MHA Legal Services - FAQ's

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How do I get help from MHA's Legal Services program?

Please give us a call at (716)886-1242. You will speak with our Information & Referral Team and a legal advocate to complete an intake; this takes approximately 10-15 minutes. Please have all relevant documents and paperwork readily available at the time of your call to assist with this process and to determine the nature of your legal issue(s). Your intake will be assigned to a member of our legal team and you will be contacted soon after by email and/or telephone. Please note, every intake and case is assessed for merit and representation. Turnaround times for contact may vary depending on timing, staffing related issues, and other factors.

Social Security Disability Benefits

How does SSA define disability?

To meet SSA's definition of disability, you must not be able to engage in any substantial gainful activity (SGA) because of a medically determinable physical or mental disability(ies) that is either: expected to result in death or has lasted or is expected to last for a continuous period of at least 12 months (this means you must be unable to work at your current or any other job for at least one year)

Key Factors - SSA's 5 Step Sequential Evaluation Process:

1. Are you currently working and engaging in SGA?
2. What is the severity of your physical and/or mental condition(s)?
3. Do your conditions meet or equal a disability listing of impairments? (Click (here)).
4. Can you perform your past work?
5. Can you make an adjustment to any other type of work?

SSA will consider your age, education, work experience, and functional limitations.

Note: There is a separate definition of disability for children (under age 18) who are applying for the Supplemental Security Income (SSI) program.

What is SGA?

SSA uses the term "substantial gainful activity" to describe a level of work activity and earnings. Work is "substantial" if it involves doing significant physical or mental activities or a combination of both. "Gainful" work activity may include:

- Work performed for pay or profit.
- Work of a nature generally performed for pay or profit.
- Work intended for profit, whether or not a profit is realized.
- Work performed on a part-time basis.

SSA uses SGA as one of the factors to decide if you are initially eligible for Social Security Disability benefits or SSI. SGA 2025: $1,620 per month for individuals who are not blind, and $2,700 per month for those who are statutorily blind.

What's the difference between Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI).

Social Security disability insurance (SSDI) is a federal program for people who have earned employment credits or coverage by working and paying into their Social Security system by having FICA taxes taken out of their paycheck or paying self-employed taxes. Additionally, you must have worked and paid into Social Security (via payroll taxes) for at least five of the last ten years. Work credits are earned by paying Social Security Taxes. Most people need 40 credits (about 10 years of work), with 20 earned in the last 10 years before becoming disabled. Younger workers may qualify with fewer credits.

Supplemental Security Income (SSI) is a federal, needs-based program that determines eligibility based on an applicant's income and assets/resources instead of looking at work credits like SSDI. Unlike SSDI, no prior work history is required to qualify for SSI.

To qualify for SSI, you must meet various criteria. Firstly, you must be blind, disabled, or over the age of 65. Applicants must also have limited or no income, which includes income from wages, social security benefits, pensions, etc., and support from family or others. Additionally, applicants must have limited assets typically less than $2,000 for an individual and $3,000 for a couple. Resources include things like cash, bank accounts, stocks, real estate (not your home), and valuables, however, vehicles, homesteads, and certain personal items don't count towards these limits. Lastly, applicants must be a U.S. citizen or a qualified non-citizen living within the U.S. or the Northern Mariana Islands.

In some cases, children can also receive SSI. Children must have a physical or mental condition that limits their ability to function like other children their age and is expected to last at least 12 months or result in death. This condition must also cause marked and severe functional limitation. The SSA evaluates this using the following six areas: learning and using information, completing tasks, social interactions, mobility and coordination, self-care, and overall health and physical well-being. Children must either have marked limitation in two areas, or extreme limitation in one area. The child must also live in a household with limited income and resources. Parental income and assets are considered in most cases. Lastly, the child must be a U.S. citizen or a qualified non-citizen residing in either the U.S. or the Northern Mariana Islands.

What income is counted for SSI?

SSA does not count all income when determining SSI eligibility. Common exclusions include:

- The first $20 of most income.
- The first $65 of earned income and half of the remainder.

Can a child receive both SSI and other benefits like SNAP or Medicaid?

Yes. SSI recipients under 18 are usually automatically eligible for Medicaid, and many families also qualify for SNAP (food assistance) and other support depending on household income.

Do children receiving SSI need reviews too?

Yes. SSA performs childhood disability reviews every 3 years for children with expected improvement. When a child turns 18, their case is reviewed under adult disability rules to determine if benefits should continue.

Can MHA's Legal Services program help me apply for SSD and/or SSI?

Yes. MHA assists individuals at every stage—from initial applications to appeals, CDR or cessation reviews, and overpayments. All our services are free for eligible individuals living with mental health challenges in our WNY service area.

What is a Continuing Disability Review (CDR)?

The SSA conducts CDRs to determine if you are still eligible for benefits. Reviews happen every 3 to 7 years. You must provide updated medical evidence showing you are still disabled. During a CDR, SSA will check to see if your condition has improved. You'll be asked for updated medical information. If the SSA believes you're no longer disabled, your benefits may stop unless you successfully appeal. You have a right to request continued benefits during your appeal but you must act quickly and carefully read your correspondence from SSA.

What if the SSA says I've been overpaid?

If the SSA claims you received more money than you were entitled to, they may request repayment. You have the right to appeal or request a waiver if repayment would cause hardship or wasn't your fault.

Can I apply for benefits online?

Yes, you can apply for benefits online through the Social Security Administration's website at www.ssa.gov. In some cases, individuals must complete the SSI application process by phone or in person. MHA can review and assess your case to provide you with the guidance and information you need to file a claim.

When should I apply for disability benefits?

As soon as possible when you believe you cannot work and you allege disability. Most people are turned down on their initial application, and it can take up to two years to go through the hearing and appeals process to receive your benefits. Having an experienced attorney or non-attorney representative can increase the likelihood of success with your claim. MHA has an experienced and knowledgeable legal team who may be able to help.

How long does the SSD/SSI application process take?

The application process can typically take up to 6 months before receiving a determination. There are different levels of appeals (reconsideration, ALJ hearing request, Appeals Council review, and Federal Court review) in these cases that have time-sensitive filing dates and deadlines. It's important to act quickly to protect your rights and keep your claim moving forward. MHA can help track your case and avoid unnecessary delays. MHA does not take cases to Federal Court at this time.

What medical documentation do I need to apply?

To apply for either SSI or SSD, you'll need detailed medical records, including diagnoses, test results, treatment history, and a doctor's written opinion explaining how your condition affects your functioning and limits your ability to work. Consistent treatment and follow-up care are key to a strong claim. MHA can help you obtain necessary evidence to support your claim.

What happens after I apply?

After you apply, SSA will review your application, medical records, and work history. Disability Determination Services makes the initial decision. You may be asked for more information or to attend a consultative exam. This process can take several months and you must fully cooperate with the process and return requested forms to SSA timely.

What is a consultative exam (CE) and do I have to attend it?

A CE is a medical exam ordered by SSA when your records are insufficient, incomplete or outdated. It's conducted by an independent doctor and is used to help SSA make a decision. Attendance is required, and not attending may result in denial of your claim.

How will I know if I've been denied or awarded my benefits?

SSA will notify you by mail of its decision. If approved, the letter will state your monthly benefit amount, and the date your payments will begin. If denied, the letter will explain the reasons for the denial and outline your rights to appeal.

If your application for benefits is denied, don't give up—this is very common. You have the right to appeal the decision. MHA can help you through this appeals process.

Can I receive both SSI and SSDI at the same time?

Yes, it is possible to receive both SSI and SSDI at the same time; this is called concurrent benefits. If you are awarded both SSD and SSI, it is likely that your SSI amount will be reduced based on your SSDI income.

Can I get benefits for mental health conditions?

Yes, you can get benefits for mental health conditions. SSA recognizes many mental health disorders as disabilities, including depression, bipolar disorder, schizophrenia, anxiety disorders, and many more. You'll need objective medical evidence and documentation from a licensed provider or acceptable medical source showing how the conditions impact your ability to work or function day-to-day.

Can I work while receiving and/or applying for SSD and/or SSI?

Yes, it is possible to work while applying for or receiving SSDI and/or SSI, however, the amount and type of work you do can affect your eligibility and the amount of benefits you receive. SSA will consider work when evaluating your claim, especially if your work activity is SGA. If awarded benefits, SSA offers work incentives like Trial Work Periods and Substantial Gainful Activity (SGA) thresholds. It's important to report earnings and understand how work may affect your benefits, especially if you receive or are applying for SSI.

Do I need to obtain an attorney or representative?

Statistics show that claimants who retain an attorney have a better chance of getting their benefits. MHA can assist individuals applying for Social Security Disability and Supplemental Security Income benefits at no cost to you as long as our eligibility criteria is met.

Housing Law FAQ

What do I do if my landlord is trying to evict me?

In the majority of cases, a landlord cannot evict you without winning their petition in housing court, but it's important to act quickly when you receive an eviction notice. As a tenant, you have the right to receive proper notice and attend any hearings. Grounds for eviction often include nonpayment of rent, lease violations, or the end of a lease term. In all cases, certain legal defenses may apply. You may be able to contest the eviction, request more time, or negotiate an agreement. It's a good idea to speak with a legal advocate upon receiving the notice.

What are some common legal defenses against eviction?

There are various applicable defenses depending on the situation; the following may apply:

- The landlord did not follow proper legal procedure or gave improper notice.
- You were evicted in retaliation for requesting repairs or reporting violations.
- The housing was not habitable (e.g., lack of heat, mold, pest infection)

- You have paid rent and can provide proof.
- The landlord is discriminating against or harassing you.

Note: speak to an attorney that regularly works with housing law to see if any of these apply to your case.

Can I be evicted if I live in public housing or have a Section 8 voucher?

Yes, but the process is different from normal evictions. Tenants with section 8 or other subsidies are entitled to additional protections. If you're facing termination from your housing assistance or receive a notice of eviction, you often have the right to an informal hearing or grievance process before proceeding to court. It's crucial that you attend all meetings and reply to notices on time, as missing a deadline can affect your housing rights.

What should I do if I lose my housing due to a legal issue?

It's critical to connect with both legal and social service agencies as soon as possible if you've already been evicted or lost housing due to legal issues. You may still have options to appeal a decision or remove an eviction from your record. Additionally, there may be support programs that can help you find temporary or permanent housing if you're experiencing financial hardship, have a disability, or are returning from incarceration.

I've been given a notice to appear in housing court. What should I expect?

Housing court is where disputes between landlords and tenants are resolved. If you've been summoned, it's important to attend the hearing. Be sure to bring any documents that support your case—such as your lease, payment records, or photos of poor conditions. The judge will hear both sides and a decision will be made. If you don't show up, the court may make a default judgement and rule against you automatically. Please consider getting legal assistance as they can help you prepare and possibly negotiate a settlement.

Eviction proceedings are often held in the nearest municipal court, with some counties having their own dedicated housing courts while others use the town and village courts for these purposes. You can find the contact information for the housing court in your county at the following links:

Allegany
Cattaraugus
Chautauqua
Erie
Genesee
Niagara
Orleans
Wyoming

What are my rights as a tenant?

Tenants have various rights under the law. You are entitled to a safe, habitable living space, which includes plumbing that works, heating, and basic repairs. Landlords are required to follow fair housing laws and cannot discriminate based on race, disability, gender, or other protected categories. They must also follow procedures before raising rent or entering your apartment. If any of these rights are being violated, you may have legal recourse and should document everything in writing.

For more information on tenants' rights, you may consult with the NY Attorney General's Office, or their free public guide to those rights, located here.

What should I do if my landlord refuses to make repairs?

You have a right to a liveable home. If your landlord ignores requests for repairs, start by making the request in writing and keeping a copy. If the request is not fulfilled, you can contact your local housing inspector or code enforcement agency. In certain cases, you may be allowed to withhold rent or make repairs and deduct the cost. However, you should **not** do this without speaking to a legal expert first, as it can be risky without proper documentation and legal justification.

Family Law FAQ

How do I begin the process of filing for child support?

To begin a child support case, you must file a petition in family court in the county where you or the other parents live. You can do this either on your own or with the help of an attorney or the Child Support Enforcement Unit (CSEU). The petition should include information about the child, the parents, and any existing custody or support arrangements. Once the petition is filed, the court will schedule a hearing where both parents can present financial information. Note that if paternity has not yet been established, you may need to petition for a DNA test before you can proceed with your support petition. The court will then calculate support based on income, number of children, and other relevant factors.

Can I change the amount of child support I'm paying or receiving?

Yes, you can change the amount of support you're paying or receiving depending on the circumstances. Child support can be modified if there's been a significant change in circumstances, such as a change in income, custody, or job loss. Either parent may request a

modification, but the court must approve it. Until then, the paying party is still legally required to pay the current amount. It's important to act quickly and file the correct forms with the court.

How do I file for custody or visitation?

To request custody or visitation, you must file a custody or visitation petition in Family Court. This petition should include your relationship to the child, current living arrangements, and what type of custody or visitation you're requesting. After filing, a court date will be scheduled where both parties can present their case. In some situations, the court may also appoint an attorney for the child or order mediation. The judge will make a decision based on what is in the child's best interests, considering factors like stability, safety, and the child's relationship with each parent.

How does the court decide custody and visitation?

When deciding custody and visitation, the court focuses on the best interests of the child. It considers each parent's ability to provide care, the home environment, the child's relationship with each parent, and, in some cases, the child's preferences. Custody can be legal (decision-making) or physical (where the child lives), and visitation schedules are customized based on family needs and the child's well-being.

What should I do if the other parent isn't following the custody or visitation order?

If a co-parent violates a custody or visitation order, you can file a violation petition in Family Court. The judge may enforce the order, make changes, or issue penalties depending on the situation. Keep detailed records of violations and avoid retaliatory actions.