

SOCIAL SECURITY DISABILITY 101

Josh's Hope (Virtual) Workshop
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1. Social Security Administration's (SSA) Definition of Disability is Strict

- 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 (20 CFR 404.1505, 416.905).
- No SSA short-term or temporary disability program:
 - Disability benefits are not payable for partial disability or for any disability lasting less than twelve months (unless it results in death).
 - Social Security program rules assume that working families have access to other resources to provide support during periods of short-term disabilities.

2. Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)

- See Keynote Slide and Exhibit A.

3. Sequential Evaluation (20 CFR 404.1520, 416.920)

- See Keynote Slide and Exhibit B.
- Step (1): Is the claimant earning substantial gainful activity (SGA)?
 - SGA: Generally work that brings in over a certain amount of gross income per month which changes each year, even if part-time work (20 CFR 404.1572, 416.974).
 - 2020 SGA amount for non-blind persons equals \$1180.
 - Special Circumstances and Subsidies (20 CFR 404.1573, 416.974).
- Step (2): Does the claimant suffer from severe impairment(s)?
 - Impairment that significantly limits individual's ability to perform basic work activities (20 CFR 404.1520, 416.920).
- Step (3): Does the claimant's severe impairment meet or equal a Social Security Disability Listing?

- See Keynote Slides and Exhibits C, D.
- <https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>
- Step (4): Is the claimant able to perform past relevant work (PRW)?
 - PRW: Work performed at the level of SGA during the past 15 years (20 CFR 404.1560, 416.960).
 - However, all past work can be significant to the case.
- Step (5): Can the claimant adjust to other work?
 - Examples of vocational limitations based on functional impairments that can establish inability to sustain full-time competitive employment:
 - Off task 15-20% of 8-hour work day, in addition to normal breaks (usually considered to be two 15 minute breaks and a 30-60 minute lunch break);
 - Inability to sustain concentration for two-hour periods of time;
 - Absence from work, either due to illness, symptoms, or medical appointments, more than 2 days per month (only when limited to unskilled work);
 - Requires frequent supervision, redirection, or reminders, even for simple tasks;
 - Exertional limitations such as standing, walking, sitting, lifting (for example, inability to sit six hours in a work day precluding even sedentary work);
 - Other physical limitations such as manual dexterity.

4. Medical Vocational Guidelines (20 CFR 404.200 et seq.)

- Residual Functional Capacity - Sedentary, light, medium, heavy, very heavy.
- Age - Closely approaching retirement age (60+), advanced age (55+), closely approaching advanced age (50+), younger individual (under 50).
- Education - Illiterate or unable to communicate in english, limited or less (did not finish high school or obtain GED), high school graduate or more.
- Past relevant work - Unskilled, semi-skilled, skilled.

5. Miscellaneous

- Substance use - Materiality (Social Security Ruling 13-2p);
- Disabled children and disabled adult children
- ABLE Accounts;
- Work incentives (for example, Trial Work Period, Ticket to Work Program);
- Continuing Disability Review;
- Reviews and cessation in general;
- Incarceration;
- Payment and payees;
- SOAR.

6. Your Role - How You Can Be Effective

- Know the process
 - Initial Application:
 - Initial application is filed with local SSA (in Durham, on Shannon Road);
 - SSA will determine whether requirements are met for SSI (income) and SSDI (work credits);
 - If eligible for both, or either, SSA will send the application to Disability Determination Services (DDS), a state agency that contracts with the federal government for medical review;
 - Medical records will be requested and obtained by DDS;
 - DDS may require consultative examination(s) if records are not sufficient;
 - DDS makes a determination and sends case back to SSA;
 - SSA notifies claimant of determination.
 - If initial application is denied, file appeal and request reconsideration:
 - Same process as above.
 - If reconsideration request is denied, file appeal and request hearing (recommend retaining an attorney at this stage).
- Support claimant throughout the process, including at the hearing level.
 - Examples:
 - Document your observations and awareness of symptoms and limitations;
 - Provide supportive letter and/or assist client in obtaining supportive statements from providers and others who can address impairments, symptoms and functional limitations;
 - Accompany client to consultative examinations, hearing office, and other appointments;
 - Act as a communication liaison with client's representative and SSA;
 - Accompany client to healthcare appointments and assist in communicating details to providers;
 - Help client complete paperwork and adhere to SSA time limits.

Supplemental Security Income (SSI) (Title XVI)	Social Security Disability Insurance (SSDI) (Title II)
Benefit for disabled, elderly, and blind individuals who have very low income	Benefit for disabled insured individuals (or certain relatives)
Benefit amount is the Federal Benefit Rate (FBR), plus available state supplement	Benefit amount based on FICA contributions
Limit on assets/resources (no more than \$2,000 Individual)	No limits on assets or resources
Living arrangement may reduce benefit amount and eligibility	Living arrangement has no effect on benefit amount or eligibility
Medicaid eligibility usually comes with SSI	Medicare eligibility usually comes two years after date of onset of disability
Eligibility usually begins the 1st day of the full month following the date of application or protective filing date	Eligibility generally dependent on date of onset of disability and payment may go as far as 1 year prior to application date; 5 month waiting period from date of onset of disability
	Work incentives allow for 9-month Trial Work Period (TWP) during which full benefits are paid

Sequential Evaluation Process - Adults

1. Earning SGA? NO — Go to 2. YES — Not Disabled.
2. Severe Impairment? YES — Go to 3. NO - Not Disabled.
3. Meets Listing? NO — RFC Assessment. YES - Disabled.
4. Perform PRW? NO — Go to 5. YES - Not Disabled.
5. Adjust To Other Work? NO — Disabled. YES - Not Disabled.

Examples of SSA Listings (must be established by medical records and other evidence including functional statements)

12.03 Schizophrenia spectrum and other psychotic disorders (see 12.00B2), satisfied by A and B, or A and C:

- Medical documentation of one or more of the following:
 1. Delusions or hallucinations;
 2. Disorganized thinking (speech); or
 3. Grossly disorganized behavior or catatonia.

AND

- Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):
 1. Understand, remember, or apply information (see 12.00E1).
 2. Interact with others (see 12.00E2).
 3. Concentrate, persist, or maintain pace (see 12.00E3).
 4. Adapt or manage oneself (see 12.00E4).

OR

- Your mental disorder in this listing category is “serious and persistent;” that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:
 1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); and
 2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.04 Depressive, bipolar and related disorders (see 12.00B3), satisfied by A and B, or A and C:

- Medical documentation of the requirements of paragraph 1 or 2:
 1. Depressive disorder, characterized by five or more of the following:
 - Depressed mood;
 - Diminished interest in almost all activities;
 - Appetite disturbance with change in weight;
 - Sleep disturbance;
 - Observable psychomotor agitation or retardation;
 - Decreased energy;
 - Feelings of guilt or worthlessness;
 - Difficulty concentrating or thinking; or
 - Thoughts of death or suicide.
 2. Bipolar disorder, characterized by three or more of the following:
 - Pressured speech;
 - Flight of ideas;

- Inflated self-esteem;
- Decreased need for sleep;
- Distractibility;
- Involvement in activities that have a high probability of painful consequences that are not recognized; or
- Increase in goal-directed activity or psychomotor agitation.

AND

- Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):
 1. Understand, remember, or apply information (see 12.00E1).
 2. Interact with others (see 12.00E2).
 3. Concentrate, persist, or maintain pace (see 12.00E3).
 4. Adapt or manage oneself (see 12.00E4).

OR

- Your mental disorder in this listing category is “serious and persistent;” that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:
 1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); and
 2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.05 Intellectual disorder (see 12.00B4), satisfied by A or B:

- Satisfied by 1, 2, and 3 (see 12.00H):
 3. Significantly subaverage general intellectual functioning evident in your cognitive inability to function at a level required to participate in standardized testing of intellectual functioning; and
 4. Significant deficits in adaptive functioning currently manifested by your dependence upon others for personal needs (for example, toileting, eating, dressing, or bathing); and
 5. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

OR

- Satisfied by 1, 2, and 3 (see 12.00H):
 1. Significantly subaverage general intellectual functioning evidenced by a or b:
 - A full scale (or comparable) IQ score of 70 or below on an individually administered standardized test of general intelligence; or
 - A full scale (or comparable) IQ score of 71-75 accompanied by a verbal or performance IQ score (or comparable part score) of 70 or

- below on an individually administered standardized test of general intelligence; and
2. Significant deficits in adaptive functioning currently manifested by extreme limitation of one, or marked limitation of two, of the following areas of mental functioning:
 - Understand, remember, or apply information (see 12.00E1); or
 - Interact with others (see 12.00E2); or
 - Concentrate, persist, or maintain pace (see 12.00E3); or
 - Adapt or manage oneself (see 12.00E4); and
 3. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

1.02 Major dysfunction of a joint(s) (due to any cause):

Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

- A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively, as defined in 1.00B2b*;
- OR
- B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively, as defined in 1.00B2c.

*1.00B2b. What we mean by inability to ambulate effectively.

(1) Definition. Inability to ambulate effectively means an extreme limitation of the ability to walk; i.e., an impairment(s) that interferes very seriously with the individual's ability to independently initiate, sustain, or complete activities. Ineffective ambulation is defined generally as having insufficient lower extremity functioning (see 1.00J) to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of both upper extremities. (Listing 1.05C is an exception to this general definition because the individual has the use of only one upper extremity due to amputation of a hand.)

Examples of Non-Exertional Functional Limitations

- Interaction with Others:
 - Talk, relate, cooperate with others (keeping in mind supervisors and co-workers);
 - Ask for help when needed;
 - Respond to requests, suggestion, criticism, correction, and challenges;
 - Handle conflict;
 - Conform to rules;
 - Understand and respond to social cues;
 - Tolerate frustration;
 - State one's own point of view and sustain conversation appropriately;
 - Keep social interactions free of excessive irritability, sensitivity, argumentativeness or suspiciousness;
 - Obsess about a specific subject;
 - Repeatedly make same comments, or engage in excessive one-sided dialogue.

- Concentration, Persistence, and Pace:
 - Initiate and perform a task once learned;
 - Sustain attention;
 - Sustain a routine and regular attendance without repeated reminders, or absences;
 - Follow-through;
 - Complete tasks in a timely and consistent manner;
 - Slow in speech, thought, or movement.
 - Focus on detail as appropriate;
 - Need for more than acceptable number or length of rest periods throughout the day;
 - Ability to be flexible and adapt to change;
 - Work with others without interruption or distraction;
 - Inability to ignore or avoid distractions;
 - Inability to read or watch television without distraction, daydreaming, forgetting plot or even if already seen.

- Understand, Remember or Apply Information:
 - Remember simple details;
 - Understand and learn basic terms, instructions, procedures;
 - Ask and answer questions, and provide explanations;
 - Use reason and judgement;
 - Recognize and correct a mistake;
 - Identify and solve problems;
 - Difficulty organizing thoughts;
 - Difficulty following instructions, including simple one or two step instructions.

- Adapt or Manage Oneself:
 - Manage psychologically based symptoms;
 - Make plans for oneself, independently of others;
 - Manage money;
 - Distinguish between acceptable and unacceptable behavior;
 - Problems with personal hygiene or proper dress attire;
 - Literacy deficiency;
 - Set realistic goals;
 - Awareness of normal hazards and ability to take appropriate precautions;
 - Dysfunctional or intrusive somatic complaints e.g. headache, back pain, nausea, stomach ache;
 - Inability to tolerate routine change;
 - Respond appropriately to routine demands or change.