

DISABILITY NEWS

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Introduction

We created our newsletter, Disability News, to keep our current and former clients informed about new rules and regulations affecting social security, long-term disability, and disability insurance claims. All of our past newsletters can be found on our website at www.buchanandisability.com

I Know Someone Who is Disabled but is Addicted to Drugs or Alcohol. Can They Still Get Social Security Disability Benefits? - Rachael Pas

You or someone you know may suffer from a physical or mental disability and also struggle with drug addiction or alcoholism (DAA). You may be wondering what impact this could have on a claim for social security disability benefits. The good news is that drug addiction or alcoholism will not automatically make you ineligible for disability benefits. The Social Security Administration (SSA) has a rule that provides a step by step guide for how it will evaluate your claim for benefits if you also struggle with drugs or alcohol. Because this analysis can be confusing, it is important for you to know that the SSA will first consider your mental or physical impairments before addressing any issue of drug addiction or alcoholism. For this reason, even if you struggle with drugs or alcohol, if you truly believe you are disabled and cannot work, it is worth persevering with a claim for disability benefits.

The SSA will begin by treating your claim like any other claim for disability benefits – they will follow a 5-step process to see if any physical or mental impairment renders you disabled.

First, the agency asks if you are working. If working, you must prove that you earn less than \$1,050 monthly. The SSA will then look at your physical or mental condition and ask: "Is this condition severe enough that you cannot perform the basic activities of most jobs?" Thirdly, the SSA will compare your physical or mental condition to the Listing of Impairments, a list of specific medical conditions that will automatically entitle you to disability benefits.¹ It is *extremely rare* for a physical or mental condition to meet or equal a listing. The agency then looks at what jobs you have done in the past. They will consider whether your condition prevents you from being able to do those past jobs. At this point in the process, the SSA is asking: "What is the *most* you can do, despite the fact that you have this physical or mental condition?" To make this decision, they will look at age, education, and prior work experience. After going through this 5-step process the SSA will determine whether you are disabled due to your physical or mental condition.

How will drug addiction or alcoholism affect social security's determination of disability?

If the SSA decides you are disabled, then it will consider *any* indication or allegation of substance abuse. The agency will look at drug addiction or alcoholism *in combination* with your mental or physical conditions. The SSA will then ask what impact any substance abuse has on your other medical conditions.

The most important question the SSA asks is: "would you still be disabled if you stopped drinking or abusing drugs?" If the answer to this question is "yes," then you may still get benefits. If the answer to this question is "no," then you are not entitled to disability benefits. Basically, you want to prove to the SSA that any drug addiction or alcoholism is irrelevant to your mental or physical impairments.

The best way you can show the SSA that drug addiction or alcoholism is not relevant to your case is to show the agency how bad your symptoms

¹20 C.F.R. §§404.1520(d), 416.920(d).

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were at a time during which you did not abuse drugs or alcohol. If you can show that you remained physically or mentally disabled during this time period, then you will most likely be successful in showing that DAA does not affect your case.

Although evidence of severe symptoms at a time during which you did not abuse drugs or alcohol is not *required* to prove DAA irrelevant in your case, it is the best evidence. If you do not have this kind of evidence to present to the SSA, then the agency will do its best to determine what impact a period of refraining from substance abuse would have on your other medical conditions.

How does social security make its determination if I don't have any evidence of a prior period during which I did not abuse drugs or alcohol?

The SSA's approach depends on whether you are suffering from a mental or

physical impairment. If, at the 5-step process, you were found disabled due to a physical impairment (such as congestive heart failure, cirrhosis, or quadriplegia), then the agency will ask: "How would your physical impairment be affected if you were to stop using drugs or alcohol?" How will the agency make this determination? They will get evidence from people who would best be able to assess the limitations caused by your physical disability on your day-to-day functioning: your family members, friends, and others close to you. These people can tell the agency how you would most likely function if you were to stop abusing drugs or alcohol. On the other hand, if you suffer from a mental condition such as major depression, bipolar disorder, or schizophrenia, then the agency will not try to predict what the impact would be if you were to refrain from using drugs or alcohol.

In some cases it is not possible to determine if the impairment would improve in the absence of drug addiction or alcohol-

ism. This is most likely if you suffer from a mental impairment. For example, you successfully establish you are disabled due to major depression and bipolar disorder. In this case, it might be difficult for even your own treating physician to determine if your mental condition would improve if you stopped abusing drugs or alcohol. In these cases, the agency is more likely to go ahead and determine you are disabled.

In conclusion, drug addiction or alcoholism will not keep you from getting disability benefits. If you are truly physically or mentally disabled, then do not give up on your claim for benefits. Rather, you should try to overcome your drug addiction or alcoholism, although this may take time. Pursue your disability claim, but do your best to stop any substance abuse. The sooner you stop, the stronger your case will be. Nevertheless, the SSA will not automatically deny your claim just because you abuse drugs or alcohol.

2013 Services Select Seal of Satisfaction Awards Dinner Acceptance Speech January 25, 2013 at the Reed House

"With Eric's leadership, our firm has worked hard to put together a disability team that excels in skill and customer service. We continue to train our staff on a regular basis to increase their knowledge in disability law, procedures and customer service. This award confirms that our efforts are meeting the needs of our clients and we want to thank our clients who nominated our firm for this award.

2013 is our firm's 10 year anniversary. What a great recognition to have as we look back at how much we have grown and evaluate the success of our firm. As Eric stated in his speech last year, most of our clients are non-repeat clients. So serving our clients with excellence from the moment they contact us and throughout their case is so important; we often don't get second chances.

This is my 9th year with the firm. I have had the pleasure of working with very technically skilled attorneys and a great staff. It is because of their dedication and hard work that we are here tonight. I want to thank our staff for everything they do for our clients and the firm.

I have also had the opportunity to serve some amazing clients. Their strength as they suffer from a debilitating condition and struggle financially gives me the motivation to do all that I can to assist our disability team in getting our clients their benefits.

So on behalf of the entire staff at Eric Buchanan and Associates, we are honored to receive the Services Select Seal of Satisfaction award for a second year in a row. It is our continued commitment to our community, to our clients and as a recipient of the Seal of Satisfaction award to uphold the highest standards of business excellence." - K. Molina Haynes, Office Manager

Get to Know our Attorneys & Staff

Barbara Stone is one of our newest employees to join Eric Buchanan's Disability Team. Her voice or her smile will most likely be the first thing to greet when you contact or come into our office.

Barbara has 14 years of experience in disability law. She has a passion for helping others and will take the time necessary to

answer all your questions to the best of her ability.

In her spare time, Barbara gives back to her community by volunteering once a month with the Homeless dinner and collecting clothes for them.

Four years ago, Barbara started Backpacks for Kids, a volunteer program that fills backpacks

with school supplies for children that are in need.

As you can see, her dedication to helping others knows no bounds and she's dedicated to helping you receive the benefits that you need.



Barbara Stone
Front Desk Receptionist

Social Security Press Release - February 2013

Is your monthly disability benefit sent to you in the safest and most efficient way?



Because of the U.S. Treasury initiative, most government payments (such as Social Security, Supplemental Security Income or SSI, Veterans Affairs, Railroad Retirement Board, and Office of Person-

nel Management benefits) will be made electronically beginning March 1 of this year — with some exceptions.

People still getting paper checks are encouraged to sign up for direct deposit of their benefits into the financial institution account of their choice or participate in Treasury's Direct Express® debit card program. Learn more about the advantages of receiving benefits electronically at www.godirect.org.

Currently, about 94 percent of social security beneficiaries and 83 percent of SSI recipients receive their monthly benefits electronically, the most reliable method of payment delivery. Although people who have not signed up for electronic payments will continue to receive printed checks, they can expect the Treasury Department to be contacting them regularly about the requirement to switch to electronic payments.

"Is your monthly disability benefit sent to you in the safest and most efficient way?"



Photo Gallery

Meet our Management Team

Our primary goal is for our firm to provide excellent service and representation to all our clients.



Eric L. Buchanan
President/Partner



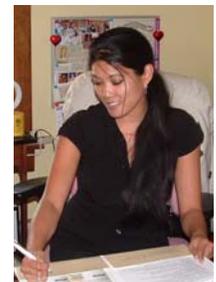
R. Scott Wilson
Partner



Jeremy L. Bordelon
Junior Partner



Meg Buchanan
General Manager



K. Molina Haynes
Office Manager

Eric's Answers



What do you and your office do to help people?

In our office we use our expertise as social security disability specialists to make sure their social security disability claim is handled properly. In our office we have two attorneys who are board certified as social security disability specialists by the Tennessee Commission on continuing legal education and

specialization.

What we have learned in helping our clients in thousands of cases is how to gather the medical records, how to ask the doctors the right questions to help someone win their case, how to make sure appeals are filed on time and probably most importantly is how to make sure cases are properly prepared and the proper arguments are made to present the case in front of a social security an administrative law judge so we can win the cases for those

who deserve their social security disability benefits.



Eric L. Buchanan
President

“...we use our expertise as social security disability specialists to make sure their social security disability claim is handled properly.”



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