

Mellen Center Approaches: What Clinicians Need to Know about Long-Term Disability for Their Patients

What work-related considerations are important to persons with multiple sclerosis?

Receiving the diagnosis of MS certainly is not a reason to stop working, nor is there any immediate reason to advise one's employer about the diagnosis. There are many financial, health insurance and social reasons to maintain work as long as possible and most MS patients are able to work for many years after their diagnosis. When individuals develop specific symptoms that interfere with their ability to perform some aspect of their regular duties, it is important to discuss that with their MS-care team to determine what accommodations may allow them to continue working. In addition many symptoms are readily manageable with medication and rehabilitative interventions.

To reiterate, the diagnosis of multiple sclerosis does not equal disability. Many patients with multiple sclerosis continue to work gainfully and function well. Disability occurs when the patient is no longer able to work, rather than occurring at any specific time or level of disease.

What possible options are there for modifying a person's work setting?

In cases where a combination of symptoms or a particular symptom are difficult to treat and work becomes difficult, it is suggested that persons with MS advise their employer of the MS or the specific symptom (depending on their comfort level with their employer), review the job successes they have had, describe the problem they are having and suggest some sort of job modification. As long as individuals are able to maintain the key elements of their job, such accommodation is required by the Americans with Disabilities Act. If the needed accommodations are expensive or require modifications to the work site, a referral to the state office of vocational rehabilitation should be considered. These state agencies are

charged to help individuals with disabilities to maintain or be retrained for continuing work.

What resources are available if a person is unable to work intermittently or for a brief period of time?

If a person is experiencing new symptoms or recovering from an exacerbation they may need to be away from work for a period of days or weeks. Individuals who work for employers who have 50 or more employees can apply for a Family Medical Leave Act approval through their employer. The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 workweeks of unpaid leave a year, and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave. Employees are also entitled to return to their same or an equivalent job at the end of their FMLA leave. This is an important benefit for individuals who are recovering from an exacerbation or need to take time away from work for medical and rehabilitative appointments. Individuals who are not eligible for FMLA should discuss options for brief or intermittent absences with their employer.

Persons with MS who may require an extended absence of several months because of illness-related issues but anticipate returning to may have the employment-related benefit of short term disability that offers continued income. It is important that individuals with MS become familiar with the type of short-term disability they have through their employer.

When is it time to consider permanent disability from work?

Clinicians and patients should include an ongoing discussion about how MS is affecting the patient's work. Ideally, the initiation of the disability process should not be a surprise to either clinicians or patients. When persons with MS face the decision to apply for permanent disability it is important for

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their health care team to provide the support and documentation to guide them through this process.

Most individuals who have worked do count on Social Security Disability (SSDI) as their source of disability insurance, but there are a number of other types of disability insurance. Persons with MS should be encouraged to review their disability insurance options with their employers.

What other work-related issues should clinician raise with their patients?

While loss of income is the most important work-related concern patients often have, they should also be reminded that health insurance for themselves and their families is another crucial benefit that can be lost when they become disabled from work. Maintaining access to insurance is a complicated process that patients should consider well in advance of applying for disability. This is particularly important because Medicare, the health insurance that is provided with the SSDI benefit, is not available to patients until 24 months after they have been determined disabled. In addition, that that insurance is not extended to any family member. It is strongly recommended that patients be referred to a Social Worker who is either affiliated with the health care facility or who works for a MS advocacy organization to discuss these issues

What is the clinician's role in the disability process?

The MS clinician does not determine if a patient is disabled. This is adjudicated by the authority which will grant the disability status, not the clinician. The clinician's role consists of:

1. Supporting the patient in their present employment, and helping with accommodations which allow the patient to continue to work (for example, notes to the employer to recommend accommodations for distance to walk to an office, breaks, hours, air conditioning or heating, parking, ramps, etc.), including referral to vocational rehabilitation.
2. Discussing disability issues in a timely fashion with patients (e.g: when they are having trouble doing their work, if the patient or family brings this up, or if the clinician has reason to believe they will not be able to do their work).

3. Referring the patient to a Social Worker to review their individual situation and governmental and employment based programs that can provide income, other financial support and health insurance access..
4. Documenting the symptoms that the patient has which may interfere with work function.
5. Referring the patient for appropriate specific evaluation which may be helpful in the disability process:
 - a. Functional capacity evaluation with physical therapy
 - b. Ophthalmology evaluation for visual dysfunction
 - c. Neuropsychological evaluation for cognitive dysfunction
 - d. Psychiatric evaluation for depression or other psychiatric disorders
 - e. Pain evaluation for pain limiting function
6. Documenting disease information in the record that supports an ongoing diagnosis which may in time lead to disability.
7. Referring to social work for help in understanding and pursuing a disability determination.

What can patients do to facilitate completion of disability forms by their clinical team?

1. Document their different symptoms.
2. Concisely state how their symptoms affect their ability to work.
3. State what attempts at accommodation have been made.
4. State what would help the patient continue current employment.
5. Discuss their concerns with their care team and consider having a Functional Capacity Evaluation (FCE) performed to document their current level of function.
6. If a patient needs assistance filing an application, considering consulting with a Social Worker for assistance.

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What are the medical criteria for disability?

Medical, psychological and psychiatric disability criteria vary among the different insuring entities, which can include both public and privately held disability policies. However, the most common entity is the Social Security Administration (SSA) and this is the basis for most claims, so the SSA criteria are outlined in this section.

Based on the SSA publication, Disability Evaluation under Social Security 2003, disability is defined as “The inability to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months”.

There are 2 options for coverage under the SSA, including:

- o SSDI – most common, based on disability guidelines listed below.
- o SSI – payments made to children and low income disabled people who do not qualify for SSDI based on a lack of work credits and who are financially indigent.

SSDI provides benefits if you are unable to hold any job that would provide a consistent monthly income of \$1040 or more.

More specifically, SSA defines disability under the diagnosis of multiple sclerosis as including one or more of the following:

- A. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station 11.00.

Persistent disorganization of motor function in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment

of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands, or arms.

- B. Visual or mental impairment as described under the criteria listed
 - a. Impairment of Visual Acuity. Remaining vision in the better eye after best correction is 20/200 or less.
 - b. Contraction of Peripheral Visual Fields in the Better Eye.
 - A. To 10 degrees or less from the point of fixation; or
 - B. So the widest diameter subtends an angle no greater than 20 degrees; or
 - C. To 20 percent or less visual field efficiency.
 - c. Loss of Visual Efficiency. The visual efficiency of the better eye after best correction is 20 percent or less
- C. Significant, reproducible fatigue of motor function with substantial muscle weakness on repetitive activity, demonstrated on physical examination, resulting from neurological dysfunction in areas of the central nervous system known to be pathologically involved by the multiple sclerosis process.

RESOURCE

Disability Evaluation Under Social Security – January 2003, Social Security Administration Office Of Disability, SSA Pub. No. 64-039, ICN 468600, January 2003

Is depression ever a reason for disability?

Depression can have a significant and negative impact on functioning in patients with MS. Symptoms of depression can often overlap with common symptoms associated with MS and, therefore, can be difficult to differentiate. Treating depressive symptoms can lead to substantial improvement in functioning in patients with MS. The first step is to identify and differentiate depressive symptoms from other MS symptoms (i.e., fatigue, sleep disturbances, etc.). If depression is the apparent primary cause of disability, then evaluation

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by Psychiatry and Psychology will be crucial to supporting an application for disability for this reason. Please see the Mellen Center Approach for Treating Depression.

What should clinicians know about the non-medical aspects of SSDI eligibility?

SSDI is a federal disability insurance program and eligibility is based on an employee's contribution to the insurance program by paying federal income tax. For that reason, SSDI has non-medical, work history and federal tax contribution criteria that must be met for applicants to be eligible for SSDI based on the preceding 10 years of an applicant's work history. Each 3-month period worked allows a person to earn a "work credit", for a maximum possible total of 40 work credits in the last 10 years. Social security requires at least 20 earned work credits in the past 10 year period to be eligible to SSDI. In the year 2013, one must earn \$1,160 in covered earnings to get one Social Security or Medicare work credit per

quarter and \$4,640 to get the maximum four credits for the year.

What if a person's SSDI application is denied?

At any time along the application process, if a person receives a denial notice it is essential that they follow instructions on the back of that notice about how to appeal the denial. Failure to do so will result in restarting the application process.

Individuals applying for disability often ask if they need a lawyer. In the case of SSDI, a lawyer can have very limited influence on a disability determination until they have been denied twice. The next level of review is with an adjutant law judge and a lawyer can be helpful in preparing and representing a person at this review.

SOURCE:

<http://www.socialsecurity.gov/retire2/credits1.htm>; accessed 10/8/2013.