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February 23, 2021

Theresa Gruber
Deputy Commissioner
Social Security Administration
6401 Security Blvd.
Baltimore, MD 21235

Kilolo Kijakazi
Deputy Commissioner
Social Security Administration
6401 Security Blvd.
Baltimore, MD 21235

RE: Social Security Administration Disability Determination Process for Neurologic Disabilities

Dear Deputy Commissioner Gruber and Deputy Commissioner Kijakazi,

The American Academy of Neurology (AAN) is the world's largest neurology specialty society representing more than 36,000 neurologists and clinical neuroscience professionals. The AAN is dedicated to promoting the highest quality patient-centered neurologic care. A neurologist is a physician with specialized training in diagnosing, treating, and managing disorders of the brain and nervous system. These disorders affect one in six people and include conditions such as multiple sclerosis (MS), Alzheimer's disease, Parkinson's disease, stroke, migraine, epilepsy, traumatic brain injury, ALS, and spinal muscular atrophy.

The AAN has become aware of significant concerns associated with the process through which the Social Security Administration (SSA) evaluates neurologic disability when determining eligibility for Social Security Disability Insurance (SSDI) benefits. Under the current process, upon receiving a denial for SSDI benefits, a claimant may appeal his/her claim before administrative law judges (ALJ) who conduct impartial "de novo" hearings and make decisions on appealed determinations. The SSA uses Medical Experts (MEs) to provide evidence at hearings before an ALJ. MEs provide expert witness services for SSA under a Blanket Purchase Agreement. During the appeal process MEs are requested to review pertinent records and either respond in writing to interrogatories or provide testimony in a hearing about whether the evidence in the records is sufficient for the relevant impairments to meet specifications developed by the SSA to be approved for benefits.

The AAN is concerned that the current payment rate for MEs is inadequate to meet current and future needs for evaluation of neurologic disability for the purpose of determining eligibility for SSDI benefits. The pay rate for the work conducted by an ME is \$130 for answering an interrogatory and \$160 for a hearing. Our members report that this rate has not changed in over 30 years. To provide an opinion, an ME must thoroughly review records which are often 500-1500 pages in length and include records from multiple

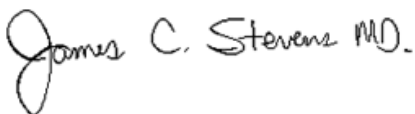
hospitalizations, emergency room visits, and other outpatient visits to determine if the impairment meets relevant specifications developed by the SSA. As such, conducting an adequate review requires several hours of work. The AAN is concerned that the current payment rate is inadequate to sufficiently incentivize neurologists to participate as MEs. This inadequacy is heightened by the growing burden of neurologic disorders in the United States.¹ Lack of participation in the program by qualified neurologists is likely to lead to increased wait times for neurology patients and delays in needed benefits. The AAN calls on the SSA to review whether a lack of qualified neurologists participating in the program is leading to delays in benefit approvals and for the SSA to raise the compensation rate for MEs, as needed, to ensure timely access to necessary benefits. If this is not possible, we request an explanation from the SSA regarding the barriers preventing a needed payment increase.

Additionally, our members report issues associated with the application to become an ME. For first-time applicants, this process can be overly burdensome and confusing. Ultimately, a streamlined application process would make it easier for neurologists to participate and provide their much-needed expertise, but at a minimum, the AAN recommends that the SSA provide guidance to first-time applicants hoping to join the program.

Furthermore, the AAN is concerned with inequities more generally in the disability determination process for neurologic disabilities. The AAN is concerned that the current criteria used to evaluate disability may lead to disproportionate denials for applicants that have invisible neurologic disabilities, including migraine, as they do not exhibit visually observable symptoms. The AAN notes that there is data to support that patients suffering from invisible neurologic disabilities face denial rates far higher than the average SSDI claimant.² The AAN urges the SSA to carefully consider how current process and policies may lead to an elevated rate of denials for these patients and to take action to ensure that these patients do not receive inappropriate denials.

The AAN appreciates your attention to this pressing issue and welcomes the opportunity to discuss potential solutions that will ensure that beneficiaries are able to access necessary and appropriate benefits while program integrity is protected. Please contact Daniel Spirn, Senior Regulatory Counsel at dspirn@aan.com or Matt Kerschner, Government Relations Manager, at mkerschner@aan.com with any questions or requests for additional information.

Sincerely,



James C. Stevens, MD, FAAN
President, American Academy of Neurology

¹ GBD 2017 US Neurological Disorders Collaborators. "Burden of Neurological Disorders Across the US From 1990-2017." JAMA Neurology, JAMA Network, 2 Nov. 2020, jamanetwork.com/journals/jamaneurology/fullarticle/2772579#:~:text=The%20burden%20of%20almost%20all,the%20aging%20of%20the%20population.

² Shapiro, Robert E. "What Will It Take to Move the Needle for Headache Disorders? An Advocacy Perspective." American Headache Society, Headache: The Journal of Head and Face Pain, 19 Aug. 2020, headachejournal.onlinelibrary.wiley.com/doi/10.1111/head.13913.