Documenting Disability

Simple Strategies for Medical Providers

[Name], M.D.
[Agency name]
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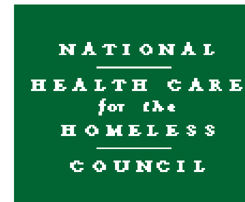
[Date, location of training]



Revised 10/24/08

Outline

- Why should we do this?
- What is the disability determination process?
- Responding to records requests
- Developing & documenting a clinical relationship
- Providing medical evidence of impairments
- Documenting functional limitations
- When to write a letter and what to write
- Promising practices to expedite SSA benefits

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Why should we do this?

Professional ethics

- duty of physicians & allied health personnel to act in patient's best interest

Patient benefits

- housing and better nutrition
- health insurance (Medicaid/Medicare)
- ↑ access to health/behavioral health services

Fiscal sustainability

- of health services for the underserved

See *Documenting Disability: Simple Strategies for Medical Providers*, pp.5-7.

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Why should we do this?

Equity

- SSDI benefits already earned through past work.
- Significant percentage of homeless claimants qualified for SSI are not currently getting it (30–80% of reported uninsured HCH clients, FY 2000).
- Homeless SSI/SSDI claimants denied benefits at significantly higher rates than other claimants.
  - Denials 2.3 times > approvals for homeless vs. 1.5 times > approvals for non-homeless;
  - >1/3 denials due to insufficient medical evidence or failure to keep CE appointment.

(Boston DDS: 4/02–9/04)

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Why should we do this?

Social responsibility

- Homelessness is an indicator of functional impairment and often a marker of disability.
- People with disabilities constitute the "chronically homeless" population in America.
- Disability benefits can help people end and prevent homelessness.

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Treating Sources

"Timely, accurate, and adequate medical reports from treating sources accelerate the processing of the claim because they can greatly reduce or eliminate the need for additional medical evidence to complete the claim."

SSA, Consultative Examination Guide:
www.socialsecurity.gov/disability/professionals/greenbook/ce-evidence.htm

(Documenting Disability: Simple Strategies for Medical Providers, p.5.)

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Who is a “treating source?”

- “Ongoing treating relationship”
- Physicians, psychologists, optometrists (vision only), podiatrist (foot/ankle only)
- Nurse practitioners, physician assistants, social workers must have consultation and co-signature from “treating source.”

(*Documenting Disability*, p.18)

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Disability versus Impairment

- **Disability** is an administrative/legal determination.
- **Impairment** is a medical determination.

(*Documenting Disability*, pp.4-5)

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What is the process for our patients?

- Notify SSA of intent to file → "protected filing date"
- Submit application to SSA
- Application forwarded to State Disability Determination Service (DDS)
- Medical records requested (Review how this is handled in your office.)
- If insufficient evidence, DDS arranges Consultative Evaluations
- Disability determination is made "by a medical or psychological consultant and a disability examiner."

(*Documenting Disability*, pp. 10-13)

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Presumptive Disability (PD)

- SSI benefits may be approved for up to 6 months if high probability that claimant will be found disabled after additional evidence is obtained.
- Impairments with "high PD potential":
  - Amputation at hip
  - Deafness
  - Blindness
  - Bed confinement
  - Severe mental retardation/ deficiency
  - Opportunistic infections/ AIDS
  - Neoplasm
  - Diseases of CNS resulting in paralysis/motor dysfunction
  - Chronic renal disease

(*Documenting Disability*, p.10)

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Responding to Records Requests

- Photocopy and send records. (OK)

OR

- Fill out a questionnaire provided by SSA or advocacy agency. (better)

OR

- Write a narrative letter. (best)

OR

- Offer to do a consultative evaluation. (optional)

(*Documenting Disability*, pp.19-20)

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Average Allowances
all SSI/SSDI claimants, FY 2003

- Initial consideration (37% claims allowed)
- Reconsideration (15% claims allowed)
- Hearing (61% claims allowed)
  - Administrative Law Judge (ALJ) hears case
  - Legal assistance strongly advised
- Appeals (2% claims allowed)
- Patients sometimes need encouragement not to give up.

(*Documenting Disability*, pp. 11-12)

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What Medical Providers Can Do to Expedite Disability Determinations

1. Develop and document a clinical relationship.
2. Document medical evidence of impairments and specify functional limitations that have resulted from them.
3. Document functional limitations and activities the patient can/cannot perform despite those limitations, in partnership with a multi-disciplinary clinical team.

(*Documenting Disability*, p.43ff)

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1. Develop & Document Clinical Relationship

- Document duration of your clinical relationship with patient and number of visits.
- Encourage new patients to keep coming back.
  - You may be a "treating physician" on appeal, if not at initial consideration.
- Encourage mental health treating relationship.
- Advise patients of importance of "following prescribed therapy."

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2. Document Medical Evidence of Impairments

- **Use medical criteria for disability specified in SSA's Listing of Impairments, where possible:**
  Disability Evaluation Under Social Security (aka the "Blue Book")
  www.socialsecurity.gov/disability/professionals/bluebook/index.htm
- **Meeting or equaling a Medical Listing warrants automatic determination of disability without further inquiry.**
- **The "Blue Book" contains separate adult and pediatric Listings.**

(*Documenting Disability*, pp.22-24)

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Words of Caution

- Use age-appropriate Listings.
- Give as much information as possible, even if patient meets a Listing.
- Specify all Listings the patient meets.

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Listings: Examples

Chronic Pulmonary Insufficiency:

- ✓ pO_2 <55 if pCO_2 < 40; pO_2 <65 if pCO_2 <30
  (Table available at www.ssa.gov/disability/professionals/bluebook)
  or
- ✓ COPD with FEV_1 < 1.05 to 1.65 L, or
- ✓ Restrictive disease with FVC < 1.25 to 1.85 L, or
- ✓ DLCO <10.5 ml/min/mm Hg or <40% predicted

Asthma:

- ✓ With chronic asthmatic bronchitis, as above, or
- ✓ Exacerbations req. intervention ≥ 6/year (hospitalization
  > 24 hours counts as 2 attacks;
  must evaluate over 12 mos.

Examples

- 35 year old woman with asthma, using albuterol, salmeterol, and budesonide as prescribed, with 4 office visits last year for exacerbations requiring prednisone, and one hospitalization.
- 61 year old man who worked in shipbuilding and smoked, now with asbestos-related lung disease, with a DLCO of 40% predicted.

Questionnaire may request source of standards.

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Listings: Example

Chronic Liver Disease:

- ✓Esophageal varices with a documented hx massive hemorrhage or
- ✓Shunt
  - ✓Considered for 3 years after last episode, or
- ✓Serum bili ≥ 2.5mg/dL x 5 mos, or
- ✓Ascites (paracentesis or albumin ≤3.0) x 5 mos, or
- ✓Hepatic encephalopathy (Listing 12.02A), or

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Listings: Example

Chronic Liver Disease, continued:

- ✓Confirmed on liver biopsy (independent of SSA), plus
  - ✓Ascites (paracentesis or albumin ≤3.0) x 3 mos, or
  - ✓Bili ≥2.5 x 3 mos, or
  - ✓Elevated LFTs AND INR x 3 mos.

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Example

- 42 year old man with hepatitis C who experiences fatigue, joint pains, and depression, which he acknowledges fuels his use of speed. He sleeps 10 hours a day if not using, and has morning stiffness of joints lasting 3 to 4 hours. He has never been hospitalized for complications of hepatitis and has never had biopsy. Albumin is 4.0; INR is 1.5; T. bilirubin is 2.0.

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What does it mean to have a medical impairment “equivalent to a Listing”?

- Patient’s combination of medical impairments must result in functional limitations reasonably expected for a person meeting a Listing – at least equal in severity and duration to the listed findings.
- Note similarities in Listings – e.g., mental health: marked impairment of ADLs, social interaction, concentration, persistence, pace; evidence of decompensation.

(*Documenting Disability*, p.15-16)

Impairments related to Substance Use

- Substance use disorders excluded by law as a basis for disability under SSI/SSDI.
- Comment whether patient would still be disabled even if substance use were to cease.
- Encourage treatment.
- Permanent or long-term sequelae of substance abuse are considered in the system area in which they occur (e.g. Chronic liver disease in Digestive System section).

(*Documenting Disability*, pp.28-33)

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DA&A Impairments – Burden of Proof

- Often difficult to separate impairment related to drug addiction and/or alcoholism (DA&A) from other mental impairments.
- Burden of Proof rests with DDS/SSA.
- SSA says claim should be awarded if impairments are impossible to separate. (http://198.173.239.73/ssas/daa-q&a.htm)
- Real life: these cases often go to ALJ.

(*Documenting Disability*, p.32)

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Documentation of Mental Illness

Primary care physicians and non-psychiatrist specialists can and should document impairment related to mental illness.

(*Documenting Disability*, pp.38-39)

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Mental Impairment Listings: Examples

Psychotic Disorders:

- ✓Delusions/hallucinations, catatonic or grossly disorganized behavior, or incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of:
  - ✓Blunt, flat, or inappropriate affect, or emotional withdrawal, isolation

PLUS two of:

- ✓Marked impairment of ADLs, impaired social functioning, impairment of concentration, persistence, pace, or repeated episodes of decompensation

OR

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Mental Impairment Listings: Examples

Psychotic Disorders (cont):

- ✓2 year Hx with more than minimal limitation of ability to work attenuated by medical or psychological tx, AND
  - ✓Repeated episodes of decompensation, or
  - ✓Minimal increase in demand would cause decompensation, or
  - ✓Inability to perform outside highly structured setting x 1 year

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3. Document Functional Limitations

Progress Note Documentation

- Avoid phrases like “doing fine” when the patient has symptoms or impairment.
- Ask about pain, fatigue, functional limitations at each visit.
- Ask what keeps patient from working.
- Ask about education and English literacy.

(*Documenting Disability*, p. 26-27)

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Common Medical Complaints – Pain.

- Document complaint and interventions, including adherence to prescribed therapy.
- Patients may be given a questionnaire by DDS/SSA. Ask to see it.
- Document side effects of medication — especially "impairment of concentration, persistence, and pace."
- Psychological testing may be done on usual pain medications

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Treatment Adherence

- Document adherence to treatment and result. (e.g., "pain increases after PT, not getting better overall. Pain=2–8/10, daily. Not able to do chores or shopping.)
- If non-adherent, indicate why.
  - Dementia
  - Psychosis
  - Side effects of medication or surgery
- "Failure to follow prescribed therapy" can result in claim denial.

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Common Medical Complaints – Fatigue

- **Document complaint over time and functional limitations.**
- **How many hours does patient need to sleep a day?**
  "I was so tired I couldn't go to my daughter's wedding."
- **What can't the patient do?**
  "I try to straighten the living room, but then I need a two-hour nap."
- **Objective estimate:** ability to understand, remember, and carry out simple instructions; ability to use appropriate judgment; and ability to respond appropriately to supervision, co-workers, and usual work situations, including changes in a routine work setting.

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Vocational Limitations

- What work have you done?
- When did you last work?
- What work could you do?
- What keeps you from working?
- Are you seeing patient for one complaint but patient is claiming that another is preventing him/her from working? (See disability specified in letter from SSA.)

(*Documenting Disability*, p.26)

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Education & English Literacy

- What grade did you complete in school?
- Can you read the newspaper?
- Can you write well enough to fill out your own SSI application?
- Are you able to communicate in English?

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Functional Abilities

Exertional

- Sitting
- Standing
- Walking
- Lifting
- Carrying
- Handling objects
- Hearing
- Speaking
- Traveling

Non-exertional

- Understanding
- Carrying out and remembering instructions
- Responding appropriately to supervision, co-workers, and work pressures
- Concentration, persistence, pace
- Social interaction

(*Documenting Disability*, pp.26-27)

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Activities of Daily Living (ADLs)

- **D** ressing
- **E** ating
- **A** mbulating
- **T** oileting
- **H** ygiene

- **M** eds
- **S** hopping
- **H** ousework
- **A** ccounting
- **F** ood prep
- **T** ransportation

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Writing a Letter

- **Review** the relevant Listings.
- **Compare** Listings with findings and symptoms in the chart.
- **Write** the letter.
- **Attach** relevant chart/progress notes.

(*Documenting Disability*, p.43)

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Content of Letter

- Length of relationship. Are you a treating physician?
- What are the "allegations"? Other concerns?
- Medical history. Number of hospitalizations
- Relevant work history
- Age, height, weight, vital signs, relevant measurements
- Physical exam
- Relevant findings

http://www.socialsecurity.gov/disability/professionals/greenbook/ce-adult.htm

Content of Letter

- **Summary of impairments (not disability)**
- **Do the impairments meet or equal a Listing?**
  If so, give number and state criteria that are met.
  (e.g., "With regard to Listing 12.02A, …")
- **What is the Residual Functional Capacity?**
- **Does the patient fit an adverse profile?**

(*Documenting Disability*, pp.45ff)

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Adverse Profiles

- **35 years of arduous, unskilled work**
  - not working
  - severe impairment prevents prior work
  - 6th grade education or less
- **No substantial work experience**
  - severe impairment
  - over age 55
  - less than 11th grade education
  - no prior relevant work

(*Documenting Disability*, p.38)

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Adverse Profile – example

- 59 year old man with 6th grade education, worked as laborer and handyman starting at age 12, has developed symptoms of neurogenic claudication within last 2 years and was asked to leave his last job because he couldn't complete tasks in a timely manner. At the end, he had difficulty walking from his car to the jobsite.

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Summary Statement

- Summarize patient ID and impairments.
- State Listing(s) if met.
- Can the patient manage his/her funds?
- Sign off with: agency, name, credential, board status.

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What if patient gets better?

- If patient has improvement in medical condition and functional capacity, patient must notify SSA.
- 9-month trial work period
  - Stipend and health benefits continue
- 36-month continuation of stipend if income < SGA (up to $500)
- 39-month continuation of health benefits

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Promising Practices

- **Routine documentation of impairments** in clinic notes for every patient with a disabling condition
- **Application screening** – Create in-house system for flagging and addressing missing information before SSI/SSDI application is submitted.
- **SSI Outreach Team** – To facilitate applications, track medical records, help with summary reports.

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Promising Practices

- **Special Homeless Claims Units** – designated DDS staff to work with homeless claimants (e.g., Boston).
- **Ongoing training of clinical team** – focused on documenting impairments well in initial application to reduce need for consultative exams and reconsideration/appeals.

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Why we should do this

"Facilitating applications for disability benefits is perhaps the single most important intervention that clinicians can offer to minimize the health risks associated with poverty and to assure a better quality of life for many homeless people."

Jim O'Connell, MD, Boston HCH Program

(*Documenting Disability*, p.4)