

AOOP 2003 Annual Meeting

Basic Skills Workshop

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Friday Jan. 17, 2003

“Social Security Disability Evaluations”

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The Social Security Psychiatric Disability Evaluation

Basic Skills Workshop, 2003 Annual Meeting, San Diego

January 17, 2003

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Background

Congress assigned the Social Security Administration (SSA) the responsibility for evaluating applications for Social Security Disability Insurance, or SSDI. The SSA contracts with state agencies—called Disability Determination Services (DDS) in each state throughout the nation and Puerto Rico to perform these services. SSA's headquarters are located in Baltimore, and oversees operations through ten regional offices. The Social Security Act provides for benefits to be provided for the disabled that meet certain criteria. Whereas welfare benefits are based on financial need, SSDI benefits are granted on the basis of "impairments", which are defined in the Social Security Act. SSDI is program for those who have paid into the system (FICA) and earned "quarters of coverage". SSI is a needs based program (like welfare). Both programs require that individuals must meet certain medical criteria to be allowed. These criteria include the anticipated length of the disability and a set of accepted medical conditions causing impairments that may result in disability. They also provide a definition of the degree of functional impairment in several spheres of functioning that set the threshold that must be met in order for a person to be entitled to disability benefits. The law defines disability as the inability to engage in substantial gainful activity by reason of a medically determinable impairment which can be expected to result in death or which has lasted or can be expected to last for 12 continuous months. The disability program looks at a claimant's remaining functional capacity to perform any type of work in the national economy. If a claimant disagrees with the initial medical disability decision he/she can file for reconsideration. If still dissatisfied, he/she can appeal to the Administrative Law Judge and request a hearing.

Why do Social Security Disability Evaluations?

There are several advantages to conducting regular Social Security Disability Evaluations.

- They offer concentrated practice in conducting efficient assessments of a relatively wide variety of patients
- They present an opportunity to refine conceptualization, writing and dictation skills
- They are an effective way of filling gaps in a schedule with guaranteed payment
- They can serve as an entrée to becoming involved in other types of psychiatric disability evaluations because of contact they afford with the legal community
- They present an opportunity to provide quality professional services within the public sector with few of the problems or difficulties often associated with such work.

Procedural Matters

The Social Security Administration contracts with physicians to perform evaluations of individuals who have applied for benefits. Psychiatric evaluations are requested

whenever the examiner (an employee of the Disability Determination Services) finds that psychiatric condition may be present or there is insufficient information for a complete disability decision. Social Security Hearings **Administrative Law Judges (ALJ)** may also order psychiatric evaluations at their discretion after hearing evidence presented at an appeal hearing. Compensability requires total disability, i.e. the inability to perform the functions of any job, for a period of at least 12 continuous months.

SSDI benefits consist of cash benefits, which are typically greater than public assistance (welfare) benefits. Medical benefits in the form of Medicare are added after a defined period of disability.

Some applicants are denied benefits in their initial application.

Some statistics are as follows: Fiscal Year 99 (Oct 98-Sept 99) National average of initial case allowances=37.3%. FY 2000 (Oct 99-Sept 00) = 38.2%. For the Seattle Region, 42.7 % and 40.5 %, and for Washington DDS, 42.9 % and 42.1% respectively.

Applicants may request a **reconsideration** of the initial denial, and if that is unsuccessful they may demand a hearing by a Social Security Hearings Judge (ALJ). No attorneys are involved in the first step, occasionally an attorney is retained for the reconsideration phase, and the applicant typically retains an attorney for the formal hearing before a judge. Attorney fees are set by statute, and the Social Security Administration must specifically approve attorneys before they can represent clients.

In Washington State, the psychiatrist-evaluator is paid a nominal fee (about \$30) for record review if the applicant fails to appear for the appointment. Missed appointments must be reported to the Social Security scheduling office within 24 hours. This amount varies from state to state. Some states pay nothing, while some states pay \$10-25. Some states are under state law to follow their "parent agency" fee schedules, which means compensation for no shows or record review could be considerably higher. Payment for extra forms and review of excess medical also varies greatly from state to state. The best advice to those interested in doing evaluations would be to contact the state agency (DDS) to find out their reimbursement rates. The SSA does not expect physicians to reschedule a claimant that has missed an appointment. An additional fee is paid if the medical file to be reviewed is 25 pages or longer. If additional forms are requested, separate fees are paid for their completion.

The Psychiatric Evaluation

A psychiatric evaluation consists of a review of medical records provided by the DDS, a face-to-face psychiatric evaluation of the applicant and the provision of a written report. The report follows a standard psychiatric evaluation format, with particular attention to several routine questions that should be addressed in the Summary and Discussion section of the written report. The Disability Determination Services usually provides a **suggested outline** (a copy is provided in your course material). The outline for child psychiatric evaluations is more complex, but straightforward for those with child training (a copy is attached in the course material). The SSA is interested in **facts and evidence based conclusions** as they bear upon impairments of specific functional capabilities that have an impact on disability. Specific observation and reporting of the claimant's Activities of Daily Living, along with relevant psychiatric history, and a fact based Mental Status Examination are crucial to the exam's utility. Particular emphasis is placed upon utilization of the DSM-IV, as that provides a more uniform basis for application of the relevant statutes.

Occasionally, you will be asked to complete the **Psychiatric Review Technique Form SSA-2506-BK (9-2000)**, either by an Administrative Law judge or by an attorney representing a claimant. **I have included a copy of the current form for your reference.** Although you will not routinely be asked to complete it, familiarity with its provisions will help you to understand the listings requirements and the information the examiner must have to act on your report when it is received. A former requirement that ALJ's use the form in cases at that level of review has been eliminated, although they are still required to use what is termed "**Psychiatric Technique**" in explaining their rulings. In general the ALJ's are required to develop the evidence. The ALJ's are given discretion to adjourn, postpone, or reopen the hearing at any time to develop further evidence before a ruling is issued.

For our purposes it will be useful to describe elements of the form to reinforce the importance of you (as the evaluating psychiatrist) providing data to support conclusions in the evaluations conducted for SSA, and not simply diagnostic conclusions based on a vaguely stated history and sketchy mental status examination. This form (developed in 1990, and as noted below modified effective September 20, 2000) contains several sections, the most important of which describes symptoms or behaviors to be checked as present or absent for the following categories of disorders. The 12.XX numbers represent the "category" of the disorder.

1. 12.02 Organic Mental Disorders
2. 12.03 Schizophrenic, Paranoid and other Psychotic Disorders
3. 12.04 Affective Disorders
4. 12.05 Mental Retardation and Autism
5. 12.06 Anxiety Related Disorders
6. 12.07 Somatoform Disorders
7. 12.08 Personality Disorders
8. 12.09 Substance Addiction Disorders
9. 12.10 Autism and Other Pervasive Developmental Disorders

Each of these categories is provided with a specific set of criteria by which its absence or presence is judged.

For example, for 12.03 the test is:

"Psychotic features and deterioration that are persistent (continuous or intermittent), as evidenced by at least one of the following:

- 1) Delusions or hallucinations
- 2) Catatonic or other grossly disorganized behavior
- 3) Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following;
 - a. Blunt affect, or
 - b. Flat affect, or
 - a. Inappropriate affect.

You have a copy of the **SSA form** for reference and review purposes. In general, the criteria correspond fairly closely to the DSM-IV criteria for the listed conditions.

Beginning with September 20, 2000 an additional qualifier was allowed for each condition—"A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above. Pertinent symptoms, signs, and laboratory finding that substantiate the presence of the impairment". The modified "Disorder" must be listed. Based on the presence or absence of findings in the above categories, the SSA

examiner is then asked to rate the severity of impairment, describing the degree of functional limitation in four areas of functioning. (When a psychiatrist is asked by an attorney to conduct an evaluation for an Appeal Hearing, he/she may be asked to complete the form and the ratings.)

Significant modifications in the **“B” criteria** were introduced effective September 20, 2000, and are reflected in the following description:

1. Restriction of Activities of Daily Living
2. Difficulty in Maintaining Social Functioning
3. Deficiencies of Concentration, Persistence or Pace; [deleting “resulting in Failure to Complete Tasks in a Timely Manner” effective Sept. 20, 2000]
4. Episodes of Decompensation, each of extended duration. [This was modified to eliminate “deterioration in work or work-like settings”.]

To satisfy the **listings requirements**, the impairment must be at least “marked” or greater in two or more of the four areas of functional limitation. [This was modified to standardize the necessary number of “B” criteria from 3 to 2 for Somatoform Disorders and Personality Disorders.] An extreme rating on any of the first 3 criteria will satisfy the listings requirements, as will a rating of “4 or more” for criterion 4.

There are specific guidelines to be followed by the SSA in reviewing these forms. For example, “repeated episodes of Decompensation” is defined as meaning “three episodes within one year, or an average of once every four months, each lasting for at least 2 weeks.” If the episodes are more frequent but briefer, or less frequent but longer, the adjudicator is required to use judgment to determine whether the functional effects are comparable to those set forth in the listings.

“C” criteria for chronic disorders are now included in the Listings **12.02 Organic Mental Disorders, 12.04 Affective Disorders, in addition to 12.03 Schizophrenia**. The “C” criteria are considered if the “B” criteria are not met. This modification was effected because of the realization that an additional test of functional limitation was necessary for conditions that tend to be chronic and disabling, but that might not meet the severity requirements of the “B” criteria. Documentation must show a chronic disorder of at least two years’ duration that has caused “more than minimal limitation of ability to do basic work activities.” An inability to function outside a highly supportive living arrangement need only have lasted one year, reduced from two years. *A third “C” criterion has been added addressing individuals who are marginally adjusted and for whom an even minimal increase in mental demands or change would be predicted to cause the individual to decompensate.*

The **“Mental Residual Functional Capacity Assessment”** (Form SSA-4734-F4-SUP) is a measure of the claimant’s ability to perform functions necessary to employment. Each mental activity is to be evaluated within the context of the individual’s capacity to sustain that activity over a normal workday and workweek, on an ongoing basis.

The general areas are titled:

- A. Understanding and Memory (3 measures)
- B. Sustained Concentration and Persistence (8 measures)
- C. Social Interaction (5 measures)
- D. Adaptation (4 measures)

The social security examiner may request this form, as may a hearings judge, or an attorney representing the applicant at the hearings stage of the appeal process.

Conduct of the evaluation

The purpose of the psychiatric evaluation should be explained to the claimant. The examinee should be advised of the limitations on confidentiality associated with their status as an applicant for SSDI. They should be advised that the interview is for evaluation purposes only, and that it is not for treatment. They should be informed that a copy of the evaluation would be provided to the Social Security Administration.

All applicants are asked to read and sign a disclosure form that documents that they have been told that no medical treatment will be provided and that no doctor patient relationship is being established.

My practice is to suggest that the applicants themselves directly request that the SSA provide copies of the evaluation to any other parties they wish to receive the report. This avoids the possibility of violating confidentiality guidelines or overlooking the obtaining of release of information forms. As a matter of policy, the physician evaluator is allowed to directly furnish a copy of the evaluation to a treating physician. Nevertheless I prefer to have the patient assume responsibility for requesting the report be sent from the SSA to other parties.

Although in the past the SSA provided phone-in transcription service to an 800 number, in Washington State psychiatrists have been required to provide their own transcription for the last several years because of funding constraints, making on-site transcription services an economic necessity if any significant work volume is undertaken. This varies from state to state; many states still provide dictation/transcription services. Conduct the examination according to a standard format provided by the DDS. I find it helpful to use a form I have developed with my word processor, as that speeds the transcription process and helps me to remember all necessary areas of inquiry. I have included a copy of my headings in the handouts.

Record primary data, including liberal use of quotes, accumulated during the evaluation. State the specific findings on the mental status examination directly. Avoid statements such as "concentration and memory are grossly normal" in favor of facts. As an example: "The patient was able to recall three out of three dissimilar objects at 5 minutes and was able to repeat 7 digits forward and 5 digits backward". I utilize a prepared evaluation format, which helps to avoid omissions. The evaluation should be dictated, as it is possible to produce a meaningful 4-6-page report within 5 or 10 minutes given sufficient practice and experience. For transcription purposes, I developed a formatted word processing file that contains relevant headings and saves a significant amount of typist time. One proofreading is all that should be necessary. This makes it possible to conduct the evaluation and issue a report within 24 hours. The SSA appreciates timeliness, and I find that I am more efficient when the material is fresh in my mind. I make it a practice to dictate all social security evaluations within 24 hours of the interview. Usually they are completed during breaks between patients within an hour or two of seeing the patient, markedly reducing the subjective sense of being burdened. In other words, don't let dictation pile up.

Finally, a Social Security Disability Psychiatric Evaluation must offer diagnoses utilizing the DSM-IV format, and comment on the degree and duration of functional limitation resulting from the diagnosed condition. These requests are made explicit in the

evaluation request. Avoid offering diagnoses of mental retardation in the absence of formal psychological testing, and if you correctly place such diagnoses on Axis II.

Provide an evaluation of the claimant's ability to manage his or her own funds, as this will determine whether or not a representative payee is named if benefits are awarded. Include an opinion regarding the prognosis of the condition with treatment, and an opinion concerning the necessary length of psychiatric treatment.

Summary of Main Points:

1. Obtain Informed consent; explain the purpose of the evaluation, and how the information will be distributed. Treat claimants courteously. You are a neutral professional, and you are not an adjudicator.
2. Conduct a standard psychiatric evaluation utilizing the DDS guidelines. Record the primary data you obtain in the evaluation, not just your conclusions. Your opinion must be supported by facts and evidence to be given weight by the examiner or by an ALJ.
3. Employ DSM-IV diagnostic criteria in your diagnosis section.
5. Specifically answer the examiner's questions regarding the claimant's prognosis with treatment, and the ability to manage his/her own funds.
5. Provide your report promptly to DDS.
6. If you for any reason feel that it would be unsafe for you to begin or continue an evaluation, cancel it, and notify DDS of your reasons. It may be necessary for the evaluation to take place within a secure facility.

Acknowledgement: Leann Amstutz, Professional Relations Specialist, Washington Disability Determination Services, Olympia, WA kindly reviewed this presentation and offered valuable corrections as well as a national perspective. All errors and omissions are of course my responsibility.

Primary link

<http://www.ssa.gov/disability/professionals/bluebook/>

This is the "**Blue Book**" published by the SSA, on line. The home page is included in this file. It contains all of the rules and regulations regarding SSI and SSDI.

You will find links for adult and pediatric populations, with separate sections for mental health impairments