

The
ARSENAL
BUILDING YOUR BEST CASE



DISABILITY
ACADEMY



WORK HISTORY

For work to be “past relevant work” it must have been done within the last 15 years, lasted long enough for you to learn to do it, and was substantial gainful activity.

Thus, for all work during 15 years prior to date of adjudication or prior to last date insured if that date is earlier, you may be asked about the following:

JOB BACKGROUND INFORMATION

- Name of employer
- Approximate dates of employment
- Name of position
- Job duties
- Full time or part time
- Did you do this job long enough to learn the job and develop “the facility needed for average performance”
- Earnings (relevant to SGA issue and in assessing skill level)
- Why did you leave this job?
- Before you left this job, did your impairment cause you to miss work, do a poor job, change job duties, change hours of work, etc.?

EXERTIONAL LEVEL

- Heaviest weight lifted/carried?
- How often did you lift/carry this much?
- What objects weighed this much?
- How far did you carry them?
- Average weight lifted/carried
- How often?
- What objects?
- How far?
- How much sitting and standing/walking in an eight-hour working day?
- Did the nature of this job allow you to sit, stand or walk as you chose?
- How much bending? Any crawling, climbing, balancing?
- How much manipulative ability was required?

ENVIRONMENTAL LIMITATIONS

- Describe work environment: temperature, wetness, humidity, noise, vibration, fumes, odors, dusts, gases, hazards (e.g. machinery, heights).

SKILL LEVEL

- How long did it take to learn to do this job?

- Describe machines, tools and equipment used.
- Describe any technical knowledge or skill used on this job.
- Describe any writing or completing reports.
- How much independent judgment was required?
- Describe any supervisory responsibilities: how many people? Did you complete work evaluations? Have any hiring/firing responsibilities?

STRESS LEVEL

- If stress tolerance is an issue, what was it about this job that you found stressful? e.g., speed, precision, complexity, deadlines, working within a schedule, making decisions, exercising independent judgment, working with other people, dealing with the public (strangers), dealing with supervisors, being criticized by supervisors, simply knowing that work is supervised, monotony of routine, getting to work regularly, remaining at work for a full day?

MEETING YOUR BURDEN OF PROOF

- Why can't you do this job now?
- Or, if no longer insured for Title II, why couldn't you do this job as of [the date last insured]?

EDUCATION AND TRAINING

- Did you complete high school? If not, what was the highest grade level you completed?
- Did you get a G.E.D.?
- If you are not fluent in English:
 - Where were you born?
 - What language did you grow up speaking?
 - Where were you educated?
 - When did you come to the United States?
 - What language is spoken at your home today?
 - Who reads the mail at your house?
 - Are you able to read in another language?
- In mental retardation and similar cases:
 - Did you attend regular classes or special education classes?
 - How well did you do in school?
 - If an 8th grade reading level is average, would you say that you're at least an average reader?
- If you are less than an average reader:
 - Can you read and understand a newspaper?
 - Can you "read or write a simple message such as instructions or inventory lists"?

- If you are illiterate:
 - Who does your reading for you?
 - How have you handled job applications?
 - How did you get a driver's license?
 - How have you managed to deal with SSA forms?
 - Can you multiply and divide/add and subtract/make change?
- Describe any vocational training; was it completed? When?
- Describe any on-the-job training. When?
- Describe any training in the military. When?

MEDICAL HISTORY

Medical history is established by the medical records. Most Administrative Law Judges (ALJs) have read the medical records and taken notes on them for use at the hearing. Thus, detailed testimony about medical history is not necessary in most cases.

Because of the requirement that you be disabled for 12 months, it is the plateaus, not the valleys or peaks, that are most important in a Social Security disability case.

Your medical history can establish a time frame for your testimony about the plateaus.

The degree to which the judge or your attorney will ask about your medical history depends on the nature of your case. Cases in which more development of medical history is necessary include those involving virtually every known treatment for pain, unusual impairments, unusual treatment or especially cryptic medical records where testimony from the claimant will educate the ALJ.

If medical history is required, your attorney may ask the following types of questions:

Q: You injured your back at work on January 15th, 20__, didn't you?

Q: And you never went back to work after that, did you?

Q: Your condition continued to get worse, you had numerous medical tests which found a ruptured disc, and you had surgery on May 15, 20__, didn't you?

Q: During the summer of 20__ you recovered from the immediate after effects of surgery, didn't you?

Q: And wouldn't you say that as of September 15th of 20__, the day your doctor told the worker's compensation insurance carrier that your condition had plateaued, your symptoms then were pretty much the same as they are now?

CURRENT TREATMENT

While, as a rule, testimony about past medical treatment should be kept to a minimum, you may be asked a lot of questions about current, on-going treatment, and any lack of ongoing treatment should be fully explained.

You may be asked the following:

- Names of those medical providers treating you now.
- Their specialties.
- Length of relationship.
- Frequency of treatment.
- Which condition does this doctor, therapist, etc. treat?
- What treatment does he/she provide?
- How much has this treatment helped?
- What medication do you take now? How much do you take each time you take it? How often do you take it? Are there any side-effects? How much does it help and for how long?
- If no regular treatment/medication, why not?

SYMPTOMS

If the main issue in your disability hearing is the extent of your physical impairment, then your description of your symptoms is the most important part of your testimony. If you can give a credible, vivid description of your symptoms, then you will have taken a giant step toward winning your case.

The following types of questions cover different aspects of physical symptoms of disability.

PAIN

- What is nature of your pain?
- What is the location of your pain?
- What happened to cause you to have this pain?
- How long have you had the pain?
- Has there been any significant period since it started that the pain was in remission?
- If so, what caused the period of remission (e.g., medication, surgery, physical therapy), and how long did the remission last?
- What does the pain feel like?
- Is it tender to touch?
- Does it limit the amount you can bend the affected joint? How much?
- Is the quality of the pain always the same or is it sometimes different? If so, how and when is it different?
- Is this pain constant or does it come and go?
- If it comes and goes:

- How often does it come?
- How long does it last?
- How many hours per day/days per month do you have this pain?
- What sorts of things bring on this pain?
- What relieves it?
- Do you have muscle spasms?
- How severe is your pain? If we use a ten-point scale with ten being the most severe pain you've ever had, how would you rank the pain?
- Is it always of the same intensity? If not, how often is it at each level of intensity?
- What increases the intensity of your pain? Is it affected by movement, activity, staying in one position, environmental conditions or stress?
- Does the pain ever radiate, such as going down one of your legs? If so:
 - Which leg?
 - What route does it travel? Be specific.
 - What does it feel like when it goes down your leg?
 - How often does this happen?
- Is there any numbness or pins-and-needles feeling associated with this pain?
- Are there any other symptoms associated with this pain, such as redness, swelling, heat, stiffness, crepitus (crackling noise heard when joint moves), muscle weakness, muscle atrophy, fatigue, appetite loss, weight loss?

TREATMENT FOR PAIN

- How often do you see your doctor?
- What does your doctor do for you?
- How is the pain affected by medication?
- Do you have side effects from pain medication such as drowsiness, dizziness, lack of concentration, slow reflexes, nausea?
- What treatment other than medication have you tried, such as transcutaneous nerve stimulator (TENS unit), physical therapy, massage, "back school" (training in back exercises and mechanics), bio-feedback, hypnosis, psychological therapy, chiropractic manipulation, acupuncture, Hubbard tank, traction, exercises, injections, pain clinic? How much have these things helped?
- What home remedies have you tried, such as hot baths, heating pads, ointments? How much have these things helped?
- Is the pain helped by limiting your activities, lying down, shifting positions frequently, sitting in a special chair, etc.?

RESULTING RESTRICTIONS FROM PAIN

- How has this pain affected your life?
- Do you use any assistive devices? (For example, cane, brace, cervical collar, special door handles, gripping devices, bathtub or shower bars, special chair.)
- Are your daily activities affected (including relationships with others, sleep, hobbies, etc.)?

- Are you irritable, depressed, worried, anxious, have difficulty concentrating, or remembering?
- How has the pain affected your capacity for work? See mental and physical residual functional capacity.

SHORTNESS OF BREATH

- What brings on shortness of breath?
 - Cardiac chest pain?
 - Lung congestion?
 - Asthma?
 - Weather changes?
 - Allergies?
 - Speaking?
 - Exertion?
 - Lying down?
 - Hyperventilation?
 - Stress?
 - Panic attacks?
- Describe how it feels when you are short of breath.
- How many pillows do you use when you sleep?
- How many stairs can you climb before you become short of breath and have to stop?
- How fast do you walk?
- How far can you walk before you become short of breath and have to stop?
- Are you bothered by dust, fumes, gases? If so, to what degree do you need to be in a clean environment?
- How often do you wheeze?
- How often do you have lung infections?
- How often do you have acute episodes of breathing problems?
 - What brings on these acute episodes?
 - How long does each episode last?
 - What are your symptoms during acute episodes?
- How often would you miss work because of your breathing problems?
- If you were at work, would you need to take unscheduled breaks? If so, do you expect that this would occur daily, weekly, several times per month? Would you need to sit down or recline?

FATIGUE

- When did you begin feeling fatigued?
- Did fatigue come on gradually or all at once?
- Describe your fatigue.
- Is it the same as being weak? physically tired? lacking energy?
- Is it the same as being drowsy or sleepy?

- When you are fatigued, how would you describe your level of motivation to do anything?
- Is your fatigue associated with a lack of patience?
- What things make your fatigue worse?
 - Physical activity?
 - Stress?
 - Heat?
 - Depression?
- Give specific examples of things that worsen your fatigue.
 - How much physical activity will bring on fatigue?
 - Give examples of stressful things that you think made your fatigue worse in the past.
 - How much heat brings on the fatigue?
 - Will a hot bath make you fatigued?
- Is fatigue affected by the time of day? What time of day is worse? What time of day is better?
- What things make your fatigue better?
 - Rest?
 - Sleep?
 - Positive experiences?
- How well do you sleep?
- How long do you need to rest for your fatigue to get better so that you can get up and do something?

YOUR ESTIMATE OF YOUR WORK LIMITATIONS

You may be asked to give an estimate of how much your ability to work is limited by your symptoms. Here, the judge is interested in the extent of your symptoms and exactly how each physical or mental symptom you experience would limit or prevent you from completing work-related tasks. Common issues inquired about where a claimant's disability is based on a physical condition include:

- How much you can lift
- How long you can sit
- How long you can stand
- Comparison of a "good day" versus a "bad day," with regard to the effects of your symptoms

It's common for individuals to develop mental conditions as a result of the stress or on-going pain caused by a long-term physical condition. It is important to describe any emotional problems you have, because it is often the emotional aspect of pain that interferes the most with one's ability to work. Common problems include:

- Difficulty concentrating
- Forgetfulness
- Nervousness
- A quick temper
- Difficulty getting along with others
- Avoiding other people
- Crying spells
- Depression

Due to the complexity of claims based entirely on mental conditions, it's difficult to make general statements about preparing to testify. If your claim involves mental limitations, you should discuss those limitations in depth with your attorney before your hearing. However, limitations described in such claims often relate to an increase in stress caused by a work environment. Many claimants have trouble putting their fingers on exactly what it is about work that they find stressful. The following list includes some of the most common examples given for aspects of work that trigger stress:

- Meeting deadlines
- Completing job tasks
- Working with others
- Dealing with the public
- Working quickly
- Trying to work with precision
- Doing complex tasks
- Making decisions
- Working within a schedule
- Dealing with or being criticized by supervisors
- Simply knowing that work is supervised
- The monotony of a routine
- Getting to work regularly
- Remaining at work for a full day
- Fear of failure

YOUR DAILY ACTIVITIES

You may be asked to describe what you do in a typical day. This is your opportunity to explain your condition in great detail. Explain what your medical problems are and how they impact your daily life. Go through a 24-hour period from the time you wake up to the time you wake up the next day. Questions you may want to answer when describing your daily life include:

- Do you take care of anyone else such as a spouse, children, grandchildren?
- Do you take care of pets? If so, does anyone help you?

- What were you able to do before your illnesses, injuries, or conditions that you can't do now?
- Do your illnesses, injuries, or conditions affect your sleep?
- Explain how your illnesses, injuries, or conditions affect your ability to:
 - Dress
 - Bathe
 - Care for hair
 - Shave
 - Feed self
 - Use the toilet
- Do you need special reminders to take care of personal needs and grooming?
- Do you need help or reminders taking medicine?
- Do you prepare your own meals?
 - How often?
 - How long does it take?
 - Any changes in cooking habits since the illness, injuries, or conditions began?
 - If you do not prepare food or meals, explain why you cannot or do not.
- What household chores are you able to do?
 - How much time does it take, and how often do you do these things?
 - Do you need help or encouragement doing these things?
 - If you don't do household chores, explain why not.
- How often do you go outside?
 - When going out, how do you travel?
 - Can you go out alone?
 - Do you drive?
- Do you do any shopping?
 - How do you shop?
 - How long does it take?
 - How often do you shop?
- What are your hobbies and interests?
 - How often and how well do you do these things?
 - Describe any changes in activities since the illnesses, injuries, or conditions began
- Do you spend time with others?
 - What kinds of things do you do with others?
 - Where do you go on a regular basis? (For example, church, community center, sports events, social groups, etc.)
 - Do you need to be reminded to go places?
 - How often do you go and how much do you take part?
 - Do you need someone to accompany you?
 - Do you have problems getting along with family, friends, neighbors, or others?
 - Describe any changes in social activities since the illnesses, injuries, or conditions began

Migraine Diaries

This is a general guide about the ways you can record your migraine attacks.
To learn more about migraine and its management visit www.migrainetrust.org

Recording details of your migraine attacks can be useful in:

- helping the doctor make a firm diagnosis
- helping you recognise triggers and warning signs
- assessing if your acute or preventative medication is working

The records may include information on:

- when the head pains started
- how often they happen
- if there are other symptoms (such as being sick or having vision problems)
- how long the attacks last
- where the pain is
- whether the pain is throbbing, piercing

It is helpful to record as many aspects of daily life as possible, such as:

- what and when you eat
- your medication
- vitamins or health products you take
- any exercise you take
- how much sleep you have
- other factors such as the weather.

Women should record details of their menstrual cycle. It is often useful noting if you did anything different prior to the attack. The 6-8 hours before the migraine attack are particularly important to record.

Monthly Diary

By keeping this diary over a period of 2 or 3 months you may see a pattern to your migraines and headaches. The effect of different aspects of your lifestyle on your migraine may also become clear, and you may identify new triggers. **(Attached)**

Migraine Attack Record

This is useful if you want to keep more detailed information about each attack you have. You can use this in conjunction with the monthly record to give more detailed information about each migraine attack. **(Attached)**

Record of Drugs

With any drug treatment you should keep a record of the drugs you are taking. This will give you an idea about the type of drug that work best for you. **(Attached)**

Migraine attack record

Date:

Wake/ Sleep	Food and drink	Activities or events (e.g. weather, work, social, bowel movement, menstrual cycle)	Medication (What + dose)	Headaches and other symptoms
6.00				
7.00				
8.00				
9.00				
10.00				
11.00				
12.00				
13.00				
14.00				
15.00				
16.00				
17.00				
18.00				
19.00				
20.00				
21.00				
22.00				
23.00				

You can print off more copies from our website: www.migrainetrust.org

Migraine Diary

Date	Day	Time	Severity	Sickness Vomit	Medication Name Dose	Time Taken	Side Effects	Notes: re activities/ events e.g. weather, work, Social, bowel movement, menstrual cycle
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
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28								
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30								
31								

RECORD OF DRUGS TAKEN FOR MIGRAINE

(include prescription and non-prescription medications)

Generic name of drug					
Name of the basic active ingredient(s) and not the trade name of the drug (e.g. Anadin[®] active ingredients are aspirin and caffeine)	Daily Dosage	Date Started	Date Finished	Side Effects	Comments

JANUARY 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FEBRUARY 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

MARCH 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JUNE 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

AUGUST 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	29
31						

SEPTEMBER 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

OCTOBER 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

DECEMBER 2020



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			