



**Massachusetts ME/CFS & FM**

ASSOCIATION

EDUCATION, SUPPORT & ADVOCACY SINCE 1985

***Kenneth Casanova***  
***Ronald Belluso, Esq.***  
*with Bob Robitaille*

# ***Applying for Social Security Disability***



***Sunday Conversations***

***with MassME***

**February 20, 2022**

# Featured Speakers



## **Ken Casanova**

- Former treasurer, vice president, and president of the Massachusetts ME/CFS & FM Association
- Leads patient services for the Association
- Author of our disability handbook



## **Ronald Belluso, Esq.**

- Attorney focused on Social Security Disability and workers compensation
- Massachusetts ME/CFS & FM Association board member



# Also Featuring



## **Bob Robitaille**

- Parent of an adult daughter with ME/CFS
- MassME member



## **Karin Dove, MPH**

- MassME member
- Engages in patient services for the Association





# Disclaimer

The presentations today do not constitute legal advice nor do they cover all aspects of the Social Security Disability process; nor are the presenters or the Mass. ME/CFS & FM Association responsible for any actions or responses to such actions that occur as a consequence of any material discussed in the presentations and the seminar today.





# Applying for Disability

Ken Casanova



# For More Detailed Information:

**HOW TO APPLY FOR  
SOCIAL SECURITY DISABILITY BENEFITS  
IF YOU HAVE  
MYALGIC ENCEPHALOMYELITIS/  
CHRONIC FATIGUE SYNDROME  
(ME/CFS)**

With Additional Information on Applying for Benefits  
If You Have Fibromyalgia

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Massachusetts ME/CFS & FM Association  
2021

Disability Handbook:

[www.massmecfs.org/disability-handbook](http://www.massmecfs.org/disability-handbook)



Additional Resources:

[www.tinyurl.com/MassMEDisability](http://www.tinyurl.com/MassMEDisability)



# Deciding To Apply for Social Security Disability

- Working is becoming more unmanageable, even after:
  - Reducing hours
  - Cutting back on workload
  - Other job accommodations
- You have taken time off of work to recover, but are not getting better
- You are no longer able to work steadily without becoming worse



# Qualifications for Social Security

## Unable to do any Substantial Gainful Activity:

- Due to illness must be unable to do any work, even part-time sedentary work, on a predictable basis

## Permanently Disabled:

- Condition has lasted or is expected to last for at least 12 months





# Substantial Gainful Activity

- ‘Substantial Gainful Activity’ = \$1350+ per month in 2022
- Those earning less than \$1350 might have a claim approved, but must show that their ability to earn is unpredictable
- Social Security may see any work during the application process as evidence that a person is not disabled



# Disability Insurance Through Work

- If you have a disability policy at work, try to apply for short- and long-term disability while you are still employed.



# Social Security Programs

	SSDI Social Security Disability Insurance	SSI Supplemental Security Income
Disability Level	Permanently disabled, cannot engage in substantial gainful activity	Permanently disabled, cannot engage in substantial gainful activity
Work History	Must have worked and paid Social Security taxes for a certain number of quarters	Have not worked long enough to have the credits to qualify for SSDI
Assets	Can have other income or assets	Low income – usually less than \$1000/month Minimum assets – usually less than \$2000
Medical Assistance	Can receive Medicare two years after first becoming disabled	Can receive Medicaid once approved



# Applying for Benefits



Call local Social Security office - [www.ssa.gov/boston/MA.htm](http://www.ssa.gov/boston/MA.htm)

- Ask to be mailed a paper application
- Request a date for a telephone interview

or



Apply online - [www.ssa.gov/benefits/disability](http://www.ssa.gov/benefits/disability)



# Applying for Benefits

- Date of disability = day you stopped being able to work
- Try to gather your past and present medical records
- Provide the names of doctors and providers who have evaluated you
- Try not to understate the seriousness of your condition



# The Application Process



**Application**



**Reconsideration**



**Administrative Law Judge Hearing**



# Application

- Submit application and have doctors submit medical documentation
  - More and better documentation increases chances of approval
- State's review of application takes several months
- Most applications are not approved at this stage
  - **Don't give up!**
  - Immediately apply for reconsideration – must be done within 60 days



# Reconsideration

- Submit any new or additional information and documentation
- Additional doctors' letters may be submitted
- Most applications are not approved at this stage
  - **Don't give up!**
  - Immediately apply for an administrative law judge hearing







# Administrative Law Judge Hearing

- Provides a fairer review of your claim
- An attorney or experienced advocate is needed at this stage
  - Your attorney should be experienced with the Social Security process **and** have knowledge of your disability
- Stay tuned for more on this topic later



# Documentation

- Your physician(s) must provide documentation of your diagnosis as a ‘medically determinable impairment’
- The doctor who documents your diagnosis must be a M.D. or D.O.
- Social security relies on the following definitions for ME/CFS:
  - 1994 Fukuda/CDC Criteria
  - 2003 Canadian Criteria
  - 2011 International Consensus Criteria

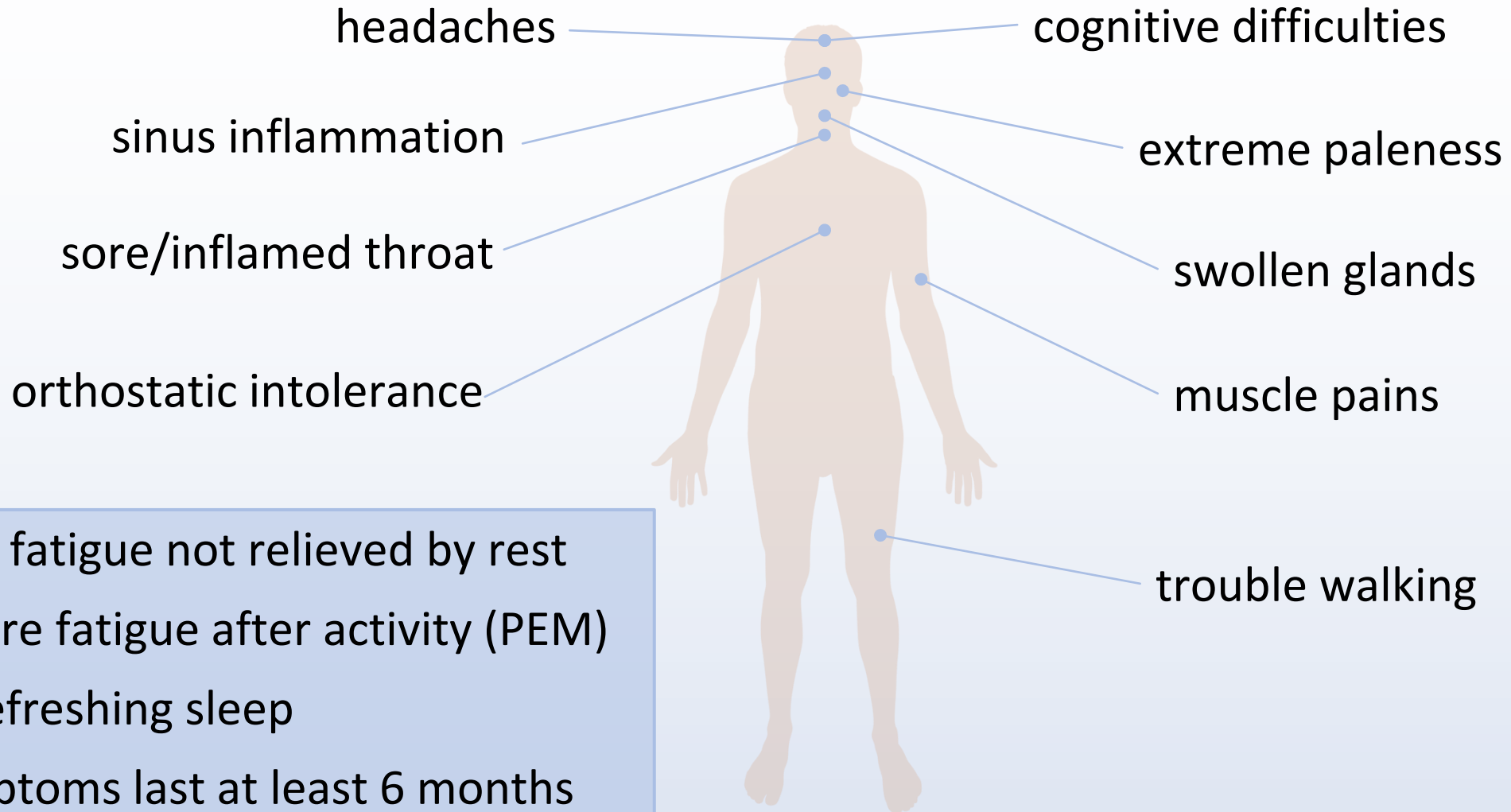


# Documentation

- Social security relies on the following definitions for Fibromyalgia:
  - 1990 American College of Rheumatology (ACRS) Criteria for Classification of Fibromyalgia
  - 2010 ACR Preliminary Diagnostic Criteria
- For other conditions, a M.D. or D.O. should document:
  - The severity and chronicity of your symptoms and of your overall illness
  - How the symptoms contribute to your disability



# Signs and Symptoms of ME/CFS



- New fatigue not relieved by rest
- Severe fatigue after activity (PEM)
- Unrefreshing sleep
- Symptoms last at least 6 months

# Documentation

- If a doctor mentions anxiety or depression, the doctor should clarify whether they are a **result** of having a chronic, physical illness.
- At every appointment, make sure your physician documents your symptoms and medical signs in their office notes
  - For fibromyalgia, make sure your trigger points are documented



# Medical Testing

- A diagnosis for Disability requires medical testing in addition to the symptoms reported
- Helpful blood tests can be found in the Disability Handbook (page 73)
  - Complete blood count with differential
  - Liver function panel
  - Erythrocyte sedimentation rate
  - Immunoglobulins
  - Circulating immune complexes
  - CD4/CD8 ratio



# Medical Testing

- Additional tests may include
  - Tilt table testing
  - Sleep studies
  - Neuropsychological testing
  - Exercise testing
  - Functional vocational testing
  - Brain scans
- Make sure that these tests are interpreted by a physician or provider who is knowledgeable about ME/CFS to prevent misinterpretation



# Functional Incapacity Assessment

- Your physician(s) should document how your illness:
  - Prevents you from carrying out even reduced work activities

sitting



standing



walking



carrying



concentrating



and more



- Affects your ability to conduct basic daily tasks

shopping



cooking



bathing



cleaning



being out of bed



and more





# Doctors' Reports

- Your doctor must:
  - Be familiar with your illness(es)
  - Understand your inability to work
  - Take time to document your case
  - Be willing to document your disability claim
- If your current doctor doesn't fit this description, you will need another doctor to document your claim



# Doctors' Reports

- Your doctor should write a disability letter/report detailing:
  - How your diagnosis was made
  - How severe and chronic your diagnosis is
  - How you are unable to carry out work tasks and activities of daily living
- Your doctor should also fill out the Social Security form “Providing Medical Evidence for Individuals with Myalgic Encephalomyelitis/Chronic Fatigue Syndrome ”



# Resources

- Doctors who need more information on ME/CFS can refer to the ME/CFS Clinician Coalition website: **[www.mecfscliniciancoalition.org](http://www.mecfscliniciancoalition.org)**
- Our Disability Handbook has sample Disability letters/reports (pages 76-84)



# Doctors' Reports

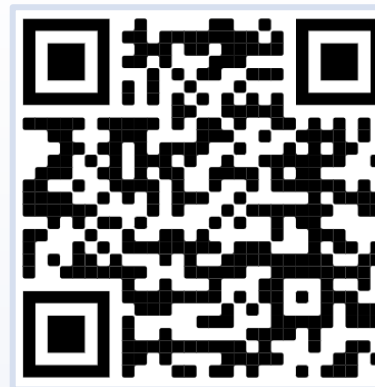
- Any of your providers provide corroborating reports
- Social Security looks for ongoing evidence of your illness over time
  - Emphasis on the past 12 months
  - Have your doctor(s) provide as much medical/incapacity history as you can
- You can make copies of your medical record to submit to Social Security yourself in case your doctor may be slow



# Helpful Resources

Disability Handbook:

[www.massmecfs.org/disability-handbook](http://www.massmecfs.org/disability-handbook)



Additional Resources:

[www.tinyurl.com/MassMEDisability](http://www.tinyurl.com/MassMEDisability)



# 5 Minute Brain Break



Disability Handbook:

[www.massmecfs.org/disability-handbook](http://www.massmecfs.org/disability-handbook)



Additional Resources:

[www.tinyurl.com/MassMEDisability](http://www.tinyurl.com/MassMEDisability)





# Patient Experience

Bob Robitaille



# 5 Bits of Advice

- Describe how your medical issues have impacted your life
- Closely monitor the processing of your applications
- Include a one-page “big picture” summary of how your life has changed
- Make sure your doctor includes detailed notes of your condition at each visit
- Think positive! You will get there!







# **An Attorney's Role**

## **Ronald Belluso, Esq.**



# When Do You Need a Disability Attorney?

- What does a lawyer do?
  - Medical records
  - Medical source statements
- Fees?
- What stage is a lawyer most useful?



# Overview of Administrative Law Hearing

- Currently held via telephone/video, time required
- Direct testimony/Vocational experts
- Laws/grid rules/SS rulings
- Timeframe for decision
- Post-decision appeals



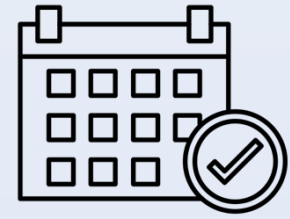
# Increasing the Odds of Prevailing



Medicals,  
Medicals,  
Medicals!



Supportive  
Statements from  
Physicians



Consistency of  
Treatment

# Once on Disability, Can I Work?

- Yes, with limitations
  - Trial Work Incentives Program- 9 months
  - Working Below SGA (Substantial Gainful Activity)







# *Sunday Conversations*

*with MassME*

**Thank you for coming!**



# Please join us next month!

***Dr. Andrew Lenhardt***

***A Functional Medicine Approach to Complex Chronic Disease***

***Sunday, March 20, 2022, 4 p.m. EDT***

We are only able to produce this speaker series through your membership and generous donations. Thank you!

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