

# The Gottesman Report

## A Newsletter For Your Benefit

May 2009

### What's New at SSA ...

SSA continues to push ahead with its pilot project to render favorable decisions on disability claims at the initial level as frequently as possible. This is a rather limited initiative that is only being taken in specific geographic areas – our tri-state area is one. Claims that are decided favorably within this time frame are those in which the medical documentation clearly supports a finding of total disability. It is not generally done in cases where the medical documentation is sparse or is capable of being viewed in any way other than completely favorable. For cases in which this is not done, the waiting period for a hearing continues to be approximately one year from the date in which the claim reaches the hearing office.

### Pulling the Wool Over Your Eyes ...

All is not so benign when SSA favorably allows claims within a few months. In many cases, SSA will cut short the retroactive benefit period, literally chopping off thousands of dollars of retroactive benefits. When SSA does this, it counts on Claimants being too ill or being so grateful to get something that they will not pursue the claim further. Thus, it saves the government a great deal of money when SSA does not have to pay out large retroactive benefit periods.

Likewise, if a Claimant has returned to full-time employment since the claim was

filed, SSA will often not give the Claimant the trial work period to which he/she is entitled. This again denies the Claimant approximately one year's worth of continued benefits, plus Medicare/Medicaid, to which he/she is legally entitled.

This is why having an attorney is valuable in disability cases. Many Claimants are still not aware of their rights when it comes to calculation of benefits. Only your representative can tell you whether you have gotten the maximum benefit possible and can protect your rights to get as much money as possible.

### Update on Our Office ...

Our office has been working on technology updates. You are invited to visit our new and improved web site at [www.disabilitybenefitsattorney.com](http://www.disabilitybenefitsattorney.com). We have provided many enhancements to the site, and all our future newsletters will be posted to the site. We welcome feedback on how our site can be improved.

### Our Practice Areas ...

We would like to remind our readers that our practice areas in New York consist of Social Security disability /SSI claims; long-term disability claims; and matrimonial law, including custody, visitation and support matters. In New Jersey, our practice areas consist of Social Security disability/SSI, disability discrimination, and long-term disability claims only. We are also willing and able to travel to nearly any state for select cases. As we deal almost exclusively in Federal practice areas, Ms. Gottesman is

able to appear in court in any state as well as Federal courts up to and including the US Supreme Court, where she is a member of the bar. Please call our office if you have any questions about our practice areas.

All consultations are complimentary. you. We have offices in both NY and NJ, and will come to you if you are unable to come to us. We can also work with you by phone, fax, mail and e-mail if you are unable to travel. .

### **Employer Bias Cases ...**

We have decided to highlight this news again in our newsletter because it is so important.

The U.S. Supreme Court recently decided, in a 5-4 opinion, that employees cannot reach more than six (6) months back to complain about discriminatory employment practices. This means that the EEOC complaint, which is a pre-requisite to suing your employer, cannot be filed more than six (6) months after the last (not first) discriminatory act occurred. This is a huge step back for employees, who used to have nearly a year to decide whether to file a complaint against an employer.

As we have said previously, it is very important that the EEOC complaint be drafted in exact and thorough language, as it serves as the notice to the employer of the charges against it. If the EEOC complaint is not drafted precisely, it can be used as the basis for the employer to make a motion to dismiss the Federal Court action.

This office is available to assist workers with filing an EEOC complaint and representing you before the EEOC.

### **What Can Claimants Do While Awaiting a Hearing Date ...**

Our office believes that preparing the case as we go along is the best way to maximize our chances of winning a hearing. This is why we explain to our clients, when we take in a new case, that the most important thing they can do for their case is to keep in touch with us and to attend all medical appointments.

Claimants should try to have their doctor send or give them the chart note each time they have an appointment. In most instances, when seeing a private doctor, the patient must ask for that day's chart note at the end of the visit and either have it mailed or pick it up when it is available. This is the best way to make sure all of the medical evidence is available to us. Chart notes and test results should always be sent to our office, not to SSA.

For those who see doctors at clinics and hospitals, it is more difficult to obtain chart notes. However, after a hospitalization, operation or major procedure, the patient should ask for all of the chart notes and records pertaining to that procedure. In this way, a large bill for medical records is avoided and we make sure that our records and those of SSA are up to date.

### **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.

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**Remember: The best "thank you" for a job well done is your referral of a**

**potential new client.**