



**VIRGINIA
LEGAL AID
SOCIETY**

PREPARING FOR YOUR DISABILITY HEARING

WHAT IS A HEARING?

The Social Security hearing you have requested is called an “administrative hearing.” Although testimony is taken under oath, strict rules of evidence do not apply and the hearing will be much less formal than a court hearing. The hearing is conducted by an Administrative Law Judge from the Office of Hearings and Appeals of the Social Security Administration. The judge’s job is to make an independent, unbiased decision based on the evidence in your case. This evidence consists of medical records and other documents and testimony at the hearing.

Both the judge and your representative will question you about your disability. Because all testimony is recorded, it is necessary that you speak clearly when you answer.

The hearing is private and is held in a small conference room. The only people present will be the judge, the judge’s assistant, you, your representative, and any witnesses you may want to present. Sometimes the judge may ask a “vocational expert” to testify about your ability to work.

Most Social Security hearings take 1 hour to 1 ½ hours. Few hearings take more than 2 hours.

WHAT IF MY MEDICAL CONDITION CAUSES ME PROBLEMS DURING THE HEARING?

Don’t be embarrassed. The judges are used to it and will accommodate any problems which may arise. If you are more comfortable standing than sitting, you will be allowed to stand. Or you may shift positions frequently. If you need to take a break during the hearing, all you need to do is ask.

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The purpose of your testimony at the hearing is to supplement and corroborate the medical records and reports which are a part of the hearing file in your case. Although adequate medical evidence forms the foundation of a successful case, your testimony is crucial to show how your medical condition(s) limit your ability to do jobs available in the national economy in light of your age, education and training, and work experience. The Administrative Law Judge will evaluate your answers to questions in several areas, including those described in the next several paragraphs. The precise questions you will need to answer will depend on the nature of your disability.

WHAT WILL I TESTIFY ABOUT AT THE HEARING?

1. MEDICAL CONDITIONS. You will be asked how your medical condition(s) make you feel. In other words, you will describe the symptoms you experience such as pain, dizziness, numbness, nausea or paralysis, as precisely as you can. For example, if your case involves pain, you might be asked where it is, how much pain you have and how often, what kind of pain you have – is it burning, stabbing, crushing, sharp, throbbing, radiating or aching pain? Does the pain limit your range of motion? Does the pain interfere with your ability to concentrate? What do you do to relieve the pain? What medication do you take for pain? How well does the medication work? Are there any side effects from the pain medication?

2. MEDICAL HISTORY. You may be asked how often you see your doctor, what sort of treatment your doctor provides, what medications you are presently taking, how often you take each medication and whether there are any side effects. You may also be asked to describe the symptoms and treatment of your medical condition(s) since its onset.

3. PHYSICAL ABILITIES. You will be asked to tell how far you can walk before resting, how long you can sit at one time and stand at one time, the total length of time you can sit and stand during an eight-hour day; how much you can lift constantly, frequently, or occasionally; whether you can use hands for repetitive actions such as simple grasping, pushing and pulling of arm controls and for fine manipulation; whether you can use your feet for repetitive movements such as pushing and pulling of leg controls; whether you can twist, bend, squat, crawl, climb and reach. You may also be asked whether you have other restrictions on activities caused by allergies, dizziness, drowsiness or special sensitivity to marked changes in temperature and humidity.

4. MENTAL ABILITIES. If your case involves a mental disability, you will be asked about your ability to understand, carry out and remember instructions, to make judgments, to respond appropriately to supervision, co-workers and usual work situations, and how well you deal with changes in a routine work setting.

5. EDUCATION AND TRAINING. You will be asked how far you went in school, whether you have had any training in the military, whether you have had any formal vocational training, and whether you have had any on-the-job training. You will be asked to describe any vocational training you have had.

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6. WORK EXPERIENCE. You will be asked to describe your job duties for the jobs you have had during the past 15 years. The judge will want to know how much time each day you spent sitting, standing and walking and how much weight you had to lift on each former job. The judge will assess the level of skill required to do your former jobs. You will be asked why you left each former job.

7. DAILY ACTIVITIES. You will be asked questions about your daily activities – how you spend your time from getting up in the morning until going to bed at night. You will be asked how well you usually sleep; whether you take naps during the day; whether your appetite is good; what things you do around the house, such as cooking, housework, repairs or gardening; whether you go shopping; whether you drive a car; what hobbies you have now. You may also be asked how your daily routine has changed since you became disabled. For example, what hobbies did you have before you became disabled which you are now unable to do?

WHAT CAN I DO TO PREPARE FOR MY HEARING?

1. KEEP A DIARY. A couple of weeks before the hearing, you should begin to keep a *daily* diary which details everything you do from the time you get up in the morning until you go to bed at night. Record how well you sleep, how many times you wake up during the night. Write out a description of your pain. Describe in detail how you feel at various times during the day. Keep track of the things you do during the day to accommodate your disability such as naps, rest periods, what you do to relieve pain or discomfort, and requests for assistance from relatives and friends. Note all medications taken. Listing all of these details is very important. Judges understand that you do not have to be bedridden to be disabled. Claimants who keep a daily diary are able to give the judge a better description of their day than those who do not keep a diary.

2. MAKE A LIST OF THINGS YOU USED TO DO BUT CAN NO LONGER DO. If you think about it for a few minutes, you will realize that there is a long list of hobbies, sports or spare time activities you used to do, but no longer are able to do because of your disability. It is important for you to think carefully about these things so that you can testify about them effectively at your hearing.

3. MAKE A LIST OF MEDICATIONS. Most judges will request that you bring to the hearing a list of medications you are currently taking. Even if the judge does not request such a list, you should prepare one anyway. Include on the list the condition for which you are taking the medication, the name of the prescribing doctor, the size of the dosage, how often you take it and a description of any side effects. It will help for you to make a list of medications you have taken for your condition(s) in the past, but which you are no longer taking. Such a list may show the difficulty your doctor has had in controlling your medical condition(s).

4. WRITE OUT A DESCRIPTION OF YOUR JOB DUTIES ON YOUR FORMER JOBS. Writing out your job duties helps organize your description of your former jobs. The judge must know what your former jobs required in order to determine why you no longer can do them because of your disability.

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5. MEET WITH YOUR REPRESENTATIVE (IF APPLICABLE). The most important meeting with your representative is the meeting where you go over your testimony. You should bring your diary, your lists, your job descriptions and any completed forms which the judge sent you to bring to the hearing. These items can help you and your representative prepare for testimony. It may be helpful to bring to the meeting with your representative a friend or relative who can testify at the hearing about the limitations in your daily life caused by your disability. However, you should ask your representative before bring a witness to this meeting.

GENERAL RULES

1. Tell the truth, no matter what. Do not exaggerate or minimize your medical symptoms. It is important to provide the judge with accurate information.
2. Know your present abilities and limitations. This information will be important to the judge in determining whether you are able to work.
3. Provide relevant details and concrete examples – but do not ramble on. The judge will only be interested in information related to your disability.

THIS INFORMATION IS NOT LEGAL ADVICE. Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.

Free Legal information by Web and Phone: www.vlas.org and
1-866-Leg1Aid (534-5243)

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