

WINNING SOCIAL SECURITY DISABILITY IN ALABAMA IN THREE WORDS... FREQUENCY, SEVERITY, AND DURATION

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In a Social Security Disability case in Alabama, almost any symptom or limitation can be disabling. However, in order to prove the symptom or limitation prevents you from working, you must ask how frequent, how severe, and how long the symptoms or limitations last.

Disability cases are won or lost based on the client's symptoms or limitations and not on the diagnosis. Under federal law, a disability claimant must be diagnosed with a physical or psychological disorder to be successful in getting Social Security Disability but having a diagnosis is only one stop to winning Social Security Disability. The documentation in your medical records and the opinions of your treating physicians will likely determine whether your disability case is won or lost. The documentation made by your treating physician in your medical records is very important and provides credibility to and an understanding of why your physician has concluded that you are unable to work at any job.

Once a diagnosis has been established, the question immediately shifts to why are you unable to work as a result of the symptoms and limitations of your diagnosis. In a disability hearing before a Social Security Judge, 5 % of the total time is spent on the diagnosis, and 95 % of the time is spent on determining the frequency, severity, and duration of the symptoms and limitations of the diagnosis and whether those factors prevent you from working at any job.

Disability claimants tend to only focus on their diagnosis. Claimants frequently have "tunnel vision" and seem to think they have been diagnosed with a disorder that automatically causes them to be disabled and entitled to disability benefits. People who suffer from chronic pain and fatigue disorders, such as fibromyalgia and chronic fatigue syndrome, make this mistake often. Do not forget that the diagnosis is only the first step of your disability case.

Listed below are tips on documenting the frequency, severity, and duration of your symptoms and limitations caused by your diagnosis:

- **What You Should be Documenting:** Document everything that prevents you from working. It is very important to document why your chronic pain or fatigue is different from what the average person experiences. Most people experience some degree of pain or fatigue from time to time, so you need to be able to distinguish your degree of pain and fatigue from the average so your doctors and the judge can get an idea of why your symptoms prevent you from working at any job. For example, if your pain is so frequent, severe, and lasts so long that you need to lie down several hours each day, then the Social Security Judge may understand that your pain is disabling and will prevent you from working at any job.
- **Obtain a Copy of Your Medical Records from Your Treating Physicians:** Obtaining a copy of your treating physician's medical records will give you an idea of whether your symptoms or limitations are being properly recorded. You may be surprised to find that your symptoms or limitations have not been recorded by your doctor. Also, your doctor's notes may be illegible. Illegible handwriting is a real problem. Judges who decide your disability case generally do not try too hard to decipher what the doctor's notes say. If this is an issue, make an appointment with your doctor and explain the importance of the documentation for your case. Hopefully your doctor will be willing to improve the way he documents your symptoms and limitations. This can be the difference in winning and losing your case.
- **Keep a Diary of Your Symptoms and Limitations Before Your Next Doctor's Visit:** Keep a short diary of your daily life before your next doctor's appointment. The diary entries should be short and simple. Document if you cannot get out of bed due to your chronic pain or fatigue. Document if you were only able to sleep for two hours the night before and then had to take naps the next day. Document migraine headaches that last three days even though you took your medication. By documenting your symptoms or limitations, you will be able to give your doctor a list of how these affect your daily life.

Following these steps will help you increase your odds of winning your disability case.