

## Social Security Newsletter<sup>®</sup>

This is a newsletter of interest to professionals who provide services to potential Social Security disability and SSI claimants. © 2010

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### Non-Hodgkin's Lymphoma Cases Can Be Won

Non-Hodgkin's Lymphoma is a cancer that presents a puzzle in a Social Security or SSI disability claim. While many such diagnoses are **initially devastating**, treatment may resolve the cancer itself within a period of months.

**To be eligible for Social Security, a person's disability must last or be expected to last for a continuous period of 12 months.**

Non-Hodgkin's Lymphoma more frequently affects people over 60, and has a five-year survival rate of nearly 70 percent. Treatment advances have made this a very treatable disease. There are approximately 600,000 people in the US who have this diagnosis.

**We are frequently presented with a claimant who has been devastated by the treatment rather than the disease.** Keep in mind that it's the **way any disease diagnosis affects the person's ability to function**, not the diagnosis itself, that is considered when a disability determination is made. Everyone responds to treatment and medications differently.

Treatment can **create side effects that themselves prevent the ability to work.** If chemotherapy or radiation **affect meaningful activity for 12 months or more**, it is possible to succeed in a claim for what is known as a "closed period" of disability benefits.

A carefully developed medical record is the key. **Fatigue, nausea and inertia during the treatment period** should be documented by medical professionals. Although there are **brief windows** between treatments when many patients can **function normally**, the next treatment of-

ten reverses such progress. There may be some good days, but a person going through this process will often be unable to predict when full functioning will return. Written statements from witnesses such as family members or friends are sometimes helpful.

Having a treating physician estimate **how many work days per week or month would be missed** can be the winning piece of evidence. **Depression may often be a factor and should be documented as well.**

**Claims for Non-Hodgkin's Lymphoma can be successful, but they are as challenging as the disease.** They are **routinely denied at the initial levels** because Social Security believes that the condition will resolve before the 12-month duration requirement is met.

Sometimes, by the time a case reaches the hearing level, health has improved and work is again possible. These cases **should not be abandoned if disability has lasted over twelve months, but pursued as "closed period" cases.** This means that **payment will be made for the months disabled**, even though there will not be ongoing payment because the disability has ended.

#### FREE SEMINARS AND INSERVICE TRAININGS

We can help with these questions:

- What is the difference between SSI and SSDI?
- How long does a person have to be sick to file for disability benefits?
- How sick does a person have to be to qualify for disability?

**Call us to make arrangements.**

*"Mitchell + Pencheff, Fraley, Catalano & Boda Co., LPA provides experienced representation in the areas of Social Security, Workers' Compensation, and Personal Injury."*