

Life-Threatening Situations

If you have had a consultative examination (known as a CE, and discussed in Section 2, above), and the examining doctor detects something that might be life threatening, the DDS must send a copy of the CE medical report to your treating doctor if it appears your treating doctor might be unaware of the problem. A DDS doctor may also have an examiner call or write to you stating that there is a potentially serious problem you should have evaluated. In all cases, the DDS will include in your file any action it took regarding life-threatening situations.

In general, any doctor who examines you should inform you of any serious impairments. But this might not happen if the doctor assumes the DDS will tell you, or if you are no longer around when the doctor gets the results of some test. For example, the DDS has you undergo a chest X-ray. By the time the report is done, but before the doctor can tell you about a suspicious and possibly cancerous tumor, you have left the hospital. A DDS medical consultant who sees the X-ray report should ask the examiner to send a copy of the report to your treating doctor, provided you consent to the release. A DDS medical consultant must exercise his medical judgment regarding the urgency of the situation and method of informing you, assuming that the examiner shows the information to a medical consultant.

4. Medical Experts

If you are denied benefits and you appeal, an administrative law judge (ALJ) in the Office of Disability Adjudication and Review will hear your case. To help them in their work, ALJs sometimes request expert testimony on complex medical issues from medical experts (MEs). Unlike medical consultants, medical experts have no official authority regarding whether you should be allowed benefits; they only testify in hearings.

Each hearing office maintains a list of medical experts who are called to testify as expert witnesses at hearings. The SSA pays the medical experts a fee for their services. Medical experts don't work in state or federal agencies. They never examine disability claimants in person, though they may review your medical records. (Appeals and medical experts are covered in Chapter 12.)

D. How Other Disability Payments May Affect Social Security Benefits

Workers' compensation benefits or benefits you receive from another public disability program affect the amount of Social Security disability benefits you receive.

1. Workers' Compensation and Public Disability

Workers' compensation payments are made to a worker because of a job-related injury

or illness or to the workers' dependents if the worker is killed. Workers' comp, as it is known, may be paid by a government workers' compensation agency, an employer, or an insurance company on behalf of employers. In most states, employers are required to participate in workers' compensation insurance programs.

No state's workers' comp program covers all jobs; however, many of the states cover most jobs. Some states cover only work considered dangerous; others cover only employers with a minimum number of employees. Coverage varies for agricultural workers and domestic workers, meaning people who work in private homes doing work such as cleaning, babysitting, and cooking. All laws include some or all diseases attributable to the worker's occupation. Most states exclude coverage for injuries due to the employee's intoxication, willful misconduct, or gross negligence.

Other public disability payments that may affect your Social Security benefits are those paid under a federal, state, or local government plan that covers conditions that are not job related. Examples are civil service disability benefits, military disability benefits, state temporary disability benefits, and state or local government retirement benefits based on disability.



SEE AN EXPERT

Workers' compensation and public disability benefit cases can be legally complex

and vary between states, especially when combined with Social Security disability benefits. If you might be eligible for both, consider using the **services of an attorney experienced** in the interaction of Social Security disability and other programs to make sure you obtain all the benefits you are entitled to.

a. How Much Your Disability Benefits May Be Reduced

Your Social Security disability benefit will be reduced so that the combined amount of your Social Security benefit *plus* your workers' compensation and public disability payment **does not exceed 80% of your average current earnings**. But the SSA should deduct legal, medical (including future medical expenses paid by workers' compensation), and rehabilitation expenses from a workers' compensation award before reducing your Social Security disability benefit.

To calculate your SSDI disability benefit, first the SSA will calculate your average current earnings. (All earnings covered by Social Security, including amounts above the maximum taxable by Social Security, can be used when figuring average current earnings.)

Average current earnings are the highest of the following:

- the average monthly earnings the SSA used to figure your Social Security disability benefit

- your average monthly earnings from any work you did covered by Social Security during the five highest years in a row after 1950, or
- your average monthly earnings from work during the year you became disabled or in the highest year of earnings you had during the five-year period just before you became disabled.

The SSA uses your average earnings and a complex formula to calculate your disability benefit. Then, your monthly disability benefit, including any benefits payable to your family members, is added to your workers' compensation or other public disability payment. If this sum exceeds 80% of your average current earnings, the excess amount is deducted from your Social Security benefit. But, the amount of the combined benefits will never be less than the total Social Security benefits before they were reduced. The reduction will last until the month you reach age 65 or the month your workers' compensation and/or other public disability payment stops, whichever comes first.

b. Reporting Other Benefits to the SSA

You must notify the SSA if any of the following occurs:

- The amount of your workers' compensation or public disability payment changes. This will probably affect the amount of your Social Security benefits.
- Your workers' compensation or public disability payment ends. If your workers' compensation or public disability payment stops, your Social Security benefit usually will increase.
- You receive a lump-sum disability payment. If you get a lump-sum workers' compensation or other disability payment to settle your claim, your Social Security benefits may be reduced.

2. Railroad Retirement Act and Social Security Disability

The Railroad Retirement Act (RRA) sets up a system of benefits for railroad employees and their dependents and survivors. The RRA works with the Social Security Act to provide disability (as well as retirement, survivor, and dependent) benefits payable on the basis of a person's work in the railroad industry and in work covered by the Social Security Act.

An important distinction is made between railroad workers who have worked less than ten years and those who have worked ten years or more. The RRA transfers to the Social Security system the compensation records of people who, at the onset of disability, have less than ten years of work in the railroad industry. This compensation is considered wages under the Social Security Act.