
LAVAN & NEIDENBERG NEWSLETTER

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GAF Scoring Can Affect Your Disability Claim

A number can make or break your claim.

When you apply for federal disability benefits, it is not uncommon for the Social Security Administration or the Department of Veterans' Affairs (VA) to obtain a Global Assessment of Functioning (GAF) from an independent clinician, especially if you suffer from a mental illness such as [Post Traumatic Stress Disorder \(PTSD\)](#) or substance use disorder or both.

The GAF requires the clinician to assess your psychological, social, and occupational functioning. Based on the results of your evaluation, the clinician will apply a score to the severity of your symptoms or your level of functioning impairment. The GAF scale is numerical, ranging from 1 to 100. Higher scores are given to higher levels of functioning. Therefore, the lower [your GAF score](#), the more disabled you may be considered to be.

Your GAF score is used to supplement existing data about your symptoms and diagnosis.



The Downsides to GAF Scoring

One of the major downsides of GAF scoring is that it is completely subjective to the opinion of the evaluating clinician. It is highly likely that the clinician will be meeting you for the first time during your evaluation and consequently, will not have the necessary familiarity of your psychological and social limitations to be able to assign an accurate score.

Additionally, the GAF does not take into consideration physical or environmental limitations, which makes it difficult to accurately identify PTSD in veterans, according to a [report by The National Academies Press](#).

How a Disability Attorney Can Help

At LaVan & Neidenberg, our disability attorneys are trained to recognize the disparities between your GAF score and your medical records and/or doctors' notes. If your GAF score misrepresents your condition and/or ability to function in any way, we will have another psychologist perform a second GAF evaluation.

This is our firm's approach to the outcome of any independent medical or psychological evaluation. If the clinician's or doctor's diagnosis of your condition is not accurate, we will fight it!

To learn more about the disability claims process and your legal rights in the matter, [request a free copy of our ebook](#), *Disability Benefits: Secrets Social Security Won't Tell You*.

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Garnishment of Your Disability Benefits

Disability benefits not exempt from alimony or child support

If you are involved in a divorce settlement where alimony or child support is a factor in your case, your Social Security and/or veterans' disability benefits may be at risk. In some circumstances, your disability benefits are subject to being garnished by an alimony or child support decision.

How to Determine if your Benefits may be Garnished

The test to determine if your benefits are at risk is whether or not your disability payments stem from your employment. Federal salaries fit this test, as do Title II Social Security, Old-Age, Survivors and Disability Insurance benefits (OASDI), as they both are based on employee contributions to FICA.

VA monetary benefits, however, entitlement to which is based on both the veteran's disability and wartime service (pension) or disability from a service-related injury or disease (compensation) are generally not considered payment for employment. These benefits are in most cases safe from garnishment.

Assistance from the Department of Veterans Affairs

The Department of Veterans Affairs (VA) has set up processes by which dependants may obtain financial support from veterans' benefits under certain circumstances. There are additional laws and regulations under which benefits paid by the VA can be paid to dependents to fulfill child support obligations.

These laws take into consideration if the veteran waived a portion of their retired/retainer pay to receive their disability compensation. They also look at whether or not the veteran is residing with their spouse or if their children are residing with them.

Garnishment of Social Security Disability Benefits

If you are a Supplemental Security Income (SSI) recipient your benefits CANNOT be garnished. However, Social Security Disability (SSD) benefits are subject to garnishment for child support or alimony obligations.

Unfortunately, many cases neglect to realize that the disability benefits are being paid as a means to support the disabled individual due to their impairment. In most cases, the time at which the disability benefits began is a major factor, especially if it was before the marriage.

If you are receiving disability benefits and entering a

RETROACTIVE PAYMENT OF VA AND SOCIAL SECURITY DISABILITY BENEFITS

With the recent influx in disability benefits applications, the claims process is becoming lengthier. It can be months or even years before disabled individuals see their benefits kick in. Once they are found disabled, most claimants are entitled to receive a one-time lump-sum payment of the benefits they would have received had their claim been approved at the onset of their disability.

This lump sum payment is known as retroactive benefits or retroactive pay. The amount you may receive will depend on your disability type and your onset date.

CHANGES IN VA RETROACTIVE PAY

In 2007, the pay rates for disability payments were adjusted, increasing the number of veterans due to receive retroactive pay. This caused a staggered payout of benefits that began in mid-October of 2006 through January 2007. Retired veterans with a 100% disability rating were among the first to receive their payments.

In 2008, the VA compensated nearly 11,000 surviving spouses of deceased veterans to correct an error in their VA benefits. A 1996 federal law that made surviving spouses eligible to receive the veteran's VA compensation or pension for the month of their death was overlooked in many cases, causing some benefits to go unpaid. This retroactive pay was finally corrected with this investigation.

RETROACTIVE PAY FOR SSI DISABILITY

Because Social Security disability claims can take years to finalize, most claims are eligible to receive retroactive pay once they are settled. When you receive this pay and how far it will date back will depend on how long your claim has been pending and the date your disability began according to Social Security.

SSD cases establish retroactive pay from the date of application as well as up to 12 months retroactive to that date. SSI cases only receive retro pay from the date of application.

The question of when you will receive your check can only truly be answered by "You get paid when you see the check." Everyone's case is different, and depending on how busy the department is, payments have come to clients before they see the award notice, or become delayed until months after the notice.

divorce or child support case, or you currently pay child support or alimony prior to your disablement, you should know your rights.

You may need to appeal the garnishment if you are struggling financially. Your SSD benefits are designed to meet your disability needs, and if garnishment of your benefits will put your health and well being at risk, you should [have a qualified disability attorney review your situation](#) – 1-888-234-5758.

CALENDAR OF EVENTS

INDEPENDENCE DAY – SUNDAY, JULY 4, 2010

This nationally celebrated holiday commemorates the 234th year since the adoption of the Declaration of Independence which declared the United States free from the control of Great Britain. The holiday is also commonly called The 4th of July.

Celebrations for the 4th of July commonly include fireworks, picnics, parades, barbecues, and carnivals. Many cities hold community celebrations with parades, professional fireworks displays and street festival-style cookouts.

This patriotic holiday is marked at capable military bases by a 50-gun salute, one for each state, called a “salute to the union.” Patriotic songs such as the national anthem, “*God Bless America*”, “*America the Beautiful*”, and many others are often played at celebrations.

On the Capitol lawn in Washington D.C. an annual free concert known as “A Capitol Fourth” has been offered since 1980. The 30th anniversary of the concert this year will feature Jimmy Smits hosting with Reba McEntire, Gladys Knight, Darius Rucker, David Archuleta, John Schneider and Lang Lang. The National Symphony Orchestra will be conducted by Jack Everly along with the Choral Arts Society of Washington conducted by Norman Scribner.

JULY IS ALSO...

- National Blueberry Month
- National Hot Dog Month
- National Ice Cream Month
- National Picnic Month
- National Recreation Month
- Anti-Boredom Month

SIGN OUR PETITION FOR FREE MEDICAL RECORDS!

LaVan & Neidenberg is sponsoring a petition to change medical records fees in the State of Florida. Currently, patients are required to pay up to \$1 per page to obtain a copy of their own medical records. The Firm’s legislative initiative proposes to **make medical records FREE for all individuals applying for disability benefits.**

Please join us in our fight and [sign our petition](#) today! Thank you for your support!

What is the Adult Function Report?

One of the most important forms your Social Security disability claim file will include is the [Function Report](#). This is also known as Form SSA-3373-BK and is sent to adults filing for disability benefits.

The goal of the Adult Function Report form is to gain a better understanding of how your physical or mental impairments affect your ability to perform specific activities. **Because this form will provide the Social Security office with the majority of the information on your disability, it is extremely important that you are truthful and thorough in preparing it.**

When completing the form, **no question should be left blank.** If it does not apply or you do not know the answer, write “does not apply” or “don’t know.” If the question asks for an explanation, be sure to provide one and use the “Remarks” section for additional space.

While providing information about your disabilities, **be honest about your limitations.** Be specific with your answers, if you can only stand for 1 hour without feeling dizzy that is exactly what you should write on the form.

On the other end, **you should not embellish your condition or say you “can’t do anything” unless it is absolutely true.** It’s obvious that if you are paralyzed from the waist down that you can’t walk, but if you do have some range of motion you should be honest about that. **Saying you can’t do anything due to your disability is not always believable and can raise red flags on your application.**

Completing this form as soon as possible will allow the Social Security office to review your information and provide a quicker processing of your claim. **The longer you delay sending this form in, the longer you will have to wait for a decision on your Social Security disability claim.**

If you cannot complete the function report on your own, a family member, caretaker, or licensed disability attorney can complete the third party version of the form on your behalf.

Before you start your application for Social Security disability benefits, be sure to request a [FREE copy of our Social Security disability guide](#). For help in completing this or any other form, call our office today, **1-888-234-5758.**