

At my law firm, I schedule a pre-hearing conference with all of my Social Security disability clients prior to their hearings. Generally I schedule these meetings two to four weeks prior to the hearing and I prefer to conduct them in person.

I schedule these meetings to help my clients prepare for questions they will be asked. Equally important, I get the opportunity to evaluate how my client answers questions and to assist them in improving how they testify.

In cases involving impairments that result in physical limitations, I present to my clients a series of questions that they will definitely hear at their hearings. Often I find that in this practice session my clients do not answer these questions clearly and we have to practice several times to tighten up their presentations.

Often, our pre-hearing conferences run close to 2 hours - which is about twice as long as the actual hearing will last but I feel that this time investment is worthwhile so that my client can become comfortable with how I ask questions and my client can practice in a less stressful environment.

When there are physical impairments - and this includes anything that impacts sitting, standing, walking, lifting, carrying, climbing, crawling, kneeling, stooping, etc., you will be asked about your capacity to perform these activities. Specifically, you need to be prepared for the following questions:

- \$ how long can you sit before becoming so uncomfortable that you need to stand up
- \$ how long must you walk or stretch before you can sit down again
- \$ how much total sitting can you do during the course of the day

- \$ how long can you stand in one place (such as behind a counter) before you have to sit down
- \$ how long do you have to rest before you can stand up again?
- \$ how much total standing can you do during the course of a day?

- \$ how long or how far can you walk before you have to stop and rest or sit down?
- \$ how much total walking can you do during the course of a day?

- \$ can you kneel, stoop, squat, crawl at all? If so, can you do it regularly during a day or only occasionally?

- \$ do you have any problems using ladders, ropes or scaffolds? Can you use them not at all, occasionally or regularly during a day

- \$ do you have any problems pushing or pulling - such as pushing or pulling a 15 to 20 lb. rolling cart

As discussed before, you cannot and must not answer “it depends” or “I don’t really know” or “some days I can and some days I can’t.” You need to have firm and definitive answers to these

questions.

This list of questions is not exhaustive - there are other questions judges will ask in pain cases and cases arising from specific diseases and conditions. None of these questions should be a surprise to your lawyer.

If your answer to these questions does vary depending on the day, think about an average to below average day in terms of your pain and discomfort. Also think about how you would answer this question if you were asked to perform these activities five days in a row - how would you answer on day 5?

Some judges will include your answers to these questions without modification in a hypothetical question that they will pose to the vocational witness. Thus, it is important to make sure that your answers to these and other questions considered ahead of time would cause a vocational witness to conclude that no jobs exist in the economy to accommodate your limitations.

The takeaway: practice answer questions with your lawyer prior to the actual hearing.