



# Insights

## Social Security Disability and Veteran's Compensation

### ● *Understanding Issues Facing Disability Applicants* ●

September 2011

#### **SENIORX PROGRAM**

Alabama has established a prescription drug program to help disabled workers apply for financial assistance from pharmaceutical manufacturers. To be eligible, one must be at least age 55, or be any age and receiving Social Security disability during the first 24 months when there is no Medicare coverage. The recipient must also have low income, currently set at \$21,780 for a one person household, and \$29,424 for two people.

Other states may have a similar program. To find out we suggest doing an internet search for "SenioRx" for that state.

Many disabled people could return to work if they could get medicine to help control their medical condition. If a

disabled worker needs medicine and can't afford it, this program may be the solution.

#### **CAN YOU RECEIVE VA AND SS DISABILITY AT THE SAME TIME?**

Yes, you can receive both VA compensation and Social Security disability insurance ("SSDI") benefits at the same time. And, you can receive both benefits without having one reduced because of receiving the other.

But, if you receive Supplemental Security Income ("SSI"), any other income you receive is subtracted from the SSI benefit. So, VA disability would be subtracted from the amount of SSI received. Similarly, a VA pension, which is

#### Seminars on Veterans Compensation Benefits or Social Security Benefits

We offer presentations for your group or business about the requirements for Veterans disability benefits and Social Security disability benefits. The seminars also discuss how either benefit may affect the other.

We allow ample time for "questions and answers." The seminar can be tailored to particular time needs. We offer the seminar without charge as a public service by our law offices.

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also income based, would be reduced by SSDI.

### **NEW RULE FORCES CHOICE BETWEEN FILING A NEW SS DISABILITY CLAIM OR PROCEEDING WITH APPEAL OF OLD CLAIM**

The Social Security Administration (“SSA”) recently announced that it would not allow a claimant to file a new application for disability benefits in certain situations. One such situation is if a claimant has appealed a denial of benefits to the SSA’s Appeals Council after a hearing by an administrative law judge (“ALJ”). The claimant must now choose between filing a new claim, or continuing to pursue the appeal.

This is not an easy choice. For example, new claims are usually decided in about four months. This is much faster than waiting for an Appeals Council decision,

which usually takes more than a year. So, filing a new claim may result in benefits being received much sooner. This may especially important if the claimant’s medical condition has deteriorated after the hearing denial, and the case is more likely to be won at the initial level.

But, to file a new claim, the one on appeal must be withdrawn, or not filed. In either case, the ALJ decision usually becomes final – and can’t be changed. This means losing the back benefits that might have been awarded up to the date of the ALJ denial. If the claim has been pending for a long time, the amount at stake – which would be given up - could be large.

Each case is different. There is not a single solution for all of them. If you have a question about how to proceed in a particular situation, feel free to contact us.

Thinking about . . . .

#### **Long Term Disability Benefits**

When workers are disabled they often do not know what disability benefits may be provided by their employer. Many employers provide both short term disability (“STD”) and long term disability (“LTD”) benefits. Usually the STD

lasts for six months, and then the LTD begins.

The requirements for these benefits are very different than for VA or Social Security disability. If a worker becomes disabled, they should look at their employee booklet to see what benefits may be available and what the requirements are to get them. If the worker does not have the booklet, the worker

may request one from the employer. The explanation of benefits must be written in easy to understand language.

Often STD and LTD have an offset for Social Security disability and other benefits. Knowing the terms of the plan will help the worker to plan most effectively.