



**DISABILITY BENEFITS
TRAINING & CONSULTING, LLC**

A.S.S.I.S.T. Assertive SSI Service Team

DISABILITY BENEFITS ADVOCATE WORKSHOP

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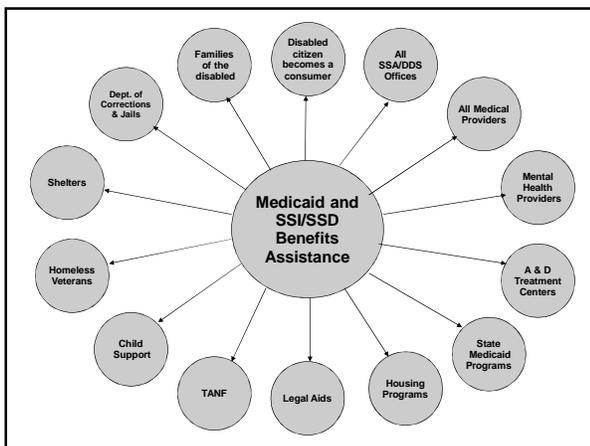
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WHY WE NEED TO HELP WITH THIS

The Healthier Community Connection

When someone is granted disability benefits,
100% of that money goes back into your
local community.

People with disabilities become consumers
again and often times become insured.



**DISABILITY PROGRAMS
OVERVIEW**

WHAT IS SOCIAL SECURITY DISABILITY?

Social Security Trust Fund money is based on work/wage contributions

- × Retirement Benefits
- × Survivors Benefits
- × Disability insurance (SSD)
- × Medical Insurance Component
- × Medicare

FICA taxes

WHAT IS SUPPLEMENTAL SECURITY INCOME?

Absolute basic needs

- Food
- Shelter (SSI) = \$698/mth.
- Clothing

Federal General Funds

- × Must not have any assets equaling over \$2,000/mth.
Exemptions = House, a Car, Household items
- × Medical Insurance component:
State and Federal Medicaid

BRIEF HISTORY OF THE "ACT"

- ✗ Social Security Act; Retirement (1935)
- ✗ Social Security Disability Insurance (1956)
- ✗ Medicare and Medicaid (1965)
- ✗ Supplemental Security Income (1976)
 - ✗ Only 36 years ago!

THE PROCESS OF APPLICATIONS

Levels of Administrative review (Handout)

- ✗ Initial Application **3.3 million applications in 2011**
66% denied right away
- ✗ Reconsideration (1st appeal) only 39% appeal at all
- ✗ Hearing (2nd appeal) 15 to 18 mths to get a hrg.
- ✗ Appeals Council (3rd appeal) 2 yrs to get a decision
- ✗ **Continuing Disability Review s** if receiving benefits

WHY SO MANY DENIALS?

BIG information disconnect:

- ✗ People don't know how seriously disabled you have to be to meet SSA criteria
- ✗ It is very difficult for the seriously disabled to navigate the sea of paperwork effectively
- ✗ First stages of the claim are identifying only the most obviously sick who are lucky enough to have proper medical care for their illnesses
- ✗ SSA is not asking for enough information from people to make truly thorough and proper decisions

THE PROCESS OF APPLICATIONS (CONT.)

If Administrative Review process is exhausted can take the case into federal court:

Levels of federal review

- × Federal District Court (1st appeal)
- × US Circuit Court of Appeals (2nd appeal)
- × US Supreme Court

WHAT CRITERIA IS SSA USING?

Research Resources:

www.socialsecurity.gov

Medical & Mental health criteria for eligibility

- × Blue Book = Listing of Impairments
- × www.ssa.gov/disability/professionals/bluebook
- × Program Operations Manual System (POMS)
- × <https://secure.ssa.gov/poms.nsf/home!readform>

KEY SSA TERMS

- × Definition of Disability

+The inability to engage in any **substantial gainful activity** by reason of any **medically determinable** physical or mental **impairment** which can be expected to result in **death**, or which has lasted or can be expected to last for a **continuous** period of not less than **12 months**.

KEY SSA TERMS (CONT.)

× **Severity**

- + More than minimal interference with daily activities
- + Functional information helps determine the level of severity, not just medical records
- + Duration, intensity, treatment and response
- + Environment & co-morbid conditions

NOTE: Clinical severity does not equate to functional severity as every person is different

KEY SSA TERMS (CONT.)

× **Medically Determinable Impairment (MDI)**

- +Essentially a “properly” diagnosed condition by an SSA recognized medical source
 - ×A doctorate level practitioner
- +SSA does not “diagnose” conditions but they get to decide if symptoms are in line with and attributable to a diagnosis

SSA TERMS (CONT.)

× **Substantial Gainful Activity (SGA)**

- +The ability to support ones self financially
- +Not the same as full-time “work”
- +If SSA deems a claimant capable of making \$1,040/mth then claimant is NOT found to be disabled under their criteria

COMMON MISCONCEPTIONS

- × Decision is **all or nothing**, “not disabled” or “disabled”, no partial disability

- × “My medical records will show I am disabled”
- × “My doctor will make sure I get disability”
- × “I’ll need to hire an attorney to get benefits”
- × “It will take two denials and years to get my benefits”
- × “I can’t be working while I apply”

- × Lack of support, good documentation and preparation result in denials

EVIDENCE

WHAT IS SSA LOOKING FOR?

- × SSA is looking for:
 - + Doctorate level diagnosis and treatment of conditions
 - + Current medications and recent tests
 - + Hospitalizations (inpatient, outpatient, urgent care)
 - + Institutionalizations (state, private, mental, penal)
 - + Brief work and school history (15 years)

- + **Interference with daily activities and work**
- + **Significant life events (divorce, death, homelessness)**

EVIDENCE (CONT.)

The BIG missing piece:

Third party and "Lay" statements

- × "Lay" sources provide the **crucial** functional information that relates to daily activities
- × All other practitioners (NP, PA, DC, MSW, therapists, etc.) provide clinical, behavioral and functional information but are considered "lay" evidence

BADLY NEEDED OPINION EVIDENCE FROM TREATING SOURCES

- × Representatives ask care providers for an opinion letter on their patient's behalf
- × We ask PCP's to complete a functional questionnaire that is spelled out through the SSA disability lens
- × We ask PCP's to give us their professional opinion, to the best of their knowledge, what the person **can** and **cannot** do, considering their knowledge of the impairments, symptoms and treatment effects
- × Opinion statements should avoid using SSA's terms like "meets a listed impairment", "is disabled" or "is unemployable"
- × Ask for co-signature from supervising MD

OPINION EVIDENCE (CONT.)

The big question:

Why do I get asked for information I don't have any expertise on?

Isn't there a whole niche industry around this?

Short answer:

Because you know SO MUCH MORE about your patient than anyone else in this process does

OPINION EVIDENCE (CONT.)

- ✘ Because SSA disability reviewers are NOT medically trained
- ✘ Because they need better descriptions of the severity of your patients' conditions
- ✘ Because they are reviewing records/chart notes that DO NOT answer functional questions properly
- ✘ Because the primary care provider's information is more important than anyone else's in this system
- ✘ Because your written opinion is acceptable medical evidence and **can absolutely be the one document that can make the case for your patient**

OPINION EVIDENCE (CONT.)

**Independent Consultative Examinations
(are not desirable)**

- ✘ One time, brief examination for diagnostic and clinical impressions only
- ✘ **SSA can pay for:**
 - + Physical exams
 - + Psychological assessments and testing
 - + Testing (lab, radiology, cardiac, psych...)

**DISABILITY DETERMINATION
PROCESS**

DISABILITY DETERMINATION PROCESS

- × Sequential Evaluation
 - + **Step 1** Are they performing SGA? = \$1,040/mth.
 - + **Step 2** Do they have a severe impairment that will last 12 months or more?
 - + **Step 3** Do their impairments meet/equal a Listing?
 - + Only 20% of approvals meet or equal a Listing
 - × **3.5 SSA staff "rates" what they think the claimant can do**
 - + **Step 4** Is there something in their past work that they can still do and return to?
 - + **Step 5** Is there a job they can do in the national economy?

DISABILITY DETERMINATION (CONT.)

The **BLUE BOOK Criteria** (handouts)

How does SSA "rate" **physical capabilities**?

Are the impairments **mild, moderate, marked or extreme**?

Physical Residual Functional Capacity in:

- 7 Basic Strength Demands
 - Standing and Walking
 - Sitting
 - Lifting and Carrying
 - Pushing and Pulling

DISABILITY DETERMINATION (CONT.)

× **Physical** rating also includes limitations in:

- Postural maneuvers
- Manipulation
- Vision
- Communication
- Environmental

BLUE BOOK MENTAL HEALTH LISTINGS

Mental Disorders:

Sub-divided similarly as the DSM-IV

- × **A** Criteria = Signs, symptoms, tests, diagnoses
- × **B** Criteria = Functional Limits in 4 areas
- × **C** Criteria = Chronic conditions for at least 2 yrs

DISABILITY DETERMINATION (CONT.)

- × **"A" Criteria** = Diagnosis
- × **"B" Criteria** = Functional Limitations
- × Two "Marked" or one "Extreme" impairments
Meets/Equals the mental health Listings for an allowance of benefits
- × Four functional areas they assess without ever meeting the claimants:
 - + Restrictions to Activities of Daily Living
 - + Difficulties Maintaining Social Functioning
 - + Difficulties Maintaining Concentration, Persistence or Pace
 - + Episodes of Decompensation, of extended duration

DISABILITY DETERMINATION (CONT.)

- × **"C" Criteria** = Chronic Conditions
 - + History of at least 2 years of chronic impairments under current treatment and
 - × Repeated episodes of decompensation
 - × Marginal adjustment and predictable decompensation
 - × Current 1 or more years' inability to function outside of a highly supportive living environment with indication for the continued need

<p>UNDERSTANDING AND MEMORY</p> <ul style="list-style-type: none"> ✗ Locations ✗ Procedures ✗ Understand instructions ✗ Remember instructions ✗ Simple ✗ Complex 	<p>SUSTAINED CONCENTRATION AND PERSISTENCE</p> <ul style="list-style-type: none"> ✗ Carry out instructions ✗ Extended maintenance ✗ Punctual attendance ✗ Supervision ✗ Proximity to others ✗ Distractibility ✗ Making simple decisions ✗ Completing a full work week ✗ Consistent pace
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MENTAL RESIDUAL FUNCTIONAL CAPACITY

<p>SOCIAL INTERACTION</p> <ul style="list-style-type: none"> ✗ Public ✗ Ask questions ✗ Request help ✗ Accept criticism ✗ Co-worker relations ✗ Behavioral extremes ✗ Neat and clean 	<p>ADAPTATION</p> <ul style="list-style-type: none"> ✗ Appropriate response to change ✗ Avoid hazards ✗ Take precautions ✗ Unfamiliar travel ✗ Public transportation ✗ Realistic goals ✗ Independent plans
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MENTAL RESIDUAL FUNCTIONAL CAPACITY

DISABILITY DETERMINATION

- ✗ Drug Addiction and Alcoholism
 - SSA will not pay benefits if substance use is "Material" to the complete disability**
 - Question: If you took the drugs and alcohol away, would they still be severely disabled?
 - + If D A & A is found to be "Material" it means a denial
 - + Are there dual diagnoses? (drugs & mental illness)
 - + Patterns of use?
 - + Verification of sobriety?
 - + Evidence of improved function?
 - + Will they need a payee?
 - + Have they reached a "Point of No Return"?

**BARRIERS TO SUCCESS FOR THE HOMELESS
AND/OR INDIGENT PATIENT**

- × Limited or no medical records
- × Limited or no access to regular care
- × Lack of physical address & telephone
- × Unable to advocate for themselves or report critical events to appropriate people
- × Substance abuse
- × Legal involvement
- × Ongoing unhealthy/unsafe environment
- × Unable to follow-through for many reasons

RESULTS OF THE MODEL I PROMOTE

THE PORTLAND PROJECT

(stats from 3/1/08 to 10/31/11)

- Appx **preparation time** for a complete application to be submitted to SSA is **2 months**
- **1952** referrals reviewed face to face & records review
- **770** cases enrolled into program in 3.5 years
- **57** claim/applications in development stage
- **494** claims awarded benefits, **57** were in appeal
- **85% allowance rate**
- Average time for decision after submission to SSA = **66**, (shortest = **1** day)

**THANK YOU SO MUCH FOR
HAVING ME TODAY**
