



DISABILITY NEWS

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Introduction

In order to keep our current and former clients informed about new rules and regulations affecting social security, long-term disability, and disability insurance claims, we are sending this quarterly newsletter. Please keep an eye out for future newsletters from us.

Bettering Your Odds - John B. Wysong

One of the most common questions we hear when talking to someone about their social security disability case is, "What do you think of my chances?" Because of the unique circumstances of each person and the inherent uncertainty in any case, it's always a difficult question to answer; but, there is a way to increase your odds of winning your social security disability case. Your treating doctor's opinion is the most important evidence that can be presented supporting your claim for disability and your odds of winning become a lot better when you have supporting evidence from your treating doctor. It's not a sure thing, but it is like getting a face card in blackjack.

The Code of Federal Regulations 20 C.F.R § 404.1527 holds that the Social Security Administration (SSA) will generally give more weight to the opinion of a source who has treated you than who has not. The SSA will also consider the length of the treating relationship and the frequency of examination, as well as the nature of the treatment relationship. Essentially, this means that the longer a doctor or specialist has treated you for the specific condition that is causing your disability, the more credit the judge will give their opinion about what you can and cannot do..

Social Security Ruling 96-2p sets

out the policy for giving controlling weight in a disability decision to a treating source's medical opinion. This ruling outlines that a treating source's medical opinion will be given controlling weight if it is well supported by medically acceptable clinical and laboratory diagnostic techniques and not inconsistent with other substantial evidence in the case record. "Controlling weight" simply means the deciding factor; it's the ace that matches your face card in blackjack. If your case contains your treating doctor's opinion, you generally have put forth the best case possible because the treating doctor is the most knowledgeable about your limitations, especially if the doctor has been treating you over a significant period of time. If the social security judge applies the rules correctly, a well-supported treating doctor's opinion should be given more weight than the opinions of social security's doctors and medical reviewers who may have said you are not disabled. Without your doctor's opinion, the social security judge can deny your case more easily by giving weight to the doctors who reviewed your file for social security and who say you can work.

For your doctor's opinion to be given controlling weight, it must be supported by objective medical evidence like medical

tests supporting the diagnosis and possibly prescribed medications. The physician has to have recorded the tests done when determining what medical condition is causing your health to deteriorate. Your medical record should not contain evidence that contradicts your doctor's opinion about your medical limitations. In other words, his opinion can't say that you should be bed-ridden when the day after that opinion is given your medical record says that you've been cleared to play football.

Also, under the SSA's rules, it is not enough for a doctor to say "this person is disabled" or to put on a prescription form "no work." For a doctor's opinion to be given the controlling weight the doctor should assess specific restrictions and limitations.

Perhaps the biggest obstacle to getting your doctor's opinion is that many doctors do not understand how important their role is in the social security disability process. Some doctors think that they are not qualified to assess a person's disability; but this could not be farther from the truth. The SSA's rules place great importance on the opinion of the treating doctor, and has given your doctor the authority to say what you can and cannot do. Under SSA's rules, SSA has made your treating doctor is the

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expert on your disability and limitations.

If your doctor fills out a form, the SSA will not ask your doctor to come testify, but will put that opinion form in the file, and will give it the weight it is due under the rules. While we as attorneys will try very hard to have the treating doctor complete the form, or will try to talk to your doctor about why that is important, sometimes the best way

to get a doctor to fill out the form is for you, the patient, to remind him or her to fill out the form sent to the doctor by the attorney.

Unfortunately, not every case with a doctor's opinion is guaranteed to win. Sometimes the social security judge will determine there is not enough evidence to support the treating doctor's opinion. Sometimes social security will make a mistake

and follow its own doctors instead of the opinion of the treating doctor. Obtaining an opinion from your treating doctor about what you can and can't do will give you the best chance of winning. But not having your treating doctor's opinion of your restrictions and limitations makes your case is much harder to win, and much harder for you attorney to appeal if you lose.

Photo Gallery

Eric Buchanan & Associates, PLLC is a proud sponsor of the Goodwill Assistance Dog program.



Meet Topper, a six month old golden retriever that is being trained to be a Goodwill Assistance Dog to support people with disabilities. Isn't he adorable!?



Chewin' The Chat - Eric Buchanan and Jed Mescon getting ready to answer questions from the callers on WGOW Talk Radio 102.3fm



Top Left: John Wysong, Katie Wolfe, Casie Reynolds, Brittany Dicorato, Julie Moya, and Molina Haynes
Front Left: Jeremy Bordelon, Eric Buchanan Topper and Meg Buchanan.

Helpful Numbers to Know

The process of obtaining disability benefits is a long one and we understand that our clients may need assistance until their benefits have been approved. Our firm has compiled a list of low cost and sometimes free medical assistance which may be offered in the Chattanooga area. This list is subject to constant change as programs are added or deleted.

Health Clinics

Chattanooga Cares (423) 265-2273

Ooltewah Clinic (423) 238-4269

Volunteers in Medicine (423) 855-8220

Sequoyah Clinic (423) 842-3031

Dental Resources

Chattanooga State (423) 697-4452

Inner City Ministries (423) 698-3178

Mental Health

24 Hour Mental Health Crisis

Hotline (423) 634-8995

Action Counseling (423) 339-2713

Valley Outpatient Services

(423) 472-1999

Prescription Health

Free Medicine Foundation

(573) 996-3333 or (573) 996-7300

Prescription Assistance

(888)477-2669 or (800) 444-4106

Assistance

New Life Community Kitchen

(423) 479-5435

The Caring Place

(423) 472-4414

For additional numbers, please contact our office.



Get to Know our Attorneys & Staff

Jeremy L. Bordelon has recently been promoted to junior partner. Jeremy has worked for Eric Buchanan & Associates since 2004, working his way up from assistant, to paralegal, to law clerk, to associate, to junior partner. He graduated from the University of Tennessee at Chattanooga with a Bachelor's degree in Legal Assistant Studies in 2005, and from the Tennessee College of Law in 2009, magna cum laude. Before, during, and after law school he has successfully handled or assisted in hundreds of social security disability,

private disability insurance, and ERISA long-term disability benefits cases. He is admitted to practice before all State and Federal Courts in Tennessee, as well as the Sixth and Eleventh Circuit Courts of Appeals.

Prior to law school, Jeremy spent eight years in the U.S. Navy as an enlisted Cryptologic Technician (Technical), achieving the rank of Petty Officer First Class. He was stationed in Diego Garcia, British Indian Ocean Territory, and at Pearl Harbor, Hawaii, where he

served on board several nuclear-powered submarines.

In his spare time, Jeremy enjoys sailing, bicycling, hiking, wood-working, and cooking.



Jeremy L. Bordelon
Junior Partner

“The Chattanooga hearing office ranked number 14 out of 165 hearing offices for the shortest processing time.”

Social Security Update

For those of you who had to go before an Administrative Law Judge, you know that waiting for a hearing to be scheduled can seem like it takes forever.

Periodically, hearing offices are ranked by the number of working days it takes a claim to be processed from when a request for a hearing is filed. Here is how some of our local hearing offices ranked as of May 2012. The Chat-

tanooga hearing office ranked number 14 out 165 hearing offices for the shortest processing time. The average processing time for the Chattanooga hearing office was 269 days (about 9 months). The Knoxville hearing office ranked number 67 with a processing time of 339 days (about 11 months), the Atlanta North hearing office ranked number 82 with a processing time of 351 days (about 11 and one-half months), the Memphis hearing

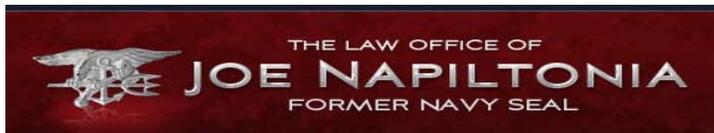
office ranked 103 with a processing time of 360 days (right at a year), the Atlanta downtown ranked 138 with a processing time of 403 days (about 13 months) and Nashville ranked 157 with a processing time of 435 days (over 14 months).

Unfortunately you cannot pick your hearing office.



Attorney Referral - Attorneys We Trust

Eric Buchanan & Associates can help with disability insurance, social security disability, long-term disability insurance, and other employee benefits, such as life insurance and health insurance. But, in order to do the best job for our clients in those areas, we don't handle some other types of cases, such as truck and car wreck cases, workers' compensation, or medical malpractice. For those other types of cases, there are other attorneys we recommend that do a great job on those types of cases. In addition to providing information about our firm, and the types of cases we handle, we would like to help our clients by providing information about attorneys we trust in other fields of law. Each quarter we will showcase one of these attorneys. If you decide to call one of the attorneys we recommend, be sure to mention you heard about the attorney in the Eric Buchanan & Associates newsletter.



The Law Office of Joe Napiltonia focuses on representing injured people in a wide range of litigation from auto accidents to the families of wrongful death victims in state and federal court. He also devotes a substantial amount of his practice

to representing veterans.

Don't let the big insurance companies or the Veterans Administration take advantage of you. Hire a tough, aggressive lawyer and fight back. The Law Office of Joe

Napiltonia knows how to fight and win. Their objective is to get you your benefits as soon as possible.

The Law Office of Joe Napiltonia is also well-versed in USERRA law. They make it their business not only to know USERRA law but how to apply it to your case to give you the best chance at success.

Contact the Law Office of Joe Napiltonia at (615) 734-1199 to see how they can help you.

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Eric's Answers



What kinds of things qualify as disabilities?

Almost any mental or physical condition that causes someone to be unable to work can count as a disability for social security.

Even a combination of physical and mental impairments can cause someone to be disabled enough that they can receive social security disability benefits.

There are very few exceptions. If someone is addicted to drugs or alcohol and that is a significant cause of their disability, then congress has said that person's disability does not count to the extent that it was caused by drugs or alcohol.

Also, injuries that were caused during a commission of a felony are also disallowed and cannot count toward disability.

Other than that almost any physical or mental problem can count towards proving that you are disabled for social security disability.



Eric L. Buchanan
President

“Almost any mental or physical condition that causes someone to be unable to work can count as a disability for social security.”



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