Applying for Disability With Fibromyalgia

by STARLA RICH

Fibromyalgia Disability Benefits

One of the fiercest battles for me personally has been the disability benefits process. I have to say this up front — once you make a decision to apply and fight for disability benefits, be prepared! It is not for the faint of heart.

I gave it a go for the first time 10 years ago when I was divorced, a single mom and solely responsible for my adolescent son. I followed the procedure to a tee — that meant no attempt to work during the months the case was being reviewed.

As most of you know, the first time to apply is almost always denied. Such was my case. I don't tell you this to discourage you in any way, but to actually prepare you and encourage you to muster up that warrior side of you.

At that time in life, I had to make a decision not to continue the fight because of the responsibility I had as a single parent. I chose rather to find alternative means of making a living that would allow me to have a more flexible schedule.

To make money from home, I worked at home as a web administrator, executive assistant and bookkeeper, taking on freelance jobs as I was able.

In the years that followed, I returned to the public sector workforce to better provide and for my son and myself. I went through what so many of us do in trying to maintain a regular routine and schedule.

I went through three more jobs to finally come to the conclusion that it was time to pursue the disability process again. I simply was unable to maintain a nine-to-five schedule consistently.

I was hurting my health more than I was helping, and worsening my financial situation as I had to go to the doctor more frequently, to therapy, and to specialists for accelerated conditions.

The Decision Process

Once you decide applying and fighting for disability benefits is the route you should take, it is most important to have a thorough understanding of what is required, what is needed and what will occur along the way.

Please understand that it is a slow process and can take months up to a couple of years, depending on your local administration's case loads. As I share step by step with you, I want to let you know that I have come out on the other end of the tunnel and won!

So be brave, be patient with yourself and others, and realize that the decision to follow it through to the end can be rewarding if you don't give up.

While there are no guarantees, I knew for me it was important to give it my best and fight it all the way through to the end, knowing that I had done everything possible to bring about a change that would give me some relief and flexibility in my life.

Through the Eyes of the Social Security Administration

One thing that is important to know at the outset of your disability application process is that Social Security does not look solely at medical condition, but rather “functionality.”

They do not award benefits based on simply having a condition, but, instead, will base an approval or denial on the extent to which a condition causes functional limitations. Functional limitations can be great enough to make work activity not possible.

For this reason, some with fibromyalgia may be deemed disabled and others not. What does this mean? The definition given by SSA defines disability as follows:

- **"The inability to do any substantial gainful activity due to your medical or mental problem."** In addition, your condition must interfere with basic work-related activities. If it doesn't, your claim won't be considered.
- **The combined effect of having multiple impairments is taken into account.** That can be important for many people with fibromyalgia.
- **You must be unable to do your previous work or any other substantial gainful activity.** Your age and education are considered, as well as your remaining abilities and your work experience.

Of course the first step is indeed proving you have a severe physical impairment, and then proving it limits your functional ability.

When determining physical impairment, the Social Security Administration requires that your health care provider has ruled out other conditions through physical exams and blood tests. For this reason, it is imperative that you and your doctor have thoroughly done your homework before applying.

Proper notation of your condition and health diagnosis is mandatory. Be certain that you have a doctor who is in full support of your decision and one that properly notates their findings and agreement in your medical records.

Schedule frequent visits with your doctor in order to maintain proper care as well as evidence for your claim.

Note: There are some physicians who do not participate in the disability process for various reasons. It is wise to speak with your doctor early on to see if they support disability applications or not so if you have to change doctors, you can do so sooner rather than later.

Medical Determination

Your medical file must contain a diagnosis of fibromyalgia, trigger point testing results, and documentation of your medications, treatment, response to treatment, and limitations. The SS Administration specifically requires objective medical evidence to establish the presence of an MDI (medically determinable impairment.)

When a person alleges fibro, longitudinal records reflecting ongoing medical evaluation and treatment from acceptable medical sources are especially helpful in establishing both the existence and severity of the impairment. In cases involving fibro, as in any case, they will make every reasonable effort to obtain all available, relevant evidence to ensure appropriate and thorough evaluation.

Also, they request evidence for the 12-month period before the date of application unless they have reason to believe that they need evidence from an earlier period, or unless the alleged onset of disability is less than 12 months before the date of application.

Next page: Starla shares her disability triumph.

Medical Determination

There is a three-step process in determining the MDI for a person with fibromyalgia:

- **A history of widespread pain.** That is, pain in all quadrants of the body (the right and left sides of the body, both above and below the waist) and axial skeletal pain (the cervical spine, anterior chest, thoracic spine, or low back) that has persisted (or that persisted) for at least three months. The pain may fluctuate in intensity and may not always be present.
- **At least 11 positive tender points (of the 18 that are considered in fibromyalgia) on physical examination.** The positive tender points must be found bilaterally (on the left and right sides of the body) and both above and below the waist.
- **Evidence that other disorders that could cause the symptoms or signs were excluded.**

Beyond Medical Evidence

As stated earlier, once proof of a medical condition is made, the SS Administration follows a procedure to determine functionality. This means they will need accurate records of your past work history, your recent work history and functions and then determine ability for future work functions.

Since fibromyalgia is not listed as a disease in the SSA Impairment Listing Manual, this second determination process is how the majority of disability cases are won.

When first applying for disability benefits, you do not have the opportunity to explain how your condition limits you, nor do you have the opportunity to have an attorney or advocate make a presentation based on the evidence of your case. This is the primary reason that first time applications are denied.

Most denials come within a few months. Once you are denied, you can appeal the decision through hiring a disability attorney. That attorney will represent you at a hearing held in front of a judge where you can argue your case.

Most disability attorneys work on a fee based on winning the case and are only allowed a certain percentage by the court and state laws. The attorney fees are taken out of your award amount prior to disbursement should you win.

The appeal process is the longest stretch of your fight for benefits, as the case can take from a year to a year and a half before it comes before a judge. Once your court date is set, it is at this point that the process of functionality is determined.

This process is called the “medical vocational” process, which is a five-step sequential evaluation decision process:

- **Claimant’s current work activity.** If still gainfully employed, the claimant is not eligible.
- **Consider medical evidence.** Look for evidence substantiating physical and mental limitations.
- **Determine physical and mental residual functional capacity.** This is done using medical records, physician’s testimony and medical consultants’ expertise.
- **Measure ratings against demands of past work.** These ratings are called RFC ratings.
- **Measure RFC ratings against the demands of suitable other work for which the claimant might possibly be expected to transition to, based on medical and vocational factors**. Persons beyond the age of 50 have a better chance of a favorable ruling due to the factors of education, re-training and vocational opportunity.

Keep in mind that if awarded, the monetary amount is determined by your years of work, social security

deductions that have been accrued from your pay through the years, and also by the most recent quarters of work history.

Finally

On June 6th of this year I had a hearing before a judge after a wait period of 15 months from the date I submitted an appeal. My appeal was after a second denial I had received the end of the previous year.

The court process was not intimidating at all and much more pleasant than the wait had been! It consisted of my lawyer, the judge, a court reporter, a vocational expert and myself.

The judge had thoroughly studied the evidence submitted, as had the vocational expert. The questions were forthright.

Make sure you are definitive, assured and honest in your responses. Answer the questions as precisely and concisely as possible.

Once it is all said and done, breathe! I received my affirmative decision on August 3rd, a little less than two months from my court date — so expect the decision to take around 60 days.

I should be receiving my back pay within a few weeks and my first monthly check next month. I encourage you to stay the course, stay strong and follow this process through to the end!

As I have said, there are no guarantees, but I think you will be surprised what you are capable of when you are fighting for your future and your health. I've seen this fight in so many of you, and to me you are true heroes!