



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

Practice Directorate

January 6, 2010

Via Certified Mail

Commissioner Michael J. Astrue
Commissioner of Social Security
Social Security Administration
Baltimore, MD 21235-0001

Re: SSA Policy on Use of Psychological Memory Testing in Disability Evaluations

Dear Commissioner Astrue:

I'm writing on behalf of the American Psychological Association (APA), the largest organization of psychologists worldwide, with 150,000 members. Many of our members contribute to the important work of the Social Security Administration (SSA), as employees, consultants, disability examiners, medical experts, and treating sources, and enjoy excellent working relationships with your organization.

This letter is to request clarification regarding the enclosed Q&A communication from the Boston Disability Determination Services (the Communication). Several of our members have complained that this Communication is overly restrictive and inappropriately discourages the use of psychological testing in disability cases involving memory impairments. We are concerned that the Communication may result, in some cases, in reduced accuracy of disability determinations.

Although we understand that disability determinations must be made in an efficient manner that directly relates to real-world functioning, the recommendation that memory testing in general, and the Wechsler Memory Scale-3rd Edition (WMS-III) in particular, "should only rarely be purchased" appears to be overly restrictive. Psychological tests of memory are widely accepted, empirically-based tools for purposes of both evaluation of functioning and diagnosis.¹ Neuropsychological tests, including measures of learning and

¹ Meyer, G. J, Finn, S.E., Eyde, L.D., Kay, G.G. Moreland, K.L., Dies, R.R., Eisman, E.J., Kubiszyn, T. W. & Reed, G.M. (2001). Psychological testing and psychological assessment, *American Psychologist*, 56 (12) 128-165; Puente, A.E. (1987). Social security disability and clinical neuropsychological assessment. *The Clinical Neuropsychologist*, 1(4), 353-363; Ross S, Millis S, & Rosenthal M. (1997). Neuropsychological prediction of psychosocial outcome after traumatic brain injury. *Applied Neuropsychology*, 4, 165-170.

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memory, have been shown repeatedly to predict real-world functional outcomes;² contrary to the suggestion in the Communication that memory testing does not relate to the Social Security Administration's (SSA) functional criteria or the mental demands of work. The evidence for psychological test validity is strong and comparable to medical test validity.³ Regarding the WMS-III in particular, it is the most widely used means of testing verbal and nonverbal memory in disability evaluations;⁴ and is one of the most frequently used tests in the forensic evaluation of adults.⁵ Several of our members indicated that memory testing has been commonly used and may be particularly relevant in evaluations of organic mental disorders for purposes of determining impairment under Category 12.02 of SSA's *Blue Book*.⁶

The Communication also appears to conflict with established SSA law, which specifically lists psychological testing as an acceptable source of medical evidence for both medical impairment and functional limitations.⁷ There is nothing in SSA law that limits how often psychological tests can be used nor in any way suggests that such tests are unrelated to functional criteria.

² Hart, T., Millis, S., Novack, T., Englander, J., Fidler-Sheppard, R., & Bell, K. (2003). The relationship between neuropsychologic function and level of caregiver supervision at 1 year after traumatic brain injury. *Archives of Physical Medicine and Rehabilitation*, 84, 221-230; Ross S., et al., (1997); Boake, C., Millis, S.R., High, W.M., Delmonico, R.L., Kreutzer, J.S., Rosenthal, M., Sherer, M., & Ivanhoe, C., (2001). Using early neuropsychologic testing to predict long-term productivity outcome from traumatic brain injury, *Archives of Physical Medicine and Rehabilitation*, 82, 761-768; Hanks, R.A., Millis, S.R., Ricker, J.H., Giacino, J.T., Nakese-Richardson, R., Frol, A.G., Novack, T.A., Kalmar, K., Sherer, M., & Gordon, W.A., (2008). The predictive validity of a brief inpatient neuropsychologic battery for persons with traumatic brain injury. *Archives of Physical Medicine and Rehabilitation*, 89, 950-957.

³ Meyer et al., (2001).

⁴ Samuel, R.Z. & Mittenberg, W. (2005). Determination of malingering in disability evaluations. *Primary Psychiatry*, 12, 60-68.

⁵ Archer, R.P., Buffington-Vollum, J. K., Stredney, R. V., & Handel, R.W. (2006). A survey of psychological test use patterns among forensic psychologists. *Journal of Personality Assessment*, 87(1), 84-94.

⁶ Disability Evaluation Under Social Security (Blue Book- September 2008) retrieved December, 15, 2009 at <http://www.ssa.gov/disability/professionals/bluebook/>.

⁷ 20 CFR 404.1528, 20 CFR Part 404 Subpart P (Appendix 1) (Stating, for example, under the criteria for establishing medical impairment that neuropsychological examinations, including assessments of verbal and visual memory, are useful in determining the extent of compromise of brain function, particularly in cases involving organic mental disorder; further stating, under the criteria for assessing functional limitations that psychological tests of intelligence or memory are tools for assessing the criterion of concentration.)

Of greatest concern is the fact that in many disability cases psychological test data are the most objective evidence available.⁸ Absent such data, the evaluator is forced to rely on information obtained directly from the potentially disabled person or persons who know them. Such self-report information is often inaccurate because patients may be poor historians, biased, or may lack awareness of their deficits.⁹ Similarly, third-party information from sources believed to be credible has also been documented to be of limited accuracy due to potential bias, lack of expertise, and suggestibility.¹⁰ In contrast, psychological testing, including memory testing, provides empirically quantified results that can be compared with specified norms. Indeed, psychological testing is generally agreed to be a valuable source of evidence in disability evaluations.¹¹

APA does not recommend that any particular tests or procedures always be used in disability evaluations. We understand that flexibility is needed regarding which psychological tests (or subtests) are administered in particular cases and that test results must always be considered as part of a comprehensive evaluation including other sources of evidence. We do ask, however, that psychological testing and the professional judgment of psychologists be given due consideration both in individual disability evaluations and in the formulation and implementation of relevant SSA policies.

In summary, APA is concerned that the Communication's recommendation that memory testing only rarely be used when memory problems are alleged may be overly restrictive. In light of the scientific evidence described above as well as the apparent contradiction between SSA law and the Communication, APA requests clarification of the enclosed Communication, as well as any national policy directives or other communications upon which it was based.

We look forward to hearing from you as to how SSA will address this issue. If you have any questions or if we can be of assistance in the meantime, please do not hesitate to contact me at 202-336-5886.

⁸ See Vore, D. A. (2007). The disability psychological independent medical evaluation: Case law, ethical issues, and procedures. In Goldstein, Alan M. (Ed). *Forensic psychology: Emerging topics and expanding roles*. (pp. 489-510). Hoboken, NJ: John Wiley & Sons.

⁹ Meyer et al., (2001).

¹⁰ Heilbrun, K., Warren, J., & Picarello, K. (2003). Third party information in forensic assessment. In I. B. Weiner (Series Ed.) & A. M. Goldstein (Vol. Ed.), *Handbook of Psychology: Vol. 11. Forensic psychology* (pp. 69-86). Hoboken, NJ: Wiley.

¹¹ The American Academy of Psychiatry and Law (2008). AAPL practice guideline for the forensic evaluation of psychiatric disability. *Journal of the American Academy of Psychiatry and the Law*, 36 (4), S17; Wolfe, J.S. & Proszek, L.B. (2003). *Social security disability and the legal professional*. Clinton Park, NY: Delmar Learning.

Sincerely,

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Enclosure

cc: Barbara M. Kinney, Deputy Commissioner, Massachusetts Disability
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[REDACTED]

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