

Medically Determinable Impairment Requirements for Chronic Fatigue Syndrome and Fibromyalgia

One or more of the following must be documented for at least six consecutive months:

- Palpably swollen or tender lymph nodes on exam
- Nonexudative pharyngitis (sore throat without signs of inflammation)
- Persistent, reproducible muscle tenderness on repeated examinations, including the presence of positive tender points
- There is considerable overlap of symptoms between chronic fatigue syndrome and fibromyalgia, but individuals with chronic fatigue syndrome who have tender points have a medically determinable impairment. Individuals with impairments that fulfill the ACR criteria for fibromyalgia (which includes the minimum number of tender points) may also fulfill the criteria for chronic fatigue syndrome. However, individuals with chronic fatigue syndrome who do not have the specified number of tender points to establish fibromyalgia may still be found to have a medically determinable impairment.

The following tests may be used to help establish a medically determinable impairment in individuals with chronic fatigue syndrome (and fibromyalgia if they meet the criteria):

- Elevated antibody to EBV capsid antigen equal to or greater than 1:5120, or early antigen equal to or greater than 1:640
- An abnormal MRI scan of the brain
- Neurally mediated hypotension as shown by tilt table testing or another clinically acceptable form of testing
- Others tests, such as abnormal sleep studies or exercise intolerance

Documentation

...view it as an insurance policy

Not to sound pessimistic, but you never know what the future holds. If you take steps now to regularly document your health and work status to meet the requirements of SSR-99-2p, then at least you won't have any regrets later if you are overtaken by ill health. More often than not, fibromyalgia is triggered by unexpected events such as auto-accidents, infections or the onset of another illness. These same events can also lead to a serious decrement in function from which your body may not fully recover.

Once you have endured a setback in your health, it is usually too late to start thinking about issues of documentation. The SSA will look at your medical records for the past 12 months and weigh that information against their template. If your physician writes a complete chart, it is possible that disability will be paid. Unfortunately for you and your physician, this scenario is not common these days.

The new SSA ruling will allow an interested reviewer to also take into consideration the personal records of a person with fibromyalgia or chronic fatigue syndrome, such as a journal, diary or notes that describe

one's impairment(s) and its associated impact on function over time. Again, the SSA will be looking at relevant evidence for the 12-month period preceding the month of application to them.

What about LTD carriers and insurance cases involving motor vehicle accidents of people who have previously been diagnosed with fibromyalgia or chronic fatigue syndrome? Chances are, they will apply standards as strict as SSR-99-2p.

If you don't want to find yourself at the mercy of the court system and government-paid independent medical examiners who may not realize how functionally impacting these syndromes can be, start taking the following precautions now:

- Visit your fibromyalgia/chronic fatigue syndrome physician at least three times a year. During each visit, bring with you a list (preferably typed) of your dominant symptoms and any significant problems that you are having with function (work, house chores and social activities). Make sure that this gets incorporated into your medical record and keep a copy for yourself. If you have done your job of getting right to the point of the visit, then you shouldn't feel awkward about asking what he or she will be writing in your record.
- Whenever you visit any health care provider (gynecologist, naturopath, chiropractor, physical therapist, occupational therapist, counselor, etc.), try to follow through with the same recommendations as given above for physicians.
- Keep your own journal, diary, or notes.

Check Allsup, Inc., a nationwide Social Security Disability Insurance (SSDI) benefits provider, to locate a representative in your area whether you are applying for the first time or appealing a denial. Allsup, Inc. specializes in SSDI and only charges a fee if you obtain Social Security benefits.

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