

Social Security Disability Insurance (SSDI) Benefits and the MS Patient

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People with MS are at risk for becoming disabled, and the consequences of disability may include loss of income and loss of medical benefits. Social Security Disability Insurance (SSDI) is designed to mitigate these consequences. However, SSDI benefits are sometimes difficult for people with MS to access, especially when disability is related largely to fatigue and cognitive dysfunction. Health care providers can make it easier for their MS patients to access disability benefits by carefully documenting work-related difficulties and by making appropriate expert referrals. Practical suggestions for helping patients with their SSDI application are provided.

Introduction. The Importance of SSDI for people with MS. MS is usually diagnosed in young adults, between the ages of 20 and 50, which are peak years of employment. Although there are treatments that may decrease the frequency of relapses and slow the progression of impairment, even with treatment, most people with MS will experience a variety of symptoms, some of which will be permanent, and some of which will interfere with their ability to work. The specific MS symptoms most likely to interfere with work include mobility problems,¹⁻³ fatigue,^{4,5} and cognitive problems⁵.

Based mostly on older studies, although over 90 percent of people with MS had a history of working prior to diagnosis,³ and 60 percent were working at the time of diagnosis, only 20 percent to 40 percent are working 5 years after diagnosis.¹ According to the Social Security Administration, MS is the third most common neurological cause of disability, behind only stroke and epilepsy.⁶

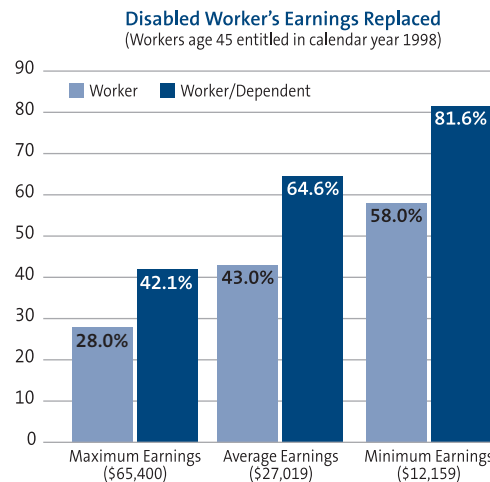
The consequences of unemployment related to disability are numerous, and include poverty, lack of health care benefits, loss of professional identity, social isolation, and increased focus on pain and

impairments.⁷ Among those with a sufficient work history, at least 2 of these problems, poverty and lack of medical insurance, are partially addressed by SSDI which is administered by the Social Security Administration (SSA).¹ As can be seen in the graph below, SSDI payments can replace a significant amount of income, up to 81 percent, especially when payments to dependents are considered.⁹

Importantly, SSDI benefits also entitle disabled workers to receive Medicare benefits. Those who have received Social Security disability benefits for 2 years will automatically be enrolled in Medicare. The



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2-year period starts in the month someone is entitled to receive disability benefits. Medicare coverage for SSDI beneficiaries is critical because many would not be able to obtain insurance in private markets because they are already disabled.

As of January 1, 2006, everyone receiving Medicare has access to prescription drug coverage. This is vitally important for people with MS because the FDA-approved injectable medications are expensive: the average wholesale price for these medications range from \$16,000 to \$23,000 per year.¹⁰ And for many people, therapy is indicated for a lifetime.

Determining Insured Status. Workers who pay social security taxes will be covered if they have a sufficient work history. Social security translates your work history into “credits.” To earn a credit a worker needs to have earned (and paid taxes on) a minimum amount of money. In 2006, earning \$970 will earn one credit and a worker can receive up to four credits per year. The precise number of credits needed to be insured by SSDI is determined in part by age. Most people who have worked most of their adult lives are insured by SSDI.

For those who do not have enough credits, SSI, another program administered by the SSA, may become important. This program is based on the amount of money someone has rather than their work history. SSA uses the same standard to determine disability for both SSI and SSDI.

The Legal Standard for Assessing Disability among People with MS. The SSA has described impairments that are considered severe enough to find someone disabled. These are sometimes referred to as the Listings. To simplify, the listing for MS

(11.09) states that people with MS who are otherwise covered will qualify for benefits if they have: 1) significant weakness; 2) visual problems; 3) severe cognitive problems; or 4) severe fatigue.¹¹ The specific language for the MS listing (11.09)⁶ can be found online at: www.ssa.gov/disability/professionals/bluebook/AdultListings.

For those who do not meet the Listing, the Department of Disability Services (DDS), which administers SSDI for Colorado, will determine an applicant’s Residual Functional Capacity. This is complex assessment of an applicant’s abilities in light of his or her medical condition, work history, education, age, and past work experience. This evaluation is usually performed by specially trained clinicians.

Likelihood of Success. Not everyone who applies for SSDI qualifies with their initial application. Of those who apply for disability benefits, only 37 percent nationally and 29 percent regionally (including CO, ND, SD, Utah, and MT) are successful on their initial application. At this writing, for those who apply with neurological problems in Colorado, the success rate is 39 percent. Although people with MS would be included in this group, no MS-specific success rates are available. Additional claims are allowed during the appeals process as can be seen in the graph above, which describes national data in the year 2004.¹²

Some people with MS will find the SSDI application process straight forward. This group of people will generally have good access to medical care, have well-documented impairments, such as being wheel chair bound, and have minimal cognitive deficits. In other situations, people with MS may experience significant difficulties obtaining the benefits to which they are entitled.

Potential Problems for People with MS Applying for SSDI. Two of the most common MS symptoms are fatigue, affecting 75 percent to 90 percent¹³, and cognitive difficulties, affecting between 45 percent to 65 percent.¹⁴ These symptoms are also well identified as impairments to employment for people with MS.

The typical neurological examination is not designed to assess fatigue and cognitive difficulties in detail. Thus, many people with MS who are unable to work because of cognitive difficulties and fatigue may have a normal or near-normal neurological examination reflected in their medical records. This is a problem because their medical records may not support their application with *objective* evidence of their most significant impairments. In addition, applying for SSDI is a complex process and people with MS who have fatigue and cognitive problems may find the process of applying overwhelming and may leave out critical information in their application.

Another difficult decision affecting applicants is deciding when to apply for benefits. MS is chronic disease, and for many, slowly progressive. Thus, there is rarely a single day when disability starts; rather it is usually a gradual process. At this writing, to successfully apply for disability benefits, an applicant must not be earning more than \$860 per month.¹⁵ As a practical matter, this means that an applicant must quit his or her job prior to applying for disability benefits. The decision about when to discontinue employment is understandably difficult, especially because the majority of claims are initially denied. Discontinuing employment and applying for SSDI benefits creates a real risk of financial hardship and loss of access to medical care.

Practical Suggestions. When people with MS will be applying for disability benefits due, at least in part, to cognitive problems and fatigue, referrals for additional evaluations should be considered. In particular, an occupational therapist, trained to perform functional capacity evaluations should be considered. This may be useful not only for assessing fatigue, but also for measuring global fitness for work. An occupational therapist's conclusions, if agreed with, should be incorporated into the patient's medical record because an occupational therapist opinion will not be as persuasive without the agreement of the neurologist.

For those who identify cognitive problems as interfering with work, referral to a neuropsychologist or speech therapist should be considered. The opinion of these professionals is persuasive with DDS independently of the neurologist's opinion. However, if a neuropsychologist concludes that a patient is unable to work, a neurologist's agreement with that conclusion would likely strengthen the patient's claim.

In many cases, it will not be necessary to refer your patients to attorneys who specialize in SSDI cases. However, depending on an individual's capacity for self-advocacy, legal representation may be useful after an initial claim is denied, prior to a hearing with an administrative law judge. It may be useful to refer people the Rocky Mountain MS Center Disability Program, which is briefly described below.

The Rocky Mountain MS Center Disability Assessment Program. Because of the unique challenges faced by people with MS who are applying for disability benefits, we have begun a counseling program for people with MS who would like to know more about SSDI. We provide one-on-one

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education regarding the SSDI application process. And, where necessary, we can help people with MS obtain additional evaluations to better document their work-related difficulties, sometimes at reduced cost, and, under some circumstances, for free.

These services are provided by Patricia Daily, LCSW and Thomas Stewart, JD, PA-C. Please call (303) 788-4030 for more information.

Address questions and comments to:

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