

Long COVID and Social Security Disability

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Disclaimer

This article is intended is to present some of the current information on applying for Social Security disability benefits for Long COVID. The article is not intended to be a substitute for the advice of a competent attorney. For legal advice it is imperative to consult with an attorney or qualified legal advocate of your own choosing. Further, Social Security regulations and practice may change over time.

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Introduction:

This article explains the developing guidance provided by the Social Security Administration for the evaluation of disability claims by persons with Long COVID: Emergency Message EM-21032 REV *Evaluating Cases with Corona Virus Disease (COVID-19)*. The Centers for Disease Control has issued medical guidance on the symptomology of Long COVID which will be useful in documenting the Long COVID diagnosis to Social Security.

This article also explains the process by which Social Security evaluates whether or not a person is medically and functionally disabled. A person with Long COVID must have a physician(s) document their medical diagnosis and also document that their illness is severe enough to prevent them from doing substantial work on a

predictable basis. The article also explains the details on how physicians should document the applicant's inability to work.

The Social Security Administration offers two programs of Disability financial assistance including Medicare or Medicaid coverage to individuals who are no longer able to work because of the severity of their medical condition.

Social Security Disability Insurance (SSDI) is available to those who have paid Social Security payroll taxes over a specific period of time prior to their becoming disabled from working. Supplemental Security Income (SSI) is available to people who are not qualified for SSDI because they have not paid sufficient Social Security payroll taxes in the past. SSI is a program for lower income people with few assets.

Both SSDI and SSI have the same requirements in proving disability: there must be a documented "medically-determinable impairment"/diagnosis which is severe and thereby prevents the person from performing the various functions of work due to their illness and symptoms.

Social Security has issued an Emergency Message EM-21032 REV *Evaluating Cases with Corona Virus Disease (COVID-19)* – Effective 8/9/22 - Retention date: 2/9/23

<https://secure.ssa.gov/apps10/reference.nsf/links/08092022072836AM>

"This EM replaces the prior version issued on April 16, 2021"

Summary of the "Policy Guidance" –

First Social Security requires that an "acceptable medical source", that is, an MD or DO document a diagnosis of Long COVID according to accepted diagnostic criteria:

Requires "...objective medical evidence from an acceptable medical source (AMS) to establish the existence of an MDI for COVID-19, including long-

term effects of COVID-19, which means signs, laboratory findings, or both ([DI 24501.020A](#)). We establish an MDI for COVID-19 when evidence from an AMS indicates:

- A report of a positive viral test for SARS-CoV-2,
- A diagnostic test with findings consistent with COVID-19 (e.g., chest x-ray with lung abnormalities, etc.), or
- A diagnosis of COVID-19 with signs consistent with COVID-19 (e.g., fever, cough, etc.).

The above first requires acceptable evidence that the person had an onset of Covid-19.

“IMPORTANT: A positive antibody test, on its own, does not establish an MDI of COVID-19 because a positive antibody test may indicate that a person has had a different coronavirus or received a vaccination for COVID-19.”

Social Security requires documentation of the medical diagnosis by characteristic symptoms, medical signs, and laboratory tests. Signs are “objective” physical responses linked to a medical fact that can be observed or detected by a physician, nurse, or medical device during the examination of a patient. Symptoms on the other hand may be considered “subjective” – that is they may be “patient-reported” but not necessarily observable by a medical provider or device. For example, a patient clearly reports severe fatigue but a physician may not be able to verify it objectively – yet the fatigue clearly exists. So this is a symptom.

Or the patient reports pain, but the pain is not measurable. Again a symptom. Brain fog is a symptom, but if the person takes a neuropsychological test, then the cognitive difficulty would be measurable and therefore an objective sign.

Social Security generally will not accept a medical diagnosis based on symptoms alone – although the full documentation of symptoms is absolutely necessary. (There are relatively rare circumstances in which symptoms will be given greater weight.) Therefore the physician must document all objective signs and any laboratory tests consistent with an illness.

2. Severity

“If a person has an established MDI of COVID-19, determine if the MDI is both severe and meets the duration requirement ([DI 22001.001D.2](#)).”

This language indicates that Long COVID is a continuation of the original infection. Hence, the original and ongoing chronic severity of the illness (Long COVID), its symptoms, objective signs, and laboratory tests must be documented.

Also, very important the ongoing illness must meet the duration requirement: a medical source must state that the ongoing COVID-19 illness (Long COVID) has lasted or is expected to last at least 12 months.

Since Long COVID is a new illness with shorter or longer duration of symptoms of lesser or greater severity, doctors may be unsure as to predicting the 12 month duration of severe/disabling symptoms.

“We measure the duration requirement from the first date the MDI(s) [medically-determinable impairment] prevented SGA...”

SGA is an abbreviation for Substantial Gainful Activity which is the ability to work at substantial employment.

See our paper on work that is considered [Substantial Gainful Activity](#), and a related paper, [Working on SSDI](#).

“COVID-19 may meet the duration requirement when a person develops:

- Long-term effects of COVID-19,
- One or more new MDIs caused by COVID-19, or
- Worsening of any existing MDI(s) because of COVID-19”.

Also, Long COVID may “cause a new medical impairment or worsen an existing medical impairment” in which case Social Security would consider the different medical impairments related. In this case the combination of impairments may increase the severity and duration of the illness(es) and further impair the ability to work.

For example a person may have a documented case of Long COVID which has increased the severity of existing lung or heart disease. The physician should provide full documentation of all of these conditions and their effects on the inability to work.

Also the Emergency Message notes: “Remember, we must develop evidence for any change in severity at all adjudicative levels.”

What does this mean? Evaluation of a Social Security claim normally proceeds through various steps/evaluations over a period of time. Hence, the severity of the symptoms of Long COVID might dissipate during the evaluation process. Therefore, a person would only be eligible for Social Security benefits during the time their symptoms were severe and they couldn’t work.

Further, there is a five-month waiting period since the date a person becomes disabled before they become eligible for paid benefits.

For example: You developed a case of acute COVID-19 on Jan. 2021 and after recovery from the acute stage you developed symptoms of Long COVID which prevented you from working. You had to stop working because of the onset of COVID-19 in Jan. 2021. By Sept. of 2021 your doctor diagnosed you with Long COVID and documented you could not work. S/he also documented that your symptoms had already lasted since January, and were expected to last at least another six months and likely longer. So you have met the 12 month duration requirement. You applied for disability in Sept. 2021. If you are accepted for Disability your benefits would be retroactive to May-June 2021 given the 5 month waiting period from the time you were unable to work.

However if the severity of a person’s symptoms dissipate during the Reconsideration or ALJ stages of evaluation the claimant might be found not disabled – or disabled for some of the time they could not work. “Remember, we only consider symptoms that meet or are expected to meet the 12-month duration requirement.”

“For more information on long-term effects of COVID-19, see [Long COVID or Post-COVID Conditions | CDC](#). For information on the medical evaluation of COVID-19, see Section C.6 and C.7 in this EM.”

(Please see further on the CDC listing of Long COVID symptoms.)

“We may need to project the severity if it is unclear whether or when the MDI(s) will resolve. For example, if the person has been on a ventilator for an extended period, a significant period of rehabilitation may be required to regain the ability to do basic self-care. Recovery from acute COVID-19 or removal of the ventilator itself may not necessarily indicate the end of the duration period. Follow existing policy to determine if projecting severity is needed ([DI 24510.020](#)).

“A case may require medical deferment ([DI 25505.035](#)) to determine whether COVID-19, or a new or worsening MDI(s) resulting from COVID-19, meets the 12-month duration requirement. Do not defer medical development for duration when evidence indicates a person has little to no chance of regaining significant function ([DI 24515.020C.6](#)).”

“5. Symptom evaluation

COVID-19 is a relatively new disease, and the medical community is still learning about the severity of the illness and its long-term effects. COVID-19 is highly variable in presentation, ranging from asymptomatic infection to severe illness requiring hospitalization.

Some people who recover from COVID-19 begin experiencing chronic or intermittent health effects between four and twelve weeks following the acute phase of illness. This phenomenon is known as PASC or Long COVID. The most common symptoms of Long COVID include chest and throat pain, shortness of breath, fatigue, anxiety, depression, headaches, “brain fog” (difficulty thinking or concentrating), change in smell or taste, joint and muscle pain, and rapid or pounding heartbeat. For more information, see [Long COVID or Post-COVID Conditions | CDC](#).

“Follow existing policy for evaluating symptoms related to COVID-19, or any new or worsening MDI resulting from COVID-19 ([DI 24501.021](#)). Remember, we only consider symptoms resulting from MDIs that meet or are expected to meet the 12-month duration requirement.”

“6. Listing-level severity

We must consider whether COVID-19, Long COVID, a new MDI(s) caused by COVID-19, or any MDI(s) that has worsened because of

COVID-19 meets or medically equals a listing ([DI22001.001D.3](#) and [DI 28005.015A.2](#)). COVID-19, on its own, cannot meet a listing, but it may equal a listing as an unlisted impairment or as part of a combination of impairments ([DI 24508.010](#)). The same is true for Long COVID. COVID-19 and Long COVID may affect respiratory, cardiovascular, renal, neurological, or other body systems. In most cases, the listing relevant to a new MDI(s) caused by COVID-19, or any MDI(s) that has worsened because of COVID-19 will be the appropriate listing to consider.”

An explanation of “Listing”: Social Security has a specific list of illnesses and conditions that it considers severe and which in themselves generally qualify the person for disability without further evaluation. If a person’s illness is not on the list their physician may show that the patient’s illness is “equivalent” in severity or nature. In this case the person would be found disabled.

Demonstrating equivalence may be a difficult matter with many chronic illnesses. In the case of Long COVID if there are serious pathological effects on organ systems, equivalence might be determined. However, in other cases of disabling Long COVID such equivalence might not be demonstrated unless the Long COVID exacerbates other conditions such as lung conditions, diabetes, heart or neurological conditions.

The next paragraphs discuss Social Security’s evaluation of a person’s Residual Functional Capacity (RFC). The RFC is a person’s remaining capacity to carry-on work-related activity.

“RFC [Residual Functional Capacity] - The RFC is the most a person can do despite functional limitations resulting from their MDI(s) and impairment-related symptoms. Due to the duration requirement, we do not include in the RFC assessment any limitations that resolve within 12 months ([SSR 82-52](#)). However, we consider both severe and non-severe MDIs that meet the 12-month duration requirement when assessing the RFC ([DI 24505.005C](#)). We must also consider functional limitations arising out of any new MDI(s) caused by COVID-19, Long COVID, or any MDI(s) that has worsened because of COVID-19 in the RFC. When assessing the RFC, evaluate both stamina and endurance based on individual case facts ([DI 24510.005C.2](#)).

“In the situation when the person’s MDI(s) does not meet or medically equal a listing, but evidence clearly indicates they are unable to sustain any work-related activities for a continuous period, consider an RFC for complete inability to do sustained work-related activity ([DI 24510.057B.2.b](#)). Remember, a person’s MDI(s) must last or be expected to last for a continuous period of at least 12 months unless we expect the MDI(s) to result in death ([DI 25505.025D](#)).”

“c. EOD not before COVID-19 infection

If one or more underlying MDIs was not disabling before COVID-19, or there is no evidence of an MDI before infection, we cannot establish the EOD before COVID-19.”

EOD is the Established Onset Date, that is, the date when a person’s medical impairment is deemed disabling.

“ Diaries

Because COVID-19 is a relatively new disease, the trajectory of improvement may be difficult to predict in some cases. Follow existing policy when scheduling the diary ([DI 26525.001](#)). Remember to consider the probability that the Medical Improvement Review Standard (MIRS) applies, including all MDIs and the individual case facts. Do not apply criteria mechanically; use judgment and establish a shorter or longer diary based on the facts of each case.”

A Diary is a longitudinal account of the course of an illness and any changes in a person’s functional capabilities.

Now a short summary of the above:

1. A physician(s) must first document Long COVID by means of medical signs, symptoms, and laboratory tests. You must have your doctor first show an MDI of Long COVID that is expected to be chronic for a duration of at least 12 months. S/he must document the severity and ongoing expectation of chronicity and severity of the objective signs, symptoms and any lab tests. As explained it may take a series of specialists documenting symptoms – hopefully a good PCP could

do so in addition to, or in lieu of specialists – though specialists may carry more weight.

Note: Long COVID clinics should be appraised of their need to medically document persons with disabling Long COVID.

2. Based on the medical diagnosis of Long COVID and its effects on an individual's other medical conditions, Social Security will determine if the person's medical impairment has an equivalence to a medical condition in Social Security's Listing of Impairments which automatically qualifies for disability. This is step 3 in the disability evaluation process. Long COVID is not in the listing, but if its pathological effects on organ systems, etc., are equivalent to a listing then the person is declared disabled.

3. If there is no equivalence found, then determination as to whether a person is disabled and cannot perform substantial work (SGA) proceeds to Steps 4 and 5 of the disability determination process. At these Steps Social Security uses its Residual Functional Capacity (RFC) evaluation to determine if the person, based on the limitations of their medical illness, prevents them from working either full or part-time – generally at light or sedentary work.

See our paper on Substantial Gainful Capacity for an explanation of how Social Security determines that a person is unable to work and therefore disabled. The following is a summary of this process:

At Step 4, Social Security determines whether a person can do any of the substantial part-time work they have done in the past. If a person can, they are found not disabled. If a person cannot do past part-time work, the decision on disability moves to Step 5.

At Step 5, Social Security determines whether the person can do any other work, particularly sedentary work at or close to a full time schedule. Social Security must take into account whether there are jobs in the national or regional economies that a person can do.

4. To be found disabled at Steps 4 or 5 Social Security uses the person's RFC (Residual Functional Capacity evaluation) to determine if a person can perform the various characteristic work tasks required of the types of occupation under consideration – especially light or sedentary work.

It is extremely important that a person’s medical sources document in detail the limitations of applicant to perform these tasks. This includes the ability to perform exertional and non-exertional tasks.

Exertional tasks include: sitting for a substantial period of time during an eight-hour day; walking for up to two hours; carrying and lifting 10 pounds; and many other types of tasks. Non-exertional tasks include cognitively being on task, following instructions, etc.

At Step 5 if a person cannot perform the required tasks standards of work they are found disabled.

For a full listing of these task limitations, see our article on Substantial Gainful Activity here: [the link will be inserted here]

Now we must go to the CDC material for guidance on disabling symptoms of COVID-19. See [Long COVID or Post-COVID Conditions | CDC](#).

People who experience Post-COVID conditions most commonly report:

“General symptoms

- Tiredness or fatigue that interferes with daily life
- Symptoms that get worse after physical or mental effort (also known as “post-exertional malaise”)
- Fever

Respiratory and heart symptoms

- Difficulty breathing or shortness of breath
- Cough
- Chest pain
- Fast-beating or pounding heart (also known as heart palpitations)

Neurological symptoms

- Difficulty thinking or concentrating (sometimes referred to as “brain fog”)
- Headache
- Sleep problems
- Dizziness when you stand up (lightheadedness)
- Pins-and-needles feelings
- Change in smell or taste
- Depression or anxiety

Digestive symptoms

- Diarrhea
- Stomach pain

Other symptoms

- Joint or muscle pain
- Rash
- Changes in menstrual cycles”

“People with Post-COVID conditions may develop or continue to have symptoms that are hard to explain and manage. Clinical evaluations and results of routine blood tests, chest x-rays, and electrocardiograms may be normal.

Some people, especially those who had severe COVID-19, experience multi-organ effects or autoimmune conditions with symptoms lasting weeks or months after COVID-19 illness. Multi-organ effects can involve many body systems, including the heart, lung, kidney, skin, and brain. As a result of these effects, people who have had COVID-19 may be more likely to develop new health conditions such as diabetes, heart conditions, or neurological conditions compared with people who have not had COVID-19.”

The following is an excellent current article on Social Security Disability and Long COVID. Please click the link to learn more about how to apply for Social Security with Long COVID.

Social Security Disability and SSI for Post-COVID Syndrome Whether COVID long haulers will be able to get disability benefits for chronic symptoms depends on the severity of their symptoms and limitations and how long they last.

By **Bethany K. Laurence**, Attorney

<https://www.disabilitysecrets.com/resources/social-security-disability-and-ssi-for-post-covid-syndrome.html>