

# **Some Materials To Help Those Trying To Clean Up The Mess Left Behind By Eric Conn**

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# **Fraud Or Similar Fault -- It's Not A Slam Dunk For SSA**

# Social Security News

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Jun 5, 2015

## I Think I Know Why Eric Conn Hasn't Been Prosecuted -- He's A Doofus

I can't remember much from my law school class on criminal law but I do remember that prosecuting someone for fraud is awfully difficult. You have to prove that the defendant intended to deceive, did deceive and that the deception caused harm. That's a lot to prove beyond a reasonable doubt. Let's look at some of the problems involved in prosecuting Eric Conn for fraud.

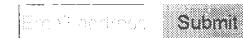
**Was Social Security really deceived?** Social Security's Administrative Law Judges (ALJs) aren't stupid. When they see the same type of odd-looking evidence submitted repeatedly they ask questions. They also tend to come to conclusions about that evidence. In my book, I advise against attorneys sending all their clients to one physician for medical examinations. Even if everything is above board, this looks bad to ALJs. They heavily discount the evidence. In Conn's case, I would hazard a guess that the ALJs who were receiving the medical "reports" that Conn is alleged to have submitted would testify that they knew the reports were bogus and paid no attention to them. If you wonder why Social Security couldn't recognize that Conn was acting fraudulently, maybe the answer is that they did realize it but thought what Conn was doing was a farce. Conn wasn't winning because of the allegedly phony reports but despite them.

**Can what Conn is alleged to have done be considered deceptive when it is little different than what Social Security does routinely?** Most Social Security disability claim files at the hearing level contain "opinions" offered by physicians at the initial and reconsideration levels. These physicians never see the claimants. The opinion forms are usually filled out by a non-physician disability examiner and then routinely signed off on by the physician. Workloads are such that it is impossible for the physicians to actually review the medical evidence in most cases. The physicians or, more accurately, the disability examiners rely upon Social Security RFC (Residual Functional Capacity) guidelines in filling out the forms. In theory, the RFC guidelines don't exist. Social Security denies that they exist. Yeah, right. Does Social Security want some of these physicians on the stand testifying under oath about the RFC guidelines? Not only do the opinions of Social Security's physicians appear in the files but Social Security has told ALJs that these physicians are "experts" whose opinions must be considered and that their opinions may be entitled to more weight than that given to the opinion of treating physicians. How is what Social Security does any different than what Conn is alleged to have done, other than the fact that Conn, unlike Social Security, was in no position to demand that ALJs treat the opinions with more respect than they deserved?

**Would the decisions have been any different if Conn had not submitted the questionable opinions?** Much attention has been paid to the fact that ALJ David Daugherty was approving essentially all of Conn's clients. Little attention has been paid to the fact that Daugherty was approving essentially all of every other attorney's clients as well. No one is alleging that the other attorneys were submitting the same sort of medical reports that Conn is alleged to have submitted. I think a jury would probably conclude that the questionable opinions were of no consequence; Daugherty would have approved the cases without the opinions Conn submitted.

To me, Conn doesn't look like a criminal. He looks like a doofus whose only real skill is self-promotion. He couldn't figure out that his silly scheme was ineffective and would look criminal to a many people.

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# **The Sort Of Dubious Medical Records Routinely Generated By SSA**

Yes

Are the individual's statements about the intensity, persistence, and functionally limiting effects of the symptoms substantiated by the objective medical evidence alone?

No

When considering the following factors, which were the most informative in assessing the credibility of the individual's statements?

- ADLs
- Medication Treatment
- Treatment other than medication

What is your assessment of the credibility of the individual's statements regarding symptoms considering the total medical and non-medical evidence in file?

Partially Credible

**Credibility assessment:**

MENTAL.

The claimant's and 3rd party's statements concerning the intensity, persistence, and limiting effects of MH symptoms were not fully credible, as they were inconsistent with MSE/MER and with her reported functioning/ADLs. Claimant appears to have been functioning fairly well on RX until she experienced increased stressors. Although the claimant's case is more than not severe, it does not meet or equal any listing.

PHYSICAL: nonsevere

#### WEIGHING OF OPINION EVIDENCE

The following displays Treating Sources with medical opinions:

Source of Evidence	Opinion Source Name	Level	Opinion Date	Weight
UNC HOSPITAL AT CHAPEL HILL	Elena Perea, MD	Initial	07/17/2014	Other

Explain how you weighed the opinion(s) above:

GAF=60 is given little weight as it shows cl performance on 7/17/14.

## RESIDUAL FUNCTIONAL CAPACITY

#### MENTAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

##### MRFC1

Indicate whether this Mental Residual Functional Capacity (MRFC) assessment is for:

Current Evaluation

The questions below help determine the individual's ability to perform sustained work activities. However, the actual mental residual functional capacity assessment is recorded in the narrative discussion(s), which describes how the evidence supports each conclusion. This discussion(s) is documented in the explanatory text boxes following each category of limitation (i.e., understanding and memory, sustained concentration and persistence, social interaction and adaptation). Any other assessment information deemed appropriate may be recorded in the MRFC - Additional Explanation text box.

Does the individual have understanding and memory limitations?

No

**Explain in narrative form the presence and degree of specific understanding and memory capacities and/or limitations:**

A. There is no compelling evidence in the MER to suggest significant limitations in understanding and memory.

**Does the individual have sustained concentration and persistence limitations?**

Yes

**Rate the individual's sustained concentration and persistence limitations:**

**The ability to carry out very short and simple instructions.**

Not significantly limited

**The ability to carry out detailed instructions.**

Not significantly limited

**The ability to maintain attention and concentration for extended periods.**

Moderately limited

**The ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.**

Not significantly limited

**The ability to sustain an ordinary routine without special supervision.**

Not significantly limited

**The ability to work in coordination with or in proximity to others without being distracted by them.**

Not significantly limited

**The ability to make simple work-related decisions.**

Not significantly limited

**The ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.**

Moderately limited

**Explain in narrative form the sustained concentration and persistence capacities and/or limitations:**

B. The claimant's capacity to attend and persist for 2-hour intervals while accomplishing job tasks consisting of straightforward, recurring, and uniform steps is not seriously limited by the presence of the mental impairment. However, the signs/symptoms of the mental impairment could cause the claimant to have difficulty maintaining levels of concentration and productivity for skilled work, particularly in socially-intense work environments requiring multitasking under time pressure.

**Does the individual have social interaction limitations?**

Yes

**Rate the individual's social interaction limitations:**

**The ability to interact appropriately with the general public.**

Moderately limited

**The ability to ask simple questions or request assistance.**

Not significantly limited

**The ability to accept instructions and respond appropriately to criticism from supervisors.**

Moderately limited

**The ability to get along with coworkers or peers without distracting them or exhibiting behavioral extremes.**

Not significantly limited

**The ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness.**

Not significantly limited

**Explain in narrative form the social interaction capacities and/or limitations:**

C. The claimant has the ability to communicate about specific aspects of task-oriented employment and abide by the standards governing basic conduct and appearance that are predominant in many vocational environments. However, adverse emotional and/or behavioral features of the mental impairment may increase the claimant's risk for reacting ineffectively to the stress of extensive customer-service and/or criticism from supervisors

**Does the individual have adaptation limitations?**

Yes

**Rate the individual's adaptation limitations:**

**The ability to respond appropriately to changes in the work setting.**

Moderately limited

**The ability to be aware of normal hazards and take appropriate precautions.**

Not significantly limited

**The ability to travel in unfamiliar places or use public transportation.**

Not significantly limited

**The ability to set realistic goals or make plans independently of others.**

Not significantly limited

**Explain in narrative form the adaptation capacities and/or limitations:**

D. There is no compelling evidence to suggest that the claimant's capacity to appreciate/adhere to occupational safety guidelines, secure transportation to a jobsite, or do basic planning for work activities is especially limited by mental impairment. However, the claimant's capacity to adjust effectively to abrupt changes in the work schedule/process is likely limited by the mental impairments.

**MRFC - Additional Explanation**

The totality of the MER indicates that the claimant appears capable of meeting the mental demands of work comprised of simple routine tasks carried out in a setting where contact with the public, coworkers, and supervisors is typically infrequent, brief, and superficial. These findings complete the medical portion of the disability determination.

**MC/PC Signature**

Dr Heather Bradley Ph.D. (38) 02/10/2015

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**ASSESSMENT OF POLICY ISSUES – CONTINUED**

**RECONCILING OF SOURCE OPINION**

**Are there medical source and/or other source opinions about the individual's limitations or restrictions which are more restrictive than your findings?**

# **The Weird Procedural Status Of Eric Conn's Former Clients**

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Aug 3, 2015

## Social Security Making Up Special Rules For Eric Conn's Former Clients

Social Security made up some special rules just for Eric Conn's former clients. The main point of the rules is to make sure the agency can decide in its absolute, unreviewable discretion that there has been "fraud or similar fault" without ever having to produce any evidence showing this or having to justify its decision before a neutral adjudicator.

Take a look at sections I-1-3-15, I-2-2-101, I-2-17-8, I-2-10-10, and I-2-10-14 from the agency's hearings and appeals manual, HALLEX. These provide a process whereby an Administrative Law Judge (ALJ) will give notice of a hearing on the issue of whether there was "fraud or similar fault", hold the hearing, possibly take testimony from a witness from the agency's Office of Inspector General (OIG), and make a decision on the issue on the basis of the preponderance of the evidence. All of these sections other than I-2-2-101 were adopted on June 25, 2014. This is the traditional approach to administrative justice.

Then take a look at section I-1-3-25, Processing Multiple Cases When Fraud or Similar Fault Involved ("Redeterminations"), also adopted on June 25, 2014. Here are some excerpts with my interpolated comments bolded and in italics.

- The Deputy Commissioner of ODAR [Office of Disability Adjudication and Review] will determine which ODAR component is designated to redetermine the affected case(s). *Wait, who adjudicates whether there was "fraud or similar fault" justifying a redetermination in the first place? Does the head of ODAR get to make this decision in her absolute, unreviewable discretion? When does the claimant get to see the evidence upon which this decision is based? When does the claimant get a chance to counter this evidence? It sure looks like the agency is afraid of having to justify what it's doing before a neutral adjudicator.*
- ODAR will draft specific processing instructions for any particular batch of cases. *Right, you just make it up as you go along.*
- When an adverse redetermination is necessary, ODAR will send the claimant an appropriate notice based on the circumstances. The notice may include issues relating to benefit continuation or the opportunity for a supplemental hearing. *May include information on benefit continuation? Sounds like you can't make up your mind on this issue. Supplemental hearing on which issues?* Additionally, the notice may include the opportunity and time-frame for submitting arguments or rebuttal evidence. *I-1-3-25. But what about the right to a hearing on the issue of "fraud or similar fault? Isn't that required as a matter of administrative law and due process? Does the process you've designed consist of you telling me you've already made up your mind but I can say something which you'll ignore since you've already made up your mind and you can't possibly change your mind because Congressional Republicans will attack you? It sure looks like the agency is afraid of having to justify what it's doing before a neutral adjudicator.*
- Based on OIG referrals of information pursuant to section 1120(h) of the Act or information obtained through other criminal, congressional, or administrative investigation, the agency may direct an ODAR adjudicator to disregard certain evidence. *The agency can just summarily decide which evidence can be considered in its absolute, unreviewable discretion? How does this square with the right to submit arguments and rebuttal evidence? Sounds like that's no more than window dressing since "the agency" has already made up its*

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*mind. It sure looks like the agency is afraid of having to justify what it's doing before a neutral adjudicator.*

Why is it that the agency made up these rules last summer, obviously for Conn's cases, but is only just now getting around to acting on the cases? The statute says there is supposed to be an "immediate" readjudication when there is "fraud or similar fault." It looks like the agency can't make up its mind what it wants to do. Maybe that's because the evidence of "fraud or similar fault" isn't all that strong. Convincing 60 Minutes, which is far more interested in good TV than in justice, is one thing. Convincing a neutral adjudicator is another. They don't trust the ALJs to make the "right decision" -- the one that Congressional Republicans demand -- so they want to take the issue out of their hands.

Posted by Social Security News at 8:06 AM

Labels: Eric Conn, HALLEY



## 6 comments:

Anonymous said...

Due Process? Who's that?

8:06 AM, August 03, 2015

Anonymous said...

SSA keeps digging a deeper hole for itself. I wish this was the 7th Circuit and any terminations were appealed to Posner (I am sure the Appeals Council will ignore appeals, they don't even have to explain their star chamber musings and district courts who knows). Would love to hear Posner eviscerate this unprecedented, illicit rule making. What is so hard about conducting a CDR without departing from the law? Don't want to pile on Colvin, but SSA DIB is in need of some reasonable direction and this has been handled poorly from the start. Maybe a class action will prevent the continuing insanity, but it is ugly to watch.

9:42 AM, August 03, 2015

Anonymous said...

And these aren't the special internal instructions that are specific to the Conn case and were released a couple of months ago.

10:38 AM, August 03, 2015

Anonymous said...

This is ludicrous! How difficult is it to prove fraud? Why is this so difficult? That moron is going to get away with stealing 22.7 million dollars of Federal Dollars! My money-your money! Isn't anyone else outraged by this?? Conn needs to pay back this \$ & go to prison! This should be embarrassing

7:27 PM, August 03, 2015

Anonymous said...

7:23 - If it's so easy, pray tell, share some information we don't know. Can't just run around yelling fraud like an idiot. Gotta have proof. #gotolawschool

9:51 PM, August 03, 2015

Anonymous said...

If these claims are redetermined and a portion of folks are found to not be entitled, and slapped with overpayments, SSA should also request repayment of the attorney fees paid in those particular claims as as there would no longer be past due benefits to justify the fee. I'm sure Conn is busy hiding assets as we speak.

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Aug 4, 2015

## Some Social Security Home Cooking Planned For Eric Conn's Former Clients

I posted yesterday about the special rules that Social Security has cooked up to try to prevent Eric Conn's former clients from ever seeing the evidence of "fraud or similar fault" that is supposed to justify requiring them to prove all over again that they're disabled. Of course, these special rules also block any hearing on that issue. Let's look now at the special rules that the agency has adopted to make these readjudications easier for the agency. Below are some excerpts from section I-1-B-25 of Social Security's hearing and appeals manual, HALLEX, on Processing Multiple Cases When Fraud or Similar Fault Involved ("Redeterminations"). These were adopted last summer, obviously for Conn's former clients. My bolded and italicized comments are interpolated:

- When redetermining a claim(s), an adjudicator will be directed to consider the claim(s) only through the date of the final and binding determination or decision on the beneficiary's application for benefits (i.e., the original allowance date). *But what if the claimant wasn't disabled at the time of the prior decision but has become disabled since then. How does this issue get adjudicated? The statute provides that a Social Security claim stays in effect until a final decision on the claim. 42 U.S.C. §402(j)(2). How can one say that there was a final decision on these cases if the agency is vacating the prior decisions? Shouldn't these cases be treated like remands where everything is up for grabs? Back benefits on a claim for Disability Insurance Benefits can only go back up to one year prior to the date of the claim. Supplemental Security Income benefits can only go back to the beginning of the month after the month in which the claim is filed. Note that in these cases we would be talking about reduction of an overpayment rather than actual benefits to be paid but that's still important to these claimants since the overpayments may be collected out of their future benefits. A new claim filed now can't make a claimant whole yet these claimants couldn't have filed new claims while they were drawing benefits. Unless Social Security comes up with some new process these claimants can't file new claims while these adjudications are proceeding.*
- During redeterminations based on fraud or similar fault, SSA will not generally develop evidence beyond the original allowance date. However, an adjudicator may consider evidence submitted by the beneficiary that post-dates the original allowance date if that evidence relates to the period at issue in the redetermination. For example, if a beneficiary submits evidence of an IQ test dated after her original allowance, and that evidence, with the remaining evidence of record, supports her claim that she met Listing 12.05C as of the date of her original allowance, SSA will consider that *evidence* during a redetermination. *How convenient for you! There's a period of years with no medical evidence in the record but you absolve yourself from any obligation to obtain this evidence. Remember, many, perhaps most, of these claimants will be unrepresented.*
- If the beneficiary submits evidence of a new impairment unrelated to those alleged in the application being redetermined, and the onset date is after the original allowance date, the adjudicator will usually not consider or develop the evidence of the new impairment during the redetermination, unless objective evidence shows a new critical or disabling condition. In that instance, the ODAR

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adjudicator will consult with ODAR management to determine the appropriate course of action. 14-3-25. *What's a "new critical or disabling condition"? Why does the condition have to be new? What's the statutory justification for this? How can you tell what's new and what isn't? If the evidence at the time the claimant was originally found disabled showed that he or she was a diabetic and the evidence now shows that the claimant has lost a leg due to that diabetes, is that a new condition? You've already said that you're not going to adjudicate disability after the date of the original approval. Now you say you might but that "ODAR management" will tell ALJs whether they can. What's the process here? How does the claimant ask for this? Who in ODAR management makes this decision? When do they make it? Can the decision be appealed? It sounds like this section of HALLEX was drafted by a committee and that there was disagreement on this whole issue. This was probably a compromise solution but it just doesn't make sense. These claimants and their attorneys, to the extent they have attorneys, would like to know the rules going into this process. Is that unreasonable?*

If the issue is only whether the claimant was disabled at the time of the prior decision approving the claim let's use round numbers and say that 50% of the claimants will be approved. However, if the issue is whether the claimant was disabled at that time or any subsequent time, I'd guess that 75% or more will be approved with some onset date found. Most Social Security disability claimants keep getting sicker as time goes on. This is a big deal. Sure, maybe they would be approved on a new claim but that may take three years and they won't be able to mitigate their overpayment as much as they should.

Posted by Social Security News at 6:00 AM



Labels: [Eric Conn](#), [HALLEX](#)

## 2 comments:

**Anonymous said...**

Should probably consider 42 USC 416(i)(2)(G) before getting too excited about the Agency's decision to limit the review to the time period previously adjudicated. I think the AC generally vacates a prior hearing decision when it issues a remand not because it is required to do so but because the agency prefers, on remand, to adjudicate the claim up until the present.

8:10 AM, August 04, 2015

**Anonymous said...**

What a friggin mess. And there are plans to train attorneys unfamiliar with the SSA process to represent these folks? Oh that should work out really well. FYI, to those considering helping out, you can still commit malpractice even when its a pro bono case.

11:46 AM, August 04, 2015

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42 U.S.C. §402(j)(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Commissioner of Social Security makes a final decision on the application and no request under section 405(b) of this title for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Commissioner of Social Security).

# I-1-3-25. Processing Multiple Cases When Fraud or Similar Fault Involved (“Redeterminations”)

Last Update: 6/25/14 (Transmittal  
I-1-75)

## A. Redeterminations - In General

Under sections 205(u) and 1631(e)(7) of the Social Security Act (Act), the Social Security Administration (SSA) must immediately redetermine the entitlement of individuals to monthly disability benefits if there is reason to believe that fraud or similar fault was involved in the individual's application for such benefits. A redetermination is a re-adjudication of the individual's application for benefits, based on the agency's finding that fraud or similar fault was involved in an individual's application for monthly disability benefits. The agency may be required to initiate a redetermination based on an Office of the Inspector General (OIG) referral of information pursuant to section 1129(l) of the Act or information from a criminal prosecutor with jurisdiction over potential or actual related criminal cases.

**NOTE 1:** SSA will redetermine cases immediately unless a United States attorney or other State prosecutor handling potential or actual related criminal cases certifies in writing that there is a substantial risk that conducting redeterminations will jeopardize prosecution of the criminal case.

**NOTE 2:** Redetermination procedures apply when an individual has received or is receiving monthly benefits, meaning SSA will use redetermination procedures when a favorable decision was issued and the claim(s) now needs to be reevaluated due to a new issue of fraud or similar fault. However, under sections 205(u)(1)(B) and 1631(e)(7)(A)(ii) of the Act, the agency may also disregard tainted evidence on pending cases that have proceeded beyond the initial determination level.

## B. Procedures

### 1. Identification of Cases

The agency determines when to redetermine cases based on a finding that fraud or similar fault was involved in an individual's application for monthly disability benefits. The agency may also receive an OIG referral of information pursuant to section 1129(l) of the Act or information from a criminal prosecutor with jurisdiction over potential or actual related criminal cases. Unless the redeterminations apply only at the Office of Disability Adjudication and Review (ODAR) levels, redeterminations may be coordinated with other components.

## 2. Assignment of Cases

The Deputy Commissioner of ODAR will determine which ODAR component is designated to redetermine the affected case(s).

## 3. Instructions for Processing Cases

Except in unusual circumstances where individual case instruction is more appropriate, ODAR will draft specific processing instructions for any particular batch of cases. To meet the "immediacy" requirement, ODAR may initially release instructions in a temporary format such as a memorandum or other established mechanism, but will usually finalize instructions in a Hearings, Appeals and Litigation Law (HALLEX) manual temporary instruction (TI).

## C. Special Adjudication Issues in Redeterminations

For each batch of cases, the HALLEX TI will usually address issues unique to redeterminations based on fraud or similar fault. Common examples of these unique issues include the following:

### 1. Notice to Claimant

When an adverse redetermination is necessary, ODAR will send the claimant an appropriate notice based on the circumstances. The notice may include issues relating to benefit continuation or the opportunity for a supplemental hearing. Additionally, the notice may include the opportunity and time-frame for submitting arguments or rebuttal evidence.

In some cases, special language in an acknowledgement of hearing or notice of hearing may be required.

### 2. Period of Adjudication

When redetermining a claim(s), an adjudicator will be directed to consider the claim(s) only through the date of the final and binding determination or decision on the beneficiary's application for benefits (i.e., the original allowance date).

**NOTE:** An ODAR adjudicator will give special attention to specific processing instructions for handling allegations of a disabling impairment(s) with onset after the date of the adjudication. See HALLEX I-1-3-25 C.3.c. below.

## 3. Evidence

### a. Disregarding Evidence

Based on OIG referrals of information pursuant to section 1129(l) of the Act or information obtained through other criminal, congressional, or administrative investigation, the agency may direct an ODAR adjudicator to disregard certain evidence.

When considering other evidence that the adjudicator has not been previously instructed to disregard, ODAR adjudicators will use the procedures in Social Security Ruling (SSR) 00-2p: Titles II and XVI:

Evaluation of Claims Involving the Issue of "Similar Fault" in the Providing of Evidence and applicable HALLEX provisions in I-2-10-0 and I-3-10-0 to determine whether to disregard that evidence.

**b. Developing Evidence**

During redeterminations based on fraud or similar fault, SSA will not generally develop evidence beyond the original allowance date. However, an adjudicator may consider evidence submitted by the beneficiary that post-dates the original allowance date if that evidence relates to the period at issue in the redetermination. For example, if a beneficiary submits evidence of an IQ test dated after her original allowance, and that evidence, with the remaining evidence of record, supports her claim that she met Listing 12.05C as of the date of her original allowance, SSA will consider that evidence during a redetermination.

**c. Evidence of New Impairment Submitted**

If the beneficiary submits evidence of an impairment that existed at the time of his or her original allowance, but was not alleged on his or her application, the agency will consider that evidence.

If the beneficiary submits evidence of a new impairment unrelated to those alleged in the application being redetermined, and the onset date is after the original allowance date, the adjudicator will usually not consider or develop the evidence of the new impairment during the redetermination, unless objective evidence shows a new critical or disabling condition. In that instance, the ODAR adjudicator will consult with ODAR management to determine the appropriate course of action.

**4. Suspension of Benefits**

When a claim is being redetermined, the agency may decide to suspend current benefits (after proper notice).

**5. Appeal Rights and Special Decision Language**

In a redetermination, a claimant may appeal a determination or decision regarding whether he or she was entitled to disability benefits or supplemental security income as of the date of his or her original allowance. The claimant may also appeal the agency's finding of fraud or similar fault that is unrelated to the basis for the redetermination. However, the claimant may not appeal the agency's statutory mandate to disregard evidence based on OIG referrals of information pursuant to section 1129(I) of the Act or information from a criminal prosecutor with jurisdiction over potential or actual related criminal cases.

The HALLEX TI for each batch of cases will address any special language required in a redetermination decision.

**Example Of Social Security  
Earnings Record Including  
Computation Of Date Last Insured**

NH NAME [REDACTED] [REDACTED]  
 INPUT 07/08/15  
 RUN DATE 07/08/15 V:07/15/14  
 CONTROL [REDACTED]

SN: [REDACTED] PG 001+  
 DO:X43 UNIT:AW DERO MOD:06

EVENT ICERS EARNINGS RECORD  
 TID CERTIFIED EARNINGS RECORD  
 ALERTS NH HAS 03 DIS EX YOC'S FOR NONCOVERED PENSION PIA  
 PRIOR CLAIM DATA DOES NOT EXIST ON DRAMS  
 POSSIBLE GAPS 1991 1992 1994 1996 1998 1999 2000 2001  
 POSSIBLE GAPS 2003 2008  
 POSSIBLE DUPLICATES 1981 1993 2006  
 POSSIBLE INCOMPLETE 1982 1990 1997 2013  
 NH HAS 03 YOC'S FOR NONCOVERED PENSION PIA  
 FILING DATE USED BY SYSTEM EQUALS ONSET DATE  
 INFORMTNL DISABILITY EXCLUSION FULLY INSURED STATUS MET  
 DISABLED NH IS FULLY INSURED RIB  
 DISABILITY NON-EXCLUSION FULLY INSURED STATUS MET  
 DISABILITY NON-EXCLUSION 20/40 INSURED TEST MET  
 DISABILITY EXCLUSION 20/40 INSURED TEST MET  
 PRIOR CLAIM STATUS - A

ID INFO REQ NAME: [REDACTED] REQ SEX:F REQ DATE OF BIRTH: [REDACTED]  
 DATES DATE OF ONSET: 07/01/2012  
 DIB INPUT MBR/INPUT DATA  
 INS STAT ONSET: 07/01/2012 DENIAL/DISALLOWANCE: J1  
 DISABILITY: EXCL REQ QC:29 EXCL HAS: 040  
 NON-EXCL REQ QC:29 NON-EXCL HAS: 040 DIS DLI: 09/17  
 OTHER: FIRST INSURED: 10/09

TOT COV SSA QC  
 1937 THRU 1950 QC: 0  
 WAGE QC AFTER 1946: 69 WAGE QC AFTER 1950: 69  
 SE QC:NONE AG QC:NONE

TOT EARN SSA  
 TOT AFTER 1936: 184922.54  
 TOT AFTER 1950: 184922.54

## COMPUTATIONAL YEARLY EARNINGS

MAX	AMT	YR	QC	REGULAR	U	NH INDEXED	RAILROAD	RQSM	DMW	SE	AG
25900	290	80	NNNN	194.60	H	648.08					
29700	310	81	CNNN	330.73	H	1000.70					
32400	340	82	NNNN	24.50	H	70.26					Y
35700	370	83	CNNN	560.29	H	1532.19					
37800	390	84	CCCC	6372.42	H	16458.75					
39600	410	85	CCCC	6584.13	H	16310.64					
42000	440	86	CCCC	9288.36	H	22346.47					
43800	460	87	CCCC	4548.65	H	10287.33					
45000	470	88	CCCC	4264.78	H	9192.58					
48000	500	89	CCCC	3733.79	H	7741.53					
51300	520	90	NNNN	269.95	H	534.99					

NH NAME [REDACTED]  
INPUT 07/08/15

SN: [REDACTED] PG 002  
DO:X43 UNIT:AW DERO MOD:06

COMPUTATIONAL YEARLY EARNINGS					RAILROAD	RQSM	DMW	SE	AG
MAX	AMT	YR	QC	REGULAR	U	NH INDEXED			
53400	540	91	NNNN						
55500	570	92	NNNN						
57600	590	93	CCCC	7200.00	H	12970.90			
60600	620	94	NNNN						
61200	630	95	CCCC	2904.00	H	4898.51			
62700	640	96	NNNN						
65400	670	97	NNNN	132.00	H	200.57			
68400	700	98	NNNN						
72600	740	99	NNNN						
76200	780	00	NNNN						
80400	830	01	NNNN						
84900	870	02	NNNN	224.00	H	280.73			
87000	890	03	NNNN		L				
87900	900	04	CCCC	15600.00	H	18236.70			
90000	920	05	CCCC	13840.00	H	15608.12			
94200	970	06	CCCC	31491.75	H	33954.31			
97500	1000	07	CCCC	15787.59	H	16283.17			
102000	1050	08	NNNN		L				
106800	1090	09	CCCC	11250.00	H	11515.89			
	1120	10	CCCC	21060.00	H	21060.00			
	1120	11	CCCC	14040.00	H	14040.00			
110100	1130	12	CCCC	10657.00		10657.00			Y
113700	1160	13	CCCN	4564.00		4564.00			Y
117000	1200	14	NNNN						
118500	1220	15	NNNN						

COMP DATA DI - COMP TYPE: NS 78 DIS EX AIME: \$816.00  
EFF DATE: 12/12 PIA: \$717.90 PIFC:L FAM MAX: \$717.90  
START BASE YEAR/START DATE: 1951 LAST BASE YEAR/CLOSE DATE: 2011  
DIVIDEND: \$235172.42 DM:288 DOY:5 YOC: I/Y: ELG YR:2012  
DI - COMP TYPE: NS 78R DIS EX AIME: \$853.00  
EFF DATE: 01/13 PIA: \$730.00 PIFC:L FAM MAX: \$737.30  
EFF DATE: 12/13 PIA: \$740.90 PIFC:L FAM MAX: \$748.30  
START BASE YEAR/START DATE: 1951 LAST BASE YEAR/CLOSE DATE: 2012  
DIVIDEND: \$245829.42 DM:288 DOY:5 YOC: I/Y: ELG YR:2012  
DI - COMP TYPE: NS 78R AIME: \$869.00  
EFF DATE: 01/14 PIA: \$746.10 PIFC:L FAM MAX: \$762.30  
EFF DATE: 12/14 PIA: \$758.70 PIFC:L FAM MAX: \$775.20  
START BASE YEAR/START DATE: 1951 LAST BASE YEAR/CLOSE DATE: 2013  
DIVIDEND: \$250393.42 DM:288 DOY:5 YOC: I/Y: ELG YR:2012  
TRIAL COMPUTATIONS: NS 78 \$740.90 NS 78R \$753.40  
NS 78R DIS EX \$753.40

# **Categories Of Medical Evidence To Obtain**

# **Categories Of Medical Evidence To Obtain**

This is a unique situation. SSA is trying to limit review for former clients of Eric Conn to the time period up to the point where the claimant was previously approved by an ALJ. If this were a remand of a prior ALJ denial the time period under consideration would go up to the date of the new ALJ decision. Social Security disability claimants tend to get sicker as time goes on. They always get older. Age makes a huge difference in Social Security disability determination. The advice I am giving here applies only to this unique situation. Medical development would be different in an ordinary Social Security disability claim.

## **Types Of Medical Evidence To Definitely Obtain If SSA Doesn't Already Have It**

- Hospital discharge summaries from the claimant's alleged onset date up to the date of the prior ALJ allowance. **Note: Don't ask for the entire record on a hospital admission. That's hundreds of pages. It's expensive to get and adds nothing useful to the record.**
- Hospital discharge summaries from prior to the alleged onset date or soon after the prior ALJ decision to the extent that those discharge summaries would illuminate the time period being considered. **Example:** Claimant has history of five spinal surgeries, some of them prior to the alleged onset date. Get reports on all of them prior to or during the relevant time period and those that occurred within a year or two after the relevant time period.
- All outpatient medical records during the relevant time period as well as those before or after the relevant time period to the extent that they may illuminate the claimant's condition during the relevant time period. **Tip:** Pay attention to the references you see in the claimant's medical records to physicians whose records you don't see in the file. There may be references to specialists that the claimant forgot to mention. Note holes in the claimant's medical records, such as a claimant who has a serious heart condition but there are no cardiologist records in the file. Did the claimant have no treatment from a cardiologist or did the claimant fail to mention the cardiologist? If there are no cardiologist records after a certain point, is it because the claimant stopped seeing any cardiologist or is it because the claimant started seeing a different cardiologist and forgot to mention the new cardiologist?

## **Types Of Medical Evidence You Might Want To Obtain (But I Wouldn't)**

- Medical evidence after the relevant time period that doesn't relate to the claimant's condition during the relevant time period. Social Security says they're not going to consider this evidence. However, my expectation is that the federal courts are unlikely to accept Social Security's interpretation on this score. I don't think you need to get evidence showing the

claimant's condition after the relevant time period to get a federal court to remand on this issue. The new evidence might well show that the claimant's condition didn't change for the worse after the relevant time period which would undermine the argument for remand on this issue. Of course, it could heavily support the argument. Remember, the newer evidence is less important than the opportunity to get a different ALJ on remand -- and these claimants probably will draw a different ALJ on remand.

- Don't bother trying to get current opinion evidence from treating physicians. It's too far after the relevant time period to be helpful. Yes, the physician could give an opinion about the claimant's condition during the earlier time period but it's going to be hard to get such an opinion and it's very unlikely to help. Opinion evidence is **not** essential. Don't sweat it if you lack opinion evidence.
- Don't bother with trying to somehow get the questionable medical evidence previously obtained by Eric Conn or to get it admitted into the record. It's so badly compromised that it's worse than useless. Your contention will be that there's good evidence of disability independent of any of Conn's dubious evidence. If there isn't other evidence, the claimant is going to lose (at least up to the point of the prior allowance) and there's nothing you can do about it.

## **One Type Of Medical Evidence You Definitely Don't Want To Try To Get**

- You can request that the ALJ order a consultative examination, that is an exam paid for by SSA, but it's extremely unlikely to be ordered and would be of no help anyway. It's too far after the relevant time period to be helpful.

# **Medical Release**

Health Insurance Portability and Accountability Act (HIPAA) Compliant

**Authorization for Release of Health Information and Other Records Pursuant to HIPAA**

I, or my authorized representative, request that the source named above release all requested records, including but not limited to, medical records, employment records, government records and any other information requested concerning me to \_\_\_\_\_.

I understand that these records are requested to help with my Social Security case. [Name of attorney] may use these records for any purpose, except as restricted by me or the provider of records or information.

I specifically authorize release of any records or information concerning sickle cell disease or trait, alcoholism, drug abuse, HIV, AIDS or mental illness, including psychiatric care and psychological assessments, to \_\_\_\_\_.

I acknowledge that the doctrine of informed consent has been explained to me and that I understand the information to be released, the need for the information and that there are statutes and regulations protecting the confidentiality of authorized information.

I understand that signing this authorization is voluntary. I have the right to revoke this authorization at any time, except to the extent that action has already been taken based upon this authorization, by writing to \_\_\_\_\_ and the provider of information and records named above.

I understand that information disclosed pursuant to this authorization may be subject to redisclosure by a recipient of such information. It is possible that once disclosed the privacy of the information may no longer be protected under federal medical privacy law.

I authorize use of a fax or scanned copy of this consent for release or disclosure of requested information and records.

This consent shall be valid for one year from the date of my signature.

---

Print client's name \_\_\_\_\_

Client's SSN \_\_\_\_\_

Client's DOB \_\_\_\_\_

Date: \_\_\_\_\_

# **Which ALJ The Claimant Draws Matters A Lot**

# DisabilityJudges.com

Administrative law judge case statistics

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225

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## Nhc St Louis, Missouri ODAR Office

At the Office of Disability Adjudication and Review (ODAR) in Nhc St Louis, Missouri, 19 different administrative law judges (ALJ) conduct Social Security Disability (SSD) hearings and Supplemental Security Income (SSI) hearings. Currently, in Nhc St Louis, the average wait time for a SSI or SSD hearing is **14.0 months**. The average case processing time in Nhc St Louis is **476 days**. The Nhc St Louis average for winning a SSI or SSD disability hearing is **39%**. Click on the name of one of the ALJs below to see detailed information about their hearing results. This information for the Nhc St Louis ODAR office was last updated on 7/13/2015.

SSA, Nhc St Louis ODAR Office  
 4300 Goodfellow Blvd  
 Building 110  
 St Louis, Missouri 63020

[View Map](#)

**Phone:** (866) 404-1859 -- **Fax:** (314) 436-1708  
 eFile Fax: 877-389-4216 (For sending evidence)

Office	Judges	Avg. Hearing Wait Time	Average Processing Time	Dispositions Per Day Per ALJ	Cases Dismissed	Cases Approved	Cases Denied
Nhc St Louis	19	14.0 months	476 days	0.0	16%	<b>39%</b>	45%
Missouri		13.8 months	454 days	1.6	19%	<b>40%</b>	41%
<b>National Average:</b>		<b>14.3 months</b>	<b>452 days</b>	<b>2.1</b>	<b>18%</b>	<b>43%</b>	<b>38%</b>

Hearing Wait Time:	14.00 months
Dispositions Per Day Per ALJ	
Average Processing Time	476 days
Cases Pending	4103
Dispositions	5746
New Cases	4740
Hearings In Person	3%
Video Hearings	97%

Full Name	Dismissed	Approved	Denied
Judge Charles J Arnold	15%	<b>61%</b>	24%
Judge L. R BaileySmith	22%	<b>23%</b>	55%
Judge A. Benton	19%	<b>36%</b>	45%
Judge Robert M Butler	19%	<b>52%</b>	29%
Judge Sandra R DiMaggio Wallis	9%	<b>41%</b>	50%
Judge John M Dowling	14%	<b>27%</b>	58%
Judge Joseph R Doyle	16%	<b>19%</b>	65%
Judge Jerry Faust	20%	<b>36%</b>	44%
Judge Paul Gaughen	12%	<b>47%</b>	42%
Judge Chris L Gavras	14%	<b>45%</b>	41%
Judge James B Griffith	19%	<b>53%</b>	28%
Judge Whitfield Haigler Jr	4%	<b>55%</b>	41%
Judge Mattie Harvin-Woode	19%	<b>37%</b>	43%
Judge Michael Hazel	16%	<b>47%</b>	37%
Judge Joseph L Heimann	20%	<b>43%</b>	37%
Judge C. H Prinsloo	15%	<b>35%</b>	49%
Judge Kathleen Scully-Hayes	6%	<b>71%</b>	24%
Judge William Wallis	10%	<b>45%</b>	46%
Judge Charles Woode	20%	<b>33%</b>	47%

### Comments about Judges at the Nhc St Louis Missouri ODAR office:

To leave your own comment, select a judge from the list above and leave a comment on that judge's