

Where to Start: Social Security 101 for Mental Health

NAMI Training July 9, 2020

LEARNING OBJECTIVES

At the end of this presentation the participant will be able to:

- Understand the different disability benefits available through the Social Security Administration (SSA).
- Distinguish between Social Security eligibility criteria for children and adults.

APPLY for benefits

REPORT changes in Household, Income and
Assets

APPEAL benefit denials, terminations
or reductions

SOCIAL SECURITY ADMINISTRATION DUE PROCESS RIGHTS

The right to **FILE APPLICATION** for benefits:

- Application should be filed as soon as possible. The date of application may be the first day of eligibility if determined to be disabled.
- Applications may be made:
 - Online <https://www.ssa.gov/applyfordisability/>
 - At local SSA office (*however, local offices closed to public during COVID pandemic*)

SOCIAL SECURITY ADMINISTRATION

DUE PROCESS RIGHTS

The **right to APPEAL** (challenge decision) if benefits erroneously denied:

- Notice of denial must provide:
 - the **reason** for the denial or change in benefits; and
 - Instructions **how to appeal** denial/termination/reduction of benefits
- Claimant generally has **60 DAYS** to appeal the denial, termination, or change in Social Security benefits.
- **To continue benefits** pending outcome of appeal, request must be made with appeal within **10 days** of decision to terminate or reduce benefits.

SOCIAL SECURITY ADMINISTRATION DUE PROCESS RIGHTS

The right to obtain a **legal representative** to assist in appeal.

- SSA does not have to provide a legal representative.
- Many private attorneys represent on contingency fee basis (new applications).
- SSA limits the amount of attorneys fees.
- TRLA provides free legal representation for certain low-income Claimants.

SOCIAL SECURITY ADMINISTRATION DUE PROCESS RIGHTS

SSA decision is considered **final
and **correct** if not appealed in
the required period of time.**

SOCIAL SECURITY ADMINISTRATION (SSA)

SSI
Supplemental Security Income
Title XVI

RSDI
Retirement, Survivors, and Disability Insurance
Title II

Medicare

WHAT IS THE DIFFERENCE?

SSI

V.

SOCIAL
SECURITY
DISABILITY
INSURANCE

Supplemental Security Income

- Must be disabled
- Need based benefit, therefore, must be income & resource eligible
- Medicaid
- 2020 Maximum benefit:
 - \$783 (individual)
 - \$1,175 (couple)
- Paid on the 1st of the month

SS Disability Insurance (RSDI)

- Must be disabled
- Must have “insured status”
 - Based upon work history of the 10 years prior to onset of disability
- Medicare (starts in 25th month of disability eligibility)
- Also called “DIB” or “Title II” or “RSDI” or “SSDI”
- Paid on one of four **days** throughout the month on the 3rd of the month and on the second, third and fourth Wednesdays of the month

What if client receives both Social Security Disability Insurance and SSI?

SSI:

- Will be received by direct deposit on the 1st of the month;
- Client will have Medicaid card;

and....

Disability Insurance:

- Will be received in a separate direct deposit after the 3rd of the month;
- Client will have Medicare card;

and....

*The maximum combined income is:
\$803 for an individual - or - \$1,195
for a couple*

SUPPLEMENTAL SECURITY INCOME (SSI)

- **SSI is a “need based” program**
- **Eligibility is based upon 4 criteria:**
 - **Disability** as defined by SSA;
 - Actual **Residence** in the United States in addition to:
 - Being citizen of U. S, or
 - Having acceptable legal immigration status
 - **Income** (includes both earned and unearned)
 - Spousal and parental “deeming” of income
 - **Resources**
 - Under \$2,000 for individual - or - \$3,000 for couple/2 parents
 - Homestead and one automobile exempt

SSI - Who qualifies in 2020?

- A person with “permanent” disability for > 12 continuous months or which is expected to result in death
- Adults and children who are disabled
 - Must receive < \$803 Social Security Disability Insurance
- Elderly (66 years) with < \$803 Social Security Retirement, Survivors, and Disability Insurance (RSDI)
- Must physically reside in the United States (as well as meet citizen/immigrant status requirements)

RSDI – Disability Insurance

What is it?

- Cash benefits which may be available when a worker becomes disabled before retirement age and the worker has “insured status”
- Recipient is entitled to Medicare, however, only after a 24 month waiting period passes
- Social Security Disability Insurance is part of Retirement, Survivors, and Disability Insurance (RSDI) program.
- It is also called “DIB” or “Title II” or “SSDI”

RSDI – Disability Benefits Eligibility

Who has “insured status”?

- Insured status = worked 20 quarters in 10 years prior to onset of disability
- If 23 years old or older, generally must have 28 quarters of work history
- If under 23 years of age, generally must have 6 quarters of work history



SSA Quarters Coverage (Work History)

Eligibility for benefits may depend upon the record of work history reported to SSA.

- Work is measured in “Quarters” of earning history
- Quarters relate amount earned in a year of work (maximum of 4 quarters may be earned per year)
- In 2020, 1 Quarter of Coverage = \$1,410
- There is a way to correct earning histories (when a person worked but did not have work history properly reported to SSA or cases of identity theft)

SSA DISABILITY DENIALS

SSI

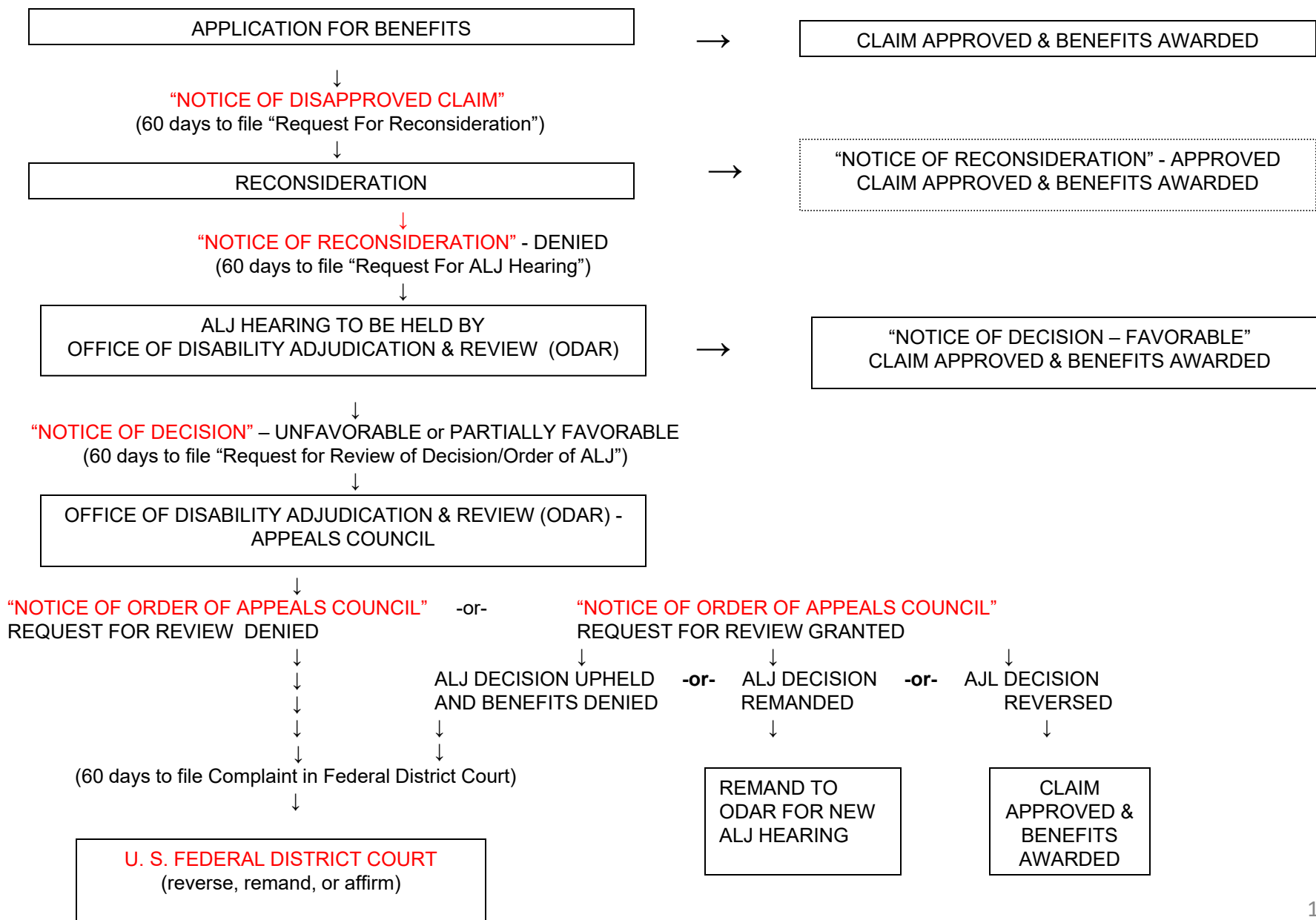
- Medical denials:
 - Not medically disabled
- Non-Medical Denials:
 - Earned income (SGA)
 - Unearned Income
 - Financial Resources
 - Immigrants w/o required Quarters of Work History
- Overpayments

Disability Insurance

- Medical denials:
 - Not medically disabled
- Non-Medical Denials
 - Earned Income (SGA)
 - No Insured Status
 - Quarters of Work History
- Overpayments

SOCIAL SECURITY ADMINISTRATION APPEALS PROCESS

“Supplemental Security Income” (SSI) and/or “Retirement, Survivors, and Disability Insurance” (RSDI or Title II)



SOCIAL SECURITY DEADLINES

- **10 Days:** If Client's benefits are being reduced or terminated, there are 10 days to file an appeal and request benefits continue pending the outcome of the appeal.
- **30 days:** If Client receives a Notice of Overpayment, there are 30 days to file an appeal or Request for Waiver of Overpayment, AND request no recoupment of overpayment occurs until there is a decision on the appeal or waiver request.
- **60 days:** Maximum number of days for client to file an appeal in most situations

SSA DEFINITION OF DISABILITY

- SSA considers whether a person has severe medical impairment(s) that is/are:
 - Expected to last at least one year (12 months), or
 - Expected to result in death.
- Each “impairment” or medical condition is defined by the Listings of Impairments
- Disability is either 100% or not disabled.

DRUG ADDICTION AND/OR ALCOHOLISM

If there is medical evidence and/or diagnosis of Drug and/or Alcohol Addiction or Drug and/or Alcohol Dependence:

- There will be an evaluation of whether Claimant is disabled by the rules of the SSA; *THEN*
- The SSA must make a decision whether the drug addiction and/or alcoholism is a “contributing factor material to the determination of disability”;
 - Would Claimant still be found disabled if Claimant stopped using drugs and/or alcohol?
 - Would the medical symptoms be as severe if Claimant stopped using drugs and/or alcohol ?
 - Would the limitations in function (ability to work) be as severe if Claimant stopped using drugs and/or alcohol?
 - Do you have a period of sobriety during which the symptoms and limitations of your illness were so severe you could not work?

**SSA EVALUATION
OF ADULTS
≥ AGE 18**

ADULT SEQUENTIAL EVALUATION

STEP 1: *ARE YOU WORKING?*

- If individual is actually engaging in Substantial Gainful Activity (SGA), or worked at SGA since application (or grant of disability), there is no period of disability.
- Individual not eligible for SS disability if **working** at SGA level.
- SGA is based upon monthly earned income:
 - For 2020: *Non-blind = \$1,260 *Blind = \$2,110
- When Claimant is not (or was not) actually engaging in SGA, primary consideration is given to the severity of the individual's impairment(s).
 - Move to Step 2

ADULT SEQUENTIAL EVALUATION

STEP 2: *DO YOU HAVE SEVERE IMPAIRMENT(S)?*

- Statutory requirement to be found “disabled”.
- Must have a medically determinable **impairment** (diagnosis) "of such severity" that it prevents Claimant from SGA
- Impairment is **not** severe if slight abnormality or combination of slight abnormalities which would have no more than a minimal effect on physical or mental ability to perform basic work activities.
- Multiple impairments:
 - Illnesses (diagnoses) are evaluated based upon the combined impact of impairments on ability to function, rather than assessed separately.
- If you have severe diagnosis(es), move to Step 3.

ADULT SEQUENTIAL EVALUATION

STEP 3: ***DO YOU MEET A LISTING?***

- Over 100 physical and mental medical conditions or “Medically Determinable Impairments” which would ordinarily prevent an individual from engaging in *any* gainful activity (work).
- Purpose of the Listings is “to assure that determinations or decisions of disability have a sound medical basis”
- Found at:
 - 20 Code of Federal Regulations, Subpart P, Appendix 1
<https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>

ADULT MENTAL HEALTH LISTINGS

12.00: Mental Disorders - Adult

12.02

Neurocognitive disorders

12.03

Schizophrenia spectrum and other psychotic disorders

12.04

Depressive, bipolar and related disorders

12.05

Intellectual disorder

12.06

Anxiety and obsessive-compulsive disorders

12.07

Somatic symptom and related disorders

12.08

Personality and impulse-control disorders

12.09

[Reserved]

12.10

Autism spectrum disorder

12.11

Neurodevelopmental disorders

12.12

[Reserved]

12.13

Eating disorders

12.15

Trauma- and stressor-related disorders

EXAMPLE OF ADULT MENTAL HEALTH LISTING

12.04 Depressive, bipolar and related disorders, satisfied by A and B, or A and C:

“A CRITERIA” = SYMPTOMS

Medical documentation of the requirements of paragraph 1 or 2:

- **Depressive disorder**, characterized by five or more of the following:
 - Depressed mood;
 - Diminished interest in almost all activities;
 - Appetite disturbance with change in weight;
 - Sleep disturbance;
 - Observable psychomotor agitation or retardation;
 - Decreased energy;
 - Feelings of guilt or worthlessness;
 - Difficulty concentrating or thinking; or
 - Thoughts of death or suicide.
- **Bipolar disorder**, characterized by three or more of the following:
 - Pressured speech;
 - Flight of ideas;
 - Inflated self-esteem;
 - Decreased need for sleep;
 - Distractibility;
 - Involvement in activities that have a high probability of painful consequences that are not recognized; or
 - Increase in goal-directed activity or psychomotor agitation.

AND

“B CRITERIA” = LIMITATIONS

- Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning:
 - Understand, remember, or apply information.
 - Interact with others.
 - Concentrate, persist, or maintain pace.
 - Adapt or manage oneself.

OR

“C CRITERIA”

- Your mental disorder in this listing category is “serious and persistent;” that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:
 - Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder; and
 - Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life.

ADULT SEQUENTIAL EVALUATION

STEP 4: *CAN YOU PERFORM PAST RELEVANT WORK?*

- If Claimant has severe impairment(s) but does not exactly meet or equal a listing, must determine if Claimant can do **Past Relevant Work** (PRW)
- **Past Relevant Work** decision is made with “careful consideration” of whether person can do work performed in the 15 years prior to **disability onset**
 - Was work performed at Full-Time or Part-Time?
 - How much was earned each month?
 - Was job kept for at least 3 months?

ADULT SEQUENTIAL EVALUATION

STEP 5: *CAN YOU TRANSFER SKILLS TO OTHER WORK?*

- Ability to **OBTAIN** and **MAINTAIN** employment
- Skill level (skilled, semi-skilled, unskilled)
- Exertion level (Heavy, Medium, Light, Sedentary)
- Age, Education, Literacy
- Residual Functioning Capacities
 - Sitting, standing, walking, lifting, carrying, handling, reaching, pushing or pulling; seeing, hearing, and speaking;
 - Understanding, carrying out, and remembering simple instructions;
 - Use of judgment;
 - Responding appropriately to supervision, coworkers, and public in usual work situations; and
 - Dealing with changes in a routine work setting.

**REDETERMINATIONS:
CHILDREN TRANSITIONING
TO ADULTHOOD AT
AGE 18**

CHILD TRANSITIONING TO ADULT

SO WHAT IS THE DIFFERENCE?

ADULT:

It is all about...

Work

& presumption
of ability to
work

CHILD:

It is all about...

**age appropriate
development &
performance**

REDETERMINATIONS

CHILDREN TRANSITIONING TO ADULTHOOD

- Low-income children with disabilities may be eligible for SSI
- Parental income and/or financial assets are “deemed” to child under age 18
 - A medically eligible child under age 18 may be financially ineligible for SSI because income & financial assets of parents are deemed to child
- At age 18, income & financial assets of parents are no longer deemed to “legal adult”

REDETERMINATIONS

CHILDREN TRANSITIONING TO ADULTHOOD

Different disability determination process is used when a child reaches majority (age 18):

- Children under age 18 are evaluated under
 - The Children’s “Listings”; and
 - The “Domains of Functioning”
- “Redetermination” occurs at age 18
 - The Adult “Listings” are applied, and
 - A 5 Step Sequential Evaluation process is used

REDETERMINATIONS

- Youths initially eligible for disability must have their eligibility *reassessed* based upon adult standards upon reaching age 18.
- At age 18, youths determined not disabled under the adult standard:
 - Lose monthly disability benefits, AND
 - Medicaid.

**SSA EVALUATION
OF CHILDREN
UNDER AGE 18**

DISABILITY DEFINED - CHILD

Physical and/or mental impairments must:

- Meet or medically equal a **Listing**; OR
- **Functionally** equal a Listing

DEGREES OF LIMITATION

Marked Limitation:

- Impairment(s) **interferes seriously** with child's ability to independently initiate, sustain, or complete domain-related activities.
- Age 0 to 3 - Functioning at level that is more than half ($>1/2$) but not more than two-thirds ($<2/3$) of child's chronological age
- Child of any age - Valid score on a comprehensive standardized test that is at least two (≥ 2), but less than three (< 3), standard deviations or more below the mean.

DEGREES OF LIMITATION

Extreme Limitation:

- Impairment(s) **interferes very seriously** with child's ability to independently initiate, sustain, or complete domain-related activities, but does not necessarily mean a total lack or loss of ability to function.
- Age 0 to 3 - Functioning at a level that is one-half of child's chronological age or less ($\leq \frac{1}{2}$) indicates an extreme limitation.
- Child of any age - Valid score that is three standard deviations or more (≥ 3) below mean on a comprehensive standardized test indicates an extreme limitation.

CHILD DISABILITY

“DOMAINS OF FUNCTIONING”

SSA uses a **Functional Capacity Assessment:**

- Consider the *whole child*, &
- Assess how the child’s impairment(s) affects:
 - His/her development, and
 - Performance of age-appropriate activities
 - **As compared with the children the same age who do not have impairments.**

CHILD DISABILITY

Factors To Consider:

- Chronicity of illness, exacerbations, and remissions;
- Effects of treatment, including adverse and beneficial effects of medications and other treatments;
- Need for structured settings, adaptations, and extra help; and
- Combined effects of multiple impairments and the interactive and cumulative effects of an impairment(s) on child's activities
- Ability to Work:
 - Sheltered/subsidized/therapeutic/volunteer not SGA

CHILD DISABILITY - DOMAIN OF FUNCTIONING 1

ACQUIRING AND USING INFORMATION

- Includes the ability to think, to acquire and use information, visual and verbal reasoning, problem solving, and idea development.
- Also includes perceptual, sensorimotor, language and memory processes necessary to learn.

CHILD DISABILITY - DOMAIN OF FUNCTIONING 2

ATTENDING AND COMPLETING TASKS

- Considers the child's level of alertness, ability to work at an appropriate pace, allay impulses, and initiate, sustain and change focus.
- Includes the capacity to focus on certain stimuli and ignore others.

CHILD DISABILITY - DOMAINS OF FUNCTIONING 3

INTERACTING AND RELATING WITH OTHERS

- Assesses all aspects of social interaction and relationships with groups and individuals.
- Incorporates speech and language skills necessary to communicate effectively.
- Includes the ability to respond to emotional and behavioral cues and form intimate relationships.

CHILD DISABILITY - DOMAINS OF FUNCTIONING 4

MOVING ABOUT AND MANIPULATING OBJECTS

- Looks at the child's ability to perform physical functions like sitting, standing, balancing, shifting weight, bending, crawling, running, and transferring.
- Includes the ability to hold, carry, and manipulate objects, as well as the capacity to plan, remember and execute movements.
- Considered are the child's coordination, dexterity, and integration of sensory input.

CHILD DISABILITY - DOMAINS OF FUNCTIONING 5

CARING FOR SELF

- Measures the child's ability to care for his or her physical needs and to maintain a healthy emotional state.
- Includes the ability to care for one's own health and safety and to cooperate with others to meet one's needs.
- Incorporates the child's development of increasing sense of independence and competence.

CHILD DISABILITY - DOMAINS OF FUNCTIONING 6

HEALTH AND PHYSICAL WELL-BEING

- Looks at the cumulative physical effects of physical and/or mental impairments.
- Considers the effects of chronic illness, including shortness of breath, reduced stamina, pain and poor growth.
- Includes are the impact of therapies, medications and periods of exacerbation and remission.

CHILD DISABILITY - DOMAINS OF FUNCTIONING 6

HEALTH AND PHYSICAL WELL-BEING (CONT.)

- **“Marked”** limitation may exist if child is frequently ill or has frequent exacerbations that result in significant, documented symptoms or signs.
 - “Frequent” means episodes or exacerbations that occur:
 - An average of 3 times per year, each lasting 2 weeks or more, or
 - More often than 3 times a year but do not last for 2 weeks, or
 - Occur less often than 3 times a year but last longer than 2 weeks, if the overall effect is equivalent in severity.
- **“Extreme”** limitation may exist if child is ill or has frequent exacerbations that result in significant, documented symptoms or signs substantially in excess of requirements for showing a marked limitation.

CHILD DISABILITY – DOMAINS OF FUNCTIONING

1 IMPAIRMENT RATED IN MORE THAN 1 DOMAIN

Child with ADHD

May Be Rated in More Than One Domain

D1: Acquiring and Using Information	D2: Attending and Completing Tasks	D3: Interacting and Relating with Others	D5: Caring For Self
<p>Reading Class Assignment</p> <ul style="list-style-type: none">• Repeatedly misreads words by guessing based on first letter• Does not keep up with class• Ability to learn & think is partially dependent on how well he can read	<p>Following Instructions</p> <ul style="list-style-type: none">• Only carries out 1 of 3 step instructions• Cannot sustain focus, goes to unrelated activities• Make mistakes on instruction he tries to follow• Needs controlled directed attention to correctly carry out instructions	<p>Playing with Others</p> <ul style="list-style-type: none">• Upon approach will interrupt group of children• Creates conflict w/other children• Unable to relate w/peers• Unable to understand social situation• Unable to use appropriate behaviors w/other children	<p>Avoiding danger</p> <ul style="list-style-type: none">• Impulsively dashes into street w/o looking• D/n consider his safety• Safety requires to stop & be cautious before stepping in street

CHILD DISABILITY – DOMAINS OF FUNCTIONING

COMBINATION OF IMPAIRMENTS RATED IN MORE THAN 1 DOMAIN

Child with Borderline Intellectual Functioning & Depression
May Be Rated in More Than One Domain

D1: Acquiring and Using Information	D2: Attending and Completing Tasks	D3: Interacting & Relating w/ Others	D5: Caring For Self
<ul style="list-style-type: none"> • 11th grader in Special Education • Mainstreamed in elective courses 	<ul style="list-style-type: none"> • Inattentive in class • Failure to complete assignments • Failing 3 classes 	<ul style="list-style-type: none"> • Uncooperative • Often angry • Will not communicate w/mother about what is wrong • Frequently refusing to go to school 	<p>Avoidance of dealing w/ difficulties</p> <ul style="list-style-type: none"> • Cries at home • Eats irregularly • Sleeps > 12 hours often • Complains of headaches • Irritability

REPORTING REQUIREMENTS AND RESOURCES

Reporting Requirements

- Recipients required to report any change in income, resources, household, etc., to agency within 10 days
 - Client should always get a receipt or date stamped copy of any document delivered to office
 - Client should always keep a copy of any documents RECEIVED from or GIVEN to agency
 - If at all possible send mail to agency by United States Certified Mail with Return Receipt Requested (green card)
 - Use SSA Form 795: Statement of Claimant Form
<https://www.ssa.gov/forms/>
- Even if documents are provided by recipient to agency, there is no guarantee that they will end up in the correct file or information will be documented
- KEEP A CALENDAR

What Is A Resource?

Resources are financial assets or possessions that have monetary value (liquid or non-liquid), and include:

- Vehicles (title in name of recipient)
- Loans
- Accounts (savings, checking, retirement, etc.)
- Government payments
- Life Insurance Policies (whole life, not term life)
- Burial insurance/plans/plots (irrevocable may not)
- Real property (non-homestead)
 - Transfer or Sale of Homestead must be done properly

Transferring of Resources for Less than Fair Market Value

- Transfers of real property and financial assets before application AND when receiving “need based” benefits are closely scrutinized.
- Transfers of any property/resource must be for “fair market value” and cannot be “gifted” or sold for less than what the property/resource is worth.
- The length of period of ineligibility is based upon the amount by which the transferred resource exceeds the resource maximum when added to other countable resources
- Penalties periods of ineligibility may be assessed for transferring resources for less than fair market value
 - SSA: Penalties up to 3 years of ineligibility
 - Medicaid: Penalties up to 5 years of ineligibility

DOCTOR ADVOCACY IN SSA PROCESS

- Provide Medical Records – the sooner the better
- Letter of Support On Physician Letterhead which is Based Upon Medical Record
 - Dates of treatment and, if relevant, very brief history
 - Diagnoses and symptoms
 - Test results indicating severity of diagnoses (if relevant)
 - Medications and other treatments (and side effects)
 - Responsiveness to treatment
 - Prognosis & Functional Limitations

TEXAS RIOGRANDE LEGAL AID AUSTIN

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