

**Access to Justice Commission
Eleventh Judicial District (San Juan County) Local Pro Bono Committee
2010 Annual Report for the Period
January – December 2009**

1. Provide a list of your committee members with phone numbers and e.mail addresses.

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2. Has your committee been successful in developing programs that enable attorneys to assist your low-income population? Please describe the program(s). If not, why not?

We have a few clinics in the planning stages.

There has been some increase in attorneys contacting Ms. Schooley and Commissioner Gray to express a willingness to undertake pro bono work. This is a result of the Pro Bono Committee making efforts to emphasize the Supreme Court's mandatory reporting of pro bono time, as well as programs and exposure generated by the Pro Bono Committee

Kimberly Schooley has moved from being a full-time attorney at DNA People's Legal Services to director of the VLP program. Although now part-time, she will be able to dedicate the bulk of her time to the VLP program. We believe this will result in the development of more programs to engage attorneys in providing pro bono work. However, it also means the loss of a full-time staff attorney at DNA. The Committee hopes that the position for that attorney will be filled early in the year.

The VLP program is experimenting with utilization of a system of referral to pro bono attorneys for telephone intakes which looks promising. The name and phone number of an eligible client seeking assistance from DNA as well as any available relevant documents are referred to a pro bono attorney. The attorney then calls the client to solicit the intake information over the telephone and returns the information to DNA for acceptance evaluation. Given the limited space and time for personal intake at the local DNA office, this process should enhance the number of people being interviewed for service. In some instances, this may lead to the pro bono attorney providing advice or brief service to the client that closes out that file or even deciding to take the case him or herself as a pro bono case. In addition, this method of intake may be done by some government attorneys or company in-house counsel, which may expand the volunteer attorney pool.

A second year law student from Denver University contacted a Pro Bono Committee member with an offer to bring several students here in an alternative spring break program aimed at fulfilling a public service requirement for the students. The project is now taking on exciting proportions. 16 students will arrive here March 14th and stay through March 19th. Various activities are being organized for the students to do including presentations and clinics to be delivered at the public library and Indian Center; meetings with individual seniors in three senior centers; presentations for school age children at three Boys & Girls Club locations and a community center; a presentation for juveniles in the juvenile detention center; drafting a script for a domestic relations instructional video; drafting a letter/brochure for unemployment and wrongful termination of employment information; working with the Public Defender's office; working with the District Attorney's office; and working in the DNA Legal Aid office. Local attorneys are being assigned supervisory roles and the Pro Bono committee is co-ordinating the activities.

The Pro Bono Committee obtained funds from the local Bar Association and the District Court to pay for a large wooden kiosk to be built at the 851 Andrea Drive location. On one side the kiosk holds a number of the most commonly requested pro se forms. Another side has recently been fitted with a screen and DVD player for instructional and/or informational videos. The use for the 3rd side has not yet been determined.

3. Have you formed a Volunteer Attorney Pool from a survey or other tool? Please list the names of the attorneys who have provided pro bono services through participation in one of your programs. If you have not formed a Volunteer Attorney Pool, why not?

Yes. There is a Volunteer Attorney Pool maintained by the Volunteer Lawyer Program of DNA People's Legal Services.

<u>Last name</u>	<u>First Name</u>
Austin	Richard
Bell	Adam
Birdsall	William
Briones	Paul B.
Briones, Jr.	Felix
Burnham	Jay
Burns	Mitchell
Cardin	Robert G.
Chavez	Mario
Cooke	William
Cullander	Nicholas
Curtis	Scott M.
Dalley	Bradford J.
Echols	Douglas
Faurot	Jay L.
Feferman	Richard N.
Finch	Kyle
Ford	Tara
Fortner	Jack L.
Frost	Russel
Germer	Reagyn
Germer-Coolidge	Patricia
Gonzalez	E. Aimee
Gray	Cindy
Gurley	Curtis
Hatfield	Christian
Jolley	Val R.
La Bree	Craig
Lewis, Jr.	Kemp S.

McGrath	Elizabeth
Miller, III	Chester F.
Moeller	F. Doug
Murphy	Steven H.
O'Loughlin	Michael T.
O'Reilly	Dylan
Olson	Jennifer
Palmer	Barton L.
Price	Sandra
Retherford	Robert
Ripol	Cosme D.
Roberts	Randall S.
Rudolfo	Emeterio L.
Sawyer	Joseph
Shannon	Priscilla
Simpson	Patricia
Swank	Daniel
Thomas	Brigitte
Thrower	Brandt
Thrower	Larry T.
Titus	Victor A.
Toledo	Jonathan W.
Townsend	Karen
Tully	Richard T.
Walker	Terry
Weaver	Sarah V. L.
Westerman	John R.
Yanan	Therese
Yoder	Jennifer
Zellhoefer	Susan

This list includes a few people outside of San Juan County, who provided volunteer services that helped this area. Ms. Schooley is working on a more detailed pool list that would include areas of expertise and ways in which particular attorneys would like to help.

4.Has your committee attempted to develop programs that have been unsuccessful in attracting assistance from pro bono attorneys? Please describe.

We have not had any unsuccessful programs but the clinics have been slow in being implemented. We are all so busy that it is difficult to find the time to set them up.

We anticipate that the change in VLP staffing at DNA will allow Kimberly Schooley more time to arrange public information clinics as well as clinics which provide one-on-one help with forms.

5. Please quantify the number of your low-income population who have benefitted from your programs. Provide detail by program, if possible (i.e., clinic attendance, direct representation, etc.).

We have no way to track this information. Here is the information we do have:

*The District Court's "Self-Represented Litigants Resource Center Clinic" saw a total of 317 people in 2009.

*DNA opened 22 new VLP cases during 2009. Of the cases opened, 17 are cases sent to DNA's reduced-fee contract attorney, Reagyn Germer. The remaining 5 were opened for referral to private attorneys not paid by DNA. Of the cases opened, an estimated 57 people are to be helped.

*DNA's reduced-fee contract attorney, Reagyn Germer spent 666.03 hours on cases referred to her.

*As a service to the local attorneys (for annual license reporting) and the Pro Bono Committee (for this annual report), in addition to the hours recorded in-house on VLP-related matters, DNA's Farmington office records the pro bono hours of the local attorneys that are not VLP-related hours. The total number of pro bono hours recorded by DNA for San Juan County work is 1,531.12. These include direct representation, advice to DNA lawyers, staffing the court pro se clinic, intakes at DNA's office, a Wills for Heroes clinic for the firefighters (approximately 17-18 firefighters served) sponsored by the Young Lawyers Division, service on non-profit Boards, work on the pro bono committee, volunteering at the senior center to give advice, working with the high school mock trial team, serving as a pro bono GAL, representing a juvenile in a restraining order case, etc. It is very difficult to quantify how many people were helped by these efforts, but based on the Pro Bono Committee's form that asks the number of clients served as well as Ms. Schooley's own knowledge of some of the services involved, we estimate that there were approximately 200 people served.

6. What do you see as the greatest impediment to securing pro bono assistance for your district's low income people? Please quantify the impediment, if possible.

This committee believes there are a number of different factors which are listed below, in random order.

*There is apathy among some of the attorneys.

*There is a limited pool of attorneys in private practice here. The majority of local attorneys are government, legal services, or corporate attorneys.

*The attorneys in private practice who are available are already stretched thin.

*There is a large number of indigent people in the County compared to the number of attorneys.

*There is resistance from attorneys in taking family law cases because they require significant time and energy, and most attorneys in private practice are not familiar with family law.

*Pro bono clients tend to monopolize a “free” attorney.

*Members of the bar don’t have a good understanding of the variety of ways in which pro bono work can be done such as serving on non-profit boards, etc.

*There is a considerable amount of family law in San Juan County which involves domestic violence. San Juan County has (in past years) had triple the national average of domestic violence per capita. It is difficult to refer cases involving domestic violence issues to attorneys who have little or more training about it, and such cases are also far more demanding.

*More pro bono work is occurring than we know about because some attorneys do not want to go through the additional work of recording pro bono hours.

7. Do you anticipate your current pro bono program to maintain its current status and/or grow in subsequent years? Please explain.

We believe we can maintain our status so long as committee members and participating attorneys do not become discouraged with any additional accounting or reporting.

8. Did your committee participate in New Mexico Pro Bono Week and if so, were the public functions sponsored during that week successful? Please quantify public participation. If not, please describe why the public functions were not successful. Do you intend to include similar functions in your on-going future pro bono plans?

This concept was not well received by this Committee. The Chairman threatened to resign if she had to organize and coordinate one more thing. We all felt it was an additional unnecessary burden.

We did not sponsor or plan any public functions. We did not have much notice. The week in which we were supposed to do this was mandated and it conflicted with other scheduling. The committee members resisted spending time planning public awareness, functions or publicity because that would take away from the precious little time there already is to participate in pro bono activities.

In order to comply with ATJ’s and the Supreme Court’s request that we host an appellate judge, we had to move our regularly scheduled Bar Meeting. A Friday date was chosen to encourage greater attendance but it did overlap with a mandatory CYFD meeting which took 2 judges and at least 7 attorneys out of participation.

However, Judge Vanzi was a pleasure to have with us. And, Sarah (now Judge) Singleton’s professionalism CLE was well attended, was welcome and sparked some discussion about pro bono work.

9. New Mexico Pro Bono Week was initiated as part of the national 1st Annual Celebrate Pro Bono Week. Would you support participation in another New Mexico Pro Bono Week?

No. We would prefer to continue with Law Day work, our own clinics and ideas. For the past 2 years, at the request of DNA Legal Services, we have set aside a Bar meeting in January or February, in order to do a Volunteer Lawyers Program Appreciation Luncheon to recognize the pro bono work in San Juan County for the preceding year. DNA awards certificates to attorneys who have provided pro bono service in the community.

10. The ATJ Commission would like to use your work to build a resource guide for use by all committees. Please attach any forms, flyers, press releases, DVDs or other material you've used to implement your on-going programs or your participation in New Mexico Pro Bono Week.

DV instruction video which is shown every Tuesday to all litigants appearing for the trailing docket of hearings for restraining orders. This has already been provided to Nita Taylor.

Commissioner Gray and staff attorney, Marjorie Jones have worked to create a number of basic pro se pleadings available at courthouses and on the local court website.. The will also be working with McKinley County to make as many forms the same in both counties as possible. These forms are not included.

Included you will find:

VLP hand out

Pro Bono reporting form

Social Security hand outs

Notice for Additional/Corrected Filings Needed

DNA-People's Legal Services, Inc.

Volunteer Lawyer Program For San Juan County, New Mexico

What is DNA?

Dine be'iina' Nahiilna be Agha' diit' ahii

“Attorneys for the revitalization of the People”

We represent low-income clients in non-fee generating civil cases, such as family, employment (employee issues), landlord-tenant (tenant issues), consumer, disability and public benefits.

The Need:

In DNA's service area (Coconino, Apache & Navajo Counties, Arizona; San Juan County, Utah; San Juan and McKinley Counties, New Mexico) 23% of the population live below the poverty level. DNA-People's Legal Services is the only legal services provider for this population. In 2005, DNA handled 4,118 civil cases, and we estimate that we were unable to serve 3,088 additional people who came for our help.

What is Volunteer Lawyer Program (VLP)?

DNA is funded in part by the Legal Services Corporation. Part of that funding requirement is that DNA recruit private attorney involvement. The Farmington DNA office will keep track of private attorney hours on cases both for its federal funding requirements as well as for recognizing these efforts at a yearly luncheon. There are many ways that private attorneys can help:

- *New Client Intake:* Volunteer some of your time to interview new DNA clients (either at our office or over the telephone), give them advice or conduct a brief service, such as making a telephone call or writing a demand letter. You'll be expected to keep intake and advice notes and to make a recommendation about handling the cases. The only follow up may be reviewing an advice letter drafted by VLP staff based on your notes.
- *Self-Help:* Volunteer some of your time to interview clients individually and help them complete their self-help packets for divorce, custody, paternity, child support, name change, etc. Expect minimal follow up (answering questions about service of process and default process) through VLP staff.
- *Accept cases for representation:* Accepting the cases can mean only a consultation with a client, or it can mean representing the client in court or at an administrative proceeding. Let us know what and how much you are willing to do, and we'll help you manage it. VLP staff is available for secretarial services. Also, costs such as travel, service of process and deposition costs can be paid by the VLP program. You can also take a case at a reduced fee and still qualify for VLP credit. Also if you help

**REPORTED PRO BONO HOURS
2010**

Return this form to Commissioner Gray either as each service is completed, or no later than Dec. 31st of each year. Keep a copy for your records.

Name: _____ Bar number: _____
Date(s) of service: _____
Number of hour(s) of service provided: _____
Number of client(s) served: _____
Service provided: Check one of the descriptions below.

- | | |
|--|--|
| <input type="checkbox"/> Pro bono direct representation
(referred/Court order by _____) | <input type="checkbox"/> Presentations to community
Legal Education brochures |
| <input type="checkbox"/> _____
Legal Education materials posted | <input type="checkbox"/> Newsletter articles addressing
Legal Ed topics |
| <input type="checkbox"/> video legal education materials | <input type="checkbox"/> Newspaper articles |
| <input type="checkbox"/> Other CLE | <input type="checkbox"/> Workshops or Clinics |
| <input type="checkbox"/> Help desk at court | <input type="checkbox"/> Self-help printed materials (e.g.
divorce kits) |
| <input type="checkbox"/> Self-help materials posted on kiosks | <input type="checkbox"/> Informational notices published
in print media 1 |
| <input type="checkbox"/> Other Pro Se assistance | <input type="checkbox"/> Radio PSAs |
| <input type="checkbox"/> Television PSAs | |
| <input type="checkbox"/> Legal education for lay service providers | |
| <input type="checkbox"/> Mediation/alternative dispute resolution services | |
| <input type="checkbox"/> Other - Describe: _____ | |

Instructions to attorneys - Keep these report forms at your office. Complete and return them to Commissioner Gray for any pro bono work that you do that is not directly referred to you by DNA. Commissioner Gray will keep these numbers for the annual Pro Bono Committee Report, and she will also send a copy to DNA to enter into their database. DNA keeps track of the VLP referrals made by them so please do not list those on this form.



Social Security Benefits For Children with Disabilities

Children with disabilities may qualify for Supplemental Security Income benefits (SSI). These benefits are provided through the Social Security Administration (SSA) to children based on the severity of their disability and their family income.

What is the Supplemental Security Income (SSI) program?

Under the SSI program, a child from birth to age 18 may receive monthly payments based on disability or blindness if:

- * the child has an impairment or combination of impairments that meets the definition of disability for children, and
- * the income and resources of the parents and the child are within the allowed limits.

The Social Security Administration (SSA) administers the SSI program. Local Social Security offices handle applications.

What types of disabilities are eligible for SSI?

It is important to note that disability for the purposes of SSI is not about health and diagnoses. The child must have a physical or mental condition, or a combination of conditions, that seriously limits his or her activities. The condition or conditions must have lasted, or be expected to last, at least 1 year or result in death.

For a child, the SSA will decide whether the physical or mental condition results in long-term functional limitations that significantly impact the child's growth and development. For an adult 18 years and older, these limitations become focused on the ability to work and earn an income.

How to Apply

To apply for SSI benefits, the child's parent or guardian should complete an application for disability benefits with the Social Security Administration (SSA). You can apply on line by going to www.socialsecurity.gov/applyfordisability/child.htm. You can also apply for SSI benefits by calling 1-800-722-1213 Monday through Friday between 7 a.m. and 7 p.m. or by going to your local Social Security Administration office. The SSA has an online Disability Starter Kit that

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Phone 505-566-5880 • Toll Free 1-800-862-7271 • Fax 505-566-5889

The Protection & Advocacy System for Native Americans with Disabilities.

Funding provided by the Administration on Developmental Disabilities, the Rehabilitation Services Administration, the Center for Mental Health Services, the Health Resource and Services Administration and the Social Security Administration

can help you get ready for your disability interview or help you to complete the online application. In order to complete the Disability Report online or to prepare for your interview with a Social Security Claims Representative, make sure you have the following information with you. Even if you do not have all of the listed information, if you have an interview scheduled, begin the process and provide the missing information later. The interview usually takes at least one hour.

Interview Checklist

Personal Information

- The child's full name, Social Security number, & date of birth
- The applicant's (usually the parent or guardian) name, address, telephone number & e-mail address if you have one.
- Proof of the child and family members' current income and resources.
- The name, address, and telephone number of someone else who knows about the child's illnesses, injuries, or conditions (referred to from here on as "condition" or "conditions").
- A description of the child's conditions, including when they began and how they limit the child's daily activities.

Education & Work History (if applicable)

- The names, addresses, and telephone numbers for all schools or educational facilities that the child has attended in the last 1 to 3 years, including any evaluations and names of counselors, therapists, especially if your child is receiving special education services.
- The type of behavioral or learning test(s) that the child had, and when the test(s) was done.
- A description of the child's last job, if he or she has worked.

Medical History

- The names, addresses and telephone numbers for all doctors, hospitals, and clinics that the child has seen for his or her conditions, the dates of and reasons for the visits.
- Name(s) of any medical test(s) that the child had, when and where the test(s) was done, and who ordered it.
- Name(s) of each prescription medicine(s) that the child takes and the doctor(s) who prescribed it.
- Name(s) of any non-prescription medicine(s) that the child takes.

Once you complete the application, the SSA creates a file for your child's claim and requests his or her education and medical records. They then review the file and either grant or deny

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your child's claim for benefits. Most claims are denied at this stage. If you receive a letter denying your child's claim, you should appeal that denial.

What if I am more comfortable speaking a language other than English?

The Social Security office is required to provide you with free interpreter services to assist you in all phases of the application process.

How to Appeal a Denial

There are three steps to the appeal process. They are (1) reconsideration, (2) hearing by an administrative law judge, and (3) review by the Appeals Council. It is best to appeal SSA's denial at each step of their process instead of reapplying for benefits. Your chances of being approved for benefits may improve as you go through more steps of the appeal process.

Step One – Request for Reconsideration

The first step in the appeal process is called a Request for Reconsideration. There are several ways that you can file your request. You can go to the local SSA office and tell a Social Security representative that you want to appeal the denial. Please specify that you want to **appeal or file a request for reconsideration**, not reapply for SSI benefits. The SSA representative should give you a Request for Reconsideration form to fill out. The form is also available on the SSA website. You can also call the main Social Security office at 1-800-772-1213 and tell them that you want to appeal the denial. For your records, write down the date and time when you called to appeal. Your appeal is not filed until you submit the Request for Reconsideration form to the SSA, either in person or by mail.

You have 60 days from the date of the SSA's denial letter to file your Request for Reconsideration. If you miss this deadline Social Security may not consider your claim, and you may have to start over and reapply for benefits. When you file the appeal, make sure the Social Security Administration has all the information that they need to rule in your child's favor. Gather and deliver all of your child's educational, medical, and vocational reports to the SSA and give them any other information you have about your child's health conditions, abilities and so forth. The more information you give them, the better the chance that Social Security may find your child disabled. Remember to always keep a copy of any documents you give Social Security.

Step Two – Request for Hearing

If the SSA denies your Request for Reconsideration, you must request a hearing before an administrative law judge. You request a hearing by completing a Request for Hearing form. You have 60 days from the date of the SSA's reconsideration denial letter to request a hearing. As with the earlier steps, you can go to the local SSA office and tell a Social Security representative that you want to request a hearing. **Make it clear that you want to request a hearing, not reapply for SSI benefits.** The SSA representative should give you a form to fill

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out. The form is also available on the SSA website. You can also call the main Social Security office at 1-800-772-1213 and tell them that you want to request a hearing, and they will mail you a form. For your records, write down the date and time when you called to appeal. Your appeal is not filed until you submit the Request for Hearing form to the SSA, either in person or by mail.

Step Three – Appeals Council

The Appeals Council review process generally begins after an application for benefits has been denied at the initial, reconsideration, and hearing levels. If you disagree with the decision of the Administrative Law Judge, you may file a request for review with the Appeals Council.

You must request review in writing within **60 days** of receiving the hearing decision. You should send your request to: Appeals Council, SSA/ODAR, 5017 Leesburg Pike, Falls Church, VA 22041-3255. You can also contact your local Social Security office, local hearing office, or call SSA toll-free at 800.772.1213 for assistance. If you do not request review in writing within 60 days, the Appeals Council may not consider your appeal.

How Decisions are Made

The Social Security Administration might find that your child qualifies for disability benefits if he or she has a specific condition or diagnosis. However, most cases are decided based on the impact of your child's disability on his or her growth and development. A statement from a doctor or other professional stating that your child is disabled will not automatically make him or her eligible for disability benefits. To decide if your child is eligible, the SSA will consider his or her age, condition, and its impact on his or her ability to learn, complete tasks, move, interact with others, care for himself or herself, and his or her general health and physical well-being.

The Social Security Administration considers claims using the following questions:

1. Is your child working?

If YES → benefits denied.

2. Is your child's impairment severe? A severe impairment causes more than minimal functional limitations. The impairment must also last for at least 12 months.

If NO → benefits denied.

3. Does your child's impairment meet, medically equal, or functionally equal a Listed Impairment? The SSA has a Listing of Impairments. It describes impairments that are considered severe enough to have a marked to extreme impact on your child's development. If your child's condition meets all of the elements in a specific listing, then

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the Social Security Administration will find you eligible for benefits. The listings are available on the SSA website.

If YES → benefits awarded.

To help Social Security to determine whether your child disabled according to their rules, give them as much information as possible, specifically: copies of medical reports, progress notes, or doctor's letters, the dates of visits to doctors or hospitals, the patient account numbers for any doctors or hospitals, and any other information that will help SSA obtain your child's medical records.

4. Does the child or family have income or resources above the amount allowed?

If YES → benefits denied.

SSA will consider your child's income and resources, as well as the income and resources of family members living the child's household. Excluding the family's home, car, personal items, and work tools, if the family's resources are over \$3,000, SSA will deny the child's application for SSI payments even if the child is disabled.

If my child is eligible, when will payments begin?

It can take several months for SSA to decide if a child is disabled and to begin payment. In unique circumstances, certain medical conditions are considered so limiting that it is assumed that any one of them will disable a child. These include: HIV infection, total blindness, total deafness, cerebral palsy, Down syndrome, muscular dystrophy, and birth weight below 2 pounds, 10 ounces. If your child has one of the limiting conditions that is expected to disable a child, he or she will get SSI payments right away. SSA may later decide that your child's disability is not severe enough for SSI. If that happens, you will **not** have to pay back the SSI payments that your child received.

Are there other Social Security benefits programs available for my child with a disability?

Your child **may** be eligible for Social Security Disability Insurance (SSDI). Under SSDI, the child's parent pays into the Social Security Disability Insurance program through his or her employment over time until he or she qualifies for benefits. The parent can qualify by reaching the age of 62 years old, by becoming disabled, or by dying. A disabled child may get benefits based on the qualification of the parent under this section of the social security program.

Are there health care benefits Related to Social Security eligibility?

SSI is not a medical assistance program. However, in most states, children who get SSI benefits can also get Medicaid. Medicaid is a health care program for people with low incomes

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and limited resources. Even if your child cannot get SSI, he or she may be able to get Medicaid. Contact your state Medicaid agency for more information.

SSI Disability Reviews

Once your child starts receiving SSI, every so often the SSA will review your child's medical condition to verify that he or she is still disabled. This review must be done:

- At least every three years for children younger than age 18 whose conditions are expected to improve; and
- By age 1 for babies who are getting SSI payments because of their low birth weight.

SSA has the option of performing a disability review even if your child's condition is not expected to improve. During the review, you must provide information that your child is and has been receiving treatment that is considered medically necessary for your child's medical condition.

What happens when my child turns age 18?

For disability purposes in the SSI program, a child becomes an adult at age 18. SSA uses different medical and non-medical rules when deciding if an adult can get SSI disability payments. SSA will review the child's medical condition when he or she turns age 18 and will use the adult disability rules to decide whether the child would be considered disabled.

If your child was not eligible for SSI before his or her 18th birthday because the family income or resources were over the limit, he or she may become eligible for SSI at age 18.

Help with the Process

If you have questions on the process to become eligible for disability benefits, you can get help from:

Native American Disability Law Center

Farmington: 800-862-7271
Gallup: 877-283-3208

San Juan Center for Independence

Farmington: 877-484-4500
Gallup: 505-726-2709

An attorney can also help you, but many attorneys do not take cases until a person is ready to file a Request for Hearing. To find an attorney who takes Social Security cases, either call the organizations listed above or look in your local yellow pages. Many attorneys who take Social Security cases will include it in their yellow pages listing.

You should know that being awarded Social Security benefits could take many months or even years, so it pays to be patient. In addition, if you are approved, your child's benefits will start on the date when you first applied for benefits.

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Phone 505-566-5880 • Toll Free 1-800-862-7271 • Fax 505-566-5889

The Protection & Advocacy System for Native Americans with Disabilities.

Funding provided by the Administration on Developmental Disabilities, the Rehabilitation Services Administration, the Center for Mental Health Services, the Health Resource and Services Administration and the Social Security Administration



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Social Security Benefits for Adults with Disabilities

The Social Security Administration (SSA) has two benefit programs for adults with disabilities:

- Social Security Disability Insurance benefits (SSDI)
- Supplemental Security Income benefits (SSI)

To be eligible for SSDI, an individual must have received pay or income for work with taxes being taken from the pay. SSI benefits are for individuals who either do not have a work history or have not paid taxes to the Social Security Administration. To be eligible for SSI benefits, an adult must have a disability and a limited income, based on the entire income of the household. This means the income from other family members is counted to determine the applicant's eligibility for SSI benefits. You can apply for both SSDI and SSI at the same time and should do so.

How to Apply

To apply for either SSDI or SSI benefits, complete an application for disability benefits with the Social Security Administration (SSA). You can apply for SSDI benefits on the SSA website www.ssa.gov or by calling 1-800-772-1213. You can apply for SSI benefits by calling the same 800 number. You cannot apply for SSI benefits on the website. You can also apply for benefits at your local Social Security Administration office. The SSA has an online Disability Starter Kit that can help you get ready for your disability interview or help you to complete the online application.

If you have chosen not to apply online and not to fill out the online Disability Report, a Social Security Claims Representative will interview you by phone or in the local Social Security office. The interview usually takes at least one hour. Make sure you have the following information with you for the interview.

Interview Checklist:

-
- Original or certified copy of birth certificate.
 - If born in another country provide proof of U.S. or legal residency.
 - If you were in the military, provide the original or certified copy of your military discharge papers.
 - Your W2 form from last year, or if self-employed your federal tax return (IRS 1040 and Schedules C and SE).
 - Worker's compensation history.

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-
- Social Security numbers of your spouse and children.
 - Your checking or savings account number.
 - Name, address, and phone number of someone who can get in touch with you.

Once you complete the application, the SSA creates a file for your claim and requests your medical record. They then review the file and either grant or deny your claim for benefits. Most claims are denied at this stage. If you receive a letter denying your claim, you should appeal that denial.

How to Appeal a Denial

There are four steps to the appeal process. They are (1) reconsideration, (2) hearing by an administrative law judge, (3) review by the Appeals Council, and (4) federal court review. It is best to appeal SSA's denial at each step of their process instead of reapplying for benefits. Your chances of getting approved for benefits may improve as you go through more steps of the appeal process.

The first step in the appeal process is called a Request for Reconsideration. There are several ways that you can file your request. You can go to the local SSA office and tell a Social Security representative that you want to appeal the denial. Please specify that you want to **appeal**, not reapply for SSI benefits. The SSA representative should give you a Request for Reconsideration form to fill out. The form is also available on the SSA website. You can also call the main Social Security office at 1-800-772-1213 and tell them that you want to appeal the denial. For your records, write down the date and time when you called to appeal. Your appeal is not filed until you submit the Request for Reconsideration form to the SSA, either in person or by mail.

You have 60 days from the date of the SSA's denial letter to file your Request for Reconsideration. If you miss this deadline Social Security may not consider your claim, and you may have to start over and reapply for benefits. When you file the appeal, make sure the Social Security Administration has all the information that they need to rule in your favor. Gather and deliver all of your medical and vocational reports to the SSA and give them any other information you have about your health conditions, abilities and so forth. The more information you give them, the better the chance that Social Security may find you disabled. Remember to always keep a copy of any documents you give Social Security.

What if my Request for Reconsideration (appeal) is denied?

If the SSA denies your Request for Reconsideration, you must request a hearing before an administrative law judge. You request a hearing by completing a Request for Hearing form. You have 60 days from the date of the SSA's reconsideration denial letter to request a hearing. As with the earlier steps, you can go to the local SSA office and tell a Social Security representative that you want to request a hearing. Make it clear that you want to request a hearing, not reapply for SSI benefits. The SSA representative should

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give you a form to fill out. The form is also available on the SSA website. You can also call the main Social Security office at 1-800-772-1213 and tell them that you want to request a hearing, and they will mail you a form. For your records, write down the date and time when you called to appeal. Your appeal is not filed until you submit the Request for Hearing form to the SSA, either in person or by mail.

How Decisions are Made

The Social Security Administration might find you qualify for disability benefits if you have a specific condition or diagnosis. However, most cases are decided based on whether you are able to work. A statement from a doctor or other professional stating you are disabled will not automatically make you eligible for disability benefits. To decide if you are eligible the SSA will consider your age, education, past work experience, and your physical and mental health.

The Social Security Administration considers claims using the following questions:

1. Is your income low enough to be eligible for SSI or have you worked enough to qualify for SSDI?

If NO → benefits denied.

2. Are you able to do substantial, gainful work? Substantial means significant mental or physical activities, and gainful is any activity done for pay.

If YES → benefits denied.

3. Is your impairment severe? A severe impairment significantly limits your physical or mental ability to do basic work activities. The impairment must also last for at least 12 months.

If NO → benefits denied.

4. Does the impairment meet or equal a Listed Impairment? The SSA has a Listing of Impairments. It describes impairments that are considered severe enough to prevent a person from working. If your condition meets all of the elements in a specific listing, then the Social Security Administration will find you eligible for benefits. The listings are available on the SSA website.

If YES → benefits awarded.

5. Can you return to your past relevant work? The SSA will answer this question by asking you things like how much can you lift or carry, can you walk, bend, or climb, how is your balance, and how long can you stand or sit.

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If YES → benefits denied.

6. Can you perform other forms of Substantial Gainful Activity? The SSA will consider whether there are other jobs that you can perform, taking into account your age, education, and work history.

If YES → benefits denied.

To help Social Security to determine whether you are disabled according to their rules, give them as much information as possible, specifically:

Your medical history – Give the SSA the names, addresses and telephone numbers of all the doctors or other professionals you have seen and hospitals or clinics where you have received treatment. Also give the SSA any diagnosis and prognosis the doctors gave you. Your doctor can help if she can give you a statement about how your medical condition limits your ability to lift, carry, walk, stand, or otherwise physically work. Provide the SSA with information about your medication and how it makes you feel. Do your pain relievers work and eliminate the pain? Do the medications make you sleepy?

Your work history – Give them a list of where you worked, what you did on those various jobs and whether the work was skilled. Skilled work generally requires some training and specialized understanding of the job.

Your educational level – How far did you go in school; this includes any vocational schools you may have attended and whether you can speak, read and write in English.

When did you apply for Social Security benefits? Have you applied more than once? What dates? Do you have the paperwork? Give all of this information to the SSA

Help with the Process

If you have questions on the process to become eligible for disability benefits, you can get help from:

Native American Disability Law Center

Farmington: 800-862-7271

Gallup: 877-283-3208

San Juan Center for Independence

Farmington: 877-484-4500

Gallup: 505-726-2709



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STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT

_____,
Petitioner,

vs.

No. DM _____

_____,
Respondent.

NOTICE FOR ADDITIONAL/CORRECTED FILINGS NEEDED

Your case cannot be processed, or will not be processed further, for the following reason(s):

- Petition was ___ not signed; ___ not notarized
- Marital Settlement Agreement was ___ not complete; ___ not signed by BOTH parties; ___ not notarized
- Decree of Divorce was ___ not complete; ___ not signed by BOTH parties
- Parenting Plan was ___ not complete; ___ not signed by BOTH parties; ___ not notarized
- Child Support Worksheet was ___ not provided; ___ not signed by BOTH parties
- The parties deviated from the child support guidelines without adequate justification
- Required Medical Insurance Information not submitted
- Summons or Return of Service was ___ not filed; ___ improper/incomplete
- Service of process was insufficient or improper; service by publication was insufficient or improper
- You should seek legal advice from one of the following:**
 - A private attorney who practices family or domestic law**
 - Domestic Relations Clinic at 851 Andrea, Farmington, NM at 5 p.m. on _____, 2010**
 - You will need to take with you: children's social security numbers; addresses of places where all children have lived for the past 5 years; an accurate list of debts and property; a copy of your credit report from www.annualcreditreport.com**
 - Law Access New Mexico at 1-800-340-9771**
 - DNA Legal Services, 709 N. Butler, Farmington, NM; 325-8886**
 - Public and Legal Services Referral Program; 1-800-876-6227**
 - Lawyer Referral for the Elderly; 1-800-876-6657**
 - Legal Advice for Military Personnel and their families; 1-800-876-6227**
 - Child Support Enforcement; 1800 E. 30th Street, Farmington, NM; Intake on Tuesdays**
- Your case is being scheduled for final hearing. You will need to bring to the hearing:**
 - Final Decree/Order**
 - Child Support Worksheet**
 - List of all marital property, its value, and all debts**
- Other: _____

Please do not contact Court staff regarding the above. The Court cannot give you legal advice. If you do not know how to correct the defect(s) or take the next needed action(s), you should contact an attorney for advice or contact one of the resources listed above. Your case will not be processed further until the defect(s) are corrected or the necessary paperwork submitted.

CINDY L. GRAY, HEARING OFFICER