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Applying for SSI with a Mental Health Disability: 5 Things to Know

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1:15 PM, LA Law Library

MacKenzie Canniff
Staff Attorney
Mental Health Advocacy Services
Established in 1977 to provide free legal services to people with mental disabilities. MHAS assists both children and adults, with an emphasis on obtaining government benefits and services, protecting rights, and fighting discrimination. MHAS also serves as a resource to the community by providing training and technical assistance to attorneys, mental health professionals, consumer and family member groups, and other advocates. In addition, MHAS participates in impact litigation in an effort to improve the lives of people with mental disabilities.

CALL OUR INTAKE LINE! (213) 389-2077

- Housing: Reasonable Accommodation requests
- Post-Conviction: Ticket clearing, expungement advice
- Special Education
- Medical/Legal Community Partnership
- Government benefits: Countywide Benefits Entitlement Services Team (CBEST)
Supplemental Security Income (SSI)

Title XVI of Social Security Act

• Federal benefit, ~$950/mo. (with CA supplement), but varies;

• Reserved for the poorest of the poor

→ Very stringent income/resource guidelines
Social Security Disability Insurance (SSDI)

Title II of SSA

• Insurance program that you have paid into
  → No limits on income/resources, usually a higher benefit amount (varies);
  → *Must have enough work credits to qualify*

BUT, same disability criteria as SSI...
“DISABLED”

“Inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.”

--20 C.F.R. § 44.1505
Substantial Gainful Activity

- Generally defined as earning less than a certain amount/mo.

→ 2019: $1220
“Medically-determinable...impairment”

“Impairment that results from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. The medical evidence must establish that an individual has a physical or mental impairment; a statement about the individual's symptoms is not enough.”

-- CFR §404.1529
“Expected to result in death or which has lasted or can be expected to last for... 12 months.”
Application Process

• Gather medical records and complete application
• Submit to local SSA office
• SSA contracts with CA’s Disability Determination Services to determine disability
• RIGOROUS standard to meet “disabled”...
5-Step Process to Determine Disability

1) Are you currently engaged in any **Substantial Gainful Activity**?

   ➔ $1220/mo.

2) Can your alleged disability be expected to end in death or last **12 months**?

3) Does your disability meet a **Listing**?

   ➔ If so, you are found disabled
Listing

Very difficult to meet!

Don’t forget to have **medical documentation** of all requirements!

*Example...*
12.04 Depressive, Bipolar and related disorders

A1) **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.

OR:

A2) **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...**
12.04 Continued:

B) 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) 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.
5-Step Disability Analysis, Continued

4) Can you return to any of your past relevant work?
   → SGA in the past 15 years

5) Can you perform any job in the national economy?
   → Literally anything;
   → “Regular and continuing” = 8 hours/day, 5 days/week or equivalent
Appeal

Within 60 days of denial, show new evidence
Example

Facts:

– Homeless
– Back pain, but no treatment;
– Mental health condition, but little treatment
– Drug use
Analysis:

– Likely meet the income/resource guidelines for SSI
– Likely does not have enough medical documentation to support the severity of his disabilities
– Drug use problematic
LA County Department of Health Services is using Prop H money to fund DHS and DMH to assist individuals with gathering and analyzing medical records, and completing SSI/SSDI application forms. They even submit to SSA for you!

CONTACT US FOR A REFERRAL TO A CBEST PROGRAM IN YOUR AREA
Thank you!

MENTAL HEALTH ADVOCACY SERVICES
(213) 389-2077
Mhas-LA.org

MacKenzie Canniff
mcanniff@mhas-la.org
(213) 389-2077 ext. 25

Note: This presentation is for educational purposes only and is not intended to constitute legal advice. If you have legal questions, contact our intake line or an attorney of your choice.