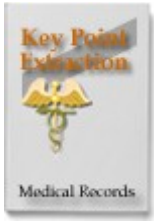

Key-Point Extraction (KPE) is a technique used to extract proof of limitation from the claimant's medical records. This segment will discuss the use of Key-Point Extract in the evaluation of mental impairments. As a prior medical professional and advocate trainer for more than twenty-five years, I'm acutely aware of the importance of properly utilizing medical evidence in a disability claim.

Medical evidence is the backbone and ammunition used in the battle to prove that your client is totally disabled. The key-points extracted from the client's evidence are your ammunition used to prove the existence and severity of the claimant's primary diagnosis. As in any war, how you martial and control your ammunition can determine the eventual outcome of the battle.

Evaluating Mental Impairments

Extracting key-points from a claimant's evidence in a mental disorder is very similar to extracting key-points in a physical impairment. You would collect the appropriate evidence covering the period of disability and use that evidence to determine the existence and severity of the disease state.

Medical evidence doesn't change just because the claimant has a mental disorder. However the criteria used to determine disability for claimants with mental impairments is very different than that of a physical impairment.

Sequential Analysis in a Mental Disorder

What often confuses the novice advocate is the notion that there is an adjudicative difference between a mental and physical impairment. While there may be a difference in category between the two disease states, both are evaluated using the same Sequential Analysis (SA) process.

Step one of the SA process asks the question, "is there a severe impairment that prevents work?" Step one of SA does not make a distinction between a physical and mental disorder. If SA doesn't make a distinction between these

two disease states in respect to how they are evaluated, then neither should you. If the answer to step one of SA is yes, you move to step two just like you would with a physical impairment.

Step two of the SA process asks the question, “will the impairment last or is it expected to last for twelve continuous months?” Again, there is no difference between a mental and physical impairment. If the claimant has a mental disorder that is so severe that it has lasted twelve months or longer, you would move on to step three.

Step three of the SA process asks the question, “does the impairment meet or equal the listing?” In this step, we begin to see a divergence of the mental and physical impairment. This divergence is not based on the sequential analysis process. It is based on the type of listing used to evaluate the disorder.

In a physical disorder, SSA uses a set of criteria called the physical impairment listings . In a mental disorder, SSA uses a set of criteria called the mental impairment listings. The difference between the two listing types should be apparent. The physical impairment listing will emphasize signs and symptoms of a physical nature. While the mental disorder listings will emphasize signs and symptoms associated with behavior and cognitive capabilities.

Step four of the sequential analysis process asks the question, “does the claimant's impairment prevent him from performing the duties of his past work?” Since we are now using the mental impairment criteria to make this judgment, we would focus on the claimant’s behavior and/or cognitive capabilities. Note that I used the association “and/or” in my description. I use the term “and/or” because in a mental disorder a person’s ability to reason may adversely affect his cognitive capabilities and vice versa.

Note that the step four of SA doesn’t change how we evaluate the case. The difference in a mental impairment is the criteria used to make our determination of a claimant’s residual functional capacity. The steps in the evaluation process remain exactly the same whether the impairment is physical or mental.

Step five of the SA process asks the question, “can the claimant perform the duties of less demanding work?” In a physical disorder, we are looking for physical criteria that prevent work. In a mental disorder, we are seeking mental limitations that prevent work. It’s just that simple!

The Mental RFC

A frequent area of confusion for the novice disability advocate is the concept of the mental residual functional capacity. Again, the only difference between a mental RFC and the physical RFC is the nature of the limitations you are evaluating. With a physical impairment, you are evaluating physical limitations such as the ability to stand and walk. While in a mental disorder, you are evaluating behavioral and/or cognitive capabilities such as the ability to understand, concentrate, interact with others, react appropriately and adapt to changes in the environment.

Severity of a Mental Disorder

How crazy is crazy? This question is complexly subjective which is why mental cases can be so challenging to evaluate. Social Security often uses terms like "not significantly limited, to describe a person with psychiatric symptoms that do not interfere with his ability to work. Moderate psychiatric symptoms while significant, only limit the claimant from performing some types of work.

A person with a markedly limiting symptom would be further limited in his ability to perform work. How limited would depend upon the number and type of markedly limiting symptoms. Generally, one markedly limiting symptom is not enough to prevent all work. However, three or four markedly limiting symptoms just might do it. The problem with all this limiting is that the symptoms are subject and can be easily faked.

About Key-Point Extraction

Key-Point Extraction enables you to extract bits of evidence from the claimant's medical records. This evidence is used to support your argument for a reduced Residual Functional Capacity (RFC). As you may recall from your advocate training Module One, an RFC is used to describe the claimant's remaining physical or mental capabilities with consideration of his impairment (diagnosis). The RFC is the bases upon which you create your strategy and argument. You are arguing for limitations in the claimant's ability to adjust mentally to his past and other less demanding work.

Formulate an MRFC Using the Key

Using the SA steps as your guide, you use the claimant's medical evidence to:

a) Prove the existence of a severe mental impairment that prevents work. This simply means that the evidence must support a diagnosis. The claimant's mental diagnosis must cause symptoms that are severe enough to reduce his ability to perform work.

b) Prove that the diagnosis and the severe symptoms caused by the diagnosis will last for twelve continuous months. Just like a physical disorder, the mental impairment must meet the duration requirement.

c) Prove that the mental impairment meets or equals the mental listings. The mental listing describes very serious disorders that if met will result in an allowance determination. However, like physical impairments, most mental impairments will not meet or equal the listing. If this is the case.....

d) Prove that the claimant's mental disorder prevents him from performing his past work? To make this determination, you would compare the claimant's mental limitations to the requirements of his past work. If they don't match, you move on to the final step in SA.

e) Prove that the claimant cannot adjust to less demanding work with consideration of his severe symptoms. If the claimant's psychiatric symptoms are extremely severe and multiple in nature, he may be found disabled.

How to Determine Severity?

Most of us can easily recognize when a person is "not normal". But, not normal is not a total disability. As professionals, we must determine from the client's evidence just how severe his symptoms really are. Since most psychiatric symptoms are subjective, determining severity can be a very difficult task.

The keys to determining the severity of a mental disorder are:

Symptom Consistency – Most mental disorders don't pop-up overnight. Usually there will be a history of symptoms that may or may not progress over time. Once a psychiatric symptom is identified, it usually remains consistent over a significant period of time. The symptom may ease or become more pronounced, but remain consistent in its description.

For example, a person with a severe cognitive deficit may see improvement over time, but the symptom itself remains. This characteristic speaks to the

consistency of the symptom caused by the diagnosis.

Symptom Longevity – The longer a severe symptom lasts, the more likely it will prevent work. An advocate should seek out information within the claimant's evidence that shows symptom longevity. If a symptom has persisted for years, it would be difficult for Social Security to dismiss the symptom.

Number of Symptoms – The number of severe symptoms is extremely important in a psychiatric case. The greater the number of severe psychiatric symptoms, the more likely the claimant will be found disabled. For example, if a claimant cannot concentrate, this single symptom might prevent past work. However, it might not be enough to prevent less demanding work that doesn't require much concentration.

Add to the claimant's concentration problem a markedly limited ability to follow simple one or two-step instructions, and you may have an allowable impairment.

Clinical Evaluation – As with any disorder, a psychiatric disorder must be evaluated by an appropriate medical professional. The more medical sources of evaluation, the better the claimant's chance of winning benefits. Don't forget about symptom consistency!

If the medical sources disagree on the key findings, this can further confuse the determination of severity. When this occurs, you should seek out the preponderance of evidence supporting the claimant's limitations.

Treatment - as with any physical disorder, the claimant's response to treatment can determine the outcome of a disability claim. The level of symptom reduction determines how well a claimant has responded to treatment. If treatment significantly improves a claimant's psychiatric symptoms, this will reduce the likelihood of an allowance. If claimant barely responds or worsens with treatment, this will act to strengthen your argument for a total disability.

Medication – Psychiatric medications can exacerbate a claimant's symptoms. It's also quite common to see additional symptoms that are secondary to the medication. For example, a claimant taking a psychotropic medication may suffer from reduced concentration, drowsiness and lethargy. The medication may also induce paranoia and violent outburst. Since the claimant is under appropriate treatment, SSA must accept these additional medication induced symptoms in determining their final RFC.

However, SSA is notorious for ignoring medication-induced symptoms in psychiatric disorders. This allows the astute advocate an opportunity to reverse a previous to denial by injecting these medication-induced limitations into his RFC.

A dash of common sense – It not so difficult to determine when a claimant is faking or exaggerating his symptoms. When this occurs, you'll often see a brake-down in one or more of the above criteria used to determine severity. If you get a gut feeling that the claimant is faking, you're probably right.

RFC and the Argument

Since most cases are won or lost on medical vocational issues, the relationship between the RFC and the argument becomes clear. A claimant's Residual Functional Capacity is the bases upon which most disability arguments are formed. The lower or more restricted the RFC, the more likely the case will be won.

Components of Key-Point Extract

The components used in key-point extraction in a psychiatric disorder are the same as in a physical impairment. Each component is used in the evaluation of evidence and in the creation of a case strategy or final argument. These components are:

Medical Evidence: Evidence used in the evaluation of a Social Security Disability claim.

Diagnosis: The primary and secondary diagnosis alleged in the case.

Signs: Laboratory and other objective tests used to support the existence or severity of a disease state. In a mental disorder, signs center on psychiatric testing.

Symptom: A symptom is a physical or mental manifestation of a disease state.

Limitations: A limitation is a physical or mental restriction that reduces the claimant's ability to perform work and is supported by the medical evidence.

Restricted RFC: A restricted RFC means that the claimant's RFC has been lowered as a result of his symptoms. The lower a claimant's RFC, the

more likely he will receive an allowance determination.

Argument Creation: The argument is your chance to present a case strategy. In most every case, your strategy will be to lower the claimant's RFC as much as possible using the evidence to support your actions. If SSA accepts your RFC, you win the case!

Key-Point Extraction Process

Identify the Primary Impairments

This is easy! The claimant or the evidence will almost always tell you exactly what disease the claimant is suffering from. After the impairment has been identified, use the claimant's medical evidence to determine severity.

Identify Claimant's Symptoms

Symptoms can be thought of as physical and/or mental manifestations of a disease state. The disease causes the symptoms and the symptoms result in some form of physical or mental limitation. The severity of a claimant's symptoms is usually proportional to the severity of the impairment.

Identify Claimant Limitations

Interviewing the claimant is the fastest way to determine limitations. Most claimants with a severe impairment will be significantly limited. Ask the claimant to list his symptoms during your initial interview. You can prove the existence of the claimant's symptoms using his medical evidence. The hope is that at some point, the claimant has begun to share his symptoms with his doctor. The doctor's documentation of the symptoms reinforces the existence of the symptoms giving them greater validity.

Key-Point Formula

Diagnosis + Signs + Symptoms + Limitations = RFC

To use key-point extraction, begin with the client's medical evidence. Seek out the claimant's primary and secondary diagnosis from within the evidence. If you are not familiar with the **diagnosis**, look it up to determine its

common signs and symptoms.

Using the same evidence, identify as many **signs** as possible that support the existence and severity of the impairments. If there are no symptoms mentioned in the evidence, research the disorder to determine its common symptoms.

The claimant can usually provide you with a pretty good idea of what symptoms are most severe. The severity of symptoms usually determines the level of limitation suffered by the claimant. Keep in mind that symptoms can vary even within the same disease.

The claimant's **symptoms** will cause mental limitations that can reduce his ability to perform work. This means that you can use the claimant's symptoms to develop an RFC that would result in an allowance determination.

Compare the claimant's **limitations** to the requirement of his past work first. You want to make sure that the claimant's limitations are restrictive enough to prevent him from performing past work. Then you move on to compare his limitations to the requirements of other less demanding work.

Safe Assumptions in KPE

Assumptions 1

If a claimant has a severe impairment, his medical evidence should support the alleged severity. Example: A treating psychologist performs a psychological evaluation on your claimant. His examination states that the claimant is suffering from schizophrenia. Although the psychologist's statement gives of a clue as to the claimant's primary diagnosis, it does not prove that the diagnosis exists or is disabling. We need more proof, usually provided in the form of medical signs.

The problem with mental disorders is that there may be no physical or chemical abnormalities that directly prove the existence of the diagnosis. The most common sign in a mental disorder may be the claimant's symptoms. If the claimant has some form of degenerative brain disorder, this may show up in a CAT Scan or MRI. If so, wonderful, you have a definitive sign of the disease state. However, most mental disorders don't have definitive signs. This makes signs slightly less important in a mental disorder.

Assumption 2

Although signs are less frequent in a mental disorder, this is no excuse to ignore them. To prove a mental disorder, you should look for signs of the disease. Just like a sign within a physical disorder, a mental sign can support the existence and/or the severity of the mental disorder.

Assumption 3

The more severe the impairment, the more severe the claimant's medical signs and symptoms. In a mental disorder, a person's disorder could be extremely severe with no abnormal signs. This places a greater burden on the claimant's symptoms.

Assumption 4

The more severe the claimant's symptoms, the more limiting they are to the claimant's ability to perform activities. Keep in mind that symptoms cause limitations! Limitations are what restrict the claimant's ability to perform work.

Assumption 5

The more severe the client's psychological limitations, the less likely he/she can adjust or sustain work activity.

Key-Point Extraction is really all about work. You're using the claimant's diagnosis, signs, symptoms and limitations to prove that he no longer perform the duties of past or other less demanding work.

Create a Restricted RFC

Key-Point Extraction is all about using the claimant's medical evidence to prove the existence and severity of an impairment. Once these limitations are identified, mental or physical, they can be used to create an argument for a restricted RFC.