MODULE 8B - Advocate Advanced Topics
L3 – Mental Disorders

This report is designed to help you create a more effective written argument at the reconsideration or ALJ appeal levels when dealing with mental impairments.

Overview of Mental Impairments

Mental impairments are either grossly misunderstood or outright feared by many practitioners of disability representation. Because symptoms are often vague or masked by physical manifestations that distract from the underlying mental disorder, a practitioner must develop a keen eye for these types of impairments.

Another problem that can distract both SSA and the practitioner is the fact that many applicants for disability are ashamed to admit a mental disorder exists. The applicant may not be willing to acknowledge a mental disorder and in some cases may refuse to cooperate with diagnosis or treatment. This underlying discomfort or unwillingness to deal with a mental impairment could result in a denial of a case on a person with a severe psychiatric disorder.

Most SSA applicants who suffer from mental disorders are not psychotic. There may be few if any apparent problems resulting from the disorder. This does not mean that the disorder should be ignored. As you know, SSA must consider all impairments in combination before making a disability decision. If the disorder is not brought to the attention of SSA, its impact on the claimant's ability to perform work may go completely unnoticed.

Regardless of the physical disorders alleged by a claimant, a disability practitioner must always be sensitive to the possibility of an underlying mental impairment. This is important because if the claimant's physical allegations are not disabling, the case is over! However, if the claimant is in fact also suffering from a mental disorder that proves to be significantly restrictive to his ability to perform work, that disorder must be evaluated before a disability decision is made.

Consideration of a mental impairment along with a less or equally restrictive physical impairment could greatly enhance the claimant's chances of receiving benefits. This possibility may not occur if the disability consultant does not bring the mental disorder to the attention of SSA. Social Security staff is usually extremely overworked and will not make exceptional efforts to identify underlying impairments.

Symptoms

"The evaluation of disability based on a mental disorder requires documentation of a medically determinable impairment as well as consideration of the degree of limitation such impairment(s) may impose on the individual's ability to perform work." This quote comes directly from the medical listing manual under mental impairments. Please note that the evaluation of a mental disorder is in fact no different from that of a physical

disorder. The impairment must cause significant restrictions in a person's ability to perform work and must last or be expected to last for twelve continuous months.

Severity of a mental disorder is assessed in terms of the functional limitations imposed by the impairment(s). Functional limitations are assessed using criteria such as restrictions of daily living, social functioning, concentration, persistence and pace. Please note that each of these elements used to evaluate severity are essentially symptoms manifestations. The more restrictive the symptoms, the more severe the disorder.

Restrictions in Activities of Daily Living

Restrictions in activities of daily living are often referred to as ADLs by SSA. This concept is simple and yet highly misunderstood by many disability consultants. An ADL is a description of the claimant's remaining ability to function and interact with others with consideration of his mental or physical impairment(s). This concept is extremely useful to the representative because it can be developed and supported by individuals who are not directly involved in the disability process such as the claimant's family members. If a claimant exhibits highly restrictive behavior as a result of his impairment(s) and this behavior is documented by family, friends and medical sources, this information can be used to lower the claimant's mental RFC. If it is determined that the claimant is not capable of even simple unskilled work as a result of these restrictions, he may be found disabled. This is especially important for claimants under age forty-nine.

Before ADLs can be considered valid, there must be present a medically documented disorder that can reasonably be expected to cause the kinds of restrictive symptoms alleged by the claimant. This concept is known as a nexus or link between a medically documented disorder and one or more alleged symptoms. You cannot just walk into a Social Security office and claim that your client is restricted by a disorder that has not been medically proven to exist.

The claimant's ADLs should mirror other restrictions that can be medically documented via psychological testing such as reduced concentration, slow mental pace, significant emotional instability or inappropriate behavior.

Once you have documented the claimant's ADLs and the underlying mental disorder via reports from psychiatrist, psychologist, etc., you are now ready to determine the claimant's remaining ability to perform work. A claimant's remaining ability to perform work from a psychological standpoint is known as a mental RFC.

Persistence & Pace

Before discussing mental RFCs, I'd like to offer a quick discussion of pace and persistence. These two terms are also misunderstood by most disability consultants. Persistence refers to the claimant's ability to sustain normal behavior or clear thinking. This concept is also referred to as sustainability when dealing with physical disorders. If a claimant is OK one day and out of touch with reality the next, chances are great that he will not be capable of sustaining work. The ability to sustain normality is very

important in determining a person's true capability to perform work.

Pace is also used often by SSA when referring to mental disorders. Pace refers to a claimant's ability to perform a given task (work activity), within acceptable work standards. This does not mean that just because a person is slow at performing a particular task, that he is disabled. However, if the claimant is unable to perform a set of simple work task at an acceptable pace or if he is unable to sustain an acceptable pace from day to day, this can be considered a highly restrictive symptom that can be used to reduce his RFC.

Mental RFC

Once you have identified a number of restrictive symptoms suffered by a claimant, you are ready to formulate an mRFC. Whether SSA agrees with your mRFC will be determined by how much proof you can develop from the medical documentation.

If your claimant is suffering from documented depression, is antisocial, hostile, withdrawn, has confused or disjointed thinking and cannot concentrate, here is how to determine his mRFC:

First make sure that all symptoms are medically documented. Go to the mRFC sample pages (Chapter Four) of your study guide. Please note that there are two types of RFCs. One for physical disorders and another for mental. If the claimant is under age forty-nine, you already know that he must have an mRFC of less than simple unskilled work to be found disabled. This simply means that the claimant cannot perform simple unskilled work as a result of his symptoms.

Check markedly limited in box three under A2 if the claimant has concentration problems. Always check box A3 and B5 as being markedly limited. If the claimant has concentration problems and disjointed thinking, also check boxes B4, B6 and B7 under moderate or markedly restricted.

If the claimant is antisocial and does not work well with supervision or with others, check markedly or moderately restricted, depending on the medical severity, boxes B8 and B9. If claimant has alleged or the medical evidence shows other problems, such as other types of social interaction problems, adaptability problems, etc., note these in your RFC under at least the moderately severe categories. You now have your mental RFC. Again, the strength of your mRFC (like that of a physical RFC), will depend on how much medical and historical documentation you have in the claimant's file to support your RFC.

Preparing a Written Argument

When preparing a written argument, you simply take each symptom supported by the medical evidence and discuss that symptom as a separate entity.

Example: Dr. Smith (psychiatrist), evaluated this claimant on 7/30/97. He determined that claimant is suffering from severe depression with an inability to sustain concentration. Psychiatric testing performed 8/1/97 supports Dr. Smith's conclusions and also revealed a significant decline in measurable IQ believed to be related to

claimant's concentration problems. As a result of this symptom, it is felt that claimant would be markedly limited in A2, B4 and B6 on the mRFC form. Be sure to spell out the meaning of the above codes (A2, B4, etc.) as indicated on the mRFC form supplied in your Study Guide. Use the above approach whenever you evaluate a client with a significant mental impairment.