

TIPS TO IMPROVE YOUR CHANCES OF WINNING YOUR SSDI CLAIM

PART 1: SETTING UP A HELPFUL MEDICAL RECORD



By Kimberly Slimbaugh, Esq.
(315) 471-1664
kslimbaugh@mcvlaw.com



You are never “OK”, “doing good” or “fine”.

Every time you go to your doctor's office you are asked, "How are you feeling today?" The knee-jerk answer, "I am fine" or "I'm OK" causes problems in your Social Security case. Responses like this are used by the ALJs to discredit your medical evidence.

Your doctor reports your answer in their notes as "the patient is doing OK" "he is feeling fine" or "he has no complaints". You can't go back and fix this.

You should never say "OK" or "fine" or any other such words when you are asked how you are doing by anyone at a doctor's office or hospital. If you were fine, you would not be seeing a doctor.

You are the only one who knows exactly what you are going through and how you feel. It is vital that you report your symptoms, including any side effects you have from your medication to your doctor every time you see them.



You must treat early and often.

If your injury or illness is bad enough to prevent you from working, then it is bad enough for you to seek medical treatment. You should consult a doctor as soon as possible.

It is not enough to simply be diagnosed with a condition. The diagnosis alone does not help your claim.

You should seek treatment as soon as possible. This is important in the first instance so you receive care. The other reason is that you will then have a chronological record of your medical treatment and testing for your injury or illness. You should continue to report to your doctor your symptoms and limitations.

Follow the reasonably prescribed treatment.

Social Security will deny your claim if you fail to follow the treatment recommended by your doctors.

If you have concerns or questions about the treatment your doctor recommends, discuss it with your doctor. This includes questions about medication and any side effects.

If your doctor tells you the treatment may not improve your condition or could make it worse, you need to discuss the chances of success or failure of the treatment and your concerns with your doctor to make sure this is in your record.

If the chances of success of recommended treatment are high, and you don't follow through, this may cause a problem with your claim. Likewise, if the treatment is not likely to improve your condition, Social Security should not hold it against you if you choose not to follow through with the treatment.



Explain your pain, symptoms, medication side effects, and other limitations in detail.

Most people don't adequately describe their pain and symptoms and how they affect their ability to function in detail.

The more specific you are when you describe your pain and symptoms, the more helpful it is to your claim.

An example is "My back hurts and I can't do anything." This is not very detailed.

Compared with: "I have pain in my lower back that goes down both legs and sometimes down to my right foot. Sometimes the pain is so bad, I can't move and lay in bed most of the day. I can't bend over to touch my knees. I can stand for 15-20 minutes before I must sit down. I can't reach as it causes an increase in my back pain. I can only sit for about 10 minutes, unless I am in a recliner with my legs elevated. The pain medication makes me groggy and I can't pay attention to a simple TV show after taking the medication. The pain wakes me up at night, even with the medication, so I only get 2-3 hours of sleep. Most days I am so tired that I will nap for 1-2 hours during the day."

This description provides more details of your pain, things that make it worse and how it affects your ability to function.

You should focus on the limitations that you experience in detail to your doctor/nurse, so it is put in your record. As you continue to treat, you should also note any changes in your pain or symptoms to your doctor.

Keep symptom logs.

With some conditions, such as migraines, headaches, seizures, etc., keeping a log can help you document the frequency, duration, and other details that can help your treatment and your case.

If you suffer from seizures, you should record the date and time of each seizure, the type and intensity of the seizure, how long it takes you to recover, and any other information relevant to each seizure.

A similar log can be used to record migraines and other types of episodes of worsening pain or other symptoms.

You should give your doctor a copy of your symptom log so he or she can use this information to better treat you, and ensure that it becomes part of your record.

Keeping a record helps to support your complaints and the ongoing severity of your condition.



Consult a specialist.

Specialists are doctors who focus their practices on a particular area of medicine. These doctors have more expertise in certain areas of medicine than your primary care doctor.



Depending on the condition, a diagnosis and treatment from a specialist will be given more emphasis over primary care physicians. A good example is fibromyalgia. Most people get a diagnosis of the condition from their primary care physician. The diagnosis should be confirmed by a rheumatologist. A rheumatologist can perform tests that rule out other causes of your symptoms.



Your case is not about a diagnosis.

We talk to potential clients who tell us they don't understand why their claim was denied, as they have been diagnosed with herniated discs in their back.

They talk about how long they have had the diagnosis, the medications that they take, the treatment they have had and how they know someone on disability that has the same diagnosis.

As indicated previously, a diagnosis alone will not support your being disabled under SSA rules.

You need to focus your case on what limitations you have as a result of your diagnosis.

SSA will decode what your Residential Functional Capacity ("RFC") is when deciding whether you are disabled.

SSA will look at how your medical conditions have affected your ability to perform work-related exertional activities such as:

- How long can you sit?*
- How long can you stand?*
- How long can you walk?*
- How much can you lift and carry?*
- Can you do postural activities (for example, reaching, handling large objects, using your hands to finger, feel, twist, and turn objects).*

Many factors can determine RFC.

Your RFC will also address any mental impairments as well:

- Can you maintain attention and concentration at work?*
- Can you understand and remember instructions and carry out your duties throughout the day?*
- Can you respond appropriately to supervisors and coworkers in usual work settings?*
- Can you deal with changes in the work setting?*
- Can you maintain regular attendance?*
- Can you get along with people in the workplace or the general public?*

There are a lot of factors that go into formulating your RFC that are not always clearly stated or explained in your medical records.

Many of the medical records we review do not mention any limitations in the ability to work.

Remember, SSA focuses on your functional ability, not your medical history. It is important for your medical records to list your symptoms, treatment, and response to treatment and the limitations you have as a result of your injuries or illnesses and how they prevent you from performing your past work and any other jobs.



Make consistent statements.



The ALJ will look at how you have described your condition(s), symptoms, and limitations while you testify and then compare your testimony to how you described these conditions, symptoms, and limitations to your doctors and on forms like the Adult Function Report.

You must be consistent in statements you make to your doctors and Social Security. You need to be careful with extremes such as "I can't do anything" or exaggerations of your ability, such as "I can lift 20 pounds". You may be able to lift 20 pounds once, but not for two hours a day.

Be honest and consistent in how you describe your condition, symptoms, and limitations to SSA and your doctor.

It is extremely important to consider your answers on your adult function report, as SSA will consider those answers and you won't be able to change them. If you answer any of the questions incorrectly, incompletely, or inconsistently, we can't update those answers.

Timely file an appeal.

The simple fact is that most Social Security Disability claims are denied initially. We have all heard stories about someone who wasn't really that disabled and got approved quickly. It happens, but it is not the norm.

In any denial you receive from SSA, there is a paragraph explaining your appeal rights and how to file an appeal. As the paragraph states, you have 60 days from the date on the denial letter to appeal your claim. Instead of appealing, often people file a new application, which is a huge mistake.

Filing multiple applications can cause problems with processing at SSA and you could be losing out on the benefits you may be entitled to.

The disability application process is long. You don't want to go back and start all over. If you are not sure what caused the basis for the original denial, you run the risk of the same result by filing another application.

Were forms not filled out? Did you forget to list a treating source? Was there a mistake in your medical record that caused the denial? Did you not thoroughly explain your work history? By appealing a denial, you can work with an attorney to develop a theory of your case to present to an administrative law judge how your medical conditions prevent you from working. If you fail to file an appeal or don't timely file an appeal, you will have to start the process all over again, and you may lose your right to back benefits.

Don't go it alone.

You are already dealing with an injury or illness that has taken away your ability to work. You are in pain and worried about your future. The SSA law is complicated and the process can be frustrating to navigate.

MCV Law can:

- *Make sure SSA has all medical, vocational and other relevant documentation to prove your case*
- *Review your medical and vocational history and develop a strategy to best present your claim*
- *Recommend further treatment or testing that can better explain your condition*
- *Look to see if any previous applications that were not appealed can be reopened*
- *Help you understand the process, and prepare you for your hearing*
- *Help your doctor understand what information and/or documentation they can provide that will assist your claim*



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