



**HOW THE JUDGE WILL  
DETERMINE WHETHER  
YOU ARE DISABLED**



## THE DISABILITY DETERMINATION PROCESS MAY SEEM ILLOGICAL

In preparation for your hearing before an administrative law judge, you should understand how the administrative law judge will decide whether you are disabled. This process is more complicated and technical than you might imagine, and it doesn't necessarily involve common sense.

# YOUR INABILITY TO GET A JOB DOESN'T MATTER

You may think that the judge will decide you are disabled if you can prove you cannot get a job because of your medical problems. Although this statement sounds logical, it is incorrect. Proving you can't get a job will not win your case.



# DISABILITY IS A “**HYPOTHETICAL**” DETERMINATION



Disability determination has very little to do with the real world of work. The judge will consider only whether you are capable of doing a job, “hypothetically” assuming you were offered it. The judge will not consider whether any employer would ever actually hire you for a particular job.

# THE 2 THINGS

YOU WILL PROBABLY NEED TO PROVE

1

Your medical impairments prevent you from performing any significant job you've done in the past 15 years.

2

There aren't many other jobs you are capable of doing considering your age, education and work experience.

# PROVING YOU CAN'T DO YOUR PAST JOBS

Think about all the jobs you've had in the past 15 years and select the easiest. If you did that easiest job long enough to learn how to do it and earned a minimum amount of money from that job, you have to prove that you cannot do that easiest job. You have to prove it even if you are dead certain you'd never be hired for that job again. You have to prove it even if the company where you worked no longer exists and even if the job is no longer available elsewhere.



## PROVING YOU CAN'T DO OTHER JOBS



Proving the second thing - that considering your age, education and work experience you're unable to do very many other jobs - is even more complicated and opposed to common sense. To be found disabled, you may have to prove that you are unable to do jobs that you (and your attorney and the judge) know you would never be hired for in a million years.

YOU DON'T NEED  
TO PROVE YOU ARE  
"TOTALLY AND  
PERMANENTLY DISABLED"



Many people incorrectly assume that total and permanent disability is required. But that is not true. You don't have to be "permanently" disabled; you only have to be disabled for 12 months. Of course, with a temporary disability, you will be able to get benefits for only a temporary or "closed" period.

Although you have to be totally disabled in the sense that you are unable to perform jobs existing in significant numbers in the economy, this doesn't mean that you have to be unable to do anything. In fact, very few people who go in front of an administrative law judge are unable to do anything at all.