

Congressional Response Report

The Social Security Administration's
Policy on Symptom Validity Tests in
Determining Disability Claims

OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

September 17, 2013

The Honorable Tom Coburn, M.D.
Ranking Member, Committee on
Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Senator Coburn:

In a January 30, 2013 letter, you requested our assistance in reviewing a Social Security Administration (SSA) policy stating that the Agency would no longer allow States' disability determination services or SSA administrative law judges to order symptom validity tests.

My office is committed to conducting reviews that identify areas in which SSA can improve the effectiveness and efficiency of its programs and operations. Thank you for bringing your concerns to my attention. The report highlights facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Kristin Klima, Congressional and Intragovernmental Liaison at (202) 358-6319.

Sincerely,



Patrick P. O'Carroll, Jr.
Inspector General

Enclosure

cc:

Carolyn W. Colvin

The Social Security Administration's Policy on Symptom Validity Tests in Determining Disability Claims

A-08-13-23094



September 2013

Office of Audit Report Summary

Objectives

To (1) review the Social Security Administration's (SSA) policy that prohibits the purchase of symptom validity tests (SVT) in disability determinations; (2) determine the medical community's opinion on the usefulness of SVTs; and (3) determine whether other Federal agencies and private disability insurance providers consider or fund the purchase of SVTs.

Background

In a January 30, 2013, letter to the Inspector General, Senator Tom Coburn, M.D., Ranking Member of the Committee on Homeland Security and Governmental Affairs, requested we review SSA's policy that disallowed the purchase of SVTs for disability determinations. SVTs are used to determine whether an individual is exhibiting signs of malingering. Malingering is a term used to describe individuals who intentionally pretend to have, or grossly exaggerate, physical or psychological symptoms for their own gain.

Senator Coburn also requested that we review medical literature and survey other agencies and private disability insurance providers regarding the usefulness of SVTs in determining disability.

Our Findings

SSA's longstanding policy has been to consider all relevant evidence in a claimant's case record when it makes a disability determination. Relevant evidence may include claimants' statements regarding their symptoms and pain intensities, given their statements are credible. However, SSA does not allow the purchase of SVTs as part of a consultative examination.

According to SSA senior officials, the Agency disallowed the purchase of SVTs because of weaknesses in the tests' psychometric properties and their limited value in determining, with certainty, a claimant's credibility. SSA stated that these tests could not prove whether a claimant was credible or malingering because there is no test that, when passed or failed, conclusively determines the presence of inaccurate self-reporting. However, according to medical literature and national neuropsychological organizations, there is consensus in the medical community that SVTs are useful in identifying malingering in disability evaluations, when used in conjunction with other evidence in the case file.

Our Conclusions

While SSA does not allow the purchase of SVTs in its disability determinations, we found that medical literature, national neuropsychological organizations, other Federal agencies, and private disability insurance providers support the use of SVTs in determining disability claims.

SSA told us that, as resources allow, it plans to seek external expertise to evaluate its SVT policy and the usefulness of SVTs in determining disability, which will also include an Institute of Medicine examination on published research and studies on SVTs. The Agency stated that it was developing the proposal to award a contract for studying SVTs. We encourage SSA to move forward with its plans. We further encourage SSA to evaluate the economic costs and benefits of purchasing and using SVTs in its disability determination process.

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ABBREVIATIONS

AACN	American Academy of Clinical Neuropsychology
ALJ	Administrative Law Judge
CE	Consultative Examination
C.F.R.	Code of Federal Regulations
DDS	Disability Determination Services
MMPI	Minnesota Multiphasic Personality Inventory
NAN	National Academy of Neuropsychology
OIG	Office of the Inspector General
POMS	Program Operations Manual System
RRB	Railroad Retirement Board
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Social Security Ruling
SVT	Symptom Validity Test
U.S.C.	United States Code
VA	Department of Veterans Affairs

OBJECTIVES

Our objectives were to (1) review the Social Security Administration's (SSA) policy that prohibits the purchase of symptom validity tests¹ (SVT) in disability determinations; (2) determine the medical community's opinion on the usefulness of SVTs; and (3) determine whether other Federal agencies and private disability insurance providers consider or fund the purchase of SVTs.

BACKGROUND

Disability determination services (DDS) in each State or other responsible jurisdiction perform disability determinations under SSA's Disability Insurance and Supplemental Security Income (SSI) programs according to Federal law and regulations.² Each DDS is responsible for determining whether claimants are disabled and ensuring adequate evidence is available to support its determinations. DDSs rely on physicians, psychologists, and disability examiners to review medical evidence and the circumstances of each case to determine whether a claimant meets SSA's eligibility criteria. SSA policy authorizes DDSs to purchase consultative examinations (CE), such as medical examinations, X rays, and laboratory tests, when the existing medical and nonmedical evidence is insufficient to make a determination.³ Federal law and regulations also authorize administrative law judges (ALJ) to independently review evidence related to each claimant's case and issue a decision based on the evidence.⁴

In a January 30, 2013, letter to the Inspector General, Senator Tom Coburn, M.D.,⁵ requested we review SSA's policy that stated it would no longer allow DDSs or ALJs to purchase SVTs.⁶ SVTs are used to determine whether an individual is exhibiting signs of malingering. Malingering is a term used to describe individuals who intentionally pretend to have, or grossly exaggerate, physical or psychological symptoms for their own gain.⁷ The Senator further requested that we review medical literature to determine the medical community's opinion

¹ Symptom validity is defined as the accuracy or truthfulness of an examinee's behavioral presentation, self-reported symptoms, or performance on neuropsychological measures. Although SVTs are commonly referred to as malingering tests, malingering is just one possible cause of invalid performance. Shane S. Bush, Ronald M. Ruff, Alexander I. Tröster, Jeffrey T. Barth, Sandra P. Koffler, Neil H. Pliskin, Cecil R. Reynolds, Cheryl H. Silver, *NAN position paper, Symptom validity assessment: Practice issues and medical necessity, NAN Policy & Planning Committee*, Archives of Clinical Neuropsychology, 2005, p. 420.

² Social Security Act §§ 221 and 1614, 42 U.S.C. §§ 421 and 1382c; 20 C.F.R. §§ 404.1601, *et seq.*, and 416.1001, *et seq.*

³ SSA, POMS, DI 39545.120.A. (April 20, 2007) and 20 C.F.R. §§ 404.1519a, 404.1519k, 416.919a, and 416.919k.

⁴ 20 C.F.R. §§ 404.929, 405.370, and 416.1429.

⁵ Senator Coburn is the ranking member of the Committee on Homeland Security and Governmental Affairs.

⁶ See Appendix A for the full text of Senator Coburn's letter.

⁷ *The Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, Text Revision 2012.

regarding SVTs' usefulness in disability claims and other Federal agencies and private disability insurance providers' funding and use of SVTs.

According to SSA, the cost of an SVT could range from \$75 to \$200. While SSA had statistics for the cost and volume of SVTs it had purchased in the last 5 years, the Agency stated the data were incomplete and not validated for accuracy.

SSA pays over 8.8 million disabled workers an average of \$1,130 per month, totaling over \$120 billion per year; SSA also pays 8.1 million SSI recipients an average of \$507 per month, totaling over \$49 billion per year. Between December 2010 and December 2011, the average monthly disabled worker benefit increased from \$1,068 to \$1,111, and enrollment increased from 8.2 to 8.6 million beneficiaries.⁸ During this same period, the average monthly SSI payment increased from \$501 to \$502, and SSI enrollment increased from 7.9 to 8.1 million recipients.⁹

To accomplish our objectives, we reviewed relevant laws and policies and contacted SSA's Office of Disability Programs to discuss the Agency's position for disallowing the purchase of SVTs in its disability determinations. We reviewed medical literature and interviewed representatives from two national neuropsychological¹⁰ organizations regarding the use of SVTs in determining disability. We also interviewed representatives from the Department of Veterans Affairs (VA), the Railroad Retirement Board (RRB), and three private disability insurance providers to determine whether they consider or fund the purchase of SVTs in their disability claims processes. See Appendix B for additional information regarding our scope and methodology.

RESULTS OF REVIEW

The Agency began discouraging the purchase of SVTs in the early 1990s. In January 2012, SSA issued a reminder to DDSs that it should not purchase these tests.¹¹ According to SSA senior officials, the Agency disallowed the purchase of SVTs because of weaknesses in the tests' psychometric properties¹² and their limited value in determining, with certainty, a claimant's credibility. SSA stated that these tests could not prove whether a claimant was credible or malingering because there is no test that, when passed or failed, conclusively determines the presence of inaccurate self-reporting.¹³ However, according to medical literature and national

⁸ SSA, *Annual Statistical Supplement, 2011*, and SSA, *Annual Statistical Supplement, 2012*.

⁹ Id.

¹⁰ Neuropsychology studies the brain's structure and function as they relate to specific psychological processes and behaviors.

¹¹ SSA, DDS Administrative Letter 866, *Consultative Examinations Malingering & Credibility Tests—INFORMATION* (January 26, 2012).

¹² Psychometric properties attest to the reliability and validity of a scale.

¹³ SSA, POMS, DI 22510.006D (July 23, 2013).

neuropsychological organizations, there is consensus in the medical community that SVTs are useful in identifying malingering in disability evaluations, when used in conjunction with other evidence in the case file.¹⁴ We also determined VA, RRB, and private disability insurance providers fund SVTs for use in their disability determination processes.

SSA's Policy and Guidance on Determining the Credibility of Disability Claimants' Statements

SSA's longstanding policy has been to consider all relevant evidence in a claimant's case record when making a disability determination.¹⁵ Relevant evidence may include SVT results (when they are part of the medical evidence of record)¹⁶ and claimants' statements regarding their symptoms and pain intensities, given their statements are credible. To help adjudicators interpret its policy, SSA issued a Social Security Ruling (SSR) in 1996 that explained factors adjudicators must consider when assessing the credibility of individuals' statements.¹⁷ This SSR made clear that adjudicators must document the weight assigned to an individual's statements and the reason for that weight in determining whether a claimant's impairment(s) meets the disability criteria. Additionally, adjudicators must consider all of the medical evidence in the case record, including the individual's statements, before concluding on the claimant's disability.¹⁸

Although SSA has acknowledged that tests for malingering could provide evidence that suggests intentional symptom manipulation, the Agency stated these tests could not conclusively determine a claimant's credibility.¹⁹ In the early 1990s, SSA discouraged the purchase of SVTs and updated its policy over the ensuing years. For example, in January 2012, SSA issued a reminder to DDSs that the Agency did not support the purchase of tests for malingering or credibility and advised that DDSs should not purchase these tests if requested by the Office of Disability Adjudication and Review.²⁰ Similarly, in July 2012, SSA's Chief ALJ issued a memorandum stating that ALJs could not order SVTs as part of a CE.²¹ In November 2012, SSA's revised policy contained CE best practices and instructed adjudicators not to purchase

¹⁴ Please see Appendix C for a list of medical literature regarding SVTs.

¹⁵ SSA, POMS, DI 22501.001 (November 28, 2012). SSA established this policy on December 3, 1997. Prior to this policy, Federal regulations also established that SSA consider all evidence in the case record. 20 C.F.R. §§ 404.1520 (1985), 416.920 (1985), 404.1512 (1991), and 416.912 (1991).

¹⁶ SSA, POMS, DI 22510.006D (July 23, 2013).

¹⁷ SSA, SSR 96-7p (July 2, 1996) and 20 C.F.R. §§ 404.1529 and 416.929.

¹⁸ SSA, SSR 96-7p (July 2, 1996).

¹⁹ SSA, National Q&A, 08-003 Rev 2, Do tests of malingering have any value for SSA evaluations? (October 22, 2012). SSA established this National Q&A on January 22, 2008.

²⁰ SSA, DDS Administrative Letter 866, *Consultative Examinations Malingering & Credibility Tests—INFORMATION* (January 26, 2012).

²¹ SSA, Chief Administrative Law Judge Memorandum to All Administrative Law Judges, *Malingering and Credibility Tests -- INFORMATION* (July 31, 2012).

CEs that included tests for malingering.²² Lastly, in April 2013, SSA reorganized policy and created a section that listed situations when adjudicators should not purchase CEs; one situation was to evaluate credibility or malingering.²³

According to SSA senior officials, the Agency disallowed the purchase of SVTs because of weaknesses in their psychometric properties and limited value in determining, with certainty, a claimant's credibility. In addition, SSA stated that in cases where there was a high likelihood of malingering, the circumstances did not preclude the person from having a genuine medically determinable impairment. However, SSA told us, depending on available resources, it plans to seek external expertise to evaluate SVTs and their capacity to determine disability. According to SSA, it was still developing the proposal to award a contract for studying SVTs.

The Medical Community Generally Considers SVTs Useful in Determining Claimants' Eligibility for Disability Benefits

Medical literature indicates there is consensus in the medical community that SVTs are useful in determining the validity of disability claims (see Appendix C for medical literature regarding SVTs). The literature indicates that malingering and symptom exaggeration may occur in as few as 7.5 to over 50 percent of disability claims. The literature also stated that SVTs alone do not automatically indicate that someone is attempting to fraudulently obtain benefits, but these results speak directly to the validity of psychological and neuropsychological assessment results. While concern that a claimant may have a genuine impairment is valid, advances have been made to some SVTs to incorporate norms for a variety of people (including those with neurological and psychiatric impairments). Medical literature also states evaluating multiple sources of information, in addition to SVT results, is important.²⁴ That is, when a clinician²⁵ suspects malingering, they do not use SVT results in isolation. Rather, they use SVT results in conjunction with other evidence in the case file to correctly determine whether a claimant is disabled.

We interviewed representatives from two national neuropsychological organizations—the American Academy of Clinical Neuropsychology (AACN) and National Academy of Neuropsychology (NAN)—both of which wholly endorse using SVTs. The AACN consists of psychologists who are board certified in the specialty of Clinical Neuropsychology under the

²² SSA, POMS, DI 22510.007 (November 26, 2012).

²³ SSA, POMS, DI 22510.006D (July 23, 2013). SSA reorganized this policy in April 2013. SSA's Office of Disability Programs may approve rare exceptions to this prohibition on a case-by-case basis (for example, testing ordered pursuant to a court order).

²⁴ Joseph L. Etherton, Kevin J. Bianchini, Kevin W. Greve, Megan A. Ciota, *Test of Memory Malingering Performance is unaffected by laboratory-induced pain: implications for clinical use*, Archives of Clinical Neuropsychology, May 2005, p. 382.

²⁵ A clinician is a person qualified in the clinical practice of medicine, psychiatry, or psychology.

auspices of the American Board of Clinical Neuropsychology. NAN is a nonprofit professional membership association for experts in assessing and treating brain injuries and disorders.

AACN and NAN's position is that SVTs—in addition to other measures and evidence—should be used whenever secondary gain is involved, such as obtaining disability benefits. AACN issued a statement in 2009 announcing there was consensus that a decision not to use SVTs would rarely be justified.²⁶ Yet, AACN acknowledged it is common to not use these measures when the evaluation is severely restricted in terms of time constraints or administrative prohibition (for example, Social Security disability evaluations) or the individual being evaluated is not appropriate to be given such measures (for example, severe and well-documented intellectual disability).²⁷ NAN issued a position paper in 2005 stating the assessment of symptom validity is essential in a neuropsychological evaluation, and a clinician should be prepared to justify a decision not to assess symptom validity during a neuropsychological evaluation.²⁸

Other Agencies and Private Disability Insurance Providers Allow SVTs in Disability Determinations

VA and RRB, which administer disability benefits, allow the use of SVTs in their disability determination processes.²⁹ VA told us it did not have a national policy regarding the use of SVTs, but it neither requires nor prohibits its staff or contract personnel from using or purchasing these tests. VA allows the individual clinician or examiner to decide when an SVT is needed. VA stated that use of SVTs depends on administrative factors, the clinician or examiner's location, and the examiner's preference. VA instructs its examiners to obtain results from all pertinent studies, evaluations, and tests and to perform or order necessary additional studies, evaluations, or tests before making the disability determination.

RRB allows its claims examiners to order the Minnesota Multiphasic Personality Inventory (MMPI) test, but they must first obtain approval from the Disability Benefits Division in headquarters. RRB told us it had more physical than mental disability cases. Therefore, it had not used the MMPI in the last 2 fiscal years. RRB stated it made a disability decision once it received the completed application and gathered all necessary evidence.

²⁶ Robert L. Heilbronner, Jerry J. Sweet, Joel E. Morgan, Glenn J. Larrabee, Scott R. Millis, & Conference Participants, *American Academy of Clinical Neuropsychology Consensus Conference Statement on the Neuropsychological Assessment of Effort, Response Bias, and Malingering*, The Clinical Neuropsychologist, May 12, 2010, p. 1105.

²⁷ Id.

²⁸ Shane S. Bush, Ronald M. Ruff, Alexander I. Tröster, Jeffrey T. Barth, Sandra P. Koffler, Neil H. Pliskin, Cecil R. Reynolds, Cheryl H. Silver, *NAN position paper, Symptom validity assessment: Practice issues and medical necessity*, NAN Policy & Planning Committee, Archives of Clinical Neuropsychology, 2005, p. 421.

²⁹ We asked VA and RRB for SVT statistics. Similar to SSA, complete data was not readily available.

The three private disability insurance providers we contacted told us they allow the purchase and use of SVTs in their disability claims processes.³⁰ A representative at the first provider stated its disability income department uses SVTs in independent psychological and/or neuropsychological evaluations but noted that SVT results were merely one data point that is considered. According to this provider, SVTs help determine whether an individual is over-reporting symptoms, unengaged in testing, or providing suboptimal effort during testing. A representative at a second provider stated it uses SVTs extensively, but SVTs are just one piece of information in the case record. As such, this provider also noted that it reviews the entire record before making a disability decision. Lastly, a representative at the third provider stated SVTs in the case record are necessary because without them, it is difficult to decide whether the claimant is disabled. The provider also stated that including the failed effort of the SVT along with other factors in the case record improves its ability to determine the claimant's disability.

CONCLUSIONS

We determined that SSA is similar to the medical community, other Federal agencies, and private disability insurance providers in that it reviews all relevant evidence in the case record before making a disability determination. Unlike these other entities, SSA does not allow the purchase of SVTs in its disability determinations because it stated these tests have limited value in proving malingering. However, medical literature and national neuropsychological organizations assert that SVTs are relevant in disability determinations. Other Federal agencies, such as VA and RRB, allow the purchase of SVTs in their disability determination processes. In addition, the three private disability insurance providers we contacted also support the use of SVTs in determining disability claims.

SSA told us that, as resources allow, it plans to seek external expertise to evaluate its SVT policy and the usefulness of SVTs in determining disability, which will also include an Institute of Medicine examination on published research and studies on SVTs. The Agency stated that it was still developing the proposal to award a contract for studying SVTs. We encourage SSA to move forward with its plans. We further encourage SSA to evaluate the economic costs and benefits of purchasing and using SVTs in its disability determination process.

AGENCY COMMENTS

SSA reviewed the draft report and provided comments. See Appendix D for the full text of the Agency's comments.

³⁰ We did not ask the private disability insurance providers for SVT statistics.

APPENDICES

Appendix A – CONGRESSIONAL REQUEST

COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

RANKING MEMBER
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

United States Senate

Senator Tom Coburn, MD

January 30, 2013

Via U.S. Mail and Email (misha.kelly@ssa.gov)

The Honorable Patrick P. O’Carroll, Jr.
Inspector General
Social Security Administration
6401 Security Boulevard
Altmeyer Building, Suite 300
Baltimore, MD 21235

COMMITTEE ON FINANCE

RANKING MEMBER
SUBCOMMITTEE ON SOCIAL SECURITY,
PENSIONS, AND FAMILY POLICY

COMMITTEE ON THE JUDICIARY

RANKING MEMBER
SUBCOMMITTEE ON PRIVACY, TECHNOLOGY,
AND THE LAW

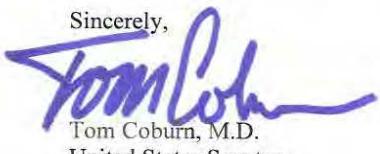
Dear Inspector General Carroll:

I write to request your assistance in reviewing a recent Social Security Administration (“SSA”) policy in which the agency determined it would no longer allow states Departments of Disability Services (“DDS”) or SSA Administrative Law Judges (“ALJs”) to order Symptom Validity Tests (“SVTs”).¹ These tests, such as the Minnesota Multiphasic Personality Inventory (“MMPI”) and the Test of Memory Malingering (“TOMM”), are administered to determine if an individual is exhibiting signs of malingering. Malingering is defined as “the intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives.”² Here, the payment of disability benefits serves as a strong external incentive for a claimant to malinger.

As a physician, I am aware of how useful these types of exams can be in determining the validity of a patient’s symptoms. Therefore, a detailed review of this policy change is needed. A review of recent medical literature regarding SVTs would determine the current recognition by the medical community of whether there is agreement with the agency’s assertion these tests are not helpful in determining claims for disability. Further, please survey other agencies and entities that provide disability benefits – such as the Department of Veterans Affairs, the Railroad Retirement Board, and private disability insurance providers – to determine if they consider or fund the purchase of SVTs in determining whether an individual qualifies for disability benefits.

I look forward to working with you and your office on this request. If you have any questions, please contact Andrew Dockham at (202) 224-2224.

Sincerely,



Tom Coburn, M.D.
United States Senator

¹ See DDS Administrator Letter No. 886 (Jan. 26, 2012); July 31, 2012 Memorandum from Debra Bice to all Administrative Law Judges, No. 12-614.

² Diagnostic and Statistical Manual of Mental Disorders, 4th Ed., Text Revision (American Psychiatric Association 2000).

1800 SOUTH BALTIMORE
SUITE 200
TULSA, OK 74119
PHONE: 918-861-7621

RUSSELL SENATE OFFICE BUILDING, ROOM 172
WASHINGTON, DC 20510-3604
PHONE: 202-224-8754
FAX: 202-224-6008
www.coburn.senate.gov

100 NORTH BROADWAY
SUITE 1820
OKLAHOMA CITY, OK 73102
PHONE: 405-231-4941

Appendix B – SCOPE AND METHODOLOGY

To accomplish our objectives, we:

- Reviewed pertinent sections of the Social Security Administration's (SSA) policies and procedures, applicable laws, and regulations.
- Obtained and reviewed information received from SSA's Offices of Disability Programs and Disability Determinations.
- Interviewed SSA representatives from the Office of Disability Programs.
- Interviewed representatives from the Department of Veterans Affairs, the Railroad Retirement Board, and three private disability insurance providers.
- Interviewed the President of the American Academy of Clinical Neuropsychology and President and Executive Director of the National Academy of Neuropsychology.
- Reviewed medical literature regarding symptom validity tests.¹ See Appendix C for medical literature reviewed.

Our scope and review of internal controls was limited to gaining an understanding of SSA's policies on symptom validity tests. The principal entity audited was the Office of Disability Programs under the Office of the Deputy Commissioner for Retirement and Disability Policy. We conducted our review between February and June 2013 in Birmingham, Alabama.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹ Symptom validity is defined as the accuracy or truthfulness of an examinee's behavioral presentation, self-reported symptoms, or performance on neuropsychological measures. Although SVTs are commonly referred to as malingering tests, malingering is just one possible cause of invalid performance. Shane S. Bush, Ronald M. Ruff, Alexander I. Tröster, Jeffrey T. Barth, Sandra P. Koffler, Neil H. Pliskin, Cecil R. Reynolds, Cheryl H. Silver, *NAN position paper, Symptom validity assessment: Practice issues and medical necessity, NAN Policy & Planning Committee*, Archives of Clinical Neuropsychology, 2005, p. 420.

Appendix C – MEDICAL LITERATURE REVIEWED

We reviewed the following medical literature regarding symptom validity¹ tests.

- Kevin J. Bianchini, Charles W. Mathias, and Kevin W. Greve, *Symptom Validity Testing: A Critical Review*, The Clinical Neuropsychologist, 2001.²
- Board of Directors, *American Academy of Clinical Neuropsychology (AACN) Practice Guidelines for Neuropsychological Assessment and Consultation*, The Clinical Neuropsychologist, March 28, 2007.
- Shane S. Bush, Ronald M. Ruff, Alexander I. Tröster, Jeffrey T. Barth, Sandra P. Koffler, Neil H. Pliskin, Cecil R. Reynolds, Cheryl H. Silver, *NAN position paper, Symptom validity assessment: Practice issues and medical necessity*, NAN Policy & Planning Committee, Archives of Clinical Neuropsychology, 2005.
- James N. Butcher, Paul A. Arbisi, Mera M. Atlis, John L. McNulty, *The construct validity of the Lees-Haley Fake Bad Scale Does this scale measure somatic malingering and feigned emotional distress?*, Archives of Clinical Neuropsychology, 2003.²
- Michael D. Chafetz, *Malingering on the Social Security Disability Consultative Exam: Predictors and Base Rates*, The Clinical Neuropsychologist, June 24, 2010.
- Michael D. Chafetz, *The Psychological Consultative Examination for Social Security Disability*, Psychological Injury and Law, December 8, 2011.
- Michael D. Chafetz, *The A-Test: A Symptom Validity Indicator Embedded Within a Mental Status Examination for Social Security Disability*, Applied Neuropsychology: Adult, May 30, 2012.
- Michael D. Chafetz, Ph.D., *Symptom validity issues in the psychological consultative examination for social security disability*, The Clinical Neuropsychologist, June 2, 2010.
- Michael D. Chafetz, Ph.D., ABPP, *Reducing the Probability of False Positives in Malingering Detection of Social Security Disability Claimants*, The Clinical Neuropsychologist, July 4, 2011.
- Michael D. Chafetz, Joel P. Abrahams, Joy Kohlmaier, *Malingering on the Social Security Disability Consultative Exam: A New Rating Scale*, Archives of Clinical Neuropsychology, 2007.

¹ Symptom validity is defined as the accuracy or truthfulness of an examinee's behavioral presentation, self-reported symptoms, or performance on neuropsychological measures. Although SVTs are commonly referred to as malingering tests, malingering is just one possible cause of invalid performance. Shane S. Bush, Ronald M. Ruff, Alexander I. Tröster, Jeffrey T. Barth, Sandra P. Koffler, Neil H. Pliskin, Cecil R. Reynolds, Cheryl H. Silver, *NAN position paper, Symptom validity assessment: Practice issues and medical necessity*, NAN Policy & Planning Committee, Archives of Clinical Neuropsychology, 2005, p. 420.

² Listing provided by the Social Security Administration.

- Michael D. Chafetz & Erica Prentkowski, *A Case of Malingering by Proxy in a Social Security Disability Psychological Consultative Examination*, Applied Neuropsychology: Adult, June 8, 2011.
- Michael Chafetz, James Underhill, *Estimated Costs of Malingered Disability*, Archives of Clinical Neuropsychology, June 25, 2013.
- H Dressing, B Widder, K Foerster, *Symptom validity tests in psychiatric assessment: a critical review*, Versicherungsmedizin, December 1, 2010.^{3,4}
- Joseph L. Etherton, Kevin J. Bianchini, Kevin W. Greve, Megan A. Ciota, *Test of Memory Malingering Performance is unaffected by laboratory-induced pain: implications for clinical use*, Archives of Clinical Neuropsychology, May 2005.
- Manfred F. Greiffenstein, Kevin W. Greve, Kevin J. Bianchini, W. John Baker, *Test of Memory Malingering and Word Memory Test: A new comparison of failure concordance rates*, Archives of Clinical Neuropsychology, 2008.³
- Robert L. Heilbronner, Jerry J. Sweet, Joel E. Morgan, Glenn J. Larabee, Scott R. Millis, & Conference Participants, *American Academy of Clinical Neuropsychology Consensus Conference Statement on the Neuropsychological Assessment of Effort, Response Bias, and Malingering*, The Clinical Neuropsychologist, May 12, 2010.
- Institute of Medicine and National Research Council of the National Academies, Committee on Veterans' Compensation for Posttraumatic Stress Disorder, Board on Military and Veterans Health, Board on Behavioral, Cognitive, and Sensory Sciences, *PTSD Compensation and Military Service*, 2007.
- Glenn J. Larabee, Ph.D., Scott R. Millis & John E. Meyers, *40 Plus or Minus 10, a New Magical Number: Reply to Russell*, The Clinical Neuropsychologist, June 15, 2009.
- R Rogers, KW Sewell, MA Martin, MJ Vitacco, *Detection of feigned mental disorders: a meta-analysis of the MMPI-2 and malingering*, Assessment, June 2003.^{3,4}
- Roger Z. Samuel, M.D., and Wiley Mittenberg, Ph.D., *Determination of Malingering in Disability Evaluations*, Primary Psychiatry, 2005.
- Daniel J. Slick, Elisabeth M.S. Sherman, and Grant L. Iverson, *FORUM, Diagnostic Criteria for Malingered Neurocognitive Dysfunction: Proposed Standards for Clinical Practice and Research*, The Clinical Neuropsychologist, 1999.

³ Listing provided by the Social Security Administration.

⁴ We only reviewed the abstract for this article.

Appendix D – AGENCY COMMENTS

August 20, 2013

Subject: Audit No. 22013021 (A-08-13-23094) -- OIG Draft Congressional Response Report,
"The Social Security Administration's Policy on Symptom Validity Tests in
Determining Disability Claims"

Steve,

Thank you for the opportunity to review the subject report. We appreciate its overall findings; however, we believe the report should note that the professional societies cited in the report recommend that clinicians use Symptom Validity Tests (SVT). We believe this point is important to note since we use adjudicators, not clinicians who treat patients. In the absence of a complete list of the literature and articles you reviewed, we cannot determine if your review included any medical literature that does not support the use of SVTs and, if so, how the varying opinions are reconciled.

We believe that tests cannot prove malingering, as there are no tests that conclusively determine the presence of inaccurate patient self-reporting. We do not give greater weight to a test than to other symptom validity factors. The finding that SVTs are useful in making disability determinations for private disability insurance providers or for other Federal agencies does not mean that SVTs would have the same usefulness to our disability programs, considering our policies on making disability determinations and the practicalities of administering a large national disability program. We would have extreme difficulty developing criteria that require the results of SVTs in some cases, but not in others. People who allege physical disorders are no more or less motivated by the possibility of receiving monetary payments than people who allege mental disorders. This report does not provide estimates on possible increases or decreases in program costs or the time it would take to render a disability determination based on SVT results.

Due to differing opinions on the use of SVTs, and whether they add value to our disability programs, we plan to seek impartial, external expertise to evaluate our policy on the purchase of SVTs, as resources permit. In addition, we plan to seek external expertise on psychological tests from the Institute of Medicine to include an examination of published research and studies on SVTs, including those published by Dr. Chafetz. Our goal is to determine the effectiveness and costs of requiring and purchasing SVTs under our disability programs, as well as their applicability to anyone who claims they are disabled.

We provided technical comments and listings from medical literature on the shortcomings of SVTs at the staff level. We have no further comments.

Gary S. Hatcher, CPA, CGFM

Appendix E – MAJOR CONTRIBUTORS

Theresa Roberts, Acting Director, Atlanta Audit Division

Jeff Pounds, Audit Manager, Birmingham Audit Office

Janet Matlock, Senior Auditor

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