



# donati law

## Social Security Disability Benefits and Physical Therapy

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### Tell your patient's story:

Unfortunately, some clients are often poor historians and are unable to concisely convey their stories. To the extent that you can put details about their lives explaining who they are, the better off your patient will be. What sort of problems are they having in their activities of daily living? Has she had to start using a shower chair because of weakness in her leg? Does a family member have to help him tie his shoes because of a loss of fine motor dexterity? Has she had to move things off the top shelf in her home because she can not reach overhead or safely climb a step ladder? Can your patient no longer use a push mower to cut his grass because of cardiac fatigue? The more real world details that are included in your records, the more likely it will be that those deciding the case understand the true extent of your patient's illness.

### Adult Speech Therapy:

Stroke– For a patient to receive disability for a CVA affecting her speech, the Social Security administration requires the following:

11.04 Central nervous system vascular accident. With one of the following more than 3 month's post-vascular accident:

A. Sensory or motor aphasia resulting in ineffective speech or communication;

The Administration does not actually define what constitutes "ineffective" speech or communication. This leaves a lot of room for interpretation for the decision makers in these cases. From your patient's perspective, the important thing is to document thoroughly all of the problems that they are exhibiting. Tragically, the problem here is usually that the claimant doesn't go through rehab (typically because of a lack of insurance) and thus the record fails to document the real world problems that they

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experience. For those that do go through with speech therapy, the only issue that my clients express is that their speech difficulties might vary throughout the day based upon their level of fatigue. Similarly, a claimant may have completely understandable and intelligent speech, but it may take her significantly longer to express her thoughts or find words.

### **Motor Function:**

For a patient to receive disability for a loss of motor function following a stroke, the Social Security Administration requires:

B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C).

The Administration explains what it means by disorganization in motor function as:

Persistent disorganization of motor function in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands and arms.

**Note:** The definition requires “persistent” disorganization of motor function. A common problem in medical charting is that a provider may not have actually tested motor function but that the charting will read as “no problems.” This creates issues because the judges will interpret these records as showing that the patient’s problems have resolved or are merely intermittent, even though other evidence in the record did show motor loss.

Always look for and document signs of difficulty in ambulation. Similarly, if the patient has difficulty with balance or needs additional support to ambulate, make sure that you note the need for a cane or brace. If there is any indication that the claimant may have problems that require the need for an assistive device it is *extremely* helpful for you to offer an opinion in this effect.

Finally, in this area it is important to note any effect that fatigue plays on your patient’s functional ability. Social Security is concerned with finding out what a claimant can do throughout an eight-hour workday. I have had several clients that may have minimal problems with motor function when they are rested in the morning, but do experience problems as they fatigue with their daily

activities. In the working world, this will mean that activities that require prolonged use of the affected limb are impossible for the claimant to perform.

Unfortunately, when Social Security tests for problems with motor function or motor strength it typically sends a claimant out for a superficial 5-15 minute physical. If the examiner doesn't note problems at that time, Social Security staff will conclude that the claimant does not experience the kind of motor dysfunction described above. In my experience, this often leads to erroneous conclusions. Thus, if you feel that a patient is going to be prone to fatigue throughout the day you need to note it in your records.

### **Cardiac Rehab:**

When it comes to my clients who are recovering from a cardiovascular incident or cardiopulmonary surgery, they seem to have several functional limitations that, if well documented, can help the decision makers in their cases. Clients usually complain of severe fatigue upon exertion, for example walking to the mail box. They also complain of chest tightness and shortness of breath. If this is the case with your patient, including what level of exertion exaggerates these symptoms. If they are experiencing lower extremity edema, notate in the chart if elevating their legs would be advisable during the day. When it comes to functional limitations, would your patient require more frequent breaks throughout the day due to their symptoms? If so, include this in your notations.

### **Wound Care:**

Relatively few individuals will qualify for disability based solely upon major wounds (burns, diabetic ulcers, etc.). The main problem that arises is that Social Security has a durational requirement that the claimant must meet in order for a condition to be disabling. Specifically, a condition must last or be expected to last at a disabling level for 12 continuous months. Most people who are treated for problems in wound care are healed up well before this twelve month durational requirement.

However, there are claimants that may qualify where their wounds do not heal after a year or where there are multiple wounds or sores that collectively last for over a year. The Administration is also open to considering individuals who have contracted serious infections.

Finally, for those individuals who have sores that routinely reoccur in the same location, the best thing that can be done for them is to explicitly document the things they are to do at home in order to treat their wounds. For instance, I had a client who over the course of two years, despite multiple surgeries, had a painful rectal abscess that would not heal. In order to treat this, his doctor instructed that

he soak repeatedly throughout the day. In his particular case, the key to him getting help from the SSA was documentation from his providers that he was required to take repeated sitz baths throughout the day, documentation as to how long he was to take these sitz baths and precautions that he needed to take to keep the wound clean and dry. Once these limitations were established, the government vocational expert found that this would pose too great a disruption for the claimant to sustain full-time employment and he was awarded benefits.