The Role of Vocational Experts in Determining Disability in Social Security in the 21st Century

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Abstract

This paper will present the early role of vocational experts in determining disability for the Social Security Administration, and then discuss ways in which this role can be expanded. Vocational experts must understand the impact that age, education, residual functional capacity, and transferable skills have on the employment of people with disabilities. This expertise is crucial to the disability determination process in Social Security. However, vocational experts can be used to improve not only the accuracy and consistency of the decision-making process for eligibility, but also increase the number of SSA beneficiaries who can return to work.

Introduction

When the Social Security Act was passed in 1935, public assistance programs for the, aged and blind were created, but general disability support was not provided. However, in 1950, the House Ways and Means Committee recommended that disability provisions to the original Social Security Act should be added, envisioning that older workers with chronic impairments may need to leave the workforce prior to their retirement. This new provision was envisioned as a program for individuals who were "permanently and totally disabled," but not yet of retirement age (IOM, 1991).

In 1956, Congress added the Social Security Disability Insurance (SSDI) program to the law. In this early program, the definition of disability in SSA was established as a "permanent and total" condition (Board, 2003), and was developed for people who qualified on the basis of a disabling condition and who met specified income guidelines. . Congress stated explicitly that this program was for injured workers who were forced to retire because of permanent and total disability, and expanded eligibility to individuals who were age 50 and over. The SSDI program required that an individual must have forty quarters of earned income within the past 15 years in order to qualify for benefits.

Over the past 50 years Congress has continued to pass legislation expanding the pool of individuals who are eligible, thereby increasing the number of people who qualify for disability benefits. This expansion has contributed to the rapid growth of both the SSDI and SSI programs. The growth of these two programs has far exceeded the expectations of Congress, and is creating a financial crisis for Social Security, both in terms of the annual cash benefits that are paid, as well as the concomitant medical

coverage that must be provided to SSA beneficiaries. The increasing number of individuals receiving disability benefits is creating a burden on the Disability Trust Fund of the SSA, and an administrative burden for the SSA's field staff (Growick, 2001).

Because of the increasing number of eligible applicants and the associated drain on trust fund monies, the SSA has again undertaken the task of examining its DD process. This new process will try to identify more effectively individuals who can work from individuals who are truly disabled. The SSA would like to streamline the DD process, while increasing the consistency and accuracy of its disability determinations (Board, 2003). However, there are three major concerns that are inter-related and must be addressed to improve the DD process.

The primary concern is the SSA's definition of disability and how it influences the determination of disability. According to the SSA, the definition of disability is a total incapacity to work. This definition requires that the ability of the individual to work in a variety of potential employment settings must be judged. This approach is problematic because it assumes a total inability to work, and ignores the impact that progress in assistive technology and medical advances have had on enabling individuals with disabilities to be independent and work. In a 1996 report, the GAO stated that until the impact of technology and medical advances are incorporated into the DD process, the consistency and accuracy of disability determinations will continue to be problematic (GAO, 1996). According the Social Security Advisory Board, because SSA's 50 year-old definition of disability is unchanged "its validity, both as an administratively feasible

definition and as an appropriate standard of benefit eligibility, is increasingly subject to challenge" (Board, 2003, p. 7).

A second concern is the fact that the potential for employment of the SSA disability applicant is not a part of the DD process. Private insurance carriers and social insurance programs in other countries generally evaluate an individual to determine what they need to return to work as part of their *initial* disability assessment. This type of assessment is currently not included in any part of the sequential evaluation of the DD process (GAO, 2004b). In the SSA DD process, the status of the individual is assessed only in terms of their current ability to work without regard to their rehabilitation potential. The determination of disability and the return to work efforts of SSA will not be compatible as long as the DD process is an "all or nothing" proposition. This current approach discourages applicants from engaging in return to work activities, and ignores the potential of the claimant to return to work (Growick, 2004).

A final concern in the redesign of the DD process is the use of the vocational guidelines commonly referred to as the "Grids," and their inability to provide consistency and accuracy in the decision-making process. The Grids are an attempt to incorporate age, education, and residual functioning into the DD process According to the GAO, the Grids need to be updated to "reflect the medical advances and social and economic changes that have redefined the relationship between impairment and the ability to work" (GAO, 2002). Consequently, the current role of VEs in the DD process is crucial, and needs to be altered to meet the new guidelines and procedures that will be established.

The Current Role and Functions of VEs in the DD Process

The History of Vocational Experts in Social Security

The work of the Vocational Expert (VE) can be traced back 40 years to the early days of Social Security hearings in which vocational expertise was needed to determine the employability of claimants. Although the SSA was always concerned about vocational factors when a decision was rendered on employability, there was little documentation required to make these decisions. In June of 1960, the Second Circuit Court of Appeals, in Kermer vs Flemming, handed down a landmark decision that became known as the Kermer criteria. The Court opined that denial of disability benefits could not be based on the mere "theoretical ability" to work, but rather the administrative agency (SSA) had the burden to show evidence proving that the claimant could work, and specifically, what employment opportunities existed in the local labor market. With this decision, the vocational expert program in Social Security was born. Since the inception of the program in 1962, over 600 VEs have registered with SSA to carry out this role, and have testified in thousands of hearings at the appellate level (SSA, 2004a).

The Current Role and Functions of VEs

An individual who applies for disability benefits under either SSDI (Title II) or SSI (Title XVI), undergoes the same five-step sequential evaluation process. Each of the five steps involves a unique decision point in which the DD examiner answers critical questions about the claimant's ability to work. The determination of disability is based on available medical records, age, education, residual functional capacity (RFC), and skills from past relevant work.

Afive-step sequential process for determining disability was created to systematize the way in which medical and vocational information is collected and decisions are made at each step regarding the disability status of the claimant. The claimant can file an appeal based on a denial of benefits by DD examiners in steps 1 to 3. In steps 4 and 5, an Administrative Law Judge (ALJ) must determine if the claimant is able to do past relevant work, or any other work that exists in the national or local economy. This step is necessary when ALJs cannot issue a finding of disability based on medical considerations alone. At steps 4 and 5 of the sequential evaluation process, ALJs often require VEs to assist in reaching a decision on the claimant's ability to perform work. The VEs testify about the claimant's ability to perform work based on the four factors (age, education, skill level & RFC) from the Grids. Currently, this step is the only point in which the expertise of VEs is utilized the DD process, largely due to the earlier Kermer decision. Consequently, the role and function of VEs in the DD process is limited, and does not make use of VE training and skills in assessment of *rehabilitation potential.*

Problems and Challenges in the DD Process for SSA

From its inception, the DD Process has been identified as a gatekeeper for SSI and SSDI programs. Although the Social Security Act defines disability, it does not define the standards used to determine eligibility for benefits. The standards and process for evaluating disability claims is codified in the 20 Code of Regulations, parts 404 and 416, subparts P and I. In addition, written guidelines have been developed over the years that have provided interpretation of these regulations, creating a large volume of work

designed to assist disability examiners in determining which claimants are disabled under SSA's regulations (IOM, 1998).

The SSA relies heavily the medical-vocational guidelines for disability determination. The guidelines are commonly known as the Grids, which are a set of rules that guide disability decisions based on the interaction of four factors: age, education, RFC, and skills from past relevant work. However, the Grids were developed in 1970's, and were based on an economy that was predominantly comprised of manufacturing, mining and farming. The Grids reflect the characteristics of that labor market when much of the work that was performed was physically demanding, highly repetitious, and relatively unskilled.

In spite of the use of the Grids, the DD process continues to be complex and time consuming, often taking over 365 days from date of initial application to the hearing before applicants for benefits receive final notification of their status. As it is currently executed, the DD process is fundamentally flawed and in crisis. Consequently, it is currently undergoing a new redesign initiative that began in the 1990's. This move toward redesigning the process has grown out of concern regarding the backlog of cases, insufficient staff training in the DD offices, and the fact that the consistency and accuracy of disability decisions are under intense scrutiny. According to a recent report by the General Accounting Office (2002a), " over the years, as many as three-fourths of the claimants denied disability benefits had filed an appeal, and of this number about two-thirds or more received favorable decisions at the hearings level" (p. 7). In addition, the Social Security Advisory Board recently opined "the primary reason why the disability

programs do not share the same level of public confidence as the retirement program is the perception that determination of eligibility for disability are not being made in a uniform and consistent manner" (Board, 2001, p. 3).

The DD Process is facing great challenges not just from the viewpoint of the accuracy and consistency of the decision-making process, but also from being tied to the Grids that have not been updated to reflect the technological and medical advances that have been made over the past 25 years. The GAO recently wrote that labor market changes and scientific advances have changed the ability of people with disabilities to access and remain in the work force. The report challenged SSA to update its labor market and medical information to determine disability to avoid "overestimating the limiting nature of some disabilities while underestimating others" (GAO, 2002b, p.14). The current medical listings date back to their last general update in 1985, and have undergone only minimal changes, none of which incorporates innovations, such as assistive technology, in enabling employment for claimants.

A. The Outdated DOT and Worker Trait Factors. The SSA and the U.S. Department of Labor (USDOL) have long understood the problem of outdated data in the Dictionary of Occupational Titles (DOT). Both agencies are aware that how jobs are performed, the educational abilities necessary to perform the work, and the skill sets required of the work environment have dramatically changed in the over the past three decades. The most recent edition of the DOT, released in 1991, has not been regularly updated by USDOL to reflect the labor market changes that have occurred in the past 25 years. Of the 12,721 jobs in the 1991 DOT, nearly 87% of the jobs listed were last up-

dated in 1977. Thus, the majority of jobs in the primary source document for worker traits and worker skills is almost 30 years old (McCroskey, Streater et al., 1997).

The USDOL has been working on a replacement for the DOT since 1993 in order to address this issue. The Occupational Information Network, or O*NET, has been released to mixed reviews (Truthan & Karman, 2003). According to the GAO, USDOL and SSA officials "recognize that O*NET cannot be used in its current form in the DI and SSI disability determination process" (GAO, 2002b, p.24). Although the agencies are presently working together to modify the O*NET, SSA officials have indicated that "an entirely new occupational database would be needed to meet SSA's needs" (GAO, 2002b, p.39).

In spite of the outdated data in the DOT, the SSA continues to use the sedentary and light unskilled jobs identified in the DOT as a basis for the determination of disability. A 1986 survey of 688 randomly selected manufacturing and service companies in the Chicago area was conducted to determine the existence of sedentary and light unskilled jobs. These companies represented each of the 81 major industry categories in the Standard Industrial Classifications (SIC) manual. The results of this study have major implications for the use of the DOT for disability determination. In summary, the researchers resulted in three significant findings: 1) few employers actually employed workers in these sedentary, unskilled jobs in this geographic area; 2) the number of jobs in the sedentary unskilled category was small in the manufacturing industry; and 3) current and future job demand for this work was virtually non-existent. Even though they found that more light than sedentary jobs existed, and the availability

of each was minimal, they also noted twice as many future openings for light work than sedentary were projected by the employers who responded to the survey. The authors of this study concluded that "there currently exists no reasonable alternative for vocational experts….. than performing a local labor market survey to obtain usable data for decision-making" (Bose & Lam, 1991, p. 276). Consequently, the DOT is an outdated primary source, which must be modified to reflect the current nature of jobs and how they are performed in today's economy.

B. Labor Market Issues as a Vocational Factor. Labor market issues are closely tied to the relevancy and usefulness of the current DOT. Major shifts in the U.S. economy have had a significant impact on the types of work available, and the requirements of work in today's labor market. Many years ago, when the Grids were developed and the DOT was first released, the U.S. was primarily a manufacturing society engaged in the production of goods. As of 2000, the goods-producing sector of the economy, which included mining, manufacturing, farming and construction, has declined to about 18% of the economy. The economy has shifted dramatically toward a service delivery occupations where wholesale and retail trade, transportation and public utilities, all levels of government, and the provision of services in the finance, insurance, real estate and information technology industries now constitute 72% of the U.S. economy (GAO, 2002; Yelin, 2001).

The SSA DD process has been routinely criticized for its inconsistency in determining disability. Many factors contribute to this inconsistency, including "economic and societal differences across geographic regions" (Board, 2001, p.4).

However, these differences in the local economy are important considerations in the claimant's ability to be employed in their labor market. By using VEs who can identify local employment options for claimants, the impact of the changing demographics and work demands of the labor market can be formally addressed in the DD process. VEs need to continually update their knowledge and skills in this area to provide the most current information to ensure the accuracy and consistency of disability determinations.

C. Age as a Vocational Factor. Claimant age is a primary factor in a ruling of disability. The SSA DD process considers chronological age in the Grids, and links four age categories to job performance, making assumptions about the claimant's ability to work based on age, in combination with level of education, skill level and residual functional capacity. These categories include the following: Younger individual- age 18-44; Younger individual- age 45-49; Closely approaching advanced age- age 50-54; Advanced age-55+. Since the Grids link age with barriers to work force participation, and assume a declining functional ability to perform work with increased age, the link between age and work must be examined from two viewpoints. The first viewpoint is the actual work force participation rate of older workers. The second is the relationship between age and functional ability to work. VEs are uniquely qualified to address the age and labor market access issue, because they are aware of the local economy and hiring trends that may include and encourage participation by older workers.

D. Education as a Vocational Factor. Education is another important vocational factor because of the role it plays in determining the relevant knowledge, skills and abilities of a claimant. This factor enables the DD examiner to determine if the claimant

is able to work and especially adapt to new jobs. The need to understand the educational demands and wages of local jobs becomes particularly important when the educational attainment of the aging population is considered.

Since 1960, according to the U.S. Census Bureau, the proportion of the adult population who have at least a high school education has doubled to 81%, while the proportion of adults with four or more years of college has tripled to 27%. However, a large number of individuals reaching the ages of highest risk for disability have less than a high school education. This includes 12% of the people ages 35-44, over 13% of people ages 45-54, and greater than 22% of people who are now 55-64 (Yelin, 2001). Consequently, SSA needs to identify those low-literacy jobs that will pay wages commensurate with SGA or greater in order to prove the employability of the claimant. A process of identifying and analyzing those jobs as they exist in the local economy can provide a viable supplement to the outdated information in the DOT, and can only be accomplished with the expertise and assistance of VEs.

E. Transferable Work Skills as a Vocational Factor. Transferable skills analysis (TSA) identifies jobs that are appropriate for claimants based on an individual's unique intellectual and physical capabilities, age, education and prior work (Rubin & Roessler, 1994). The most universally accepted method of assessing employability was first developed in the 1970's, and was known as Vocational Diagnosis and Assessment of Residual Employability or VDARE (Weed & Field, 2001). The VDARE process of TSA became the standard of practice for the vocational rehabilitation profession, and is used in a variety of settings, ranging from vocational counseling to forensic testimony.

More recently, researchers have noted that the efforts of VEs to return a claimant to work, or determine employability will most likely not be effective if vocationally-related issues are not considered in the assessment of employability (Darling, Growick et al., 2002; Dunn & Growick, 2000). The probability of a claimant returning to work is influenced by vocationally-related circumstances, such as transportation, family issues and psychosocial factors.

The ability to transfer learned work behaviors or duties to another work environment is fundamental to the concept of transferability of work skills. Although two jobs may differ, theoretically, the duties they share in common form the basis of the transferability of skills. This transfer of ability has taken on even greater meaning in today's labor market where job changes are frequent, new methods of doing work influence competitiveness, and changes in technology require workers to be lifelong learners in the workplace. Often VEs are required not only to assess transferable skills, but also to consider the impact of assistive technology or job accommodations in the RTW process. Consequently, VEs must be skilled in job analysis and accommodation, labor market knowledge, and competencies that to facilitate RTW.

The SSA presently uses worker trait and task information from the DOT and the Selected Characteristics of Occupations for the purpose of TSA. As previously discussed, these sources of information are badly outdated and may not reflect the work as individuals performed it. Consequently, gathering an accurate work history report from interviews with claimants is crucial. The first step in determining transferability of claimants' work is the identification of the specific jobs they performed. Often the only

current source for this information is claimants' statements regarding how the work was performed at their company. Absent current, relevant knowledge of the local labor market, the DD examiner must evaluate the veracity and accuracy of this information.

The customary TSA process begins with identifying a list of jobs claimants can perform. The next step in the process is determining employability, whether the jobs exist and are available to claimants in the local labor market. This step is essential in establishing credibility, and providing a viable expert opinion. In contrast, the SSA only requires that the jobs exist and does not consider whether the jobs are actually open and available to the claimant. The actual ability of the claimants to work in light of the local economy is never assessed due to the outdated taxonomy of the Grids and DOT. As Harvey noted "any occupational system that is applied to the national economy will be less reliable and valid than one developed for a specific set of jobs in a specific environment" (AIR, 2002, p. 73). As time passes, the problem of reliance on the outdated DOT may become more formidable, resulting in the potential for a greater number of requests for hearings, and appeals to the federal court level.

F. Residual Functional Capacity as a Vocational Factor. The identification of claimants' residual functional capacity is developed from the medical documentation, and a medically determinable impairment as described by a physician. Functional capacity includes the physical and mental strengths of claimants', and is a crucial component of TSA so that the appropriate alternative vocational options are identified. The most critical functional capacity factors in SSA's DD process are based on the five strength

factors (sedentary, light, medium, heavy and very heavy), and the 21 physical demands characteristics of jobs as identified by the USDOL.

The majority (49.6%) of jobs in the US economy are classified as light work, according to the USDOL. Not surprisingly then, the majority of jobs identified by SSA as work options for claimants also fall into the light work category. They are also typically unskilled, (Bose, Grzesik et al., 1986). According to the Grids, a combination of RFC, age, education and skills may result in a determination of disabled if claimants are unable to perform sedentary or light unskilled work. Consequently, the connection between claimants' functional capacity and their work ability are strongly linked by SSA without considering the affects of rehabilitation and/or therapeutic intervention.

As part of SSA' efforts to re-design the DD process, SSA contracted with Virginia Commonwealth University (VCU) to review, methods and instruments that measure a person's functional capacity. This review evaluated their current application in the DD process (IOM, 1999). VCU's main conclusion was that functional assessment instruments do not currently exist that can specifically and reliably measure work disability. It is unfortunate that SSA is focusing on a formulaic method of determining work capacity when it has already been shown that such an approach (e.g. the Grids) does not result in increased accuracy and consistency in decision-making. In fact, functional capacity as it relates to work disability has been determined to be specific to an environment as described in the Nagi model of disablement (Nagi, 1965, 1991). Because jobs can be modified or accommodated to meet the needs of an individual worker, a global measure of functional capacity cannot exist. According to discussions at IOM's

workshop on measuring functional capacity held in June 1998, function needs to be assessed in relation to specific work and available technology (Owens, 1998). Based on training and experience, VEs have the ability to assess functional capacity in terms of work-specific factors.

The Future Role of VEs in the DD Process

Evaluating Return to Work Options

Many issues and challenges face the SSA in its re-design, and all of its problems cannot be resolved. However, this re-design should be focused on rehabilitation and return to work. One way of accomplishing this goal is to place greater emphasis on the evaluation of employment potential by VEs *at the time of application for benefits* (Growick & Drew, 2003; Growick, 2004).

The SSA is currently conducting a pilot project on early intervention and return to work services through the Disability Research Institute (Berkowitz, 2004). However, the pilot will take many years to complete. In the interim, more individuals with disabilities are applying for benefits, and no assessment of their return to work potential is being conducted. The SSA can increase the effectiveness of the DD process by integrating the expertise of VEs in evaluating the RTW potential of the beneficiary at the time of application.

First, the DD process can be improved if it adequately addresses RTW issues through the inclusion of VEs as vocational consultants as part of the evaluation team at the initial decision process. As with medical consultants who advise the DD examiners on medical issues, VEs can be included to assess the employment potential of the

claimant. If employment potential exists, VEs can recommend a referral to vocational rehabilitation services. Vocational Experts are uniquely qualified by training, experience and knowledge of the labor market to make assessments of employability in a variety of litigious and disability settings. Rather than limiting VEs to testifying at hearings on employment options for claimants, VEs could be incorporated earlier in the process to identify the *potential to work* based on the demands of the real labor market in relation to the claimant's unique vocational profile. By incorporating the expertise of VEs in the early stages of the DD process, SSA and potential beneficiaries may experience a win-win situation.

The assessment of RTW potential by VEs at the first stage of disability determination may improve the disability decision-making process by identifying applicants who can benefit from vocational rehabilitation. Individuals with vocational potential could be referred for vocational rehabilitation services, while those who cannot work because of a combination of medical and vocational issues would receive disability benefits. The concept of incorporating vocational rehabilitation in the evaluation of disability is not new. John Miller, a consulting actuary to the House Ways and Means Committee recommended the integration of the assessment of employment potential as part of the disability determination process in his *1976* testimony before Congress (Grossman, 1979).

Second, VEs have the expertise not only to identify rehabilitation and employment potential, but also to recommend specific interventions that may be included as part of vocational rehabilitation. These recommendations would include job-seeking

skills training, job placement assistance, short-term training, or a referral for rehabilitation engineering to identify the appropriate technology to assist in the RTW.

Third, VEs could serve as the initial referral source to vocational rehabilitation, to One-Stops for job placement assistance, or to Workforce Investment Act programs that are designed to facilitate a return to work. In this capacity, they would function much like referral agents for a short-term period to ensure that the claimant is linked with the appropriate agency for the necessary support and services.

Updating the DOT

In addition to assisting with the determination of disability by assessing employment potential, VEs could provide a valuable service by conducting job analyses on the jobs most frequently identified as work options for claimants when benefits are denied. Rather than relying on outdated data, these job analyses could specifically target jobs in the local economy, making the data relevant and specific to the local labor market. This data could also be collected nationally, and form the basis for early revisions of the DOT. A cadre of VEs could work on a consultative basis to meet SSA's needs more expeditiously than waiting for the current RFP for updating the DOT to be conducted, and implemented. The SSA has issued a request for information that will be used to develop a request for proposals to update the DOT (SSA, 2004b). From this recent development it is clear that SSA believes there is a need to make the DOT current for their DD process.

Developing a Work-Related Functional Capacity Model

Finally, the SSA is in search of a functional capacity model that will assist in the decision-making process to improve consistency and accuracy of disability determinations. Utilizing the expertise of VEs to help create this model over a period of time may be a long-term solution to some of SSA's concerns regarding the Grids. There is some precedence for using practitioners to do this type of work, since Social Security drew on the expertise of a group of mental health clinicians to assist in the validation and development of the functional capacity assessment for mental health issues.

Providing Needed Expertise in the DD Process

The use of outdated materials and criteria to determine disability underscores the need for disability determinations to be made by experts in the field who have recent knowledge and training related to the Grids factors. Involving VEs at the later stages of the DD process is not making the best use of resources the SSA already has at its disposal. In fact, the Social Security Advisory Board voiced concerns about this issue when it stated,

> At the same time that workloads are growing, SSA's regulations and rulings are requiring State agency examiners to make increasingly complex and subjective decisions. This means that State agencies should have ever more expert and experienced staff. Yet these agencies are bound by State-imposed rules relating to staff salaries and qualifications. Too frequently, either because of State limitations or because of inadequate Federal funding, the State agencies lack the ability to hire and retain qualified staff and to provide the training they need

(Board, 2001, p.7).

In its strategic plan (SSA, 2004c), SSA has identified the DD process as a critical area of improvement as they move toward providing comprehensive high-quality service to applicants and beneficiaries. However, the SSA is challenged by the workforce demands of increasing caseloads and its aging and declining workforce. The agency has predicted that by 2010 about 37% of its workforce will retire while applicants for disability benefits will increase by 32% over the year 2000 levels (GAO, 2003). Moreover, the agency expects that the number of non-English speaking applicants and applicants with psychiatric disabilities will increase, resulting in a "more time consuming and labor intensive workload, which will result in more complex cases that require diverse staff skills" (GAO, 2003).

The GAO recently reported the SSA's "success at improving and reorienting the decision-making process will depend greatly on having staff with the right skill mixes, and the right areas of expertise" (GAO,2003, p.35). The GAO also stated that DD services face three "key challenges" to retaining DD examiners and upgrading their skills: high turnover, recruiting and hiring difficulties, and gaps in key knowledge and skill areas (GAO, 2004a). Because the DD examiners are employees of state agencies, the SSA has not established minimum qualifications for employment. As a result, 36% of this group have a high school diploma or less; 8% have associates' degrees; and 57% have bachelors' degrees (GAO, 2004a). The question remains, with 37% of the workforce retiring and a need for more diverse staff skills, where will SSA get the skilled

workforce necessary to meet these demands? The answer is in expanding the role and functions of VEs.

Using VEs to supplement their workforce can ameliorate the SSA's expected labor shortage of experienced and expert staff in the DD units. In light of the rapid changes in the labor market, *and* medical and technological advances, the SSA will have great difficulty recruiting and training staff who are qualified to evaluate employment potential. The SSA is already overwhelmed by its training needs related to file management and claims processing. A recent GAO report noted,

> Nearly one-half of all DDS directors said that at least a quarter of their examiners need additional training in areas critical to disability decision-making, such as assessing symptoms and credibility of medical information, weighing medical opinions, and analyzing a person's ability to function. Over half of all directors cited factors related to high workload levels as obstacles to examiners receiving additional training (GAO, 2004b, p.18).

This GAO study also reported requirements for new examiner hires vary substantially among the states. Over one-third of the DDS can hire new examiners with either a high school diploma or less (GAO, 2004b). Incorporating *experienced* VEs that can assist in the DD process without additional training cost is a major cost-benefit for SSA. Along with using VEs in this capacity, SSA should establish minimal acceptable qualifications for VEs that should include certification and a specified number of years of experience in the field of rehabilitation.

Summary

The primary role and functions of VEs is to apply the definition of disability in a variety of contexts to assess the employment potential of people with disabilities. VEs who work in workers' compensation, long term disability and civil litigation have been used widely because of their demonstrated competencies in assessing TSA (age, education, residual functional capacity and past relevant work), knowledge of the labor market, psychosocial and medical aspects of disability and knowledge of the world of work. Additionally, their competency and knowledge of job analysis and job accommodations may also help form an opinion on a claimant's employability. Given the expertise of VEs and their use in many other disability determination settings, their underutilization in the SSA's DD process is an area for exploration.

SSA could improve the disability determination process by changing the assessment process in two significant ways. First, the DD process could be transformed from a purely legal procedure to a rehabilitation-friendly endeavor, where an evaluation of rehabilitation potential is incorporated. Second, a significant change would be to consider the local labor market and the claimant's placeability, or ability to find work, as part of the assessment with the assistance of VEs.

This paper focused on the SSA's DD process by describing its current status, inherent problems and challenges and its future solutions. These challenges and problems include an "all or none" definition of disability, outdated reference materials to determine work abilities and options, and lack of compatibility with current medical advances and assistive technology in assessing the improvement of work potential of

claimants. The SSA should use VEs to adequately and inexpensively solve problems and to improve greatly the quality and accuracy of disability decisions, but also and most importantly ‘help’ the thousands of applicants re-enter the workforce..

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