

Social Security Consultative Examinations

By Jacques Chambers, CLU

When you apply for SSI or SSDI benefits, Social Security might ask you to see their own doctor for what is usually called a “Consultative Exam.” Usually, your first notice will be when the Analyst sends you a letter giving you the date, time and address of the examination. The letter will not say that you have a choice of doctors; more on that later.

Social Security will only want you to see their own doctor when they don't believe your medical record supports a case for disability and they want to get a “direct look.” Many say that if Social Security wants to examine you it is preparing to deny your claim, and, in the absence of additional medical evidence, they probably will deny the claim. However, CEs can lead to an approval.

CAUTION: These examinations aren't known for being thorough and in-depth. They are generally only helpful when the symptoms that keep you from working are readily observable. Claimants dealing with the subjective symptoms (fatigue, pain, etc.) of HCV infection *need to be especially cautious* about the exams, if asked to take one.

There are several reasons why Social Security would request a Consultative Exam (CE). They may require you to see a contracted, examining physician you have never seen before if:

- **Your physician has not responded to their inquiries or sent requested records.** You should be the “traffic cop” during this process. You should receive copies of letters to doctors, and should follow each up. Also stay in touch with your doctors' offices and your Analyst to make sure they aren't waiting for information that you didn't know was requested.
- **Your physician is not a specialist in your medical condition.** If an Internist is treating you for lung problems, they may want to have you examined by a pulmonary specialist. If your doctor is more knowledgeable in pulmonary issues than the average internist, you may be able to appeal the request.

Social Security's written policy is that your treating physician is the primary source of information about your condition. Because of this, you may be able to substitute your doctor for theirs, despite the fact that this is not mentioned in their letter announcing the exam. To make the switch, you should contact your own physician and ask if she would be willing to do the examination. Some physicians dislike doing these for Social Security as they do not reimburse a lot for the exam and there is a lot of paperwork involved.

If your doctor agrees, call the Disability Analyst whose name and phone number is on the letter you received. Tell him that you would like your own physician to perform the exam. Generally, he will take the doctor's name and address and send her a kit of paperwork for the exam.

If the representative refuses to substitute doctors, mention the wording below from Social Security. If necessary, ask to speak to a supervisor. Social Security's regulations clearly state that when possible the treating physician should perform the physical examination.

This can be found at :

<http://www.ssa.gov/disability/professionals/bluebook/#Medical%20Evidence>

“Consultative Examinations

“If the evidence provided by the claimant's own medical sources is inadequate to determine if he or she is disabled, additional medical information may be sought by recontacting the treating source for additional information or clarification, or by arranging for a CE.

The treating source is the preferred source for a CE if he or she is qualified, equipped, and willing to perform the examination for the authorized fee.

[Emphasis added] Even if only a supplemental test is required, the treating source is ordinarily the preferred source for this service. However, SSA's rules provide for using an independent source (other than the treating source) for a CE or diagnostic study if:

- The treating source prefers not to perform the examination;
- The treating source does not have the equipment to provide the specific data needed;
- There are conflicts or inconsistencies in the file that cannot be resolved by going back to the treating source;
- The claimant prefers another source and has good reason for doing so; or
- Prior experience indicates that the treating source may not be a productive source.”

If the exam is performed by the Social Security physician, you can take steps to protect yourself and improve your chances of getting your claim approved by doing the following:

Make a record of the exam.

- Have a friend or partner go as a witness. Although he/she won't be permitted in the examining room, he/she can time how long you are with the doctor. Once the exam is over, write down as much as you remember of what was asked and how you responded. Don't wait until you go home – do this on a bench outside the office or in a nearby coffee shop.
- Record the exam. Call the examining doctor's office before you go and ask for permission to record the exam. If so, take a tape recorder and record the entire exam. If they reject the request, make sure you note in your summary of the exam that you had attempted to record it and were refused.

- If you feel very strongly about having a recording of the exam and the doctor refuses to let you tape the exam, call the Disability Analyst who sent you the notice of the Consultative Exam, and see if she will contact the doctor for you to arrange the recording. If she agrees with the doctor that you cannot have a friend or record the visit, your choices are:
 - **Refuse the exam.** However, this will stop action on your benefits and could result in a denial. If you choose this route, you should write and call Social Security. Tell them that you “were willing to take the physical exam” but were refused permission to document the physical and you would like for them to explain why you were refused. Be sure to send a copy to the doctor. Keep copies of the letter and any response. Offer again to take the exam as long as you can, record it or understand why it cannot be recorded.
 - **Take the exam.** If you do this, ask the doctor to write a note confirming that she would not allow you to document it and why. If she is unwilling to put this in writing, it is even more important that you immediately write down all that you remember of the exam including the doctor’s refusal. Note especially how much observation was made of your symptoms and how much relied on your own statements. For example, if one of your symptoms was shoulder pain, did the doctor have you lift and stretch and move the shoulder around while watching how you reacted – or did she just have you lift it once and start writing.

The purpose of all this recordkeeping is that, in the event of a denial, your appeal can point to the inadequacy of the exam itself as well as provide more medical documentation from your own doctors. Questioning the validity of the CE with specific facts of just how superficial it was will help diminish the credibility of the CE and cause them to rely more on your own doctor’s evidence.

Once you are asked to take a Consultative Exam, the outcome of your claim pretty much depends on the outcome of this exam. If called in for an exam, your benefits are riding on it so proceed with caution.