

Fibromyalgia and Federal Social Security Disability Benefits

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An educational guide for people interested in filing for disability benefits

What is fibromyalgia?

Fibromyalgia is a complex, chronic pain disorder involving widespread pain and tenderness in the joints, muscles, tendons and other soft tissues. An estimated 10 million Americans struggle with fibromyalgia.

SYMPTOMS

The severity of symptoms will vary and be specific to the individual, but the most common one is widespread bodily pain. According to the National Fibromyalgia Association, symptoms include bodily pain, fatigue, irritable bowel syndrome, difficulties with cognitive functioning, headaches, environmental sensitivities, anxiety and depression. Remember, this is not an exhaustive list and every individual's symptoms will vary in type and severity.

CAUSES

The actual cause of fibromyalgia is unknown, but some theories link it to genetics or a physical / emotional trauma. Fibromyalgia is most common among women, aged 20 to 50, but the disorder can affect anyone.

SIGNS

Chronic, widespread, bodily pain is the most common sign of fibromyalgia. But it is certainly not the only one. Unfortunately, there is no definitive medical test to determine if you have fibromyalgia, but advances in the medical field have enabled physicians to more accurately diagnose the disorder.

Since there is no test for fibromyalgia, doctors must

rely on your symptomatology when coming up with a diagnosis. The American College of Rheumatology established a diagnostic criteria to diagnose a person with fibromyalgia, which includes widespread pain lasting at least 3 months, and pain in at least 11 of 18 tender points in the body.

TREATMENT

Since there is no cure for fibromyalgia yet, treatment varies from medications to therapy. Alternative treatments include massage, yoga, chiropractic therapy and herbal supplements have been known to help people cope with the daily pain symptoms. Consulting with a rheumatologist is the first step in treating fibromyalgia.

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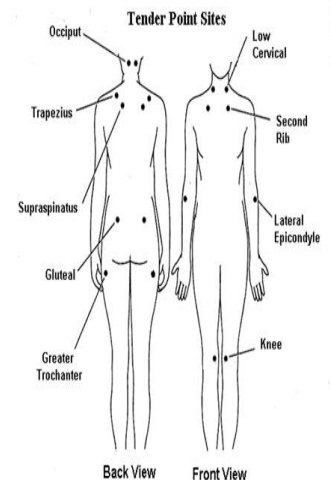
Who qualifies for Federal Social Security Disability benefits?

Social security disability benefits are available to individuals who can no longer work due to a physical or mental impairment.

Under its disability program, Social Security offers two main programs: Title II,

Social Security Disability Insurance (SSDI) benefits and Title XVI, Supplemental Security Income (SSI). Each program has different eligibility requirements and in some instances, an individual might qualify for both.

If you suffer from a physical or mental impairment that is preventing you from working on a full-time basis, you may qualify for one of these programs.





A sample earnings record from Social Security.

How to determine if you meet the eligibility requirements

If you have a work history and paid social security taxes, you may be eligible for Title II, SSDI benefits. Eligibility is based on a credit system and over the course of your employment history, you obtained credits by “paying into the system”.

You may recall those Social Security statements that the Administration used to send out a few months before your birthday. Those statements provide information on disability benefits, should

you become unable to work, and information on your retirement benefits.

Social Security no longer sends these statements in the mail, but you can access your earnings record online at www.ssa.gov.

If you don't qualify for SSDI, and you have “little or no assets”, you may qualify for SSI, which provides individuals with monetary benefits, as well as Medicaid, if they meet the income thresholds

and medical requirements. The income thresholds within SSI are very strict and an income, or asset, can affect whether you qualify for this program.

In contrast, SSDI does not take into account any assets you currently have, but if you are still generating some kind of income, that can affect whether you will qualify for SSDI.



Is Fibromyalgia an impairment that medically qualifies someone for disability benefits?

The Social Security Administration (SSA) grants benefits to individuals who have medical impairments that prevent them from performing work activity on a sustained basis.

Social Security has created a list of medical impairments, commonly referred to as Medical Listings, which are

specific medical conditions that automatically warrant an approval for disability benefits.

Unfortunately, fibromyalgia is not a listed impairment in the Medical Listings. Therefore, the a claimant alleging fibromyalgia must provide prove they have serious physical or mental limitations

that prevent them from performing any kind of work.

Fibromyalgia is recognized as a disabling impairment, but SSA has not yet added it to it's list of Medical Listings that allow for an automatic grant of benefits if appropriate.



3 things you should know before you apply

1. If you are still working and earning income when you decide to apply for benefits, you will most likely be denied for benefits.
2. To be found “disabling” according to SSA, the individual's impairment,

or combination of impairments, must have lasted 12 months, be expected to last 12 months, or be expected to result in death. Otherwise known as the “durational requirement,” this is a crucial element in the determi-

nation process.

3. Obtaining disability benefits can be a long, frustrating process. It does not happen overnight and dealing with the government can be a daunting task.

Winning a disability claim if you've been diagnosed with fibromyalgia

There is no sure-shot formula for winning a claim for social security disability benefits. Every case is different and it is important to understand that each case is reviewed on an individual basis.

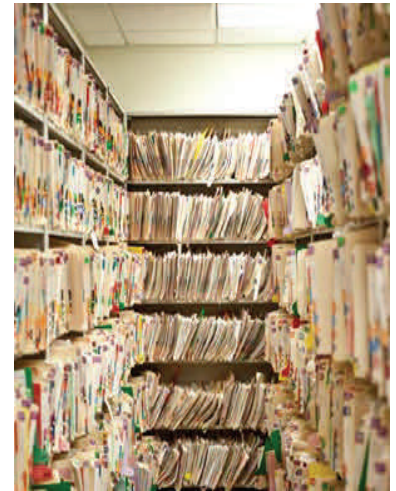
The decision on whether you will be found disabled rests heavily on the medical evidence you provide to SSA. Although fibromyalgia is difficult to diagnose and no lab test can confirm its existence, treatment records from doctors are imperative in

proving that you suffer from an impairment that prevents you from working.

Disability analysts and Judges look to the opinions of your treating physicians to determine how severe your impairments are. Medical records showing a consistent timeframe of treatment, along with statements from your doctor as to what physical or mental limitations stem from your impairments can be powerful pieces of evidence and in many cases, the

difference maker in a disability claim.

Unlike in a criminal case, where a criminal defendant has the "presumption of innocence", in a disability claim, the claimant has the burden of proving that they are disabled. The best way to achieve this is through medical records that provide a clear picture of your diagnosis and the treatment you've sought.



What to do if you receive a DENIAL from SSA

SSA receives millions of disability applications each year. Unfortunately, the majority of these applications are denied upon an initial application. If you file for disability benefits and receive a denial, this is not the end of the road for your claim.

In most states, once you've

been denied initially, you can dispute the decision and formally request a hearing in front of an Administrative Law Judge. At the hearing level, you have the opportunity to present evidence supporting your claim and you will testify in front of a Judge as to why you are unable to work.

If your claim is pending at the hearing level, it is a good idea to consult with an experienced disability attorney. At the hearing level, an attorney can explain the issues your case and most importantly, protect your rights in the courtroom.



Choosing the right lawyer for you

Many claimants have made the mistake by hiring a lawyer they are very unhappy with. Sometimes, these claimants have lost their case because of the mistakes made by their attorney. You do not want to make this mistake.

Here are a list of things to

consider when deciding on which lawyer you want to represent you with your disability claim:

- Can you call your attorney with questions?
- Who will be representing you at the hearing?

- Is disability law the attorney's primary practice?
- What is the attorney's success rate?
- How often has the attorney represented individuals with fibromyalgia?



Here at the Law Firm of Markhoff & Mittman, we are known as **“The Disability Guys”** and have been serving injured workers and their families since 1933. We’ve helped thousands of individuals get the benefits they desperately need for themselves and their families.

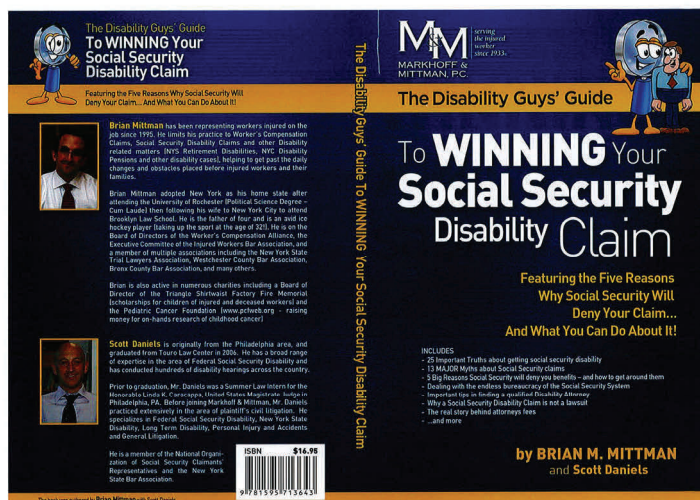
In addition to representing injured workers on a daily basis, the attorneys at Markhoff & Mittman frequently lecture to attorneys across the country about disability and workers compensation benefits.



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Brian Mittman, managing partner and owner of Markhoff & Mittman, and Scott Daniels, an associate attorney with the office, co-authored “The Disability Guys’ Guide To Winning Your Social Security Disability Claim” to educate the general public about the complexities of the disability process.

Before you apply for benefits, or even think about hiring an attorney, you must read this book. Log onto www.markhofflaw.com or www.thedisabilityguys.com to request your free copy.



This is strictly an educational guide intended to inform people about federal social security disability benefits. This is in no way the dissemination of legal advice and it should not be treated as such. The material contained in this guide is for educational purposes only.