found disabled. Furthermore, the Administration does not consider the fact that the salary associated with this unskilled position may be substantially lower than what a *Younger Individual* customarily earned. If a *Younger Individual* has the physical and mental capability to do this unskilled position, he/she cannot be found disabled.

If you are young and have Parkinson's disease, recognize that you may be denied at the initial or reconsideration levels. While people under 50 are more

likely to go before an Administrative Law Judge, there are two steps you can take to help support your case from the start. First, make sure that all medical documentation is submitted to the Administration in a timely manner. Second, discuss your decision to apply for disability benefits with your doctor. It is important to find out if the doctor supports the notion that you are unable to do ANY full-time work in the local or national economy. If, in fact, the doctor believes your limitations are such that ALL employment would be impossible to maintain, seek a letter of support from this doctor outlining the limitations that prevent work.

While following these steps may not necessarily eliminate the need for a hearing, they will certainly guarantee that a *Younger Individual* has presented the case in the most positive light, thus increasing the chances of a favorable determination.

You may also call the toll-free number for the U.S. Social Security Administration is (800) 772-1213 or visit their Web site at www.ssa.gov.

Attorneys Cari M. Schwartz and Megan F. DiTolla have 10 years experience handling SSDI claims at all levels of the administrative and judicial process. Co-founders of West Coast Disability Law Group, LLP, which provides legal services for the disabled, but also focuses on community outreach and education, they have conducted over 1,700 Social Security Disability benefit and Supplemental Security Income hearings before Administrative Law Judges all over the United States. To contact Cari or Megan, call (800) 459- 3017, or e-mail them at info@westcoastdisability.com.