

# Ohio DDD Internal Medicine

## Consultative Examination Guidelines

### Part I: Overview for All Types of Consultative Examinations

## INTRODUCTION

### Brief Overview of Social Security Disability

#### Programs Administered

The Social Security Administration (SSA) administers two programs that provide benefits based on disability: the Social Security Disability Insurance Program (Title II of the Social Security Act) and the Supplemental Security Income (SSI) Program (Title XVI of the Social Security Act).

Title II provides for payment of disability benefits to individuals who are "insured" under the Social Security Act by virtue of their contributions to the Social Security Trust Fund through Social Security taxes on their earnings, as well as to certain disabled dependents of insured individuals. Title XVI provides for SSI payments to individuals (including children under age 18) who are both disabled and have limited income and resources.

The Social Security Act and SSA's implementation regulations prescribe rules for deciding if an individual is disabled. SSA's criteria for deciding if someone is disabled are not necessarily the same as the criteria applied by other governmental and private disability programs. Claims for the above SSA programs are filed either online or in person at a local field office within the claimant's state of residence. In Ohio, the medical portion of these SSA programs is administered by the SSA field offices and by the Ohio Division of Disability Determination (DDD), which is housed within the Ohio Rehabilitation Services Commission (RSC), located in Columbus, Ohio.

### Purpose and Sources of Consultative Examination Guidelines

#### Purpose

The purpose of these guidelines is to facilitate the consultative examiner in performing and reporting a thorough examination for the sole purpose of SSA's disability determination process. As will be discussed in the body of this document, the examinations and reports that DDD finds most useful may be different than those that you complete for your practice. For example, you might see a patient every month and have a working knowledge of his or her symptoms, signs, past medical history, family history, social history and

functional status. You might not include all of the details in your office notes, but DDD adjudicators - who do not see or examine claimants - need these details to complete the disability determination process.

DDD adjudicators also need details about the functional capacities of claimants in multiple domains (i.e, ability to walk, stand, use hands, see, hear, etc.). You might not routinely assess and document such details for your own patients, but this is paramount in the reports you do for DDD. Because DDD's needs vary in many ways from what you might do in your day-to-day practice, we are providing two sources of the detail that we need (see next section).

#### Sources of Required Details of Consultative Examinations

The primary sources for all types of consultative examinations is contained in sections of SSA's "Green Book," and in sections of SSA's "Blue Book for Adults," and "Blue Book for Children." *See Table 1* for the links to these important resources, which you should read and refer to on an ongoing basis.

The second source is contained within this document, which provides an overview of guidelines for all types of consultative examinations, and within companion documents, each of which provides guidelines for a specific type of consultative examination.

The present document and companion documents are actually supplements to the Green Book and Blue Books. The present document contains logistical details about working with DDD, while the companion documents contain extensive consultative examination details derived from the Green Book and Blue Books.

**Table I: Primary Sources of All Types of Consultative Examinations**

| <u>Online Source</u>   | <u>Applicable Sections</u>   |
|--|--|
| <p><b>Green Book</b><br/> <a href="http://www.socialsecurity.gov/disability/professionals/greenbook">www.socialsecurity.gov/disability/professionals/greenbook</a></p> | <p>Consultative Examination (CE) Overview<br/>           Evidence Requirements<br/>           Consultative Examination Guidelines<br/>           Adult CE Report Guidelines<br/>               Elements of a Complete Examination<br/>               Report Content by Specific Impairment<br/>                   Internal Medicine<br/>                   Rheumatology<br/>                   Orthopedic<br/>                   Respiratory<br/>                   Cardiovascular<br/>                   Neurological<br/>                   Mental<br/>           Pediatric CE Report Guidelines [similar categories of report content by specific impairment as in the adult]</p>                                   |
| <p><b>Blue Book</b><br/> <a href="http://www.socialsecurity.gov/disability/professionals/bluebook">www.socialsecurity.gov/disability/professionals/bluebook</a></p>    | <p>Adult Listings (Part A)<br/>               Musculoskeletal System<br/>               Special Senses and Speech<br/>               Respiratory System<br/>               Cardiovascular System<br/>               Digestive System<br/>               Genitourinary Impairments<br/>               Hematological Disorders<br/>               Skin Disorders<br/>               Endocrine System<br/>               Impairments that Affect Multiple Body Systems<br/>               Neurological<br/>               Mental<br/>               Malignant Neoplastic Diseases<br/>               Immune System Disorders<br/>           Childhood Listings (Part B) [similar categories as in the adult listings]</p> |

**Overview of the Consultative Process**

**Why Consultative Evaluations are Needed**

In most of DDD’s claims, the medical determination of whether a condition or a group of conditions satisfies disability criteria is made on the basis of information received from treating sources. In the remainder, the purchase of one or more consultative evaluations is required to make the appropriate medical determination and reach a final adjudicative decision.

**Social Security Disability Determination**

The Social Security disability programs are medical-legal entities. This fact dictates the type of information required. The disability decision is an administrative decision, which is the result of an adjudicative process using functional information, medical evidence and in some instances vocational factors. Determinations are made on the basis of functional information, medical evidence and

laboratory findings demonstrated by medically and/or psychologically acceptable clinical methods. Such findings provide necessary medical evidence in adjudicating the claim. DDD’s reviewing medical or psychological consultants must make an independent judgment regarding the nature, severity and duration of all impairments based on evidence submitted by treating sources, hospitals and consultative examiners.

Specific examples of findings and functional limitations and detailed observations are necessary for adjudication. General or vague conclusions or summary statements using descriptors such as “average,” “intact,” “impaired” or “disabled” cannot be used as a basis for medical determination decisions. Such language should be avoided in reports.

After the functional information and medical evidence have been reviewed and the corresponding work-related restrictions have been established, the program must determine whether

the specified functional restrictions would prevent the individual from engaging in substantial gainful activity.

## Scope of Consultative Examinations and Emergencies

Treatment is not a part of DDD's programs. In no situation will the expense of treatment be reimbursed. The medical-legal consultative examination is distinct from an examination done as an element of the provision of medical care. The medical-legal consultative examination serves to document a claimant's medical history. A thorough physical examination is conducted, sometimes with ancillary testing, to document current diagnoses, impairments, degree of impairment and functional limitations, but not for the purpose of recommending treatment.

If a claimant presents with a medical or psychiatric urgency or emergency or develops an urgency or emergency during an examination, he or she should be immediately referred to an emergency department. The claimant's safety is paramount to DDD and SSA. If warranted, 911 should be called and emergent transportation arranged. DDD will not be responsible for any treatment or transportation costs involved. This fact should be shared with the claimant. *Contact DDD* by phone as soon as possible if such a situation occurs.

Some common urgencies and emergencies include severe elevations of blood pressure, severe shortness of breath, cyanosis, acute chest pain and suicidal ideation.

If you become aware of a worrisome or potentially life-threatening lab or X-ray finding, contact us by phone as soon as possible with fax follow up (*see How to Contact DDD*). In this situation DDD will contact the claimant and his or her attending physician.

Some common worrisome lab findings include severe anemia and severe hypoxemia (determined by oxygen saturation testing or arterial blood gas measurement). Common worrisome X-ray findings include unsuspected nodules or masses on chest X-rays, aortic aneurysms and bone lesions suspicious for metastatic cancer.

## How to Contact DDD

Phone: 1-800-282-2654, extension 1588 or 614-438-1588

Fax: 1-800-882-6446

*www.rsc.ohio.gov and select "Disability Benefits"*

## Confidentiality of Reports

The content of your reports is governed by the Freedom of Information Act and the Privacy Act. These acts emphasize that consultative examination medical records and reports are to be kept

confidential. There are specific situations in which these records may be released to the claimant, his or her attorney or personal representative and the claimant's treating source. Specific procedures must be followed in each case.

If you receive a request for release of the medical records and/or consultative examination report, *contact DDD* for further instructions before releasing any records. For more details on privacy, confidentiality, freedom of information and release of records, see "*Privacy, Confidentiality, Freedom of Information, and Release of Records*" (Part I - Appendix A).

Finally, because records may be released to claimants or their representatives on some occasions (after following all appropriate procedures), it is especially important that reports are void of statements about the claimant's moral character or reputation.

For confidentiality requirements and other important obligations, see "*Consultative Examiner Certification Statement*" (Part I - Appendix B).

## Logistical Details

### How Appointments Are Made for Claimants

An important goal of DDD is to schedule consultative examinations in a timely and efficient manner, always working collaboratively with the consultant's office. We have found that consultative scheduling works best for all parties when pre-arranged blocks of time are mutually agreed upon in advance. This method will be outlined by DDD Medical Administration staff when you meet to discuss the consultative evaluations process.

Prior to an appointment, you will receive a packet of important documents and forms, either by mail or by electronic download. If you decide to receive the packet by fax, DDD requires that you have a fax machine without a toll-free fax number (DDD is not permitted to transmit confidential information via a toll-free fax). If you decide to download the packet electronically, we will send you an email to let you know that a packet is waiting for download. If you choose the electronic method, you will be able to return your completed report by clicking on the "Respond" button on the web site instead of entering bar-code information. For more details on these procedures, contact a DDD professional relations officer (PRO) (*see How to Contact DDD*).

The first page of a claimant packet consists of a Voucher/Turnaround document, which lists the specific examinations, X-rays and other studies that are being requested, as well as the amount of money that will be paid upon receipt of the report. Read the voucher closely because it often contains notes with special requests, such as "make sure to note whether ascites was present on examination."

Also included in the packet are forms that must be completed and, when available, copies of medical records that DDD has received from treating sources. We will send as much background material as is feasible. It may help you put the claimant's allegations into a context and help with your diagnoses and medical source statement. If DDD sends you medical records from a treating source, destroy them by either shredding or incineration after you have reviewed them to safeguard confidentiality.

### **Notification of Claimants with Special Conditions**

If DDD is aware that the claimant has an infectious disease (i.e., HIV, viral hepatitis or tuberculosis) or that a claimant has suicidal ideation or has threatened violence, we will disclose that information on the Voucher/Turnaround document underneath the requested examination list.

### **Report Style, Format and Turnaround Requirements**

All reports must be typed. The recommended font is Times New Roman and recommended font size is 12 point. Proofread your reports because errors (i.e., describing a female claimant as a man rather than as a woman or recording a weight of 18 pounds instead of 180 pounds) require us to write to you for an addendum containing the corrections. These corrections are important because your report becomes a part of a legal record, which cannot contain potentially misleading errors for potential future reviewers.

Each report must be signed personally by you, the consultant, unless you are using an electronic signature on the secure web site.

DDD requires that consultative evaluation reports be received no later than seven days following the date of the appointment.

### **Report Submission Requirements**

Reports must be submitted either via Electronic Records Express (ERE), which is preferred, or via fax.

ERE uses a secure web site provided by SSA and allows the use of electronic signatures. If you are interested in using ERE, contact a PRO (*see How to Contact DDD*).

To fax a report, dial 1-866-755-6629.

The Voucher/Turnaround document is always to serve as the first page of your returned report. The bar-coded information will associate the report to the correct claim and allow authorization of payment.

### **Report Retention Requirements**

Retain a copy of each DDD claimant report as part of your records for a period of not less than one year. Refer any inquiries and requests for copies of reports from claimants and third parties to DDD. We, from time to time, may find it necessary to request a copy of an examination from your records at no cost to DDD. We will strive to keep such requests to a minimum. Requests from claimants and third parties for information other than requests for copies of reports should also be referred to DDD.

### **On Site Visits**

DDD conducts ongoing review of consultants and their work with SSA claimants. In order to carry out this important function, the PROs, sometimes in joined by DDD's Chief Medical Consultant, make periodic and as needed site visits. These visits may involve a review of your operations as well as claimants' perceptions of your work and interactions. DDD will not sit in on examinations.

## Part I - Appendices

- A. Privacy, Confidentiality, Freedom of Information and Release of Records
- B. Personally Identifiable Information (PII)
- C. Consultative Examiner Certification Statement

### Part I - Appendix A: Privacy, Confidentiality, Freedom of Information and Release of Records

The Freedom of Information Act and the Privacy Act allow for requests by individuals, their attorneys or personal representatives for medical information from consultative examination physicians. To minimize the possibility of an unauthorized disclosure of information, DDD strongly emphasizes the confidentiality of claimant medical records with its panel of consultants.

The following are situations that may arise for physicians and other sources who provide consultative services to DDD and the general course of action to follow.

#### *Requests for Copies of Consultative Examinations or Ancillary Studies*

These requests, which could come from claimants, attorneys, personal representatives, insurance companies and others, should be referred to the DDD Medical Administration Department.

DDD will review each situation and make appropriate disclosure decisions within Social Security law and regulations.

Requests for additional information after a copy of a consultative examination report has been released (indicating that confidentiality issues have already been resolved) should still be accompanied by a valid claimant release. SSA does not require, encourage or discourage your answering this request nor is prior contact with the Medical Administration Department required.

If you have questions about this, *contact DDD* about any information or records requests. If you do release records, any expenses incurred in the process are the responsibility of the claimant, the claimant's representative or other third party (whoever has made the request).

#### *Depositions and Subpoenas*

DDD Medical Administration should be advised if you receive a subpoena to appear in court or an administrative hearing, or to give a deposition. Depending on the circumstances, we may be able to give you immediate guidance or we may seek legal advice from SSA. If you receive a subpoena from an SSA Office of Disability Adjudication and Review (ODAR) administrative law judge, DDD will need to contact ODAR before giving you guidance. In this situation, such testimony is normally obtained

via "interrogatory" (see next section) instead of by personal appearance.

In the event you must appear and testify, your sworn testimony should be limited to your personal knowledge of the facts concerning the claimant.

#### *Interrogatories*

If you receive any written questions or interrogatory directly from an attorney, claimant or a non-attorney claimant representative regarding an examination done for DDD, you must first determine the purpose of the inquiry. Most of these questions ask that you clarify or expand upon some aspect of the examination report that you provided DDD.

If the inquiry or interrogatory relates to a matter unrelated to the claimant's SSA disability or SSI disability claim (for example, a worker's compensation claim, private insurance claim or a liability suit), you may respond to the inquiry at your discretion, assuming you have proper and adequate claimant authorization to do so.

Inquiries and interrogatories that relate to a claimant's SSA disability claim must be handled differently. These interrogatories generally arise when a claimant is at an advanced level of appeal within SSA, most often at the ODAR level, where a hearing before an administrative law judge is held.

Interrogatories at this level are normally intended to act as a substitute for personal testimony at the hearing. Since all such testimony must occur under the supervision of the judge, interrogatories are subject to the direction of the judge.

Consequently, if you get an SSA claim-related interrogatory directly from a claimant's attorney or another representative of the claimant or from the claimant, you must not respond to the inquirer directly. Rather, return all such interrogatories unanswered to either the inquirer or to DDD. If you choose the latter course, we will forward the interrogatory to the appropriate judge for review and direction before returning it to you to be completed.

In summary, you should not respond to any SSA-claim-related interrogatory unless it comes from DDD, or less commonly, directly from an administrative law judge. When you receive such an interrogatory from DDD, the agency will offer payment under its normal fee schedule.

Should a claimant's attorney wish to sit in on the consultative examination, the decision of whether to allow this is yours. You may either proceed with the examination or decline the referral. Notify DDD if this occurs.

#### *Dealing with Media Requests*

Should you be contacted by the media (TV, radio, newspaper, etc.), you are under no obligation to answer questions about your relationship with DDD. All of these inquiries must be referred to the Medical Administration Department of DDD.

#### *When You Refer Claimants Elsewhere for Ancillary Testing*

In these situations, the testing site staff should be made aware that the testing is being done for SSA and that improper disclosure of information about the individual by them is prohibited.

#### *The Privacy Act of 1974 (PL 93-579)*

This was enacted to safeguard individual privacy by regulating the Federal Government's collection, maintenance, use and dissemination of personal, identifiable information. It affirms the long-standing confidentiality of SSA records and provides that a claimant, upon request, has the right to all the information in his or her file, including medical records.

Claimants may inspect such information, receive copies and request corrections of the records. This includes consultative examination reports you furnish. These records may be released directly to the claimant if it can be determined that disclosure of this information will not be likely to have an adverse effect on the particular claimant.

DDD emphasizes that consultative examination reports should be objective and void of statements indicating the claimant's motivation, moral character or reputation. Also, disclosure of one of your reports does not require your consent. DDD does not accept reports that are marked confidential.

### **Part I - Appendix B: Personally Identifiable Information (PII)**

#### *What is PII?*

PII is any personal information maintained by an agency, including:

- Any information used to distinguish or trace an individual's identity, e.g., name, social security number, date/place of birth, mother's maiden name, biometric records.
- Any other information that can be linked to an individual, e.g., medical, education, financial, or employment information.

#### *How can you safeguard PII?*

- Store confidential information in locked file cabinets or desk drawers.
- Prevent others from viewing PII on your computer screen.
- Consistently lock or log off your computer when you are away.
- Ensure that PII is appropriately destroyed (e.g., shredded using a crosscut shredder) when no longer needed.
- Train and remind support staff to safeguard PII.
- Do not send PII by email.

#### *How to transport PII?*

- Store PII on computing devices that are encrypted using National Institute of Standards and Technology (NIST) standards.
- Lock PII in a briefcase or satchel.
- Do not leave briefcase, satchel, laptop, or computer in unlocked vehicle.
- Do not leave briefcase, satchel, laptop, or computer in plain view in a locked vehicle.
- Secure briefcase, satchel, or laptop in trunk or other concealed storage area.

#### *What should CE Provider do if PII loss is suspected?*

- Immediately report the PII loss to the DDS. If you suspect PII loss outside of normal business hours, leave a voicemail or email your DDS contact.
- Contact local law enforcement if theft is involved.
- Apply State laws and licensing board requirements when reporting PII loss and notifying affected claimants.

#### *What should make up the report to DDS?*

- Your contact information.
- Description of suspected loss, e.g., nature of the loss, number of records, type of equipment or media.
- Approximate time and location of loss.
- Safeguards in place at time of loss.
- Other parties involved who have been contacted.
- Details about reports made to law enforcement.
- Any other pertinent information.

*For more information or to report PII loss, please contact:*

- A Professional Relations Officer at 1 (800) 282-2695.

## Part I - Appendix C: Consultative Examiner Certification Statement

# CERTIFICATION STATEMENT

I acknowledge and understand that:

The Social Security Act and its implementing Regulation No. 1 (42 U.S.C. 1306; 20 CFR 401) prohibit the unauthorized disclosure of information obtained in the administration of Social Security programs and make such disclosure a crime. These prohibitions extend to any background data furnished to the provider in conjunction with the performance of providing such services, including any copies of such reports retained by the provider. Unauthorized disclosure of such records by the provider is prohibited. I further acknowledge and understand that should referral of an individual, or data pertaining to an individual, or any third party provider (for additional diagnostic studies, clerical or transcription services, messenger services, etc.) become necessary in providing services contracted for herein, such third-party provider must be made aware that services are being performed in connection with a Social Security program, and that improper disclosure of information about the subject individual is prohibited.

I certify that:

1. I am not currently excluded, suspended, or otherwise barred from participation in the Medicare or Medicaid programs, or any other Federal or federally assisted program.
2. My license is not currently revoked or suspended by any State licensing authority for reasons bearing on professional competence, professional conduct, or financial integrity.
3. I have not surrendered my license pending disciplinary procedures involving professional conduct.
4. All support staff used in the performance of CEs meet the appropriate licensing or certification requirements of the State of Ohio.
5. I understand the scheduling interval requirements for all CEs performed for the DDS and agree that I will not schedule CE appointments any closer than is permitted.
6. I have been provided with an overview of SSA's disability programs and regulations including the need to include in the CE report a medical source statement about the claimant's ability to do work-related activities.
7. I agree to fax or send electronically through the SSA secure website, completed reports to the Division of Disability Determination within seven (7) days of the appointment date, and have been informed that the authorization may be void if not received within thirty (30) days of the appointment date.
8. I certify that all services rendered by the vendor are without discrimination with regard to race, color, sex, or national origin in accordance with requirements of Ohio law and Title VI of the Civil Rights Act of 1964 and regulations.
9. For Laboratory Services: I agree to bill and accept as payment for my services the lesser of: my usual and customary fee or the rate of payment described in the fee schedule used by the Division of Disability Determination.

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Please Print Name

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Signature

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Date