

Eligibility and awards

Though overall award rates are low, persistence tends to pay off

It happens to people every day across the country. One day, you're healthy and happy. Then "life" happens: There's an accident at work or a call from the doctor about "those tests." Small aches and pains become large ones, or the mental stress of life, or at least work, becomes too much to bear.

You have a disability, and it profoundly affects your ability to do your job. Two large, federal disability programs offer income and medical support for your disability: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) for those with a disability.

These programs impose some seemingly high hurdles that lead to low overall award rates. But for those willing to endure 12 to 18 months of bureau-

cracy, an appeal process significantly improves a person's chances of receiving benefits

The process

Benefits for both SSDI and SSI are administered by the Social Security Administration (SSA), so the disability determination process is similar for both programs. Federal and state-level offices determine eligibility, using a five-step evaluation to verify that a claimant meets medical and other eligibility criteria for benefits (see Chart 1).

The first three steps determine whether an applicant's disability meets medi-

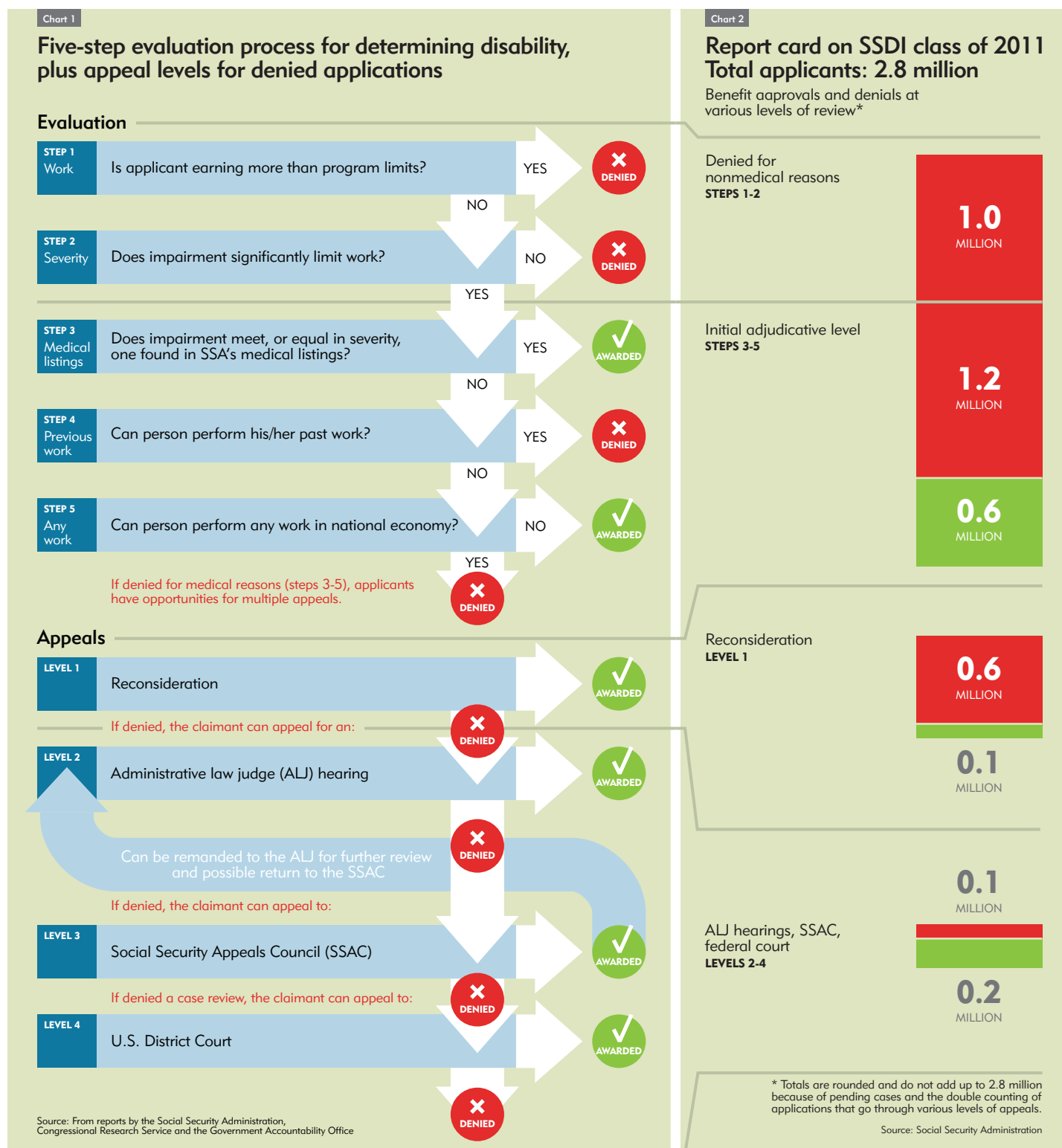
cal guidelines, based on evidence from an applicant's medical providers, according to the SSA. The last two steps—if necessary—consider functional and vocational factors to determine whether benefits are appropriate if a person's limitations alone are not severe enough to warrant benefits. Ordinarily, there is no personal interview with the applicant.

In 2011, about 610,000 (22 percent) of 2.8 million applicants were initially approved for benefits. Almost 1 million were denied for non-medical reasons, including earnings that exceeded program thresholds, and the remaining 1.2 million were rejected at the initial review level for not meeting medical criteria (2011 is the most recent year available with mostly complete award and appeal data; 6 percent of applications were still pending).

Upon further review

For many of the 1.2 million denied for medical reasons, however, the process has just begun, thanks to four levels of medical appeal whose approval rates vary considerably (see Chart 2). In an average year, between 55 percent and 60 percent of those initially denied for medical reasons appeal the decision, first to the so-called reconsideration level, which has a bare-bones award rate of just 8 percent.

But slightly more than half (53 percent) of those denied a second time continue their appeal. At the last three levels of appeal, benefits are awarded to roughly two of three

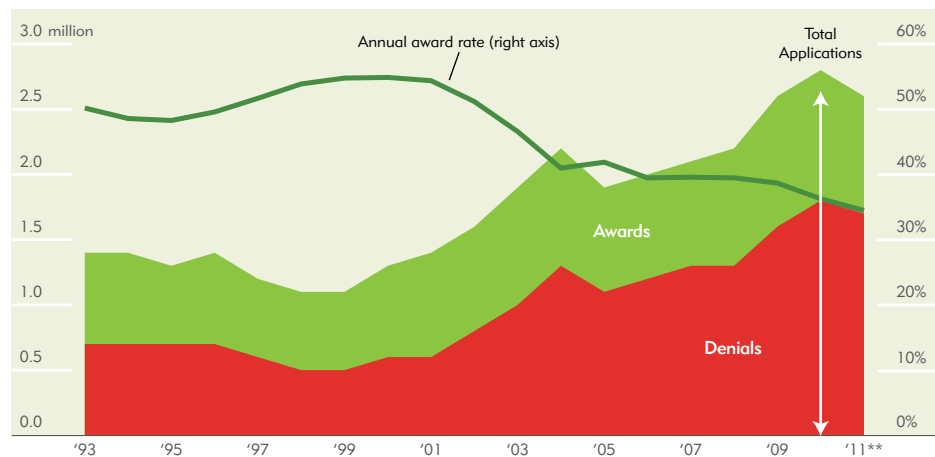


Source: From reports by the Social Security Administration, Congressional Research Service and the Government Accountability Office

Source: Social Security Administration

Chart 3

Inside SSDI: More applications, mostly steady award numbers and lower award rate*



* Total applications also includes those applying for SSDI and SSI jointly.
 ** 2011 award rate does not include 177,000 cases still pending, many of them at levels with statistically higher propensity for approval.

Source: Social Security Administration

applicants willing to stick out a process that can last 12 to 18 months from initial application.

In 2011, appeals helped 290,000 applicants—about one-third of all awards that year—receive benefits, raising the overall award rate to 35 percent. That’s lower than rates over the past two decades (see Chart 3), but the drop appears to stem at least partly from rising applications. The final 2011 rate is also likely to inch slightly higher, given 177,000 pending cases, many of them at appeal levels with higher approval rates.

The rapid rise in applications and total enrollment for SSDI and SSI has prompted some to suggest a rubber-stamp mentality on the part of evaluators. Disability advocates disagree, pointing to dropping award rates.

Anne Quincy is a staff lawyer for Mid-Minnesota Legal Aid and has been involved in disability benefits since the 1980s. She works mostly with SSI applicants, who undergo the same review process as those applying for SSDI.

“We reject a lot of cases,” said Quincy. For 50-year-olds with bulging discs thinking that a disability check looks like free money, “we tell them, you’ll be in a room with a lawyer with a bulging disc. And then you’ll be in a room with a judge—who is 20 years older—with a bulging disc. There is a system to this. It’s not just a hangnail” that qualifies people.

At the same time, those making it to a medical review tend to have a good chance—about 50 percent to 60 percent—of receiving benefits, at least eventually. That rate is due in part to the availability of multiple appeals. Approval rates at the third level—hearings with administrative law judges—can vary significantly even within the same regional office. In the Office of Disability Adjudication and Review’s Minneapolis location, award rates of judges in fiscal year 2014 ranged from 32 percent to 78 percent. Rates for judges in Billings, Mont., and Fargo, N.D., fell into somewhat smaller ranges.

Though cases are supposed to be based on firm criteria, the subjectivity of disability and its effect on work capacity often leads to different outcomes, said Quincy. Some judges have “gut feelings” that plaintiffs are really suffering, she said, “and then there are others that say, ‘That’s not why you’re not working.’”

But, she added, “you can’t pick a judge ... and if you get assigned to judge so-and-so, you take your case there like any other” with the understanding that further appeals are still available.

—Ronald A. Wirtz

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stacles to self-sustaining employment, such as poverty or low education and skills. In a widely cited 2011 NBER paper, MIT economist David Autor said that there “is no compelling evidence that the incidence of disabling conditions among the U.S. working-age population is rising.” He called the federal disability programs “a de facto safety net for individuals whose primary barrier to employment is limited labor market opportunities rather than debilitating health conditions.”

To work or not to work

Complicating the matter is that very few workers who go on disability ever come off. In a given year, roughly 8 percent of U.S. disability recipients are terminated from the program. But most terminations are due to people dying or reaching full retirement age, when SSDI recipients make the transition to old-age retirement benefits (see Chart 8). Nationally, only 1 percent of disability recipients are terminated annually because of medical improvement or a return to work. In five district states, there were roughly 350,000 SSDI recipients in 2013. Only 1,358—less than half a percent—lost their benefits because of a successful return to work, according to SSA figures.

The reasons for low termination rates offer a glimpse at the difficulties faced by those who need help managing a disability, but are interested in and capable of work.

When Congress created SSDI over half a century ago, disability and employability were viewed as mutually exclusive. You either were disabled and unable to work, or not disabled and capable of working.

“Then the world changed,” said Mary Daly, senior vice president and associate director of research at the Federal Reserve Bank of San Francisco, who has studied disability extensively, including a 2011 book on the topic with Richard Burkhauser.

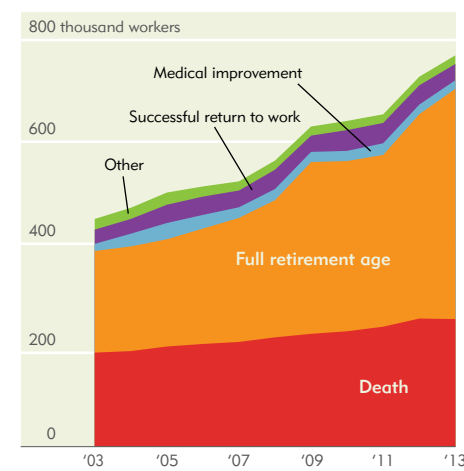
Over time, medical advances, workplace improvements and legislative efforts have helped shift society’s thinking about what it means to have a disability. Passage in 1990 of the Americans with Disabilities Act, Daly said, “broadly acknowledged that people with disabilities can and want to work, and should be integrated into the workforce.”

But over time, a subtle dichotomy has evolved in the disabled population.

Chart 8

U.S. disability terminations rising, but not for work

Benefit terminations, SSDI workers, by reason



Source: Social Security Administration

Those with disabilities sustained early in life are often given help to get *into* the workforce, at least on a limited basis. But those incurring a disability at any point during their working-age years—almost regardless of type or severity—receive benefits only if they get *out* of the workplace.

“They haven’t changed the public support program if you have a health shock. The only option is a cash payment,” said Daly. “It’s all or nothing.”

Just the process of getting approved for disability benefits can be discouraging. Applicants cannot file for SSDI until they have been out of work for five months. Initial approval rates hover around 20 percent to 30 percent, but there are four additional levels of appeals. The average disability recipient waits roughly a year for approval, all of which must be spent without a job.

Waiting entails taking a big financial risk. Jessica Bray is a partner at Upper Michigan Law, which has four offices across the Upper Peninsula, including in Escanaba, where Bray grew up and now practices. Bray’s client base this fall included about 65 people attempting to qualify for SSDI, she said.

“If they are turned down [initially], they have to wait 12 to 18 months” for a decision on appeal, during which they are out of a job, and many are “out of income and losing their homes and losing their cars” to pay monthly bills.

Once approved, SSDI and SSI recipients are technically allowed to work, but caps on monthly earnings are low; for SSDI recipients, the monthly limit of \$1,090 is equivalent to roughly 18 hours a week at \$15 an hour.