



VESTIBULAR

DISORDERS ASSOCIATION

How to Apply for Disability For Vestibular Patients

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With the Vestibular Disorders Association

Why Apply for Disability?

- Doctor recommendation
- Focusing on a computer screen is a challenge
- Someone has to drive you to work
- Walking is a safety hazard
- Your ability to concentrate is compromised
- You become fatigued after a short period of exertion
- You can't fly/travel to your clients anymore
- Your employer or family member is telling you it's time to take a break and heal

If you are struggling to get through your workday and complete the tasks that used to be easy for you, it may be time to consider applying for disability.



Disability Benefit Sources

1. Short-term disability insurance
 - Through your employer
 - Lasts 6 months
2. Long-term disability insurance
 - Through your employer
 - Starts after ST disability benefits end and can last through retirement
3. Private disability insurance
 - Purchased for yourself
 - Can last through retirement
4. State disability insurance
 - Usually lasts 1 year
5. Social Security Disability Insurance (SSDI)
 - Available after being disabled for 6 months
 - Lasts through retirement
6. Workers' Compensation
 - If your disability is due to a work-related injury



Short and Long-Term Disability

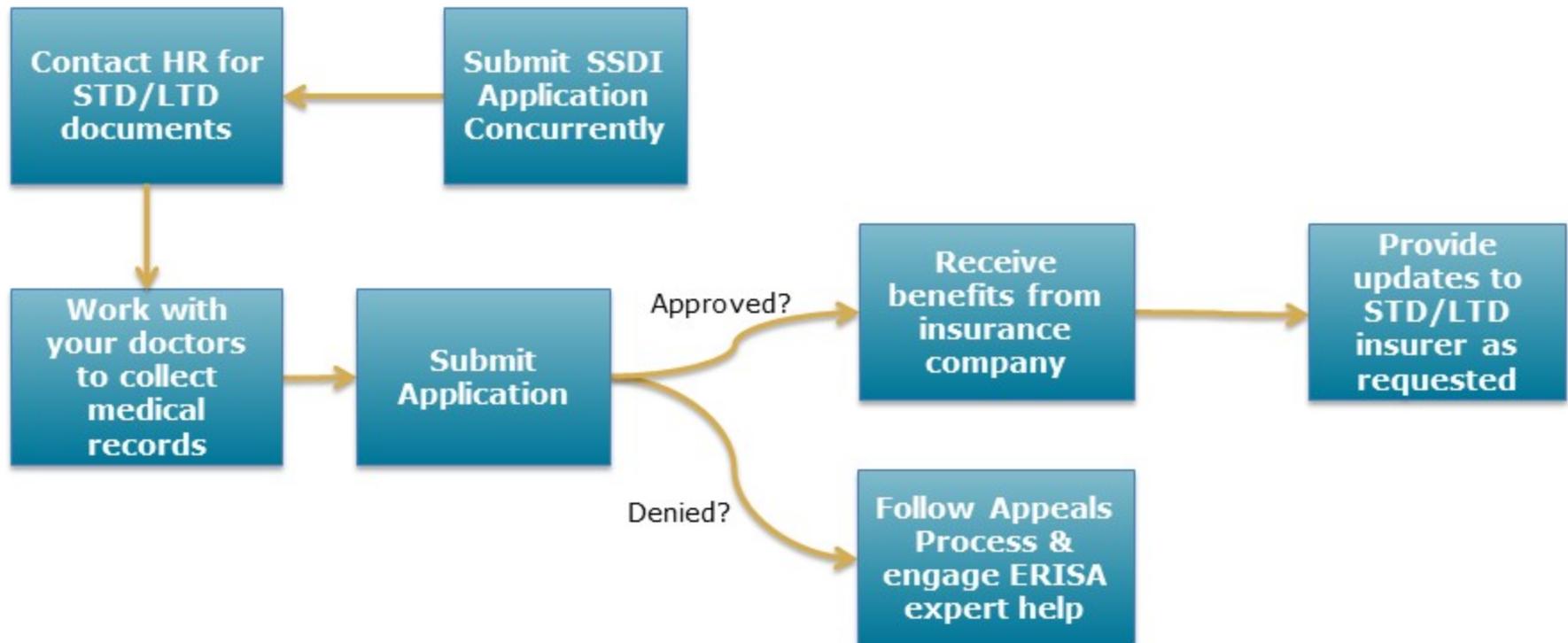
Long-Term
Disability
Insurance

Short-Term
Disability
Insurance

If your employer offers short and/or long-term disability benefits:

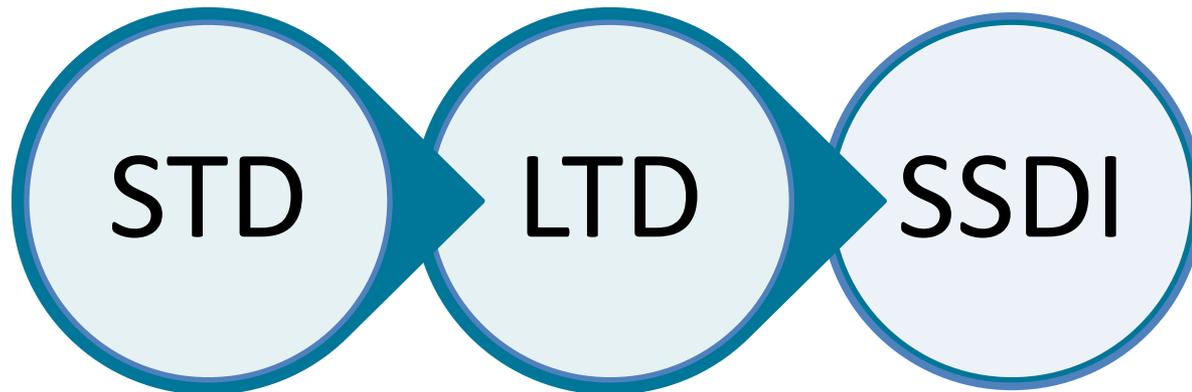
1. Request the short and long-term disability applications from your Human Resources (HR) department.
2. Request a copy of the short and long-term disability policies from HR.
3. Fill out the forms.
 - Do not feel constrained by the boxes on the forms. If a question doesn't exactly apply to you, modify the question and answer to state what needs to be said about why you are disabled.
 - If you feel overwhelmed, ask an ERISA attorney to help you.
4. Make sure your employer knows that they will have to fill out a form verifying your income and job duties. You may want to confirm this information with them so you are on the same page.

Short and Long-Term Disability



How Disability Plans Work Together

- Even though you have a disability plan through your employer, you can still apply for any other disability benefits that apply to you (e.g. SSDI).
- Benefits are coordinated so that you only receive a fixed percentage of your salary in total, usually 2/3 of your previous income.

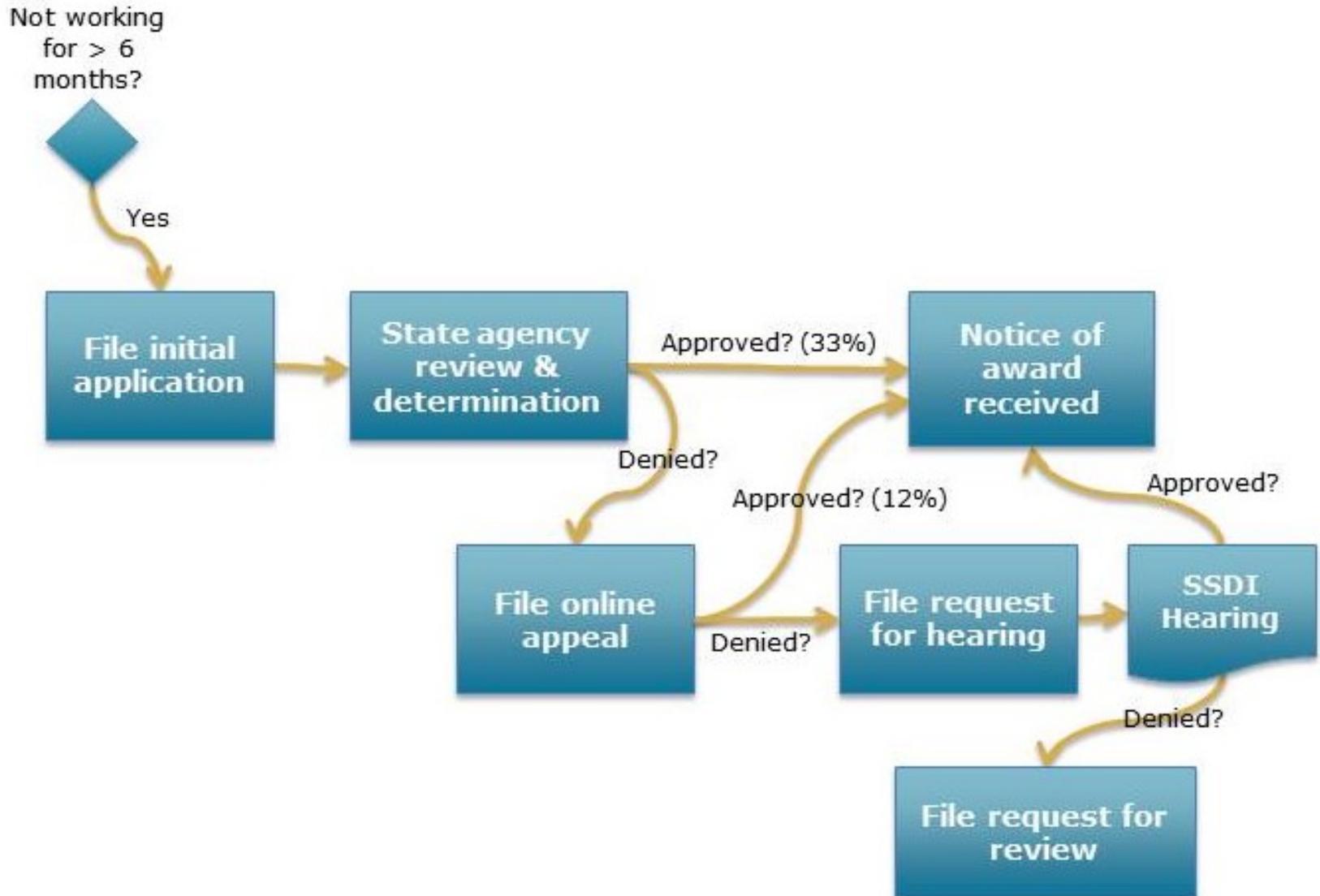


Social Security

Social Security
Disability
Insurance

- Social Security Disability Insurance (SSDI) pays benefits to you and certain members of your family if you are "insured," meaning that you worked long enough and paid Social Security taxes.
- To be insured for Social Security Disability benefits, you must have worked and paid FICA taxes for at least 5 of the last 10 years. You must also have stopped working at least 6 months prior to retirement age.
- The SSA considers a person to be disabled if they have a medically determinable physical or mental impairment or a combination of both that prevents them from performing Substantial Gainful Activity (SGA). The condition must last 12 months or be expected to result in death.

Steps to Apply for SSDI



Step 1: Initial Application

1. File the initial application for benefits
 - <https://secure.ssa.gov/iClaim/dib>
 - The SSA will forward your claim to a state agency.
 - Your claim will be assigned to an examiner.
2. File requested forms in a timely manner
 - The examiner may ask you to fill out forms related to your work history, activities of daily living, pain, fatigue, and other symptoms.
3. Comply with requested doctor appointments
 - The examiner may ask you to be examined by a doctor to supplement the medical information you submitted.

Timing of Initial SSDI Application

- The processing time for this initial application is 3-6 months.
- It is not uncommon to be denied at the initial level.
 - SSDI initial award rate is only 33%.
- If denied, you have 60 days to file an appeal, called a Request for Reconsideration.
 - Appeal forms can be found at <https://secure.ssa.gov/iApplsRe/start>
 - Note: In 10 states the reconsideration step is skipped and you proceed directly to Request a Hearing.

Step 2: Request for Reconsideration

- If you need to file a Request for Reconsideration, your claim will be handled by a different examiner than your initial claim.
- The processing time for this step is 3-6 months.
- It is not unusual for claims to be denied again at this stage.
 - Only ~12% of Reconsideration claims are awarded.
- If you are denied, you have 60 days to file an appeal, called a Request for Hearing.

Step 3: Request for Hearing

- Once your Request for Hearing is filed, Social Security will forward your claim to the appropriate Office of Disability and Adjudication Review.
- It takes 16-24 months after you file to receive a hearing date.
- The hearing is before an Administrative Law Judge.
- It takes 30-90 days after the hearing to receive a written decision letter.
- If denied, you have 60 days to file a Request for Review with the Appeals Council.
 - <https://www.ssa.gov/forms/ha-520.html>

Help!

“This sounds really complicated!”

Applying for disability can be a long and complicated process. That’s why there are legal professionals who can help you.

- ST/LT Disability and SSDI are different beasts.
 - ERISA (Employee Retirement Income Security Act) is an area of law that governs employee benefit plans. An ERISA lawyer can help you with your ST/LT Disability claim.
 - An experienced, qualified representative can greatly increase your chances of your claim being awarded by SSDI early in the process. Standard fees are 25% of your retroactive/back payment benefits, or \$6K max.
 - Genex is one such service.



Tips for your Application

Even with an advocate, you need to make sure that the information in your application is correct and complete, and that it accurately describes your physical and mental impairments, and why they prevent you from doing your job.



Tip #1 – Your Doctor



- Make sure your doctor knows how important it is to fill out your disability forms promptly. Check in with them to ensure that they meet the deadlines.
- Your doctor needs to answer the question, “Why are you disabled now?”
- Your doctor should confirm that you are able to describe your symptoms accurately so the person evaluating your claim sees you as a credible reporter.
- Make sure your doctor understands the requirements of your job and the physical and/or mental impairments that make it difficult for you to work. Both you and your doctor will need to explain to the insurance company/SSDI why you are unable to work, and you want to make sure your stories are in sync.
- Schedule regular check-ups. Insurance companies generally request medical records every 6-12 months.

Tip #2 – Your Symptoms



- If you have symptoms that can be objectively documented through testing, make sure to have those tests done ASAP. This includes cognitive tests.
- Track your symptoms so you can accurately describe them over time. Share these logs with your doctor.
 - Be specific.
 - Do not merely state that you experience vertigo or dizziness, explain how these symptoms affect your ability to walk and drive.
 - Include visual and auditory disturbances.
 - Include problems with concentration and/or memory.
- Emphasize the unpredictable nature of vestibular disorders.
 - E.g. you may feel fine one day and completely wiped out the next.
 - You cannot always control these fluctuations in symptoms.

Tip #3 – Your Limitations

- Be honest about your limitations.
- List how long it takes you to complete basic tasks (these do not necessarily have to be work-related).
- Explain the help you need to complete basic tasks.
- Explain the things you can no longer do as a result of your vestibular disorder.
- Explain the impact these limitations have had on your life (e.g. social activities, excess burden on your family).

Do not feel constrained by the disability forms – include all information you feel will give the case worker an accurate depiction of your disability.



Tip #4 – Your Job

- List the main responsibilities of your job and the cognitive skills involved in each.
 - Emphasize that the brain is involved with the balance or vestibular system, and that's why your cognitive skills are impacted. Cite research that supports this claim.
- List the physical impairments that affect your ability to complete your job.
 - Do you experience extreme fatigue?
 - Do you need to take frequent breaks? How does this impact your ability to attend meetings and meet deadlines?
 - Do you have bouncing vision with slight head movements? Explain how this impacts your ability to do your job.
 - Are you able to safely drive? Is this a requirement of your job?
 - Do you have dizziness or imbalance when standing or walking? Do you need to stand or walk as part of your job?

Covering Your Bases

- Include information from a credible source to support your claims.
 - VEDA has many informative articles on vestibular.org.
 - Reference your doctor's website, if applicable.

EXPERT

- Send all communication to the insurance company/SSDI by registered mail, priority mail with tracking, or by express mail with a signature required.

SIGNATURE REQUIRED

Case Study/Personal Story

Diagnosis

- After approximately 5 doctors visits + multiple tests (3-4 months)

STD

- Working thru company's HR Department (6 months)

Back to Work

- Got worse again – tried part-time work with no travel (6-8 months)

LTD

- Doctor recommended disability
- Working with company HR (12 months)

SSDI Application

- Required to apply by LTD insurer
- Was assigned a GENEX rep
- Denied 3 times before awarded via hearing (2 years)

Advice

- Keep your own health records – BINDER
 - Copies of ALL doctor visits notes, test results, audiograms, blood work, MRI/CT Scan films
 - Medications list (past and current)
 - Doctor contact info (past and current)
 - Copies of all past STD/LTD or SSDI paperwork
- Build a library on your condition
 - Find credible resources about your condition and it's impacts (VEDA, Mayo Clinic, medical journals)
 - Keep personal health logs
- Get good at "telling your story"
 - Your symptoms and their variability
 - Your limitations - what's harder to do, not possible to do
 - The help you need and if you are able to get it
 - Don't be dramatic, but don't gloss over your challenges
- Consistently, regularly see you doctor(s)
 - Demonstrate ongoing care and efforts to improve
 - Build relationships with docs and office staff

Advice – ST/LT Disability

- Applying for and Responding to STD/LTD Update Requests
 - Read your plan descriptions end-to-end
 - Get expert help if possible – attorneys, health advocates, online resources
 - DO NOT be late in responding to requests
 - Remind your doctor at visits that you'll need their help when requests come in, follow up, get copies
 - Write out forms in pencil first, re-read, have others read before submitting
 - Be prepared to go to “outside” doctors for “independent” reviews of your case
 - Make sure HR, STD or LTD insurers have accurate contact information for you
 - Remember! STD/LTD Insurers are a business, not your doctor, not your friend

Advice - SSDI

- Applying for and receiving SSDI
 - Get expert help if possible – attorneys, health advocates, online resources
 - Read the SSDI website carefully
 - Write out forms in pencil first, re-read, have others read before submitting
 - Know that Social Security does not have many “codes” for vestibular disorders
 - Watch out for “somatic” codes
 - Understand about coordination of benefits in your case
 - Learn about taxability of your benefits
 - Understand SSDI for you dependent child(ren)
 - Know the impact of any work you do on benefits
 - Be prepared for re-payments to LTD insurer if awarded SSDI
 - Make sure Social Security department has accurate contact information on you

Case Study/Personal Story (ERISA)

Diagnosis

- Spinal fluid gusher during ear implant surgery, causing permanent Vestibular Disorder.

STD

- Application for STD/LTD (attorney helped)

Change in Definition

- Shift to any occupation: how does VD disable one from a sedentary job?

Experts/MDs

- Work with physician and experts to opine on disability. Answer questions specific to sedentary work activities (e.g. computer use and reading)

Result

- Approval post 24-months means likely approval in coming years.

Resources

- Social Security Disability: <https://www.ssa.gov>
- U.S. Department of Labor Disability Resources: <https://www.dol.gov/odep/topics/disability.htm>
- VEDA's Disability Resources: <https://vestibular.org/disability>
- Genex Services:
<http://www.genexservices.com/solutions/social-security/disabled-individuals>
- Cassie Springer Ayeni: <http://www.benefitslaw.com>,
cassie@benefitslaw.com, 510.295.3124



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