

Myth #5 Social Security Cases Are Simple And No Attorney Specialization Is Needed.

Social Security cases are not simple. They are extremely complex and challenging. The American Bar Association has recognized Social Security Disability Advocacy as a specialized field. They have allowed standards to be set for an attorney's designation as a specialist.

The average worth of a successfully completed claim for Social Security disability benefits is \$370,000. There are additional government health insurance benefits. If you had a complex medical problem you would probably seek the opinion of a physician who specialized in the field treating that problem. With this much in a disability claim potentially at stake a specialist can be very helpful in increasing your chances for success.



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Myths About The Social Security Program

as presented by Ficek Law Office, PC

Myth #1 The Process For Obtaining Social Security Disability Benefits Is Non-Adversarial.

While it is true that an attorney is usually not assigned by Social Security to represent its interests at the administrative law levels, all claims are subject to a thorough searching review by SSA. At the first two levels of the process, decisions are made by SSA employees who typically do not hold a law degree and typically do not interview the applicant in person. They deny a large majority of all claims.

At the third level of the administrative claims and appeals process, a hearing is held before an Administrative Law Judge. The ALJ does hold a law degree and the ALJs have a union that continually fights to try to maintain their independence from SSA. Nevertheless, they are SSA employees and are subject to constant pressures to produce a large number of decisions each month. At various times SSA has instituted programs to review the work of ALJs who were seemingly too lenient on claimants and SSA's own Appeals Council retains the right to review all decisions of the ALJs for possible remand and revision.

In the setting of the hearing before the Administrative Law Judge, the ALJ has the role of the impartial decisionmaker. But the ALJ will in most cases direct questions to claimants to determine their entitlement or eligibility for the programs that are sophisticated, subtle and potential traps for the unwary.

Myth #2 You Don't Need An Attorney At The Hearing Before The Administrative Law Judge Stage, You Need An Advocate.

Persons who seek to represent claimants for disability who lack a law degree often call themselves advocates. There is no minimum educational requirements before a person can represent themselves as an Advocate. SSA, which calls its process non-adversarial, allows anyone to represent a claimant at the hearing before the Administrative Law Judge and throughout the administrative process who is generally known to have a good character and reputation and is capable of giving valuable help with the claim.
(Source 20 CFR Section 404.1705)

There is more going on at the administrative levels than simply letting claimants tell why they think they are disabled. A record is being created which could be the subject of further review. Eventually cases could end up being reviewed by federal court judges. If a representative does not know how a case will need to be legally argued should it go to federal court, it is difficult for the representative to create a record that maximizes the chances of success at that level.

Myth #3 Advocates Are Less Expensive Than Attorneys

Most attorneys representing claimants for Social Security disability benefits do so on a contingency fee percentage rate basis in most instances. The contract preferred by SSA is for a 25% percentage rate with a \$6,000 fee cap. Many Advocates use the same contract terms.

Myth #4 It's Prudent To Hold Off Seeking An Attorney To Represent A Claimant Until After The Administrative Law Judge Hearing Level

The ALJ hearing level is without question the best opportunity to win the case for benefits. If a claimant's case is lost at the ALJ hearing level, it may be difficult to find other representation for filing appeals except on an hourly rate basis. The odds lengthen after the ALJ hearing. An attorney who did not have the opportunity to win the case at that level will probably not agree to attempt to clean up a problem or appeal on a percentage rate basis.