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Using the SOAR Model with Social Security Administration (SSA) Appeals

Presented by the Substance Abuse and Mental Health
Services Administration (SAMHSA)
SOAR Technical Assistance (TA) Center
U.S. Department of Health and Human Services

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

Disclaimer

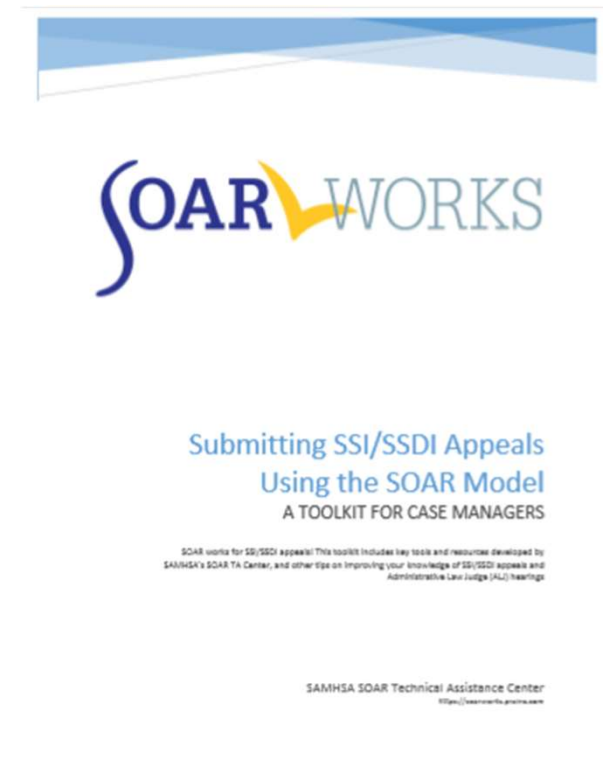
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Webinar Instructions

- Muting
- Recording availability
- Downloading documents
- Questions and Answers

Purpose and Objectives

- Learn how to access and utilize the SOAR TA Center Appeals Toolkit!
- Share key strategies for using the SOAR model with SSA appeals (Reconsideration and Administrative Law Judge [ALJ] levels).
- Learn how to develop a Theory of the Case when representing applicants at the ALJ level.
- Share practice tips for representing applicants with appeals during the COVID-19 pandemic.



Agenda

Presenters

- Kate Jones, MA, SOAR Case Manager, Interfaith Community Services, San Diego, California
- Jacqueline Darby, Supervising Advocate, Community Health Law Project, Trenton, New Jersey
- Karen Dobak, Senior Paralegal, Elder Health and Disability Unit, Greater Boston Legal Services, Boston, Massachusetts
- Liam Connolly, MSW, LICSW, Outreach Social Worker, Healthcare for Homeless Veterans/VA Boston Healthcare System, Boston, Massachusetts

Questions and Answers

- Facilitated by the SAMHSA SOAR TA Center

Welcome!

Asha Stanly, MSW, LICSW
Government Project Officer
Division of State and Community Systems Development
Center for Mental Health Services
Substance Abuse and Mental Health Services Administration

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

SOAR Works with Appeals!



- In 2019, SOAR providers successfully assisted 1,529 persons experiencing or at risk of homelessness through the appeals process.
- With 44% combined approval rate for Reconsideration and ALJ, in an average of 187 days in 2019.
- Compared to the national average of 29% approval rate with hearing office processing time in excess of 503 days!

*National SOAR outcomes as of June 30, 2019

<https://soarworks.prainc.com/article/soar-outcomes-and-impact>

Appeals Backlog, Why?

- As of March 2020, there were 575,000 ALJ hearing requests waiting to be scheduled
- Many states experiencing 400+ days for a hearing
- SSA increasing resources to deal with ALJ and AC backlogs:
 - Modernizing electronic services
 - Hiring more ALJs and Senior Attorney Advisors
 - Reorganized hearing office and AC to reduce backlog
 - 2019 thru early 2020, SSA reinstated reconsideration to the 10 prototype states, i.e.) AL, AK, CA, CO, LA, MI, MO, NH, NY, and parts of Los Angeles, CA.
- SOAR providers can help reduce the backlog by assisting applicants at the earliest possible levels!

Using the SOAR Model with Reconsideration Appeals

Kate Jones, MA
SOAR Case Manager
Interfaith Community Services
San Diego, California

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

Appeals Toolkit: Reconsideration, Pages 2-6



Reconsideration

About Reconsideration

- Reconsideration is an opportunity to have the application reviewed by different staff at Disability Determination Services (DDS) and to submit additional medical records and evidence.
- 10 states (New Hampshire, New York, Louisiana, Colorado, California (LA North and West Branches), Pennsylvania, Alabama, Michigan and Alaska) that participated in the Disability Redesign Prototype have reinstated reconsideration as of March 2020.

Review the Initial Denial

- Read the denial notice and record the following information. Confirm that it matches your records.
 - Date on notice
 - Type of claim
 - Medical Sources listed
- Request a copy of the electronic file.
- Carefully review the file to help you understand what went wrong and provide the basis for a Reconsideration.

Submit the Reconsideration Request

- The request can be submitted in-person or online via iAppeals (recommended).
- The request for reconsideration must be filed within 60 days of receipt the initial denial notice. (The 60-day period begins 5 days after the date on the denial notice, to allow for mailing time).
 - *Late Filing*: If the 60-day deadline is missed, you will need to submit a "Good Cause for Late Filing" request (see sample provided in this toolkit) along with documents listed below *to your SSA field office*. This request can serve as a protective writing date (to establish a protective filing date) for a new initial claim if the applicant does not establish good cause for late filing.

Reconsideration

- <https://secure.ssa.gov/iApplsRe/start>
- First level of appeal in all states.
- Must be filed within 60 days (+5 for mailing) of the date of the receipt of the initial denial notice.
- Online submission allows you to complete and submit, simultaneously:
 - Request for Reconsideration (i561) or Request for Hearing by ALJ (i501)
 - Disability Report - Appeal (i3441)
 - SSA-1696
 - Medical authorization, medical records and other supporting documents
- SSA online services for appeals now includes appealing non-medical denials (e.g. overpayments, income, resources, insured status, etc.)
- The applicant may submit additional medical evidence and records.
- DDS takes a new look at the case and makes a “recon determination.”
- New disability examiner adjudicator and reviewing physician.

Appeal vs. New Application

- Starting a new application:
 - Results in the loss of the earlier protective filing date and potential loss of months of back benefits
- Requesting reconsideration:
 - Preserves the protective filing date and potential eligibility for months of back benefits
- Be sure the applicant knows the difference and is making an informed choice!



What To Do If the Deadline Has Passed? Toolkit, page 27



Sample "Good Cause for Late Filing" Request

YOUR LETTERHEAD

Your State Department of Human Resources • Division of Mental Health and Substance Use Disorders
Two Any Street, NW • Suite 23-215 • City, State 33333 • 444-444-4444

Re: Jane Doe
DOB: 10/24/1900
SSN: 555-55-5555

[Today's Date]

Social Security Administration
2630 Another St., SW
Your City, YY 33333

To Whom It May Concern:

I have enclosed an SSA-561: *Request for Reconsideration* for Jane Doe. In addition, Ms. Doe has signed an SSA-1696: *Appointment of Representative* form and SSA-827: *Authorization to Disclose Information*, which are also enclosed.

Ms. Doe's initial application was denied on [insert date]. She is only now filing for the appeal because she did not know the status of her application. Ms. Doe is homeless and has been for over a year. She has been living on the street and only recently began receiving services. Her disability has caused her to refuse any sort of help up until now. She did not have a reliable mailing address and did not receive the last few notices from SSA. She recently met and began speaking with a homeless advocate who asked us to look into her application. We believe that this is *good cause* for accepting her *Request for Reconsideration*.

I will be serving as her representative throughout the application process and all future deadlines will be met.

If you have any questions, please do not hesitate to contact me at (555) 555-5555. Thank you for your assistance and consideration.

Sincerely,

Ms. SOAR Case Manager, LMSW
SOAR Benefits Specialist
Your Agency

- The applicant can still appeal if there is "Good Cause" for missing the deadline
- Accepted "good causes" for late filing:
 - Related to applicant's disability
 - Limited English proficiency and/or education
 - Failure to understand the requirements
 - Failure to receive denial notice within 5 days of the date on the notice
 - Unusual or unavoidable circumstances such as hospitalization

Know the Reason(s) for Denial, Toolkit, pages 4-5

- Review Denial Notice
- Review SSA-4268: Disability Determination Explanation
- Review SSA-831: Disability Determination and Transmittal
- Request the electronic folder (CD) from SSA or the Office of Hearings Operations (OHO)
- Review the CD to ascertain evidence on file and rationale for denial
- Make note of errors, omissions and plan your strategy

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Reviewing the File

SSA-831: Disability Determination and Transmittal

Overview

- The [SSA-831: Disability Determination and Transmittal](#)³ is the official disability determination document used by DDS to record the decision.
- This form is helpful, especially when the denial notice is unclear. The form should contain the name of the DDS disability examiner and the DDS medical consultant who worked on the claim.
- Most of the information on the form are [SSA codes](#)⁴; several key codes are highlighted below.

Important SSA Codes

- Item 19: States that the applicant is not disabled through the date of the determination (or other pertinent dates, such as expiration of insured status)
- Item 22: Citation to the Sequential Evaluation regulation under which a claim is denied
- Common denial basis codes:
 - H1 - The individual has a severe impairment(s) but is found not disabled because he/she has the functional and vocational capacity to engage in substantial gainful activity in relevant past work (Step 4)
 - J1 - Ability to do other work (Step 5)
 - K1 - Failure to follow prescribed treatment
 - L1 - Refusal to appear for a consultative exam (CE)
 - M5 - Failure to cooperate in submitting evidence of disability
 - Z1 - DAA (Drug Addiction and Alcoholism) is material to the determination of disability
 - N1 - Engaging in Substantial Gainful Activity (SGA)
 - Item 32B - This includes the specialty code for the doctor who signed the form.

SSA-4268: Explanation of Determination

Overview

- The SSA-4268: Explanation of Determination states the "Disability Determination Rationale." This is the *technical rationale* the DDS disability adjudicator used to make the disability determination.
- Although it may contain SSA technical language that is difficult to understand, it is in your best interest to look it over as it contains more detailed information than the personalized explanation rationale included in the denial notice.
- By reviewing the technical rationale, you can see the step-by-step reasoning that SSA and DDS used to deny the applicant's claim.



Appeal Online with iAppeals

<https://secure.ssa.gov/iApplsRe/start>

The screenshot shows the Social Security Administration's iAppeals website for Disability Appeals. At the top left is the Social Security Administration logo and the text "Social Security The Official Website of the U.S. Social Security Administration". The main heading is "Disability Appeal". Below this, there are three main sections: "Getting Ready", "More Information", and "Submit an Appeal".

Getting Ready

Before you start your appeal, you should gather the [information you need](#) to complete your disability appeal, including:

- Doctors, hospitals, medical treatments, and tests since you last gave us medical information
- Medicines you are currently taking
- Changes in your medical conditions, daily activities, work, and education
- [Supporting documents](#) including forms, medical reports, and written statements

Being prepared will help you spend less time to complete your disability appeal online.

More Information

- [About This Application](#)
- [Other Ways to Complete a Disability Appeal](#)
- [The Appeals Process](#)
- [Hours of Operation](#)

Your privacy is important.

For details about our use of your information, we encourage you to read our [Privacy Act Statement](#).

Submit an Appeal

Completing your appeal online may take 40 to 60 minutes. Your answers will be saved automatically so you can take a break at any time.

[Start a New Appeal](#) or [Return to a Saved Appeal](#)

Reconsideration Success Story!



Developing a Theory of the Case: Part I

Jacqueline Darby
Supervising Advocate
Community Health Law Project
Trenton, New Jersey

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

What is a Case Theory? Why Develop One?

- Developing a theory of the case is an important part of the preparation process for the disability hearing.
- The case theory will illustrate why your client should be found disabled under the Social Security Disability Law.

Four Main Theories We Can Use

- Prove that your condition(s) meets/or equals a disability listing
- Prove that you “grid” out of all work (including past work)
- Prove your non-exertional limitations prevent you from working or,
- Prove that your exertional level is “less than sedentary”

How Do I Begin Developing a Case Theory?

To begin the process you should familiarize yourself with the following essential tools:

1. The Listing of Impairments found at:

<https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>

- The listings describes, for each major body system, impairments considered severe enough to prevent an individual from doing any substantial gainful activity (in regards to children under age 18, severe enough to cause marked and severe functional limitations).

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Preparing for ALJ Hearings: Developing a Theory of the Case

What is a case theory?

An important part of preparing for a disability hearing is to develop your theory of the case. What does this mean? It basically fills in the blank in the question, "Mr. Jones should be found disabled because _____." You need to develop skill in choosing and documenting case theories to efficiently handle Social Security Disability claims at the hearing level. This handout will explain what case theories are, why they are important, and how you can develop them and use them to help make your job easier and win more cases at the ALJ level.

Why is it important to develop a case theory?

Developing a case theory is important because SSA cannot properly approve any case without legal justification. You must be able to identify and argue that legal justification by stating and proving the case theory. Further, you can develop a legal theory after a completing a comprehensive interview (see "Questions for Direct Examination at SSA," found in this toolkit, as well as the [SOAR Medical Summary Report \(MSR\) Interview Guide](#)¹¹). You should know critical information like age, education, and past relevant work. This should give you a good idea of possible theories.

How do I develop a case theory at the early stages of the case?

Developing a case theory requires that you have a working knowledge of the [Listings](#)¹⁴ and medical vocational rules ([Grids](#)).¹⁵ Otherwise, it will not be possible to determine which Listing or Grid Rule might apply. So, be sure to review the Listings to determine which medical conditions have Listings. That will allow you to recognize when an applicant has a condition that might be covered. With that in mind, it is important to understand and use the five-step sequential evaluation process. You will still need to evaluate the claim for other legal impediments (such as DAA, failure to follow prescribed treatment, etc.).

Developing a Theory of the Case

Can the applicant make a successful claim? What argument would you make?

Questions to ask in the context of the Sequential Evaluation process:

- Step 1. Is the applicant working?
- Step 2. Is the impairment severe?
- Step 3. Does it meet or equal a listing?
- Step 4. Can they do their past relevant work?
- Step 5. Is there other work in the national economy? (See Grid Rules and other SSA Rules below)

Some examples of common case theories might include:

- The applicant meets all the requirements of a particular Listing.
- The applicant satisfies the requirements of a particular medical-vocational (Grid) rule.
- The applicant should be found disabled at step five of the sequential evaluation based on particular exertional and non-exertional impairments ([SSR 85-15](#)¹⁶).

Using the Five-Step Sequential Evaluation as a Basis for the Initial Interview

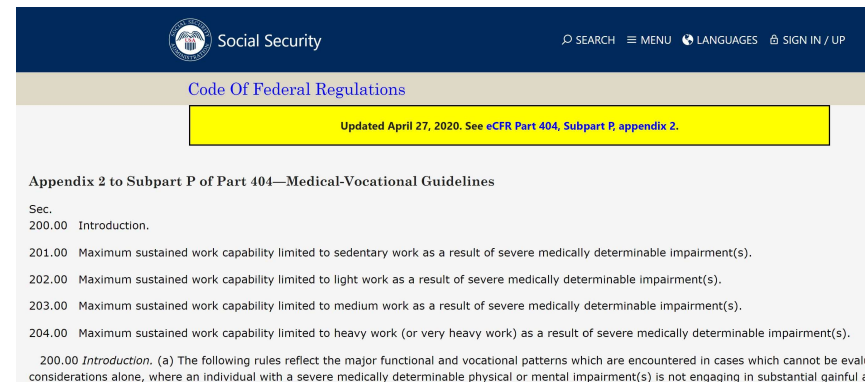
- Questions can be grouped into categories mirroring each step
- Advocate should identify the particular Listing, medical vocational rule, or combination of impairments when formulating and documenting the case theory.



Developing a Theory of the Case: Grid Rules

2. The Medical Vocational Guidelines (Grid Rules) found at:
https://www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm

- It is important to note, in cases where an individual's impairment is solely non-exertional the "Grids" are not used.



The screenshot shows the official Social Security website page for the Code of Federal Regulations. At the top, there is a navigation bar with the Social Security logo, the text "Social Security", and links for "SEARCH", "MENU", "LANGUAGES", and "SIGN IN / UP". Below this is a header for "Code Of Federal Regulations" with a yellow box indicating it was "Updated April 27, 2020. See eCFR Part 404, Subpart P, appendix 2." The main content area is titled "Appendix 2 to Subpart P of Part 404—Medical-Vocational Guidelines" and lists several sections: "Sec. 200.00 Introduction.", "201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).", "202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).", "203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).", and "204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).". A note below section 200.00 states: "200.00 Introduction. (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which cannot be evaluated on the basis of medical considerations alone, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity."

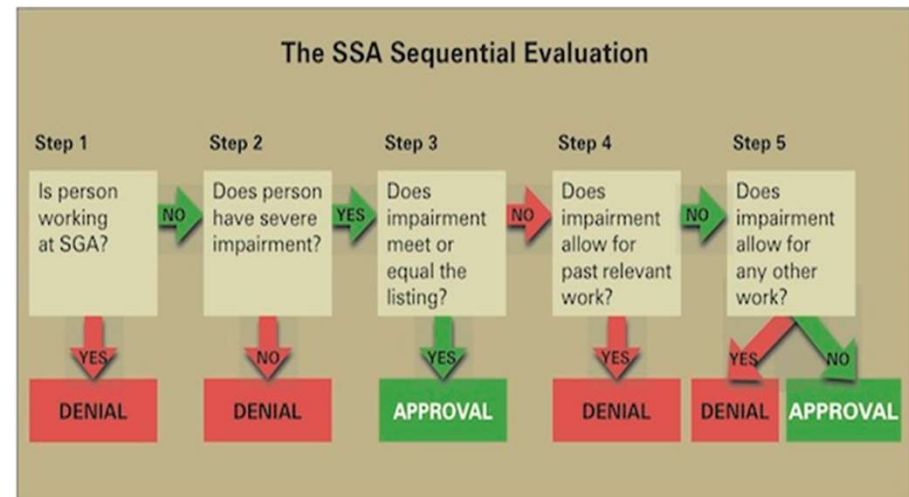
Developing a Theory of the Case: SSR 85-15

3. **Social Security Ruling (SSR) 85-15**, is very helpful in winning Social Security Cases when there are non-exertional impairments (e.g. mental health, hearing loss, and postural-manipulative impairments). SSR 85-15, in pertinent part states:

- Where a person's only impairment is mental, is not of listing severity, but does prevent the person from meeting the mental demands of past relevant work and prevents the transferability of acquired work skills, the final consideration is whether the person can be expected to perform unskilled work.
- The basic mental demands of competitive, remunerative, unskilled work include the abilities (on a sustained basis) to understand, carry out, and remember simple instructions; to respond appropriately to supervision, coworkers, and usual work situations; and to deal with changes in a routine work setting.
- A substantial loss of ability to meet any of these basic work-related activities would severely limit the potential occupational base.
- This, in turn, would justify a finding of disability because even favorable age, education, or work experience will not offset such a severely limited occupational base.

Developing a Theory of the Case: Sequential Evaluation

4. You should have an understanding of the **Five Step Sequential Evaluation Process**



When Should You Start Developing Your Theory of the Case?



Preparing for ALJ Hearings: Direct Examination Questions

Questions for Direct Examination

Below are some questions the Administrative Law Judge (ALJ) might ask the applicant. Reviewing these can help SOAR practitioners and applicants prepare for ALJ hearings.

Personal and Educational Background

- What is your full name?
- What is your birthday? How old does that make you today?
- Where do you live? With whom do you live?
- Are you married? Do you have any children?
- Do you live in a house or an apartment? What floor is it on?
 - Do you have to climb stairs to get to your apartment? How many?
- Do you live mostly outside?
- Where did you go to school? What grade did you complete in school? Why did you leave school?
- Can you read? Do you read the newspaper? What section of the paper do you most often read? How often do you read this section?
- Can you write?
- Can you do addition? Multiplication? Division?
- Did you attend any vocational school or program? When was that? How long did the program last? Was it full-time or part-time?
 - Did you later find a job involving this kind of training?
- Were you ever in the military? Did you get any special training there?

Work History

- Are you currently working? Why aren't you working now?
- When did you last work? Where was this? How long did you work there?
 - What was your position there and what were your duties? Please describe your duties in detail.
- Did you have a supervisor? What did your supervisor do?



Preparing for ALJ Hearings: Direct Examination Questions

Questions for Direct Examination

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The development of the theory of the case starts at your first interview with your client.

During the initial interview review the denial letter from the Social Security Administration (SSA) to get the agencies reason for denying the claim and resolve those issues.

At the initial interview you begin to develop a general idea of your arguments.

Your interview should be thorough.

Ask questions that will help you develop a cogent argument that results in benefits being awarded.

Developing Your Theory of the Case

- When developing your theory of the case you should review:
 - Medical records which will direct us to the Social Security listing(s) and/or regulation that supports our argument of disability
 - Age
 - Education
 - Past Relevant Work
- ✓ At the end of the interview clients should sign medical releases for all treating sources

What Happens After the Interview?



Think of Yourself as a “Clinical Columbo”

Lieutenant Columbo
happens....



Continue Case Development for Hearing

- Once the medical records are received and reviewed, we begin investigating the medical evidence, turning over every stone, dissecting every record, and filling in the gaps by:
 - ✓ Requesting supportive statements from treating sources.
 - ✓ Requesting the completion of questionnaires related to the impairment by treating physicians.



Closing Thoughts

- Based on the information acquired during the interviews, the medical evidence, and our knowledge of the Social Security listings, grids, and rulings, we are able to determine the best way to present a case before the Administrative Law Judge.



Developing a Theory of Your Case: Part II Procedures, Tips, and Best Practices

Karen Dobak
Senior Paralegal
Elder Health and Disability Unit
Greater Boston Legal Services
Boston, Massachusetts

June 18, 2020



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Developing a Theory of the Case

- An essential advocacy role, without which it is likely the case may be denied.
- Tells SSA and the ALJ how you would like the case viewed.
- Start developing this theory during your first interview with your client.
- Generally reserve 2 hours for the first interview.

Information Needed to Develop Your Theory

- Claimant's age;
- Education- Include length, special education or not, and do reading, writing, and math ability correspond to grade completed; and
- Past relevant work- duties performed, why left position.

Information Needed to Develop Your Theory

- All diagnoses including physical and mental conditions:
 - Answer this question: How do these symptoms impact claimant's functioning?
- Understand the 5 Step Sequential Evaluation.
- For Step 3: Review all listings that correspond to the appellant's conditions and keep in mind the information you would need to argue a listing level impairment as you gather and review evidence.

Grid Rules: Exertional Limitations only

- Review the grid rules that apply to the appellant's strength limitations, age, education, and transferability of skills.
- Know these rules for all past relevant work.
- Know the rules that apply to the Residual Functional Capacity (RFC) assigned by SSA in past levels of the case.
- Know the rules that you are using in your theory of the case.

Grid Rules continued...

- Determine whether there is another way to argue disability if the ALJ decides to use the RFC assigned by SSA at the lower levels of appeal.
- Have appellant's physician complete RFC forms and Mental Impairment Questionnaire's to strengthen or create your theory of the case.
- Medical records rarely specify functional limitations, so it is important to obtain the doctor's opinion about these limitations.

Step 5: Exertional and Nonexertional Limitations

- Review SSR 85-15
- Possible Step 5 theories
- Combination of impairments
- Substantial loss of the "mental abilities needed for any job" as described in POMS DO 2 5020.010
 - i.e.) ability to understand, remember, and carry out short, simple instructions, maintain concentration and attention for extended periods, ask simple questions, or ask for assistance.

Step 5: Dictionary of Occupational Titles

- Review the Dictionary of Occupational Titles (DOT) description for:
 - All past relevant work
 - Any positions previously mentioned as options by SSA
 - Commonly mentioned positions used by the Vocational Experts and ALJs in your area, i.e.) Security Guard, Small parts assembly, Cleaner
- You will need this information in crafting your theory as well as in cross examining the vocational expert at the hearing.

Step 5: Vocational Experts

- Vocational Experts testify that if the appellant would be out of work 3 or more times a month they are not employable.
- Vocational Experts testify that if appellant would be off task 10 to 15% or more a day they are not employable.

Additional Tips

- Know the medical record fully, including instances that support and those that appear to conflict with your argument and address them.
- Make sure to address how Drug and Alcohol Addiction (DAA) is not material to a finding of disability if applicable.
- Know Social Security rules of representation so that you do not find yourself in any ethical dilemmas, i.e.) 5 day rule, providing witness testimony.

Finalizing Your Arguments

- When putting together your final arguments in the case, include all possible theories of the case, write a legal memorandum that sites to your evidence supporting your theories.
- Make sure you submit all evidence and memorandum as they are available but no later than 5 days prior to the hearing.

Creating a Legal Aid Partnership for SSA ALJ Hearings

Liam Connolly, MSW, LICSW
Outreach Social Worker
Healthcare for Homeless Veterans
VA Boston Healthcare System
Boston, Massachusetts

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

My SOAR Journey Starting from Initial to ALJ Levels

- Became SOAR specialist in 2018, serving Veterans.
- Began working with a Veteran at reconsideration level.
 - Gathered evidence, resubmitted forms, completed Medical Summary Report with psychiatrist signature!
- Reconsideration appeal denied and Veteran expressed interest in appealing decision to ALJ level.
- Learned more about how to represent applicants at ALJ level from various sources.
- Partnered with Greater Boston Legal Services for representation and mentorship!
 - GBLS agrees to allow SOAR rep to watch hearings, agrees to represent 2 pending hearing cases

Collaborating with Greater Boston Legal Services

- Coordinating meetings with the Veteran claimant, GBLS and SOAR specialist, e.g.) signing releases, new representation
 - GBLS assists with exploring Grid rules, gathering physical health records, employment records
- Providing medical evidence
- Releasing new/previously overlooked evidence to GBLS (especially physical health), and
- Collaborating on writing an On the Record (OTR) decision letter

My First ALJ Decision: “Fully Favorable”!

- ALJ reviews records in Electronic File (EF) and finds that claimant is disabled
 - Judge notes most evidence indicates more impairments than Consultative Exam (CE) from initial application.
 - Judge notes signed MSR added weight in favorable decision!
- Other positive outcome:
 - GBLS agrees to assist with opportunity to engage the hearing process for future cases.
 - Helpful, mutually beneficial relationship to help Veterans experiencing homelessness.
- Also, learned that ALJs can and do reverse opinions of DDS!

Benefits of Partnering with Legal Advocates

- Attorneys or non-attorney representatives can be excellent advocates for individuals applying for benefits and appealing denials.
- If a representative is already involved with an appeal, see if you can help by providing additional evidence or documentation.
- If an applicant wishes to dismiss their representative, they are permitted to do so.
- The representative may file a fee petition to SSA and, if benefits are awarded, receive partial payment based on work already completed at the time of withdrawal.
- Partnering with your local legal aid advocate is ideal because applicant will not be charged for services.
- Legal aid advocates will do their best to expedite hearing and/or may request an on the record decision.

Tips for Legal Aid Representation of SOAR Hearings

- It can be helpful to engage with previous legal aid contacts because some agencies don't have a "front door" for this kind of collaboration due to lack of resources; creativity and persistence work!
- Once appointed, SSA contacts the Principal Representative regarding the claim
 - Requires coordination between principal representative, other representative, and claimant.
- SOAR Specialists can make sure Medical Providers can provide Residual Functional Capacity forms completed by Medical and Mental Health Providers.
- With legal aid agencies, a fee may or may not be agreed upon when they represent a claimant.

Contacting OHO for ALJ Hearing Requests

- Office of Hearing Operations (OHO) site indicates requests for hearing evidence needs to first be submitted to the local field office, then OHO will contact the claimant and representative
- Field Office Locator
<https://secure.ssa.gov/ICON/main.jsp>
- Hearing Office Locator
https://www.ssa.gov/appeals/ho_locator.html

Appointed Representative Service (ARS)

- Contact OHO to determine if you can enroll in ARS, which will allow you to be able to access the Electronic File online
 - This can help prepare for citing evidence in any hearing memo, completing an OTR and preparing for the hearing
 - Complete and sign the SSA-1699, then fax it to 1-877-268-3827 for processing.
- Once the 1699 is processed, you will be mailed a User ID and Rep ID.
 - <https://www.ssa.gov/ar/>
- ❖ In cases with Electronic Records Express submitted evidence, the File can still be accessed through ERE.

Building Solid Partnerships with Other Stakeholders

- Locate a coalition of disability advocates in your state and join them if possible and sign up for their list-serve if one exists:
 - E.g.) SSI Coalition administered by the Disability Law Center in Massachusetts.
 - Contact your local legal services agency to ask about this.
 - Useful way to further develop your skills, ask questions of other advocates, and stay up to date on any changes occurring in the field.

Appeals Practice Considerations During COVID-19 Pandemic

Practice Tips from Panelists:
Liam Connelly, Karen Dobak and Jacqueline Darby

June 18, 2020



SAMHSA
Substance Abuse and Mental Health
Services Administration

Practice Considerations During COVID-19 Pandemic

- Video and telephone hearings through September (possibly later) in lieu of live hearings while courts are closed to the public.
- SSA website (<https://www.ssa.gov/coronavirus/>) indicates claimant/representatives can choose this hearing or request a postponement until a live, in-person hearing is possible

Practice Considerations During COVID-19 Pandemic

- Discuss telephone hearing option with appellant. Inform them of positive and negatives of telephonic hearing.
 - **Negatives:** Lose the in-person connection the ALJ may have with the client. e.g., cannot see the physical signs of pain the appellant may display, may have poor connection.
 - **Positives:** Shorter wait time, may be easier for some appellants who would be unable to get to the hearing office even without COVID-19, and may produce less anxiety.
- ❖ If appellant wants to wait for an in-person hearing, call clerk for ALJ and notify them and submit letter to the file confirming this decision.

Practice Considerations During COVID-19 Pandemic

- Know it will take much longer to obtain evidence.
- Request medical records electronically if possible.
- The 5 day rule still applies.
- Temporary procedures to allow claimants to use different methods to sign the notice of appointment of a representative (SSA-1696)
<https://secure.ssa.gov/apps10/reference.nsf/links/05212020012614PM>)
- Make sure you notify SSA of the dates of your availability for a hearing for 5 months out by the 20th of each month as required by OHO scheduling unit.
- Call your local OHO for the email address to send this information.
- Submit any changes as soon as known.

Practice Considerations During COVID-19 Pandemic

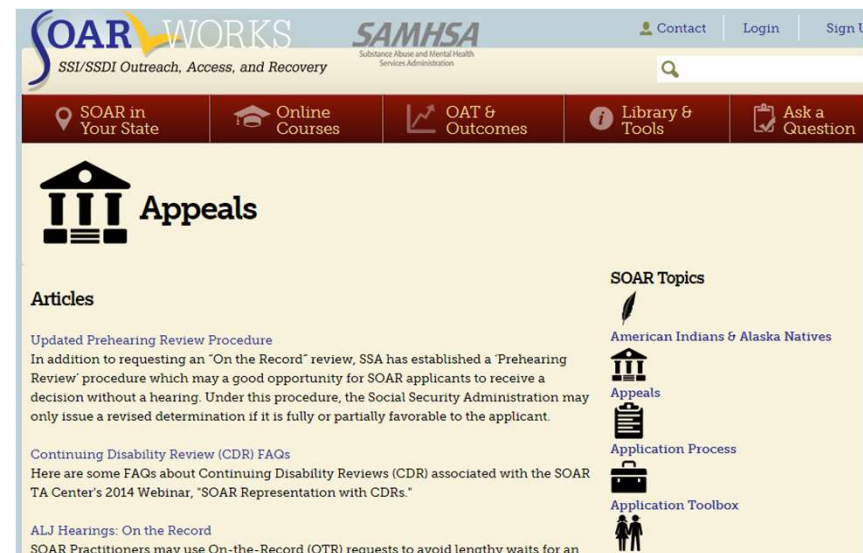
- Sign up for Appointed Representative Services (ARS) (<https://www.ssa.gov/ar/>) which gives you access to full appellant file and ease of record submission.
- Submit a legal memorandum as soon as possible and request the case be reviewed for an on the record decision, but preserve hearing date if a fully favorable decision cannot be made.
- Call ALJ's clerk and inform them of the memorandum submission and on the record request.

Questions and Answers

Please type your questions into the Q&A box on the right of your screen

SOAR and Appeals Resources

- <https://soarworks.prainc.com/topics/appeals>
- Appeals Toolkit
- FAQs
- Sample tools
- Webinars



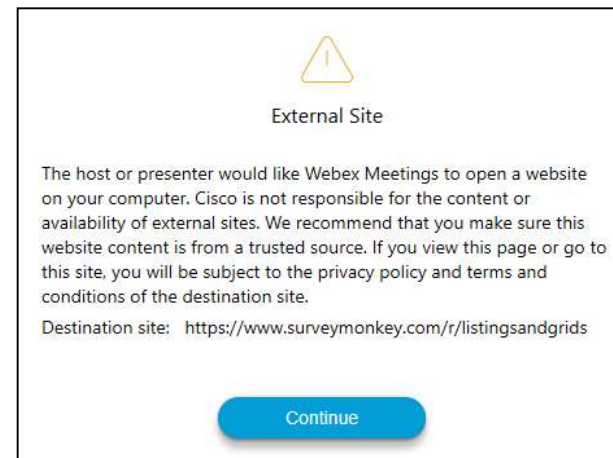
The screenshot displays the SOAR Works website interface. At the top, the header includes the SOAR Works logo with the tagline "SSI/SSDI Outreach, Access, and Recovery" and the SAMHSA logo with "Substance Abuse and Mental Health Services Administration". Navigation links for "Contact", "Login", and "Sign U" are visible. A search bar is located in the top right. Below the header is a navigation menu with icons and labels for "SOAR in Your State", "Online Courses", "OAT & Outcomes", "Library & Tools", and "Ask a Question". The main content area features a large icon of a classical building and the heading "Appeals". Underneath, there is an "Articles" section with three entries: "Updated Prehearing Review Procedure", "Continuing Disability Review (CDR) FAQs", and "ALJ Hearings: On the Record". To the right, a "SOAR Topics" sidebar lists "American Indians & Alaska Natives", "Appeals", "Application Process", and "Application Toolbox", each with a corresponding icon.

Next Steps

- ✓ Familiarize yourself with the SOAR Appeals Toolkit
- ✓ Develop a partnership with Your Local Legal Aid Agency
- ✓ Contact your SAMHSA SOAR TA Center Liaison with questions

Webinar Evaluation

- At the conclusion of the webinar you will be automatically re-directed to SurveyMonkey.
- You will receive this alert that you are leaving WebEx.
- Please click “Continue”!



Thank You

SAMHSA's mission is to reduce the impact of substance abuse and mental illness on America's communities.

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