

## MODULE 8D Advocate Advanced Topics

### OPERATIONS

### L2 More On Case Arguments

The written argument is used by the Disability Consultant as a means of presenting both fact and opinion as to the nature and outcome of a disability case. The quality of this document can have a profound effect on the outcome of a disability case and should be written with the following considerations:

#### **Purpose**

The most important purpose of a written argument is to present all facts and information that is relevant to a case from the perspective of the claimant and his representative. The not so obvious purpose of a written argument is to help make the assessment of the case faster and easier for the disability examiner or the Administrative Law Judge. A properly written argument will present the evidence in such a manner as to meet both of the above criteria making the overall process easier for all involved.

A written argument does not need to be long, detailed or complex in order to be effective. In fact, the most important aspect of any written argument is clarity of argument. Clarity can best be achieved by adopting a structural pattern of presentation that is consistent and covers all relevant aspects of the case. This report offers several suggestions that can help you present a more effective argument on behalf of your clients.

#### **Introduction**

The introduction is the opening segment of your case presentation. This segment should contain the claimant's name, age, educational level, most recent occupation (optional), and his social security number. It should also list the claimant's impairment allegations and any physical or mental restrictions alleged by the claimant. The primary purpose of the introduction is to identify the claimant and list his primary impairments.

#### **Historicals**

In this segment, discuss the historical aspects of the case both from the claimant and SSA's perspective. This segment should contain information describing the adjudicative level, basis for prior decisions, comments concerning new or additional impairments and a discussion of any event that may have lead to the worsening of the impairment. This segment also allows you to list important new medical sources and add their comments to your argument. The body of your argument is also known as the case discussion segment described below.

#### **Medical Sources**

In the medical sources segment, list the medical sources used in the evaluation of the claim. Note the dates of the medical evidence. It is important to make sure that the

dates of the medical evidence are consistent with the time frame claimed as the period of disability. List the medical evidence from around the date of onset to the most current date of evidence available. It is extremely helpful to the examiner and ALJ, if you list the actual dates of the medical evidence. The actual date of the evidence means the date the patient actually visited the medical source. The listing of medical evidence by date of visit creates a chronological flowchart of evidence that can be easily referred to by both the representative and SSA.

## Case discussion

In this segment, you have the opportunity to discuss all relevant aspects of the case. It is here that you lay out your argument in such a manner that it can be followed from the date of onset through the most current date of treatment. Always discuss your case chronologically! In other words, present your case starting at the beginning and carry through to the end.

The beginning (start of argument) starts either with symptoms suffered by the claimant or with his first doctor or hospital visit for the disabling impairment. Structuring your argument in a chronological fashion makes it easier for all case participants to follow your logic. This in turn makes it easier for SSA to agree with your position.

## Example:

Claimant is asking for reconsideration of the previous denial decision based on continued problems with heart disease and shortness of breath. The medical evidence shows that his first hospitalization was 1/1/98. During this visit, claimant underwent numerous tests. On 2/18/98, claimant suffered a severe episode of chest pain that resulted in an emergency room visit. Tests performed during this emergency visit revealed the following .... Note that the case is being argued in a chronological fashion listing the evidence as it occurred.

The case discussion segment is also used to explain any special circumstances that may have occurred or were overlooked by SSA in making a previous decision. You have an opportunity to give your opinion of any case issue in this segment. Always outline your position; pointing out specifically how and why you feel the claimant is disabled. If the claimant has been previously denied benefits, this segment affords you the opportunity to point out exactly why you disagree with the previous decision.

This segment should contain:

- 1) A brief review of the facts of the case.
- 2) A quote of specific medical evidence that supports your position.

Example: Dr. Jones's report of 1/5/98 states that claimant was unable to raise his left arm above shoulder height without extreme pain. Dr. Smith's (orthopedic) report dated 6/5/98 showed continued decreased range of motion of the left arm with pain on

manipulation. St. Jude's Hospital X-ray report dated 6/6/98 showed a residual fracture of the left humerus.

3) A discussion of the real limitations suffered by the claimant as well as the evidence supporting those limitations.

4) A discussion of the claimant's ability or lack of ability to perform past and other work given the limitations caused by his impairments.

5) A discussion or mention of any relevant vocational rules or other factors that would further reduce the claimant's ability to adjust to work activity.

Example: It appears that this claimant would not be capable of performing work above that of a sedentary level. Given the claimant's age (54), education (11 years) and remaining RFC of no more than sedentary work without transferable skills, it appears that claimant is disabled per voc rule 201.10.

## Summation

The summation is used to summarize the most powerful issues emphasized during the case discussion segment of your argument. Highlight these important issues in your summation as a way of reminding SSA of their importance. This section should be brief and right to the point.

Example:

This 54 y/o client suffers from coronary artery disease with continued problems with SOB and extremely poor exercise tolerance. With consideration of his well documented physical disorders and given his advanced age of 54 years, eleven years of education and the lack of transferable skills, it is clear that this claimant is incapable of adjusting to any type of work. It is our conclusion that claimant is totally disabled as defined by law and should be awarded SSA disability benefits.

In this section, you are also free to give your personal opinions as to why this claimant cannot perform work. This section should always end with a strong statement of belief that the claimant is not capable of performing work and is therefore totally disabled as defined by law.

There is no one right way to write an argument on behalf of a client. The best argument is one that is easy to read, gives dates of the evidence, describes events such as seizures, etc. Be sure to place all information in chronological order starting at the beginning of the disability to most current.