

# Independent Medical/Psychological Examinations



By David Wayne Smith, DEd, DABPS

I read the article on independent medical evaluations by Dr. Michael Baer in the Winter 2005 issue of *The Forensic Examiner* with great interest and recommend that all psychologists and physicians also read this article. The issue of how to avoid bias when judging medical and psychosocial information and how to be fair when conducting an assessment of an allegedly disabled person has always been imperative for my staff and me at the Disability Assessment Research Clinic, an arm of the Arizona Arthritis Center at the University of Arizona College of Medicine. Given the importance of that issue, we have, over the years, developed an assessment approach that we believe minimizes issues related to bias.

The staff is dedicated to the accumulation and review of objective medical, psychosocial, and vocational evidence to render an opinion as to whether a patient 1) can return to work given special job-placement services, 2) should be referred for state vocational rehabilitation services, or 3) meets the guidelines for Social Security Disability/Supplemental Security Income (SSDI/SSI) and should be assisted in applying for benefits. I believe our clinic's approach could be useful in creating an improved Social Security disability evaluation process.

## Determination of Disability of SSDI/SSI Applicants in Arizona

When a person applies for SSDI/SSI in Arizona, the Social Security Administration under contract with the Department of Economic Security's Disability Determination Services Administration (DDSA) assigns a caseworker to review the application and judge whether the applicant is disabled under terms of Social Security's rules and regulations. The DDSA unit then employs a staff of adjudicators who review the file and make certain there is available evidence to submit to in-house physicians and psychologists for review. If such evidence is not available, they request it from the physicians and other professionals listed in the application. It has been my clinic's experience, after review of hundreds of denials, that supporting professionals, including the primary care provider, fail to provide enough objective information for their patients or clients. After reviewing the file, the DDSA unit requests independent evaluations. It is at that point, I feel, that the current DDSA process can create the problems of bias discussed by Dr. Baer.

The DDSA unit will refer the patient to a physician, psychiatrist, and/or psychologist in the community who is paid to provide an independent opinion. I do not believe the independent consultant is provided with the evidence in the case. I do know they do not receive our clinic's information in those cases for which we have submitted evidence. This situation is certainly different than the one described in Dr. Baer's article in which he assumes all professionals who conduct independent evaluations have available the evidence that has been submitted on behalf of the client.

The issue then becomes how a busy physician or psychologist, armed with little or no evidence with the exception of the patient's information, can provide a reasonable, accurate, objective opinion of disability under terms of the Social Security guidelines.

I applaud Dr. Baer's recommendation that county medical societies (and I would add state psychological associations) ask members to conduct in-office examinations for agencies such as Social Security on a rotating basis rather than continuing the practice of applicants being evaluated by the same physicians and psychologists. I am certain that process would help minimize bias.

I am also certain that a comprehensive, integrated approach, such as the one used in our clinic, would also go a long way in producing accurate, objective data for making the difficult decisions related to disability determination.

## What Our Clinic Does

Our clinic, which is under contract with the Department of Economic Security's JOBS (DES/JOBS) program, evaluates disabled individuals who are on deferral from their jobs for medical reasons. Our work is to determine if the patient has the potential to return to work.

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The clinic's professional staff consists of two psychologists (one licensed), two board-certified physicians (one also being a pharmacologist), and two fellows training to become rheumatologists. The fellows are already board certified in internal medicine. The clinic has 230 years combined experience in the areas required to make the above decisions, including my 50 years as a disability examiner and 12 years as director of a comprehensive outpatient rehabilitation assessment center.

## How Our Clinic Works

The clinic evaluates approximately 500 patients per year, determining that about 50% should meet the guidelines for SSDI/SSI disability. Patients undergo a medical examination and a comprehensive psychosocial assessment that includes the use of numerous standardized assessment instruments and measurements of academic achievement. The results are integrated into a final report agreed on by the staff involved, a process that increases the report's objectivity.

Each patient receives a clinical interview designed to review personal history, medical reports and issues, psychological reports, and work history. This interview may take as long as an hour. The entire assessment can take as long as 8 hours. If at any time during the assessment a staff member feels the available evidence is not sufficient to support an alleged disability claim, he or she will ask the clinic to send a letter to the treating physician requesting additional objective and supportive information. Also, if necessary, staff will recommend the patient see a specialist for further evaluation.

Our clinic makes numerous referrals to orthopedic and neurological surgeons as well as to psychiatrists, hoping to obtain additional information confirming evidence of disability. Additionally, staff members identify barriers to employment and recommend appropriate interventions to resolve those barriers so individuals can return to work. The primary goals of the clinic's evaluation team are to carefully examine the possibility of symptom dependency and/or malingering and to determine whether the individual fits into one of three categories listed above.

## The Advocacy Role of Our Clinic

Another very important part of the clinic's program and its commitment to non-biased assessment is the advocacy role it plays for patients when assessments are concluded.

The clinic, as part of its contract with DES, assists patients who have been denied SSI benefits with filing requests for reconsideration when there is a preponderance of the evidence, which includes our own findings as well as the findings we requested from the treating physician and specialists, that the individual cannot work. We check and recheck information and work with individuals to assist them in obtaining what we feel are just benefits.

For example, many patients referred to the clinic have arthritis, often with loss of function in the hands. To assist Social Security in its decision-making, we have initiated the practice of photographing the hands and including that evidence along with our findings when submitting our report to Social Security/DDSA.

## Additional Problems With the Current SSDI/SSI System

I would like to comment on several issues that I feel exacerbate the numerous problems the current Social Security system faces. When DDSA requests our information, they also ask whether we would be willing to conduct another examination for an \$80 fee. If the agency pays such a small amount for the independent examiner's time and the examiner is not privy to all available data, it is not difficult to believe that the results from such an evaluation could be less than accurate, as discussed above.

For cases that rise to the administrative-law-judge (ALJ) level for a hearing, attorneys appear to win a vast majority of their cases primarily because of the quality of their evidence. I have worked with Social Security attorneys for many years, and I know they go to great lengths to obtain all available objective evidence and that they follow the guidelines and regulations closely. Our records indicate that attorneys with whom we work and who use our information at the ALJ level win approximately 90% of their cases. If the adjudicators at the original application level and certainly at the reconsideration level would follow the lead of the attorneys, I am sure fewer cases would rise to the ALJ level for a hearing.

Another critical situation, in my opinion, is related to the ALJ calendar. If my information is correct, some ALJ calendars are faced with a 12- to 18-month backlog, primarily because of the extremely high denial rates at the initial and reconsideration level. The April 2005 *Social Security Forum* states that 63% of initial applications are denied.

## A Final Statement

I contend that in order to maximize fairness for the patient, it would be a much wiser use of taxpayers' money to have disabled persons' cases assessed and evaluated using the alternate approach discussed above rather than continue the system being used currently by the Social Security Administration. Even Commissioner of Social Security Jo Anne Barnhart recognizes that the current system needs to be changed dramatically, as shown by her new social security disability determination process.

It may well be time to formally research outcomes obtained between the current system and the alternate approach I propose, as well as formally researching Dr. Baer's proposal related to introducing a rotating system of independent evaluators.

I have endeavored in this article to open the door to further discussion of the issues related to the assessment of disability. I am especially interested in comments by others who perform services in the Social Security disability arena. Hopefully, this article will inspire others to address these issues.

## About the Author

David Wayne Smith, DEd, DABPS, is a professor of rehabilitation and the director of the Disability Assessment Research Clinic, an arm of the Arizona Arthritis Center at the University of Arizona College of Medicine. Dr. Smith is a Diplomate of the American Board of Psychological Specialties and has been an AC-FEI member since 1997.