

Table of Contents

PART I. ADMINISTRATIVE ORGANIZATION AND GENERAL PROVISIONS

CHAPTER 1. ADMINISTRATIVE ORGANIZATION

- § 1:1 Administration of the Social Security Act
- § 1:2 Administration of the Social Security Act—District and
branch office operations
- § 1:3 Administration of the Social Security Act—Program
service centers
- § 1:4 Administration of the Social Security Act—Regional offices
- § 1:5 Administration of the Social Security Act—Office of
Disability Adjudication and Review
- § 1:8 Administration of the Social Security Act—Disability
Determination Services (DDS)
- § 1:9 Establishment of the SSA as an independent agency
- § 1:10 Establishment of the SSA as an independent agency—
Commissioner position established and term fixed
- § 1:21 Representative payee
- § 1:22 Attachment of benefits
- § 1:23 Levy or garnishment of benefits
- § 1:31 Alien reciprocal payment and nonpayment provisions—
Countries where payments are permitted
- § 1:32 Reporting requirements—Generally
- § 1:44 International Social Security Agreement Act (totalization
agreements)
- § 1:45 Freedom of Information Act
- § 1:46 Notice requirements
- § 1:50 Validity of denial of Social Security card under “no
process” policy
- § 1:54 Cost of living adjustment (COLA) and other changes *[New]*
- § 1:55 Request for internet services *[New]*

CHAPTER 2. DEFINITIONS/TERMS/ ACRONYMS

- § 2:54 Past relevant work

- § 2:67 Substantial gainful activity
- § 2:76 Unsuccessful Work Attempt (UWA)
- § 2:76.50 Young adult *[New]*
- § 2:80 Glossary of acronyms for Title II and Title XVI (SSI) programs

CHAPTER 3. COVERAGES AND EXCEPTIONS

I. IN GENERAL

- § 3:2 Extent of coverages

VIII. WORK FOR NONPROFIT ORGANIZATIONS

- § 3:35 Generally

XVI. SELF-EMPLOYMENT

- § 3:113 Piercing corporate veil of closely held corporation

XVIII. QUARTERS OF COVERAGE REQUIREMENT

- § 3:157 Fully insured status

CHAPTER 4. WAGES AND EXCLUSIONS

I. INTRODUCTION

- § 4:3 Limitation on amounts credited to wage and taxes

II. WHAT IS COUNTED AS PAYMENT FOR SOCIAL SECURITY PURPOSES

- § 4:9 Military pay

III. EVIDENCE AND PROOF OF WAGES

- § 4:43 Generally

CHAPTER 5. FAMILY RELATIONSHIPS

II. MARITAL RELATIONSHIPS

- § 5:6 Spouse

TABLE OF CONTENTS

III. POSTMARITAL STATUS

§ 5:19 Widow(er)

IV. CHILD

§ 5:22 Generally

§ 5:36 Stepchild—Stepchild’s entitlement to benefits based on actual dependency on stepparent support

VI. EVIDENCE AND PROOF

§ 5:48 Adoption

§ 5:60 Parent-child relationship

§ 5:66 Illegitimate child—“Insurmountable barrier” and “substantial relationship” tests

§ 5:74 Federal Defense of Marriage Act (DOMA) effect on Social Security benefits

§ 5:75 Surrogacy *[New]*

PART II. BENEFIT CATEGORIES

**CHAPTER 6. RETIREMENT AND
AUXILIARY BENEFITS; SPECIAL
AGE 72 PAYMENTS**

III. AUXILIARY BENEFITS

B. SPOUSE’S INSURANCE BENEFITS

§ 6:24 Public pension offset

C. CHILD’S INSURANCE BENEFITS

§ 6:39 Termination of benefits

IV. SPECIAL AGE 72 PAYMENTS

§ 6:43 Uninsured 72-year-old persons

CHAPTER 7. SURVIVORS BENEFITS

II. WIDOW(ER)’S INSURANCE BENEFITS

§ 7:6 Exception to nine-month duration-of-marriage requirement

VI. EVIDENCE AND PROOF

§ 7:41 Death of claimant before benefits are paid *[New]*

CHAPTER 8. DISABILITY BENEFITS

I. INTRODUCTION

- § 8:6 Scope of disability program (Title II)
- § 8:8 “Disability” defined—Severe impairment as relative term
- § 8:12 Reporting requirements
- § 8:13.50 Cooperative Disability Investigations program *[New]*

II. INDIVIDUALS ENTITLED TO DISABILITY BENEFITS

- § 8:14 Benefit offsets in long-term disability (LTD) cases
- § 8:21.50 Young adults *[New]*

III. REHABILITATION

- § 8:27 Trial work period

IV. WORKERS’ COMPENSATION OFFSET REDUCTIONS

- § 8:29 Application of offset provisions

V. DISABILITY DETERMINATIONS

A. PRIMARY FACTORS AND CONSIDERATIONS

- § 8:35 Sequential evaluation process
- § 8:36 Age, education, and work experience considerations
- § 8:37 Substantial gainful activity
- § 8:41 Substantial gainful activity—Special earnings guidelines applicable to blind disabled persons
- § 8:47 Substantial gainful activity—“Make work” activity
- § 8:48 Medically determinable impairment
- § 8:49 Twelve-month period of disability
- § 8:51 Geographical disability
- § 8:54 Theoretical ability to engage in substantial gainful activity
- § 8:55 Theoretical ability to engage in substantial gainful activity—What constitutes “significant number of jobs”

B. IMPAIRMENT EVALUATION

- § 8:60 Remedial ailments—Good cause for refusing to undergo remedial treatments—Discontinuance of medications as basis for finding of nondisability

TABLE OF CONTENTS

- § 8:61 Remedial ailments—Good cause for refusing to undergo remedial treatments—Inability to pay as excusing refusal to remedy ailment
- § 8:71 Other particular impairments—Acquired immune deficiency syndrome (AIDS)
- § 8:73 Other particular impairments—Acquired immune deficiency syndrome (AIDS)—AIDS/HIV
- § 8:76 Other particular impairments—Alzheimer’s disease
- § 8:77 Other particular impairments—Narcolepsy
- § 8:80 Loss or malfunction of limbs

C. MISCELLANEOUS FACTORS CONSIDERED IN DETERMINING DISABILITY

- § 8:82 Illiteracy
- § 8:87 Epstein-Barr virus syndrome/chronic fatigue syndrome (CFS)
- § 8:88 Residual functional capacity (RFC)

VI. EVIDENCE AND PROOF

A. IN GENERAL

- § 8:93 Generally
- § 8:94 Consultative examination
- § 8:95 Vocational expert (VE)
- § 8:96 Nonexamining doctor
- § 8:97 Veterans Administration determination of disability
- § 8:98 Other agencies’ determination of disability
- § 8:101 Employee earnings
- § 8:103 Treating physician rule
- § 8:104 Collateral estoppel
- § 8:105 Nonexertional impairments
- § 8:106 Presumption of disability
- § 8:108 Pain and discomfort
- § 8:109 Credibility of witnesses
- § 8:110 Discrediting evidence must be explained and articulated
- § 8:111 Listings-based disability
- § 8:112 “GRID”-based disability

B. PROOF OF SPECIFIC AILMENTS

- § 8:115 Alcoholism and drug abuse
- § 8:117 Arthritis
- § 8:118 Arm, hand, and leg impairments
- § 8:119 Arm, hand, and leg impairments—Carpal tunnel syndrome

SOCIAL SECURITY CLAIMS

- § 8:121 Blindness
- § 8:122.50 Chronic fatigue syndrome *[New]*
- § 8:123 Diabetes
- § 8:125 Epilepsy
- § 8:127 Headaches
- § 8:128 Heart condition
- § 8:135 Lung and respiratory conditions
- § 8:137 Mental disorders
- § 8:139 Multiple sclerosis
- § 8:140 Obesity (no longer a listed impairment)
- § 8:143 Pain and discomfort
- § 8:147 Urination
- § 8:148 Down syndrome
- § 8:150 Amyotrophic lateral sclerosis (ALS) (“Lou Gehrig’s Disease”)
- § 8:151 Fibromyalgia
- § 8:153 Neurological impairments
- § 8:153.10 Crohn’s Disease (Inflammatory Bowel Disease (IBD)) *[New]*
- § 8:153.30 Sickle Cell Disease *[New]*
- § 8:153.50 Reflex Sympathetic Dystrophy (RSD) *[New]*
- § 8:153.70 Systemic Lupus Erythematosus (SLE) *[New]*
- § 8:153.90 Asperger’s syndrome *[New]*
- § 8:153.95 COVID-19 *[New]*

VII. MEDICAL IMPROVEMENT REVIEW STANDARDS

- § 8:155 Standard of review for termination of disability benefits
- § 8:160 Sixth Circuit rule on cessation of disability

VIII. LISTINGS AND GUIDELINES

- § 8:166 Updated listings information
- § 8:168 Summary of appendix to Medical-Vocational Guidelines (GRID)
- § 8:169 Compassionate allowances
- § 8:170 Dire need claims *[New]*

TABLE OF CONTENTS

**PART III. ADMINISTRATIVE
PROCEDURES FOR OBTAINING
BENEFITS**

**CHAPTER 10. APPLICATION FOR
BENEFITS**

I. IN GENERAL

- § 10:9 Filing second application while first application pending
- § 10:11 Legal representatives authorized to file for benefits

**II. TIME FOR FILING APPLICATIONS AND
SUPPORTING DOCUMENTATION**

- § 10:14 When effective application can be filed

III. WHERE TO FILE APPLICATIONS

- § 10:25 Overview

IV. FORM AND CONTENT OF APPLICATION

- § 10:30 Generally
- § 10:30.50 Pre-claim interview and disability interview *[New]*

V. WITHDRAWAL OF APPLICATION

- § 10:35 Right to withdraw application
- § 10:36 Written request requirement

**CHAPTER 11. INITIAL DETERMINATION
OF BENEFIT ENTITLEMENT;
RECONSIDERATION**

I. INITIAL DETERMINATION

- § 11:3 Entitlement or continued entitlement
- § 11:10 Disability determination
- § 11:14 Overpayment/underpayment adjustments
- § 11:17 Overpayment/underpayment adjustments—Expansion of
scope of waiver provision in overpayment cases
- § 11:26 Felony conviction prison confinement nonpayment
determination

II. RECONSIDERATION DETERMINATION

- § 11:34 Right to reconsideration

SOCIAL SECURITY CLAIMS

§ 11:37 Notice of reconsideration proceedings

V. ATTORNEY'S FEES

§ 11:46 Fees that may be charged by claimant's representative

§ 11:47 Direct payment of authorized fee to attorney
representative

§ 11:48 Payment of fees to persons other than attorneys

Table of Contents

PART III. ADMINISTRATIVE PROCEDURES FOR OBTAINING BENEFITS (CONTINUED)

CHAPTER 12. ADMINISTRATIVE HEARINGS AND APPEALS

II. PREHEARING PROCEDURES

- § 12:3 Generally
- § 12:5 Request for hearing by administrative law judge
(form) HA-501-US
- § 12:6 Refusal to extend time to file
- § 12:7 Venue
- § 12:8 Notice of hearing
- § 12:11 Staff attorney/paralegals
- § 12:11.50 Electronic access *[New]*
- § 12:11.60 Single decision-maker test *[New]*

III. HEARING PROCEDURES

- § 12:12 Generally
- § 12:18 Examination of witness(es)
- § 12:21 Conduct of hearing
- § 12:22 Conduct of hearing—Due process requirements
- § 12:23 Record of hearing

IV. DISMISSAL OF REQUEST FOR HEARING

- § 12:33 Basis for dismissal—Administrative res judicata—Due process

V. SUGGESTED PROCEDURES FOR TRIAL COUNSEL

- § 12:41 Review claimant's intake sheet
- § 12:52 Cross-examination of adverse witnesses—Role of vocational expert (VE)
- § 12:54 Objection to admission of evidence into record

§ 12:55.50 Submission of evidence *[New]*

VI. DECISION OF ADMINISTRATIVE LAW JUDGE

§ 12:56 Generally
§ 12:57 Effect of decision
§ 12:59 Appeal of decision

VII. APPEALS COUNCIL PROCEEDINGS

§ 12:61 Generally
§ 12:68 Procedure before Appeals Council
§ 12:69 Admissibility of evidence on review
§ 12:70 Use of postadministrative hearing evidence
§ 12:71 Reopening/revising determinations and decisions

VIII. REVIEW OF DISABILITY CASES

§ 12:73 Generally
§ 12:74 Termination procedures
§ 12:77 Video teleconference hearings (VTC)

PART IV. JUDICIAL REVIEW

CHAPTER 13. COMMENCING JUDICIAL REVIEW

I. REMEDIES

§ 13:2 Exhausting administrative remedies prerequisite
§ 13:3 Availability of mandamus upon exhausting administrative remedies

II. JURISDICTION AND VENUE

§ 13:6 United States District Court jurisdiction
§ 13:9 United States District Court jurisdiction—Tort/negligence cases

III. TIME FOR COMMENCING JUDICIAL REVIEW

§ 13:12 Generally
§ 13:13 Extension of time

IV. PARTIES; PROCESS

§ 13:14 Generally

TABLE OF CONTENTS

§ 13:17 Service of process

V. COSTS ASSOCIATED WITH FILING CASE

§ 13:18 Generally

**CHAPTER 14. PROCEDURES ON
JUDICIAL REVIEW**

II. SCOPE OF REVIEW

§ 14:11 Questions of law

§ 14:16.50 Harmless error *[New]*

III. REVIEW PROCESS

**E. COLLATERAL ATTACKS ON
ADMINISTRATIVE DECISION**

§ 14:31 Alleged bias of administrative law judge

**G. COMMISSIONER'S NONACQUIESCENCE
IN DECISIONS BY THE COURTS**

§ 14:40 Sixth Circuit

§ 14:41 Eighth Circuit

§ 14:42 Ninth Circuit

CHAPTER 15. REMAND

I. INTRODUCTION

§ 15:1 Overview

II. "GOOD CAUSE" FOR REMAND

§ 15:3 Generally

§ 15:5 New, additional, or paucity of evidence

§ 15:10 Decision based on part of record

**III. OTHER REMAND CONSIDERATIONS AND
PROVISIONS**

§ 15:14 ALJ's failure to fully develop record

§ 15:17 Appeals to, and remand by, courts of appeals

§ 15:18 Procedures on remand

PART V. ATTORNEY REPRESENTATION AND FEES

CHAPTER 16. ATTORNEY REPRESENTATION AND FEES

I. RIGHT TO REPRESENTATION

- § 16:1 Generally
- § 16:2 Waiver of attorney representation
- § 16:3 Practice where claimant appears without counsel
- § 16:6 Disqualification of nonattorney representative
- § 16:7.50 Rules of conduct for representatives *[New]*

II. ATTORNEY'S FEES

A. IN GENERAL

- § 16:8 Generally
- § 16:9 Commentary

B. LIMITATIONS ON FEES

- § 16:12 Authority to limit fees
- § 16:15 Fees for multiforum services
- § 16:18 Supplemental attorney's fee award by court
- § 16:19 Decrease of attorney's fee
- § 16:21 Attorney escrow accounts
- § 16:24 Penalty for violation of fee limitation provision—Fees paid by governmental entity or nonprofit organization

D. CONTINGENCY FEES

- § 16:29 Effect of contingency fee contracts

E. ATTORNEY'S FEE AGREEMENT

- § 16:30 Generally

F. REQUEST FOR APPROVAL OF FEE

- § 16:32 Generally

G. FIXING ATTORNEY'S FEES

- § 16:45 "Lodestar" method of fixing attorney's fees

TABLE OF CONTENTS

- § 16:46 Circuit courts of appeals guidelines for fixing attorney's fees
- § 16:47 Order fixing fees and/or costs—In administrative proceedings
- § 16:48 Order fixing fees and/or costs—In judicial review proceedings (form)

H. PAYMENT OF FEES

- § 16:50 Generally
- § 16:52 Erroneous release of, or failure to withhold, funds; recoupment of fees

J. ATTORNEY'S FEES UNDER EQUAL ACCESS TO JUSTICE ACT (EAJA)

- § 16:56 Generally
- § 16:58 "Not substantially justified" basis for award
- § 16:59 *Schaefer* case
- § 16:61 Application for attorney's fees under EAJA
- § 16:64 Obtaining payment

L. SUGGESTED SOLUTIONS TO ATTORNEY'S FEE PROBLEMS

- § 16:70 Dual recovery of attorney's fees in Social Security litigation
- § 16:72 Special circumstances rule

PART VI. SUPPLEMENTAL SECURITY INCOME ACT (SSI)

CHAPTER 17. INTRODUCTION TO ACT

I. SCOPE AND PURPOSE OF SSI BENEFITS

- § 17:1 Generally

III. COVERAGES

- § 17:13 Constitutionality of Puerto Rico exclusion
- § 17:20 Work incentives for the blind and disabled—Special SSI cash benefits to disabled individuals who engage in substantial gainful activity

IV. PAYMENTS

- § 17:21 Benefit payments

§ 17:23 Overpayment/underpayment provisions—Waiver of overpayment repayment

CHAPTER 18. DEFINITIONS

II. DISABILITY

§ 18:5 Childhood disability

V. RESOURCES

§ 18:17 Generally

CHAPTER 19. BASIC ELIGIBILITY

I. IN GENERAL

§ 19:1 Generally

II. CITIZENS, RESIDENTS, AND ALIENS

§ 19:4 Generally

§ 19:6 Aliens—Particular categories of eligible aliens

§ 19:7 Aliens—SSI redetermination procedures

IV. DEFINITIONS

§ 19:19 Special benefits for certain World War II veterans

CHAPTER 21. BENEFITS CATEGORIES

II. DISABLED PERSONS

A. IN GENERAL

§ 21:3 Children

§ 21:7 Trial work period/Ticket to Work and Work Incentives Improvement Act

B. INDIVIDUALS SUFFERING FROM DRUG ADDICTION OR ALCOHOLISM

§ 21:19 Persons addicted to prescription medications

IV. OTHER PAYMENTS AND ENTITLEMENTS

§ 21:23 Emergency advance payments

TABLE OF CONTENTS

- § 21:24 Medicaid entitlement based on SSI eligibility
- § 21:26 Medicaid entitlement based on SSI eligibility—State options *[New]*

CHAPTER 22. LIMITATIONS ON BENEFITS

III. EARNED INCOME

A. IN GENERAL

- § 22:11 Generally
- § 22:12 “Earned income” defined

IV. UNEARNED INCOME

- § 22:22 Other agency benefits as unearned income—Department of Veterans Affairs (VA) benefits
- § 22:29 Installment payments of large past-due SSI awards
- § 22:33 Deemed income—From ineligible spouse to eligible individual

V. RESOURCES

- § 22:37 Generally
- § 22:53 Real estate that cannot be sold

VII. OTHER FACTORS

- § 22:67 Home reinvestment regulations
- § 22:70 In-kind support and maintenance

CHAPTER 23. ADMINISTRATIVE PROCEDURES FOR OBTAINING BENEFITS

III. PRELIMINARY ADMINISTRATIVE PROCEDURES

- § 23:6 Reconsideration determination

IV. ADMINISTRATIVE HEARINGS

- § 23:11 Issues

VI. APPEALS COUNCIL REVIEW

- § 23:18 Evidence

SOCIAL SECURITY CLAIMS

Table of Laws and Rules

Table of Cases

Index