

American College of Occupational and Preventive Medicine 2011 Annual Meeting, Orlando, Florida, October 31, 2011

Impairment Medicine

DISABILITY 101

AOCOPM ORLANDO OCTOBER 31, 2011
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This lecture will not cover

- ◉ AMA Disability Guidelines
- ◉ Workers Compensation
- ◉ Social Security Disability Process

Goals

- ◉ Understand the terms: impairment, limitations, restrictions and disability.
- ◉ Appreciate the importance of making accurate and evidence-based determinations.
- ◉ Recognize the value of your opinion and how it is documented.

Disability Medicine

- ◉ History
- ◉ What is disability
- ◉ Definitions
- ◉ Process
- ◉ Potential Problems

History of Disability

- ◉ Roman and Indian writings documenting prosthesis use thousands of years ago.
- ◉ Otto von Bismarck, 1880's.
- ◉ 1956 Social Security Disability
- ◉ 1990 ADA

Terms

- ◉ Disability
- ◉ Impairment
- ◉ Limitations
- ◉ Restrictions
- ◉ Accommodations
- ◉ Job
- ◉ Occupation

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What is Disability?

- Definition of Disability - Depends on who is defining it (WHO, United Nations, ADA, Social Security, Private Insurance Companies, etc.)
- A physical or mental condition that limits a person's movements, senses, or activities. A disadvantage or handicap, esp. one imposed or recognized by the law.



Disability Insurance

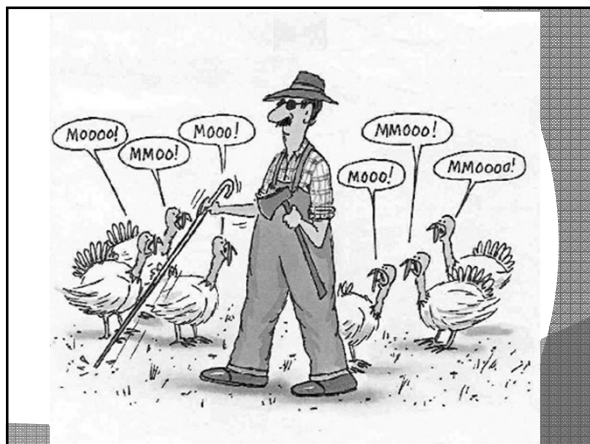
- Whether a person is considered to be "disabled" is a legal/adjudicatory decision, not medical

Impairment

- The loss, loss of use, or derangement of any body part, system or function.

Limitation

- Limitation - What a person would be physically or mentally incapable of doing (*even if that person wanted to*) because of an impairment
- Cannot do.



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Limitations

- A blind person wanting to be a bus driver
- Drywall installer with severe bilateral rotator cuff disease
- Juggler with hemiparesis
- Cannot perform complex cognitive tasks-Severe Depression

Restriction

- Restriction - What a person should not do (even if that person wanted to and/or was capable of doing) because of an impairment
- Should not do.

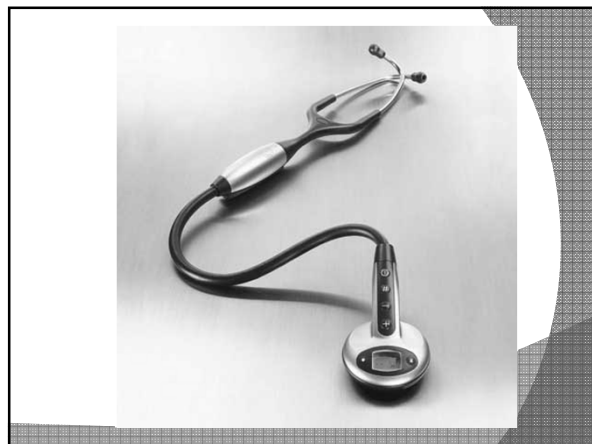


Restrictions

- Seizure history and driving – State regulations
- Status Post Lumbar Discectomy-Lifting restrictions
- Carpet Layer Status Post TKR
- Anesthesiologist with Opioid Dependence- Cannot work in settings that allow ready access to controlled substances

Accommodations

- Definition of reasonable accommodation: Any change in the work environment or in the way things are customarily done that enables a person with a disability (impairment) to enjoy equal employment opportunities.
- Examples
 - Speak to text
 - Wheelchair accessibility
 - Ergonomic modifications
 - Sit/stand workstation
 - Flexible work schedule



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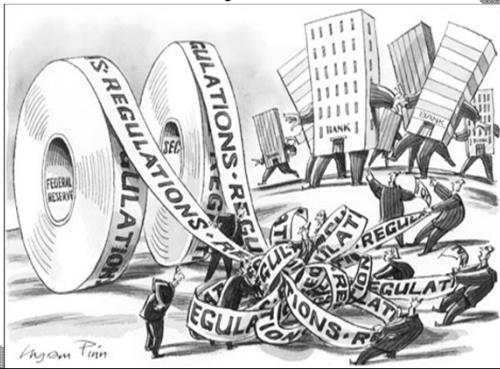
Occupation vs Job

- ⊙ Occupation-Contractually defined.
- ⊙ Job-As performed for a particular employer at the employer's workplace.

Physical Demand Levels

- ⊙ Sedentary-Desk Job (10 lbs)
 - Occ stand/walk, freq sit
- ⊙ Light-Sales Clerk (20 lbs)
 - Freq stand/walk
- ⊙ Medium-Beer Delivery Driver (50 lbs)
 - Freq stand/walk
- ⊙ Heavy-Fireman (100 lbs)
 - Freq stand/walk
- ⊙ Very Heavy-Construction Cleanup (>100 pounds)
 - Freq stand/walk

Disability Process



Disability Process

- ⊙ Multi-layered and heavily regulated.
- ⊙ Long term vs Short term
- ⊙ ERISA claims, group disability
Employee Retirement Income Security Act includes COBRA and HIPAA

Process

- ⊙ Insurers want to make accurate claim determinations promptly and efficiently

ATTENDING PHYSICIAN STATEMENT (Continued)

Complete this form for each patient and return to the insurer.

Insurance Company: _____ Date of Report: _____

Insurance Policy Number: _____

Do you have a medical record for this patient? Yes No

If you have a medical record, indicate your most recent date of service: 12/31/10 11/30/10 10/31/10 09/30/10 08/31/10 07/31/10 06/30/10 05/31/10 04/30/10 03/31/10 02/28/10 01/31/10

If you have a medical record, indicate your most recent date of service: 12/31/10 11/30/10 10/31/10 09/30/10 08/31/10 07/31/10 06/30/10 05/31/10 04/30/10 03/31/10 02/28/10 01/31/10

When did you report impairment to your employer? _____

Current limitations prohibit the patient from work: Yes No

When did you report impairment to your insurer? _____

Current limitations prohibit the patient from work: Yes No

When did you report impairment to your insurer? _____

Current limitations prohibit the patient from work: Yes No

Signature of Attending Physician: _____

Medical Specialty: _____ Degree: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: _____ Fax Number: _____ Physician's Tax ID Number: _____

Are you related to the patient? Yes No

Are you paid to do this? Yes No

Signature of Physician: _____ Date: _____

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Process-LTD Example

- ⊙ Claims specialist
- ⊙ Nurse
- ⊙ Physician

Physician/Clinical Reviewer

- ⊙ Medical records
- ⊙ Pharmacy records
- ⊙ Accident Reports
- ⊙ Telephone Calls
- ⊙ Field Visits
- ⊙ Surveillance
- ⊙ Vocational
 - Master Degree in Rehabilitation Counseling-CRCC(national certification)

Process

- ⊙ Second level physician review may be available in some companies
- ⊙ Appeal process
 - Additional physician review possible
- ⊙ Post-Appeal options
 - Judicial, Regulatory

Contractual

- ⊙ Psychiatric
- ⊙ Change in definition
- ⊙ Pre-existing conditions

Return To Work What to consider

- ⊙ Consistency of reports-does it make sense
- ⊙ What do your patients do when not working-activities

Return To Work

- ⊙ "Acknowledgement that, for health professionals, patient advocacy includes, but is not limited to, awareness of the health benefits of work."
- ⊙ "The results of worklessness are plain to see: loss of self esteem, standing and identity within the community besides, of course, a halt to material progress, social participation and fulfillment."
 - Australasian Faculty of Occupational & Environmental Medicine Position Statement, January 2011

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Return to Work

- ◎ "The AMA encourages physicians everywhere to advise patients to return to work at the earliest date compatible with health and safety and recognizes that physicians can, through their care, facilitate patients' return to work".
 - AMA Physician Guidelines for Return to Work after Injury or Illness April 2002
- ◎ "Employment provides a sense of identity, purpose, social contacts and an opportunity for personal growth"
 - Federal, Provincial and Territorial Advisory Committee on Population Health September 1999.

Return To Work

- ◎ "Compared to those employed, men and women who are unemployed suffer more often and longer from both physical and emotional complaints and make more use of the health care system."
 - Kroll, L.E; Lampert, T. Unemployment, Social Support and Health Problems: Results of the GEDA Study in Germany. 2009 Dtsch Arztebl Int 2011;108(4):47/52
- ◎ "Work is generally beneficial to people's physical and mental health and well-being."
 - Waddell G., Burton, A.K. (2006). *Is work good for your health and well being?* London, The Stationery Office

Return to Work

- ◎ "Clinicians should understand that illness and impairment can coexist with adequate occupational performance."
- ◎ "Both the individual and the employer bear the burden of the illness, and the inability to work signals a crisis for both."

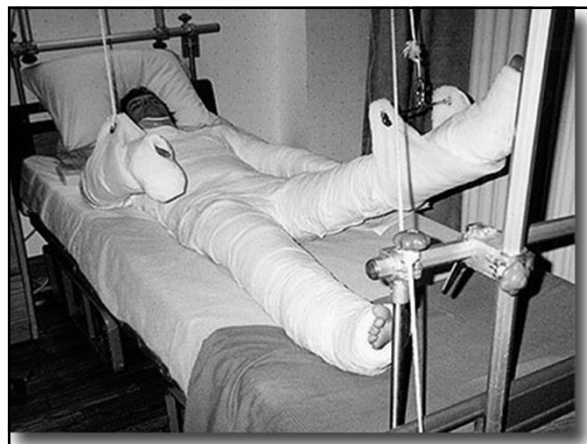
• American Psychiatric Foundation. Taskforce on disability and return to work.

Potential Problems

- ◎ Documentation
- ◎ Vocational
- ◎ Contractual
- ◎ Contradiction
- ◎ Observed/Reported

Potential Problems Documentation

- ◎ "Disabled"
- ◎ "Full disability"
- ◎ "Fully disabled"
- ◎ "Totally disabled"
- ◎ "Permanently disabled"
- ◎ "Unable to work"
- ◎ "No work capacity"



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Potential Problems Documentation

- ⊙ "The records are clearly outdated and not suitable to evaluate a person for disability purposes. However when I did treat Mr. *****, I found him to be a severely depressed man with an exceptional record in his practice of law and to have extended history on ongoing display of being characterologically beyond reproach. This is not to mention the fact he was an Olympic base ball player..."
- ⊙ Summarily, if Mr. **** claims an inability to continue to work then I would not waste any time documenting the record as the record and truth in the matter will be exactly according to his word."

Potential Problems Documentation

"Should the patient return to work, she would require accommodations including breaks of 15 minutes every 2 hours and the ability to step outside, place her head in a cold contained area, such a freezer or a Styrofoam box with ice should she have shortness of breath. She should, of course, carry her inhalant with her."

Potential Problems Documentation

- ⊙ "Susan indicated that her FMLA forms that I had filled out had been rejected. Part of this was because of approximate rather than exact dates. Part of this was because I sarcastically declined to give them exact predictions of the future by saying my crystal ball was broken. They found this amusing but rejected the papers. I told Susan that I would simply make up some dates that may have no ties to reality, just to get the form acceptable."

Potential Problems Documentation

- ⊙ Written
 - "Oh please!"
 - "Really?"
 - "Because I say so."
- ⊙ Verbal
 - "You are heartless"
 - "Why don't you try examining a patient again"
 - "Is this what you went to school for?"

Potential Problems Documentation

- ⊙ "No work due to severe anxiety disorder. I feel she is permanently disabled"
- ⊙ Records review.
 - No psychiatric medications
 - No references to psychiatric issues in ROS
 - No referrals to behavioral health
 - No psychiatric conditions listed under impression/problem list.

Potential Problems Documentation

- ⊙ 3/25/11
 - 56 year old female, 5'1" 239 lbs
 - Status post bilateral TKR, having less discomfort.
 - ...varus and valgus instability both knees left> right
 - Follow up three months.
- ⊙ 5/3/11
 - Released to full-time medium occupation.

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Potential Problems Vocational

- © "The patient can return to his/her job if s/he has a new supervisor/company to work for."

Potential Problems Vocational

- © "Her job involves being on her feet all day in a painting and decorating store where she is handling cases of paint..I do not think she is able to do this and have disabled her from her job."

Potential Problems Vocational

- © "She could sit at a desk and review charts, but this is not what she is trained to do."

Potential Problems Contradiction

- © "What do I have to say to get my patient disability?"

Potential Problems Contradiction

- © "If it were me I would be working"

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Potential Problems Contradiction?

- ⊙ "Can't work due to narcotics"
 - Do they drive to your office?
 - Do you think they would accommodate over time?
 - Aren't narcotics expected to help individuals with pain become more functional?
 - Applicable to truck drivers and pilots.

Potential Problems Contractual

- ⊙ "They have no job to go back to."

Potential Problems Contractual

- ⊙ "I know she is not eligible for her depression, but she must have some physical condition that is covered"

Potential Problems Observed/Reported

- ⊙ "If my patient tells me she gets dizzy when she works, then it is my opinion that she gets dizzy when she works"

Potential Problems Observed/Reported

- ⊙ "The patient tells me that he/she is unable to ..."

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Questions?



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