

Social Security and Disability

By Jacques Chambers

July, 2014

Social Security offers several types of monthly benefits for a disabled person. These include Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI) as well as disability benefits for disabled widows, children, and adults disabled since childhood. Each program has different financial and other eligibility requirements, but they all use the same definition of “disability” to see whether a person is “disabled enough” to qualify for disability benefits.

Under Social Security rules, you are disabled if:

- You are unable to engage in any Substantial Gainful Activity (\$1,070/month in 2014) because of a medically determined physical or mental impairment. You must not only be unable to do your previous work, but also any other type of work considering your age, education, and work experience;
- Your impairment(s) are established by objective medical evidence; and,
- It is expected that your impairment(s) will either last for at least 12 consecutive months or result in death.

Over 50% of the initial applications for disability benefits are denied initially. This is not necessarily because it is hard to be considered disabled. Often the person applying for benefits does not understand the process and does not give Social Security all the information needed. It is also frequently because the medical file is not well documented. This is especially true when the disabling symptoms are primarily subjective.

Applicants with HCV frequently have more problems when it comes to getting Social Security benefits because:

- To Social Security, HCV is a relatively new disabling condition, and symptoms can vary from none at all to life threatening so just being diagnosed with HCV does not automatically mean the applicant is disabled;
- Many of the most common symptoms of HCV are “subjective.” This means that they cannot be easily measured in a laboratory test. Some examples include constant and severe fatigue, headaches, forgetfulness (memory loss), lack of energy, loss of concentration, and depression. There is no way to prove that someone has these symptoms in a laboratory test, and, unfortunately, many physicians do not thoroughly document the frequency or severity of the symptoms nor do they document and explain the restrictions and limitations caused by the symptoms

A person usually has been infected with HCV for some period of time before the symptoms become severe enough to force them to stop working. Work starts to become more and more difficult. Finding the energy to work takes more and more time. Some people reach the point where the only thing they can do is work. They spend the rest of their time in bed trying to get enough strength to return to work.

There are two things applicants can do to help their chances of being approved for Social Security benefits the first time they apply. These two things are especially important if you think you will apply in the next few months. They are:

1. Learn how Social Security handles an application for disability.
2. Gather and review the “medical evidence” which Social Security will use to determine if you are disabled by their definition.

Learn How Social Security Processes a Claim for Disability

Social Security has put a lot of information on the process on their website at www.ssa.gov. You should review that.

Also, there are five questions that a Disability Analyst tries to answer when looking at a disability:

1. Are you working?
2. Is there a medical problem that changes your ability to do any work at all?
3. Is your medical condition found in the Listing of Impairments? (More on that below)
4. Can you do the work you did previously?
5. Can you do any other type of work?

To be eligible for benefits, the answers must be as follows:

1. Are you working?
Answer: “No”
2. Is there a documented medical problem that changes your ability to do any work at all?
Answer: “Yes”
3. Is your medical condition found in the Listing of Impairments?
Answer: “Yes”, or both # 4 and #5 must be “No”
4. Can you do the work you did previously?
Answer: “No”
5. Can you do any other type of work?
Answer: “No”

To help the process and to make sure everything is the same all across the country, Social Security publishes a book called Disability Evaluation Under Social Security, or “The Blue Book.” This book includes a Listing of Impairments. If your medical condition is listed in that Listing of Impairments then your claim can be more easily approved.

The Listing, unfortunately, does not directly talk about hepatitis C. There is a listing for Chronic Liver Disease that includes chronic active hepatitis. The symptoms of chronic active hepatitis can vary substantially, though. So, the book includes some guidelines on how bad the condition must be:

“5.05 Chronic liver disease, with:

A. Hemorrhaging from esophageal, gastric, or ectopic varices or from portal hypertensive gastropathy, demonstrated by endoscopy, x-ray, or other appropriate medically acceptable imaging, resulting in hemodynamic instability as defined in 5.00D5, and requiring hospitalization for transfusion of at least 2 units of blood. Consider under disability for 1 year following the last documented transfusion; thereafter, evaluate the residual impairment(s).

OR

B. Ascites or hydrothorax not attributable to other causes, despite continuing treatment as prescribed, present on at least 2 evaluations at least 60 days apart within a consecutive 6-month period. Each evaluation must be documented by:

1. Paracentesis or thoracentesis; or
2. Appropriate medically acceptable imaging or physical examination and one of the following:
 - a. Serum albumin of 3.0 g/dL or less; or
 - b. International Normalized Ratio (INR) of at least 1.5.

OR

C. Spontaneous bacterial peritonitis with peritoneal fluid containing an absolute neutrophil count of at least 250 cells/mm³.

OR

D. Hepatorenal syndrome as described in 5.00D8, with on of the following:

1. Serum creatinine elevation of at least 2 mg/dL; or
2. Oliguria with 24-hour urine output less than 500 mL; or
3. Sodium retention with urine sodium less than 10 mEq per liter.

OR

E. Hepatopulmonary syndrome as described in 5.00D9, with:

1. Arterial oxygenation (PaO₂) on room air of:
 - a. 60 mm Hg or less, at test sites less than 3000 feet above sea level, or
 - b. 55 mm Hg or less, at test sites from 3000 to 6000 feet, or
 - c. 50 mm Hg or less, at test sites above 6000 feet; or
2. Documentation of intrapulmonary arteriovenous shunting by contrast-enhanced echocardiography or macroaggregated albumin lung perfusion scan.

OR

F. Hepatic encephalopathy as described in 5.00D10, with 1 and either 2 or 3:

1. Documentation of abnormal behavior, cognitive dysfunction, changes in mental status, or altered state of consciousness (for example, confusion, delirium, stupor, or coma), present on at least two evaluations at least 60 days apart within a consecutive 6-month period; and
2. History of transjugular intrahepatic portosystemic shunt (TIPS) or any surgical portosystemic shunt; or
3. One of the following occurring on at least two evaluations at least 60 days apart within the same consecutive 6-month period as in F1:
 - a. Asterixis or other fluctuating physical neurological abnormalities; or
 - b. Electroencephalogram (EEG) demonstrating triphasic slow wave activity; or
 - c. Serum albumin of 3.0 g/dL or less; or
 - d. International Normalized Ratio (INR) of 1.5 or greater.

OR

G. End stage liver disease with SSA CLD scores of 22 or greater calculated as described in *5.00D11*. Consider under a disability from at least the date of the first score.

<http://www.socialsecurity.gov/disability/professionals/bluebook/5.00-Digestive-Adult.htm> “

If your medical condition meets one of these guidelines, your claim should be approved. However, it will help if your physician writes a letter to Social Security about your HCV. Your physician should use the tests, terms, and conditions as shown in the Listing.

You still have a chance even if your condition does not meet any of these guidelines. It is still possible to have your claim approved if your symptoms are as bad as one of the listings. Your claim will also be approved if your symptoms clearly show that the answers to questions 4 & 5 are both “no”.

Usually, however, you will need more medical evidence to get the claim accepted. You should make sure you send all the medical evidence that you can with the application.

Gather and Review Your Medical Evidence

Medical evidence is what Social Security will use to tell if you are disabled by their definition. Your doctor’s records are an important part of this. But you should know that Social Security wants to know your symptoms and how they affect your ability to do your job. Medical records are important, but they may not provide enough information on symptoms and their affect of HCV.

Start by making a list of all your symptoms. Then, review your medical records to make sure all of your symptoms are listed. You have probably forgotten some symptoms if you have been dealing with your HCV for a while. Leave this list out where you can see it, like on the kitchen counter or dining room table, for a few days. Then add any symptoms you remember.

Also, Social Security looks at symptoms that are related to HCV and symptoms related to other conditions you may have. Side effects of medications are also considered symptoms and should

be included. It is important to make sure that Social Security knows all the symptoms you have. They also should know how HCV affects your ability to function.

The most important pieces of evidence used by Social Security are the records of your doctor and nurses. They may include more than the records of your primary care doctor and specialist. They may also include the records of your therapist, chiropractor, acupuncturist, and other medical practitioners, but these kinds of experts aren't as important to Social Security as "regular" doctors. They can help your claim by backing up your symptoms and your efforts to make them better.

Social Security will look at how your symptoms keep you from working. Make sure your doctors enter your symptoms into the record with each visit. This is a good idea even if they have entered the same information before.

You should take copies of your medical records with you when you go to your first interview with Social Security. This will help speed up your claim process.

Your medical records are the main evidence Social Security uses when looking at your claim. But there are other documents and records that can help your claim as well. These include:

Questionnaires – After you apply for benefits, the Disability Analyst will send you questionnaires to get more information. They may be about pain, fatigue (tiredness), your daily activities, or other conditions or symptoms. These surveys give you a chance to change the information in your medical records to actual descriptions of the problems HCV has caused for you at work and in your daily routine. Take your time, add extra sheets of paper, label them well, and fully describe in detail exactly how your symptoms affect your life.

Letters from Doctors – Ask each of your doctors to write a complete summary of your condition. They should say how your symptoms are tied to your medical condition and test results. A good letter should be several pages long, not just a couple of paragraphs. NOTE: Social Security will ignore any statement from your doctor simply stating he/she considers you to be disabled. They are much more interested in knowing what led the doctor to that conclusion.

Third Party Statements – These are letters from friends, family, or co-workers that tell how they can see your problems trying to function. These should be stories and descriptions of what they have seen on a daily basis. One of the best is a copy of a "write-up" by your supervisor on how your performance at work has gotten worse. This can usually be found in your personnel file. Not everyone will have one of these as many people work that much harder to make sure their performance doesn't get worse. Letters from a spouse, housemate, or co-worker are good also. They should be sure to talk about how your activities and abilities have changed due to your condition. These types of stories alone won't get your claim approved. But they do help give a good picture of how your medical condition affects your activities.

Symptom Diary – This can be very helpful when your symptoms are mostly subjective (not able to be measured). This is not fun to do, but it can help you know how much the symptoms affect your

activities. A symptom diary is simply a daily log. You enter the symptoms you experienced during the day, how bad they were (including how long they lasted), and how they affected your daily activities such as requiring you to rest, cancel planned appointments, etc.

This may seem like a lot of work just to get benefits that you deserve, but remember, Social Security is so big that they can't be bothered with "what's fair or what you deserve." You need to know their rules and "play the game."

The initial application usually takes four to six months to obtain a decision. If, however the initial claim is denied, it can take up to two years to get through the appeal process and be awarded benefits. Making this effort with the application from the beginning can help make the process as quick and easy as possible. This will save you time, money, and lots of stress.