

## Sequential Analysis



In this lesson, we introduce you to the concept of Case Processing and Sequential Analysis (SA). We will show you how this procedure is used in the evaluation of a Social Security disability case.

What is SSA's definition of a total disability?

SSA defines a total disability as a severe medically determinable impairment that has lasted or is expected to last for twelve continuous months or will result in imminent death. The impairment must also prevent all work activity.

What is Sequential Analysis (SA)?

SA is a series of steps that are used by SSA staff and disability advocates to determine if a claimant's impairment meets Social Security's definition of a total disability.

How does SA Work?

Sequential Analysis is a series of steps that describe a total disability as defined by SSA regulations. It is as if you took SSA's definition of a total disability and placed it into a series of steps. You follow these steps to determine if the claimant meets SSA's criteria for a total disability.

### Sequential Analysis Background

The following describes a typical case during the initial application process. A disability application usually begins at the Social Security District Office (DO) or online. The DO is responsible for determining the applicant's non-medical eligibility to apply for benefits. The DO staff may also determine if a case should be expedited. The DO will also request copies of the client's medical evidence before forwarding the case to the DDS.

Once the DO determines that the applicant is eligible to apply, the case is transferred to a State or Federal Disability Determination Section. Complete transfer of a case from the DO to a DDS usually takes about two\_weeks. When a case first arrives at the DDS, it is assigned to a Claims Examiner. The Examiner begins the case development process by requesting any medical and vocational records that have not been requested by the DO. The medical records are used to determine impairment severity.

The Examiner reviews the claimant's medical documentation applying a special internal process called Sequential Analysis (SA). SA is a step-by-step flow chart procedure that clearly defines the point in the evaluation process at which the denial or allowance decision is made. (View Sequential Analysis chart in course syllabus).

SA is a\_systematic approach to case evaluation that removes the emotional component from the review of a claimants medical documentation. Understanding the SA process is important to your future effectiveness as a Disability Advocate. In its most basic form, SA is a series of steps driven by a series of questions which are answered in the claimant's medical documentation.

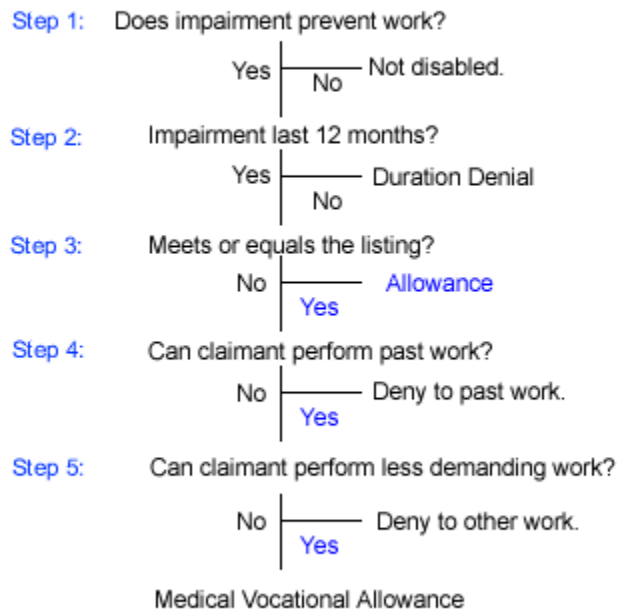
### Sequential Analysis: Adult and Child Cases are Different

We introduced you to the SA process for adults in Lesson Three. In adult cases, SA has six steps because of the vocational issues typical of adult situations. The last two steps ask the questions: Can the claimant do his/her past work? and If not, can he/she do other less demanding work?

In child cases, there are no vocational issues so there's no need for VA. Instead of vocational questions, SA in a child case asks the question: Can the child perform age-appropriate activities? This new question replaces Steps Five and Six of the adult analysis.

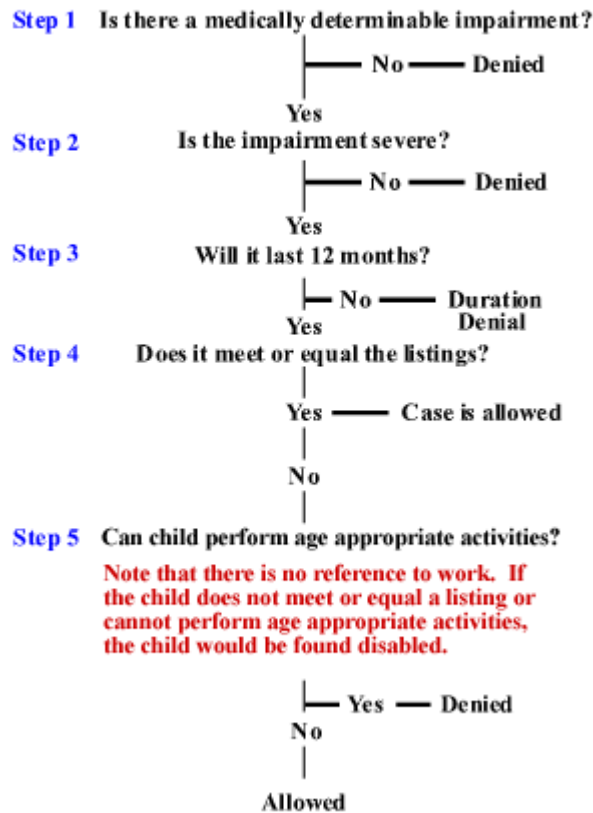
Below are two SA flow charts to guide you in evaluating disability cases. One chart is for adults and the other for child cases. The adult SA chart has five steps:

## Sequential Analysis



Below is the Child SA flowchart.

### Child Sequential Analysis Chart



#### SA Process A - Adult

Used in any disability case that has a vocational issue

Involves both medical and vocational data

Only adult cases have vocational issues. Most disability cases, including disabled widower cases, now involve vocational factors in the decision. The term Medical - Vocational means that the case is an adult case that will be decided based on the claimant's medically-evidenced ability to perform either his/her past work or other less demanding work.

#### SA Process B - Child

Used with cases that do not have vocational issues

Usually involves child cases, which have no work history and therefore no Vocational

## Analysis

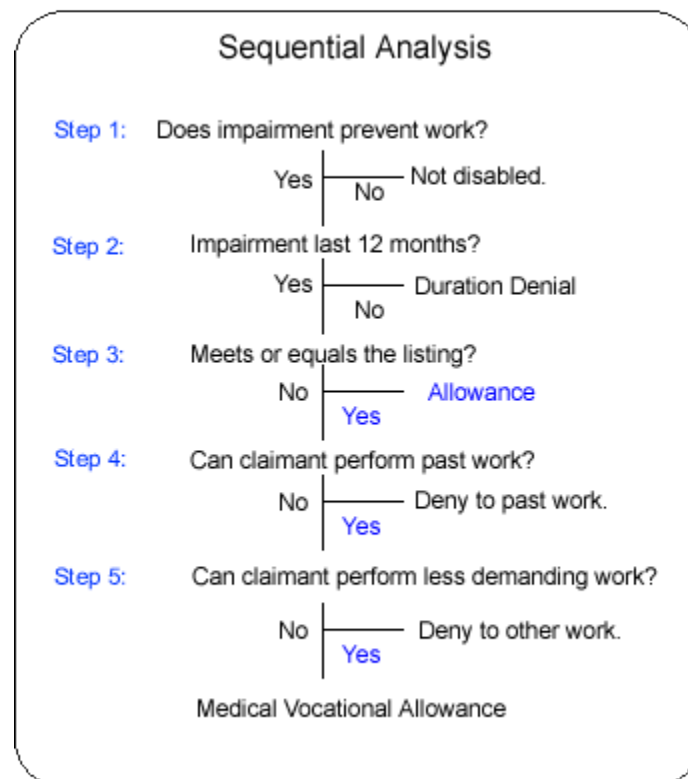
Decided based on the claimant's ability to perform normal age-related activities instead of work

Note: \_Even if an adult has never worked, SSA applies Vocational Analysis to his/her case.\_ SSA evaluates his/her perceived ability to do work and bases the decision on the adult version of SA.\_

### Sequential Analysis Process A: Adults

SA with vocational issues is also referred to as an adult case. The following is a review of Lesson Three in which we described the step-by-step process for an adult who has applied for Social Security Disability benefits. We have added new information to enhance your understanding of SA.

Sequential Analysis is used at every step within the disability process. In fact, **it is** the disability process. Each step within SA ask a question. Each question is designed to rule out a claimant's eligibility to receive benefit.



Step One/Question One: Does the claimant have a severe medically determinable impairment that is preventing work?

Note: The answers to the SA questions determine the reason for an allowance or denial of a disability claim.

Within **step one**, if the answer is **no**, the DDS Examiner will write a denial decision based on the reasoning - there is no significant impairment that reduces the claimant's ability to perform work. Or that the claimant is still working at **SGA** level.

If the answer to step one is **yes**, the Examiner will move on to step 2 in the SA process. A disability advocate follows the exact same SA steps as the DDS Examiner.

**Step Two/Question Two:** Will the impairment last for twelve continuous months? If the answer is **no**, the case is denied based on **duration**. SSA's definition of duration is that the impairment must last or be expected to last for twelve continuous months. A **yes** answer, moves case to

**Step 3.** Step Three/Question Three: Does the impairment meet or equal the medical listing? The medical listing is a book used by SSA to determine the degree of impairment severity. If a claimant's condition **meets** or **equals** this listing, the case will merit an immediate allowance. If the impairment does not meet or equal the listing, the DDS Examiner moves to Step Four of sequential analysis.

**Step Four/Question Four:** Can the claimant still do his/her past work? If the answer to this SA question is **yes**, then the case is denied. The claimant will be told that he is capable of returning to the duties of his past work as the reason for the denial. If the answer is **no**, the DDS Examiner moves to the final SA step.

**Step Five/Question Five:** Can the claimant perform other less demanding work? If the answer is **yes**, the case will be **denied**. The claimant is told that the reason for the denial is his remaining ability to adjust to other less demanding work.

If the answer is **no**, the case will be **allowed** based on the claimant's inability to perform even less demanding types of work. The majority of adult disability cases are allowed or denied based on SA Step Five.

Sequential Analysis step **four** and **five** are called vocational steps. They are both based on a claimant's remaining ability to do his past or other less demanding work. All decisions based on SA steps four or five are referred to as **\_medical vocational** decisions based on **medical vocational** factors. Medical vocational means that medical and work were factors in making the final decision.

## SA and Case Processing

In order to completely understand the sequential analysis process, you must see how and when this process is applied. Sequential analysis begins with case processing. As you progress through a typical case, the SA process will guide your actions and your case strategy.

### What is Case Processing?

Case processing is a general term used to describe the process of taking a case through the Social Security disability process, ultimately leading to an allowance or denial decision. Keep in mind that general case processing procedures can slightly change\_from one state to another.

Let's\_focus on SSA's case processing steps from the representative's standpoint. We refer to the process of accepting a case as the intake process.

Case processing essentially involves eight basic steps. You will use the SA process as you move through these steps:

1. Client Interview
2. Case Assessment
3. Case Acceptance/ Intake
4. Case Development
5. Case Evaluation and Argument Creation
6. Receipt of SSA Decision

Let's review these case processing steps:

### **Step One:** The Initial Interview

A thorough case review begins with the client interview. An interview can be performed by phone or in a client advocate face-to-face meeting. The initial interview is an important screening step that enables you to begin assessing the viability of the case.

The initial interview also enables you to begin the SA process. The first SA question is: Does the claimant have a severe impairment that prevents work? An answer to this question can be determined during this client interview. You may also be able to ascertain from a client interview whether the impairment will meet the duration requirement which is step 2 in Sequential Analysis.

In the interview, look for findings that would immediately disqualify or lead to a denial at a later time. We refer to these disqualifying elements as Case Disqualifiers. These disqualifiers can be both internal and external to a case. Here is a list of common SSA case disqualifiers:

- Claimant is still working at the time of application.
- Claimant is currently receiving other forms of compensation.
- Claimant already has a representative.
- Claimant has no permanent address.
- Claimant has applied through 2 or 3 appeal levels and is starting again.
- The claimant has never seen a doctor for his/her condition.
- The claimant was incarcerated his period of impairment.
- Claimant received impairment during the commission of a crime.
- The claimant is suspicious or evasive.
- Claimant has no personal identification.

If claimant has any of the above disqualifiers, think twice before accepting the case. If the claimant is suffering from a progressive disorder that may worsen later, take the claimant's contact data and send them a guidance packet. The guidance packet encourages the client to contact you if there is a worsening of symptoms. We call this follow-up approach to client management, the "Guidance" approach. You can create a Guidance Packet filled with materials encouraging a future contact.

### **Step Two: Case Assessment**

The purpose of a case assessment is to determine the chance of winning a case before you accept it for representation. Under Social Security's

contingency fee rules, you're only paid for cases that result in a benefit payment to the claimant. Therefore, the case assessment process is really a screening system designed to increase the number of cases you win. The more cases won, the higher your overall income!

A case assessment weighs certain client characteristics like age, education, type of impairment, etc., to determine the client's chances of winning benefits. It can take years to develop the skills needed to perform an effective manual case assessment with any accuracy. That's why we created the Olivia Prime auto-assessment tool. This tool, located inside of your Olivia software, is capable of performing very fast assessments. The Case Assessor can also predict the approximate % chance of winning any disability case.

The determination of case viability is never complete until the case is closed. New issues can come up at any time during the adjudicative process, changing your strategy or the outcome of the case. We have designed an automatic case assessment tool that will increase your chances of choosing good quality cases. Our method is far superior to the shot-in-the-dark approaches used by many attorneys and ex-SSA employees. Proper assessment is important to your business success.

### **Step Three: Case Acceptance**

Once you have ascertained that a case is viable, it's time to accept. Using the traditional (paper) method of application, accepting a case begins by sending the client an Information Packet. This packet contains your company information, an instruction sheet and the necessary Social Security forms, medical release form, fee contract, fee petition form, etc., for the client's signature. The most important form in the information packet is the Authority to Represent form, also known as SSA Form 1696.

Once the applicant signs and returns the forms, you will forward some of them to the applicant's local Social Security District Office. This notifies SSA that you will be acting as the claimant's authorized representative. These materials also authorize you to make material requests from SSA for items like medical records.

If you're using a fee contract - and you should! include a copy of your signed contract with Form 1696 at the outset of the case. If at a later date you need to interact with SSA on behalf of a client, this document (SSA Form 1696) verifies your authority to do so.

Note: We prefer the fee petition billing approach over the fee contract. In the

fee petition approach you list your work at the end of the case, making it harder for SSA to deny the total amount of your fee. We'll address the payment issue in greater detail later in the course. Once you've established yourself as the claimant's authorized representative, you're ready to begin developing your case.

#### **Step Four:\_ Case Development**

Case development is a two-phase process in which you gather all relevant medical and vocational information (Phase One) in order to develop a strategy and construct an argument (Phase Two). How much case development you need depends upon the case level and complexity. In either case, you need to acquire as much medical evidence as possible to formulate a supportable case strategy.

Note:\_ You are developing a case to acquire the medical and vocational documentation needed to determine the answers to steps 3, 4 and 5 of the Sequential Analysis process.

If you enter a case on the Reconsideration (1st Appeal) or Administrative Law Judge level (2nd Appeal), the claimant has already applied and been denied. SSA will provide you with the reason for the denial. SSA will already have copies of the claimant's evidence from the prior decision. You can request medical and vocational evidence directly from SSA. But, be willing to request any evidence out there that supports your case.

Because there are so many potential information sources, we recommend that you always start with the claimant. Get the claimant to supply you with a list of medical sources. If the claimant has copies of his medical evidence, get a copy from him rather than SSA. Otherwise, you request copies of the evidence directly from SSA or you make a direct request from the medical source. Case development is not over until you've gotten enough evidence to support your argument for a total disability.

#### **Step Five:\_ Case Evaluation:**

Now you have received the client's evidence. You're ready to begin the case evaluation process. This process involves a careful review of the client's medical evidence received. This review will enable you to extract supportive evidence (key-point extraction) and use it to formulate a case strategy.

As the client's representative, you have both the right and responsibility to disagree with SSA's opinion that the claimant is not disabled. However, just disagreeing with SSA isn't enough to change their mind. You demonstrate your disagreement with SSA in the form of a case strategy. Your case strategy is presented to SSA as a formal argument.

In most SSA cases, your main strategy is to point out medically supportable **signs** and **symptoms** that support **limitations** that appear to further reduce the client's RFC or ability to work. You present your findings to SSA for consideration in the formal argument as part of the usual representational process.

Example: SSA states that your client, a construction worker, is suffering from heart disease and a back condition. SSA feels that despite his impairment, he can still perform less demanding work at a sedentary level.

You counter this argument by pointing out that SSA did not take into account the full limiting affects of his back condition. You show that the back condition affects the claimant's ability to sit for more than ten minutes without increased pain. You also present any medical evidence supporting a sitting limitation like a negative x-ray of the back.

As a result of severe back pain, the claimant is unable to sit for more than ten or fifteen minutes. If he sits for a longer period, he experiences increased pain, stiffness and numbness of the lower extremities. In our example, the full limiting affects of the claimant's back condition were not fully considered by SSA. This is your chance to further lower the client's RFC with SSA's agreement and possibly win the case. If you can support a sitting restriction with medical evidence, the denial decision might be reversible.

Note: Recall steps 4 and 5 of SA. During these steps, you are using the medical evidence to rule out past work, step 4 and other less demanding work, step 5 of the Sequential Analysis process.

Upon receipt of your argument, SSA must decide if the claimant can perform

less demanding work that requires the ability to sit. As mentioned in Lesson One, this is “The Game”, which pits your ability to create a strong argument for an allowance, against SSA's ability to create a strong argument for a denial. The object of “The Game” is to find subtle but important medically supportable **signs** and **symptoms** that support a further reduction in the claimant's perceived ability to perform work.

### **Step Six: Argument Creation: Phase Two of Case Development**

After you've completed your evaluation of the medical and vocational evidence, you will create a list of facts that support the claimant's alleged limitations. You then use this documentation to:

Establish the alleged impairment's existence and onset.

Describe its severity.

Indicate how the impairment limits the claimant's physical and/or mental capability.

Explain how the alleged limitations directly limit his ability to work.

The Advocate then boldly asks that the case be allowed and benefits be paid! The argument is usually three to six pages in length and is a critical part of winning the claimant's case. To construct an effective argument, take our MemoWrite argument training program located in Module 5. We suggest that you wait until you've completed all of the basic training lessons within the Study Guide before reading the MemoWrite.

### **Step Seven: Argument Submittal**

After evaluating the client's medical evidence and creating an argument, you submit your work to SSA. SSA must consider your argument before making a final decision. The submittal of a carefully constructed argument will increase your client's chances of receiving benefits.

### **Step Eight: Wait for the Decision!**

Once SSA has gathered and reviewed all known evidence including your argument, they'll make a decision. At this stage, you've done your best and can only wait for their decision. Sometimes SSA will contact you and request additional information. Cooperate to the max! Having said this, remember

you're not obligated or required to perform actions that would hurt your client's case - with the exception of providing all requested evidence.

Do not withhold evidence even if it hurts your client's case. However, you are not required to point out anything that you feel is harmful to the case just supply it without comment. Depending on the detail and location, SSA may never notice it and award benefits.

## The Case Decision

If the case decision is a denial, you will either drop the case or begin the appeal process depending on the individual case circumstances. A case denial can teach you a lot about what SSA thinks about a case. It can also provide you with insights into possible strategies that might reverse the decision.

### Notification of Denial

On the initial and first three appeal levels, a client is usually notified of a case decision by mail. The claimant is sent two types of letters in a denial. The claimant will receive his notice of denial letter also known as a personalized denial notice. This letter will explain the reason for the denial. You should ask for a copy of this notice with every case you accept.

### Determining the Reason for a Denial

The Sequential Analysis process makes it fairly easy to determine why a case is denied. The reason for the denial has to be one of the reasons listed in the five steps of the SA process. However, there is another way to tell exactly why a case was denied.

Let's say a claimant has just received word from the DO that her initial application was denied. She is eligible for an appeal and has come to you for help. You're entering the case at the 1st Appeal level that use to be called Reconsideration. You're wondering why the case was denied at the Initial Level.

You receive your new client's medical and vocational reports from SSA as you prepare for appeal. You must ask yourself, on what basis was the client denied? Or to put it another way, what was the issue used by SSA to deny the claimant benefits at the Initial case level? The answer to this question can be

determined in one of two ways.

#### Method One: The Personalized Denial Notice

The quickest method of determining why SSA denied a case is to review the claimant's Personalized Denial Notice (PDN). This notice is sent to the client notifying him of SSA's decision. This document briefly explains why SSA has found the client to be not disabled. Request a copy of the PDN from the client. If he doesn't have it, ask SSA after making application.

#### Method Two: The Technical Rationale

The Technical Rationale is a formal version of the PDN that is kept within the client's folder. The only difference between a PDN and a Technical Rationale is that a PDN uses everyday language and a Technical Rationale uses SSA jargon and technical language. Because it is a technical document, the Technical Rationale also provides a more in depth explanation of the decision.

Our Technical Rationale example below contains most of the information you need to determine why the claimant was denied benefits. The reason for the denial is always a step within the SA process. For example, if the client was denied to his past work, he is being denied at step 4 of SA. Once you have determined at what point in the SA process the case was denied, you're ready to begin creating a strategy to counter SSA's opinion. Your strategy begins at the point where SSA denied the case.

#### Sample Technical Rationale

The claimant is a 34-year-old individual who has alleged disability due to degenerative disk disease. The medical evidence shows a significant impairment that does not meet or equal the listing. The evidence also shows that despite impairment, the claimant is still capable of performing work at a medium Residual Functional Capacity (RFC). It appears that the claimant is capable of returning to the duties of his past work as a truck driver. In making this decision, the SSA considered the claimant's age, education and the required physical and mental duties of his past work and found him capable of performing his past work. Accordingly, he is found not disabled as defined by

law.

### Review of sample Technical Rationale:

The first thing to notice about a personal or technical rationale is that it too is evidence. You can use it to quickly determine where to begin your counter argument against SSA. Let's identify the pertinent information in the above Technical Rationale. We now know that:

1. The claimant is 34 years old.
2. He has alleged DDD as his primary diagnosis.
3. He alleges that his impairment prevents all work.
4. He has a significant impairment. The evidence supports significant limitations.
5. His condition does not meet or equal the listings.
6. The claimant was given a Residual Functional Capacity for medium work by SSA. This is SSA's opinion of the claimant's remaining functional capabilities, taking into consideration the limiting impact of his impairment. The fact that SSA applied an RFC rating to the case suggests that the claimant may actually be suffering from a severe impairment that is indeed causing physical limitation.

Another Method of determining why a case was denied.

You can find out why a case was denied without the PDN or Technical Rationale. How? You let the client tell you the reason for the denial. He/she will usually say something like, "SSA told me that I'm still able to do my past work". You would then look at the Sequential Analysis (SA) chart. Comparing the information that you just got with the SA chart reveals that the claimant was denied back to his past work. This is step 4 of sequential analysis.

If the claimant tells you that SSA said, "you can do other less demanding work". You know that SSA is referring to step 5 of SA. Step 5 applies when a client is too limited to perform his past work but can do less demanding work. As a practicing disability advocate, you will quickly discover that most cases are denied based on step 4 or 5 of SA.

Residual Functional Capacity

As you might recall that Residual Functional Capacity (RFC) is the claimant's remaining ability to function after consideration of his impairment. RFC is a subjective determination that SSA makes based on the medical evidence. If

SSA' RFC results in a denial, you have the right and the responsibility to argue for a lower or more restrictive RFC that would result in an allowance. If your position on the RFC issue is supported by the claimant's medical evidence, SSA will accept your argument.

### Vocational Analysis (VA)

You cannot formulate a strong argument for or against a person's ability to do a job if you don't know the requirements of that job. To address this issue, we will introduce you to a process called Vocational Analysis (VA). VA will enable you to determine if a claimant can perform his past or other less demanding work after consideration of his impairment.

The Vocational Analysis process is a cumbersome and time consuming operation. Disability Associates addresses this issue in two unique ways. We have created a process called Common Sense Vocational Analysis that enables you to bypass some of the laborious research typically required. We also created a software program that does much of the analysis for you. The software is called the Voc Analyzer and is located within your Olivia Prime account.

### To Your Client's Advantage

Because the SSA's adjudicative staff must rigidly follow the SA process, you'll always know exactly what SSA was thinking in formulating a denial decision. This gives you a tremendous advantage in arguing a case. By following the SA process yourself, you know exactly where to focus your argument against the denial. This is like being told your enemy's battle plans ahead of the battle.

The quality of your argument will almost always rest on your ability to prove to SSA that limitations suffered by the claimant have resulted in an inability to perform any type of work. To counter SSA, you must clearly demonstrate to SSA that they did not consider all of the claimant's physical or mental limitations.

You must bring to SSA's attention any worsening of the claimant's impairment. You must also inform them of any impairment that they may have overlooked or that has developed since the decision. You must explain and document how this new or ignored impairment limits the claimant's ability to perform work.

These basic approaches are key to winning a Social Security disability case.

### An Informed Client is a Happy Client

Make your client aware up front that he/she may lose the case at the Initial or 1st Appeal Level. This will reduce the claimant's anxiety if the case is denied. It's also a good idea to inform the claimant at the outset about the appeal process and what to expect from each appeal level.

In most cases, the 1st appeal hearing or the ALJ Appeal is your best chance to win. This is because an ALJ can take into consideration certain medical findings and physical restrictions that cannot be considered by a DDS Examiner. If the client sees a hearing officer on recon or first appeal, he may be able to avoid the ALJ appeal altogether. However, most often the hearing office or FDR will side with the initial decision.

Note: Begin your argument at the point sequential analysis step where SSA denied the case. With a few exceptions, this will be Step Four or Step Five.

### What is Medical-Vocational Basis?

Any case that SSA decides based on a work issue is said to be based on Medical-Vocational factors. This means that in view of the findings in the claimant's medical and work history, SSA feels that the claimant can still do his past or other less demanding work. As previously mentioned, this decision reflects either step **four** or **five** of the SA process.

It's the job of the DDS Examiner to logically argue that a claimant is **not** disabled based on his/her ability to do work. It's your job as the claimant's representative to logically argue that with closer analysis the claimant cannot perform any type of work. The secret to winning an SSA disability case lay in your ability to create medically-based arguments supporting limitations that reduce work.

Note: In the training Syllabus, we provide a link to the medical listings and other

important reference materials  
used in Vocational Analysis.

## Lesson Summary

Sequential Analysis (SA) is a systematic method used by SSA to evaluate a disability case. There are five steps in the SA process. Each step must be considered in order to meet SSA's definition of a total disability. SA enables the SSA professional and the Disability Advocate to determine the reason why a case should be allowed or denied. SA also allows an Advocate to determine where to begin when creating an argument for an appeal. Later in your training, you will also learn how SA can be used to formulate powerful case strategies.

## Lesson Assignment

Read Chapter 4 and 5 of the Social Security Disability Guide. Take the lesson 5 quiz.