

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>2-28-11</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 11011377	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>Checked 3/24/11, letters attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <u>3-9-11</u>
	<input type="checkbox"/> FOIA DATE DUE _____
	<input type="checkbox"/> Necessary Action

	APPROVALS <small>(Only when prepared for director's signature)</small>	APPROVE	* DISAPPROVE <small>(Note reason for disapproval and return to preparer.)</small>	COMMENT
1.				
2.				
3.				
4.				

SHAW LAW FIRM

Attorneys & Counselors at Law

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* Also Licensed in North Carolina
RECEIVED

FEB 28 2011

FACSIMILE TRANSMISSION COVER SHEET

Department of Health & Human Services
OFFICE OF THE DIRECTOR

CONFIDENTIALITY NOTICE:

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TO: Ms. Yvonne Wilson
FAX #: 866-736-9829

TO: SC DHHS Eligibility Services
FAX #: 803-255-8235

COMPANY: Disability Determination Services & SC DHHS

FROM: Shannon Kimbrell / Duane M. Shaw
FAX #: 803-329-4202
DATE: February 25, 2011

RE: Hayes, Leah Danielle 247-71-3002
Ref/Claim No.: K37990

Number of pages including this cover page: 6

COMMENTS:

Please be advised that Leah Hayes has retained Shaw Law Firm for an accident that occurred October 17, 2010. Our firm has assisted Ms. Hayes in the processing of her SS Disability claim. Attached you will find her written denial for both SSI and SSD benefits. We are currently seeking a status as to her Medicaid eligibility. Please contact our office to discuss.

Thank you,
Shannon

Social Security Administration
Retirement, Survivors, and Disability Insurance
Supplemental Security Income
Notice of Disapproved Claim

LEAH DANIELLE HAYES
757 LLOYD WHITE RD
CLOVER SC 29710

Date: 02/23/2011
Claim Number: 247-71-3002

We are writing about your claims for Social Security and Supplemental Security Income (SSI) disability benefits. Based on a review of your health problems you do not qualify for benefits on either claim. This is because you are not disabled or blind under our rules.

We have enclosed information about the disability and blindness rules and more details about the decisions on your claims.

About the Decisions

Doctors and other trained staff looked at your case and made these decisions. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

If You Disagree with the Decisions

If you disagree with these decisions, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decisions will decide your case.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a form SSA-561-U2, called "Request for Reconsideration." You may contact one of our offices or call 1-800-772-1213 to request this form. Or you may complete this form online at <http://www.socialsecurity.gov/disability/appeal>. Contact one of our offices if you want help.

Enclosure: SSA Pubs. No. 05-11008 and No. 05-10058
Personalized Attachment

TGO/492
Claim No: K51884
SSA-L442-U3 (12/07)
SNO:

See Next Page

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02/25/2011 02:38PM

247-71-3002

- In addition, you should complete a "Disability Report - Appeal" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online after you complete the online Request for Reconsideration.

Please read the enclosed pamphlets, "Your Right to Question the Decision Made on your Social Security Claim" and "Your Right to Question the Decision Made on your SSI Claim." They contain more information about appeals.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing a decision. If you disagree with either of these decisions and you file a new application for Social Security or SSI instead of appealing, you might lose some benefits, or not qualify for benefits. Also, we could deny the new Social Security application using this decision, if the facts and issues are the same. So, if you disagree with either decision, you should ask for an appeal within 60 days.

If You Want Help With Your Appeal

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security Office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee. We do not withhold money from SSI benefits to pay your lawyer.

If You Have Any Questions

If you have any questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security Office at the number shown on page 1. We can answer most questions over the phone. You can also write or visit any Social Security Office. The office that serves your area is located at

498 LAKESHORE PARKWAY
ROCK HILL SC 29730
Telephone: (803) 328-6271

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.



Michael W. Grochowski
Regional Commissioner

TGO/492
Claim No: K51884
SSA-L442-U3 (12/07)

02/25/2011 02:38PM

247-71-3002

INFORMATION ABOUT OTHER BENEFITS

Other Benefits

Based on the application you filed, you are not entitled to any other benefits besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again. If you disagree with this decision, you have the right to appeal. The appeal was described earlier in this letter.

Medicaid

An agency of your State will advise you about the Medicaid program. If you have any questions about your eligibility for Medicaid or need immediate medical assistance, you should get in touch with:

Department of Social Services

TGO/492

Claim No.: K51884

SSA-L442-U3 (1207)

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247-71-3002

DISABILITY AND BLINDNESS RULES

Rules for Social Security Disability

You must meet certain rules to qualify for Social Security disability benefits:

For Disabled Worker's Benefits:

You must have the required work credits and your health problems must:

- Keep you from doing any kind of substantial work (described below), and
- Last, or be expected to last, for at least 12 months in a row, or result in death.

For Disabled Child's Benefits:

You must be age 18 or older and your health problems must:

- Begin before age 22 or you must become disabled again within 7 years after the month that your earlier period of disability ended, and
- Keep you from doing any kind of substantial work (described below), and
- Last, or be expected to last, for at least 12 months in a row, or result in death.

For Disabled Widow's, Widower's or Surviving Divorced Spouse's Benefits:

You must be at least age 50, and your health problems must:

- Keep you from doing any kind of substantial work (described below), and
- Last, or be expected to last, for at least 12 months in a row, or result in death, and
- Have started before the end of a special period.

The special period starts

- The month your spouse died, or
- The month your Social Security benefits as a parent ended, or
- The month your earlier period of widow(er)'s disability ended.

The special period ends at the close of the 84th month (7 years) after the month it started.

TGO/492

Claim No: K51884

SSA-1442-U3 (12/07)

247-71-3002

DISABILITY AND BLINDNESS RULES

Rules for SSI Disability and Blindness

You must meet certain rules to qualify for SSI payments based on disability:

For Payment as a Disabled Adult:

If you are age 18 or older your health problem must:

- Keep you from doing any kind of substantial work (described below), and
- Last, or be expected to last, for at least 12 months in a row, or result in death.

For Payment as a Disabled Child:

If you are under age 18 your health problems must:

- Be as severe as those that would keep an adult from doing any kind of substantial work. This means your health problems must limit you from doing things that other children the same age normally can do, to the extent required by our rules, and
 - Last, or be expected to last, for at least 12 months in a row, or result in death.
- You must meet certain rules to qualify for SSI payments based on blindness:
- Your eyesight must be no better than 20/200 in the better eye with the use of a correcting lens, or
 - Your visual fields must be restricted to 20 degrees or less.

You can qualify for SSI benefits due to blindness even if you can do substantial work.

Information About Substantial Work

Generally, substantial work is physical or mental work you are paid to do. Work can be substantial even if it is part-time. To decide if your work is substantial, we consider the nature of the job duties, the skills and experience you need to do the job, and how much you actually earn.

Usually, we find that your work is substantial if your gross earnings average over \$780.00 per month after we deduct allowable amounts. This monthly amount is higher on Social Security disability benefits due to blindness.

Your work may be different than before your health problems began. It may not be as hard to do and your pay may be less. However, we may still find that your work is substantial under our rules.

If you are self-employed, we consider the kind and value of your work, including your part in the management of the business, as well as your income, to decide if your work is substantial.

TGO/492

Claim No: K51884

SSA-L442-U3 (12/07)

SND

Social Security Administration

492/K51884

EXPLANATION OF DETERMINATION

Name of Claimant	NH's Name(if CDB or DWB Claim)	SSN	Type of Claim
LEAH D HAYES		247-71-3002	DIB DI

The following evidence, listed with receipt date, was used to decide this claim.

CAROLINAS MEDICAL CENTER, 02/14/11
MYERS PARK ORTHOPEDICS, 02/16/11
CMC FACULTY PHYSICIANS, 01/27/11
CAROLINAS MEDICAL CENTER, 01/25/11
MYERS PARK ORTHOPEDICS, 01/28/11

We have determined that your condition(s) is not expected to remain severe enough for 12 months in a row to keep you from working. In deciding this we considered the medical evidence, your statements and how your condition(s) affected your ability to work.

You state you are disabled and unable to work due to broken hip, wrist, ribs, punctured lung, and broken collar bone. You are not performing any substantial work now.

The evidence we received shows that your condition(s) is severe enough at this time to prevent you from working. However, the evidence shows your condition(s) is not expected to remain severe enough to prevent you from performing all types of work for 12 months in a row. Therefore, this claim is denied.

If your condition(s) does not improve as expected, write, call or visit any Social Security office.

TGO/
SNO:

Form SSA-4268-C4 (1-85)

02/25/2011 02:38PM



Log # 000377

March 2, 2011

Duane M. Shaw, Esquire
Shaw Law Firm
PO Drawer 36250
Rock Hill, South Carolina 29732

Re: Your fax of February 25, 2011 concerning Leah Hayes

Dear Mr. Shaw:

Your recent fax has been referred to me to answer. The first person you should contact concerning Medicaid eligibility for Ms. Hayes is the York County Department of Health and Human Services. That is where one applies for Medicaid services. Please be aware, however, that if you are seeking to establish her eligibility based upon disability, she will be evaluated by the same agency that evaluated her for federal disability benefits and they will utilize the same documents they used to deny her eligibility last month.

If I can be of any assistance to you, however, please do not hesitate to call me at 803.898.2792

Sincerely,



George R. Burnett
Assistant General Counsel