

a series of fact sheets written
by experts in the field of liver
disease

HCV Benefits and Disability Issues:
***Getting Disability
Benefits under
Social Security***

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SOCIAL SECURITY OFFERS SEVERAL TYPES OF MONTHLY BENEFITS

for a disabled person, Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI) as well as disability benefits for disabled widows, children, and adult children disabled since childhood. While each program has its own requirements for non-medical eligibility, they all use the same definition of total disability and the same method to determine if a person is “disabled enough” to be eligible for disability benefits.

Under Social Security a person is considered disabled if: (1) Due to a medical condition he/she is unable to perform the tasks of a job for which he/she is suited, AND (2) That condition either has or will last for at least twelve months or is expected to result in death.

Well over 50% of the initial applications for disability benefits are denied, not because the disability definition is that difficult to meet, but primarily because the applicant didn't understand the disability determination process and didn't give Social Security the information they needed to award benefits.

The problem of being denied Social Security benefits appears to affect people with HCV even more, for several additional reasons:

- To Social Security, HCV is a relatively new disabling condition and they really haven't developed an organized approach to reviewing HCV claims;
- The symptoms of HCV can vary from none at all to completely debilitating, so the diagnosis of HCV alone doesn't have much impact in determining disability; and,
- Many of the most common symptoms of HCV are “subjective” in that they can't be readily measured in a laboratory test. Examples are fatigue, headaches, memory loss, and depression. Therefore, medical records alone often don't adequately describe the functional problems the applicant has trying to work.

A person dealing with HCV rarely suddenly awakens one day to find himself or herself unable to continue working. Typically, it's a gradually deteriorating ability to work. Work becomes more and more difficult; finding the energy to work is more and more time-consuming. Some reach the point where they only work and spend the remainder of their time in bed trying to regain enough strength to return to work.

If you believe that the time to apply for Social Security Disability is approaching, especially in the next few months *there are two things you can do before stopping work and applying that can greatly increase your chances of getting your claim approved the first time around:* (1) Learn how Social Security processes a claim for disability; and, (2) Assemble and review the “medical evidence” which they 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 about the disability process on their website at www.ssa.gov.

For example, in examining a disability claim there are five questions that a Disability Analyst seeks the answers to:

1. Are you working?
2. Is there a medical problem that affects your ability to work to any degree?
3. Is your 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 answer to #1 must be “No,” and the answer to #2 must be “Yes.”

If the answer to #3 is “Yes,” your claim will be approved. If not, then both #4 and #5 must be “No.”

To facilitate the process and to maintain some uniformity throughout the country, Social Security publishes a book called, *Disability Evaluation Under Social Security*, or “The Blue Book” which includes a Listing of Impairments. If your medical condition is listed in that Listing of Impairments, and it meets the criteria given, then your claim is routinely approved.

The Listing, unfortunately, does not directly deal with Hepatitis C, although there is a listing for Chronic Liver Disease that includes chronic active hepatitis.

However, because the symptoms can vary substantially, they also include some guidelines on how severe the condition must be:

“5.05 Chronic liver disease (e.g., portal, postnecrotic, or biliary cirrhosis; chronic active hepatitis; Wilson’s 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.

If your medical condition meets one of these criteria, your claim should be approved. However, it will help if your physician states the condition in a letter to Social Security, using terms and results as shown in the Listing.

If your condition does not meet any of these criteria, all is not lost. It is still possible to have your claim approved if the symptoms you exhibit are as severe as one of the listings. If your symptoms clearly show that

the answers to questions #4 & 5 are both no, your claim will also be approved.

Usually, however, more medical evidence will be required to get the claim accepted. In that case, you should make sure you submit all the medical evidence that you can with the application.

Assemble and Review Your Medical Evidence

The most important evidence in determining disability is the records of your medical providers. This could be more than the records of your primary care physician and specialist. It may also include the records of your therapist, chiropractor, acupuncturist and other medical practitioner. “Non-medical establishment” providers won’t carry the weight of “regular” doctors, but they can support your claim by documenting your symptoms and your efforts to relieve them.

Disability determination focuses on your symptoms and how they prevent you from working so it is a good idea to make sure your physicians enter your symptoms into the record with each visit, even if it is repetitive.

To greatly speed up processing time, it is also recommended that you take copies of your medical records when you go to your initial interview with Social Security.

While the medical records of your providers are the primary source of evidence in reviewing your claim, there are other documents and records that can help your claim as well. These include:

1. Questionnaires – Once you apply for disability benefits, the Disability Analyst will send you questionnaires to get specific information. They may be about Pain, Fatigue, your daily activities, or other conditions or symptoms. These questionnaires are your opportunity to transform the medical data from your physicians into actual descriptions of the problems your condition cause you when working and in your daily routine. You should not skimp on these or rush through them quickly. Take

your time, add extra sheets of paper, well-labeled, and thoroughly describe in detail exactly how your symptoms affect your routine.

- 2. Letters from Physicians** – Ask each of your doctors to write a thorough summary of your condition. They should focus on relating the medical conditions and test results to the symptoms you are experiencing. To adequately do the job, each letter should be several pages long, not just a couple of paragraphs
- 3. Third Party Testimony** – These are letters from friends, family, or co-workers that describe their observations of your problems trying to function. These should be anecdotes and descriptions of what they have observed in your performance. One of the best is a copy of a “write-up” by your supervisor on your deteriorating performance from your personnel file. Not everyone will have one of these as many people work that much harder to make sure their performance doesn’t deteriorate. Letters from a spouse, house mate, and co-workers on how your activities and abilities have changed due to your condition are good also. A description through anecdotes of how your ability to function has deteriorated should be their goal. While these alone won’t get your claim approved, they do help provide a good picture of how your medical condition affects your activities.
- 4. Symptom Diary** – This can be an especially helpful tool when the symptoms are primarily subjective. Psychologically it is not fun to do, but it can help confirm the impact of the symptoms on your activities. A symptom diary is simply a daily log, in which you enter the symptoms you experienced during the day, their severity including how long they lasted, and their impact on your daily activities such as requiring you to rest, cancel planned appointments, etc.

This seems 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” by them. Making the effort with the initial application can avoid having to drag through a year or more of appeals and sharing your award with an attorney, which will save you time, money, and lots of stress.

Jacques Chambers, CLU, and his company, Chambers Benefits Consulting, have over 35 years of experience in health, life and disability insurance and Social Security disability benefits. For the past twelve years, he has been assisting people with their rights, problems, and other issues concerning benefits and disability. He can be reached at jacques@helpwithbenefits.com or through his website at: www.helpwithbenefits.com

Other Facstheets in this Series: HCV Benefits and Disability Issues

- *American with Disabilities Act*
- *Completing Social Security and Insurance Questionnaires*
- *Life Insurance 101: The Basics*

For more information about hepatitis C, hepatitis B and HCV coinfections, please visit www.hcvadvocate.org.

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