

The Gottesman Report

A Newsletter For Your Benefit

July 2006

Staffing Problems at SSA ...

We have learned that SSA is replacing staff members at a rate of one (1) new employee for every three (3) who leave. This means that each new employee is doing the work of three (3) people! Now, SSA has also been charged with the processing of Medicare Part D (prescription program) low income subsidy applications. Of course, backlogs continue to grow at SSA hearing offices and there have been cutbacks of continuing disability reviews and SSI re-determinations.

Charges for Medical Records ...

The following are the latest rates that doctors and hospitals in NY and NJ may charge for medical records:

In NJ, doctors may charge no more than \$1 per page or \$100 for the entire record, whichever is less, with a possible minimum charge of \$10. Hospitals may charge no more than \$1 per page or \$100 up to 100 pages, with a charge of 25 cents for each page thereafter to a maximum of \$200 for the entire record.

In NY, both doctors and hospitals may charge no more than 75 cents per page. Access is not to be denied solely because of inability to pay.

Similar to other private attorneys, our retainer agreement for Social Security cases specifies that our office does not pay for medical records. However, we try to ensure that client costs are kept to a minimum. To accomplish this, we ask our clients to request copies of their records on an ongoing basis, as it is always easier for the doctor's

office to copy several pages than a whole chart full of paper. We also recommend that the client obtain these records on their own. Many times a doctor will charge his or her patient for records if an attorney is involved. When the client is unable to do this, we will, of course, ask for the medical records from this office, but must pass the cost on to the client. If it is impossible for the client to obtain medical records because of payment issues, we will have the Judge subpoena the records prior to the hearing. However, this may place the client at a disadvantage because we may not have enough time to obtain clarification if questions come up as to the contents of the doctor's records.

We remind our readers that it is necessary for the Claimant who wishes to receive SSDI/SSI benefits to document his or her inability to work with objective medical evidence and ongoing medical records.

Our new e-mail address ...

Effective immediately, we have changed e-mail addresses. Our old e-mail address is jogoesq@aol.com. This has been changed to jogoesq@optonline.net. Although we are currently receiving e-mail at the old address, our aol.com account will shortly be terminated. Please call our office if you have any questions. See below for additional ways to contact us.

The Office of Disability Determinations ...

From time to time, we receive questions from clients as to what happens during the time that SSA is considering their claim. Recently, a question arose as to why claims that are supposed to be handled by SSA are being handled by the State Office of Disability Determinations.

The Office of Disability Determinations (“state agency”) is under contract with SSA to develop the medical evidence on each claim and make recommendations to SSA to either grant or deny the claim.

Thus, after your initial application is filed, your file is sent to the State Office of Disability Determinations for what is called “medical development.” ODD is required to contact all treating physicians to obtain their records and their statements. SSA pays treating physicians just ten (10) dollars to fill out their form and return it to them. This is why many doctors do not cooperate with ODD.

ODD is also charged with setting up Consultative Examinations for Claimants. These examinations (“CEs”) are not supposed to be scheduled unless and until ODD is unable to get the medical information it requires from your doctor. However, such examinations are almost routinely set up. Our office has found that, while under certain circumstances the CEs are improper, the case moves along quicker if we allow our clients to attend the CEs rather than spend months trying to convince the State Agency that they are improper.

What to expect from a Consultative Examination ...

If you are sent an appointment to see a Consultative Examining doctor, you usually only get a few days’ notice. You are allowed at least one (1) postponement of that examination. You must follow the instructions on the letter as to how to contact ODD if you need to change the examination

date. If you are a client of our office, you may call us and we will take care of that for you.

Although ODD is improving how it handles these examinations, Claimants can typically expect to wait an hour or more to see the doctor. Depending on the type of doctor you see, it is not uncommon for your examination to be very brief. Many Claimants complain about the doctor’s manner. These doctors see many patients every day, and get paid based on how many examinations they conduct.

Moreover, their reports sometimes do not at all reflect what happens during the examination. Sometimes they may estimate how much a person weighs rather than weigh them. Sometimes the reports make you wonder whether the doctor has examined the same patient being written about!

The doctor’s report is rebuttable at the time of the hearing with testimony from the Claimant as to what happened in the examining room. This is why we encourage all our clients to make notes after their examination as to how long they were with the doctor and what the doctor did or did not do.

Finally ...

If you are interested in seeing a particular issue addressed in this Newsletter, or if anyone you know wishes to be placed on the mailing list for future Newsletters, please let us know.

Visit our web-site at
www.disabilitybenefitsattorney.com. Our e-mail address is
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