

Malingering on the Social Security Disability Consultative Exam: A New Rating Scale

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Abstract

In disability examinations, benefits may depend on the findings of a psychological consultative examination (PCE), which in Louisiana usually involves a mental status examination and a Wechsler Scale. The disability determinations service (DDS) requires a warning that failure to do one's best may result in an unfavorable decision on the claim, but psychologists are officially discouraged from determining effort by the use of formal effort tests. Consequently, there is a need for internal indicators of effort. Formal testing of effort was undertaken in order to identify indicators of effort within the PCE in WAIS-age and WISC-age claimants. Our findings indicated that the total score of indicators was more predictive of effort than any single indicator. Regression equations yielded information on how much effort contributes to IQ. Classification accuracy for the new rating scale was described for a "dose-response" of effort. Disincentives for malingering detection in the PCE were identified.

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1. Introduction

Social security disability compensation is dependent in part on the findings of the psychological consultative examination (PCE). The disability determinations service (DDS) office requires that a written warning be given to the claimant. This warning states, "Failure to do your best on these tests may result in an unfavorable decision on the claim." Moreover, psychologists must also include a statement of the validity of their test findings, and the Social Security examiners often ask psychologists to comment on malingering. However, official guidance from Disability states: "SSA's position is that results derived from tests of malingering are not programmatically useful in determining if an individual meets the SSA definition of disability" (Medical Liaison Officer, personal communication). Indeed, the term "malingering" is not found in the entire Blue Book publication (US Dept. of Health and Human Services, 1994, revised 2006).

The finding of malingering on the PCE is a serious event, as it constitutes an allegation of fraud by a claimant who is seeking compensation from the government for problems that are allegedly disabling. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV, American Psychiatric Association, 1994), "malingering is the intentional production of false or grossly exaggerated physical and psychological symptoms for

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external incentives such as obtaining monetary compensation. . .”. Although one may conceive of the needy claimant within an adaptational model (Rogers, 1990) in which the claimant is struggling to adapt to indifference or opposition to his or her needs, it is not the stated purpose of the social security disability system to provide compensation when a compensable disability does not exist.

The seriousness of the problem can be brought into perspective when one considers the total estimated outlay of Social Security Administration Disability Insurance in 2004 was \$80.33 billion. In addition, the projected outlay for Disability Insurance benefits for the old age survivors and disability insurance (OASDI) program in 2004 was \$77.95 billion, and the 2004 Supplemental Security Income outlay was \$37.36 billion (Social Security Administration, 2003). The base rate range of malingering in private disability cases is estimated to be 30% (Mittenberg, Patton, Canyock, & Condit, 2002). If the base rate of malingering in the public-sector disability determinations is as high as in the private sector, then a large amount of money likely is being spent on fraudulent claims.

While there exists a need to separate fraudulent from valid claims, there is no category of payment to psychologists for effort testing. The decisions about disabling problems are made from behavioral observations, mental status results, Wechsler scales, and other evidence gathered by examiners in the DDS office. Given that Social Security discourages formal effort testing, it is not surprising to find that a PsycInfo search through 2005 revealed no studies of effort on the PCE. This deficit is starting to change as investigators have recognized the importance of studying effort in the PCE (Chafetz & Lambert, 2005; Chafetz & Abrahams, 2005; Miller, Boyd, Cohn, Wilson, & McFarland, 2006; Yanez, Fremouw, Tennant, Strunk, & Coker, 2006). In the period from 2002 (when the first author introduced formal effort testing into his PCE) until this writing, evidence from PCE reports (and personal communication from PCE colleagues) have indicated that blatant floor violations and inconsistencies are the primary tools used to examine effort. However, in many, if not most, cases, there are no comments regarding effort. Because effort can account for up to 50% of the variability in neurocognitive findings (Green, Rohling, Lees-Haley, & Allen, 2001), it is critical to have a systematic method to examine effort in the PCE for Social Security, where claimants are all seeking compensation.

The psychological exam itself provides numerous opportunities to study effort. As Slick, Sherman, and Iverson (1999) have indicated, studying the pattern of performance is an effective way to detect malingering within evaluations. Methods used to study pattern of performance include inspecting “floor” items for rare mistakes, highlighting unusual patterns or responses, and looking at the magnitude of errors (i.e., errors more than expected). Within a Wechsler scale (WAIS-III or WISC-IV), one can derive the reliable digit span (RDS), use indices from Mittenberg, Theroux, Zielinski, and Heilbronner (1995) (e.g., vocabulary > digit span by three scaled score points), examine inconsistencies within the test (e.g., missing coding items by both horizontal and vertical inversions), and examine Ganzer-like incorrect answers on Arithmetic or in the mental status examination. Ganzer-like incorrect answers (Drob & Meehan, 2000) belie the truth by being consistently close to the correct answers (e.g., $2 + 3 = 6$; $3 + 4 = 8$; $10 - 2 = 7$), thus giving information that the claimant actually knows the correct answers. During the mental status examination, one can note whether the claimant incorrectly reports his age or birthday, or whether he picks the wrong name of the current president out of a short list. A systematic way to examine these issues in the psychological consultative examination would be helpful to the psychologist who is discouraged from using a formal test of effort.

Moreover, individuals who malingering do not necessarily do so in a consistent manner within or between examinations (Greiffenstein, Gola, & Baker, 1995; Meyers & Volbrecht, 2003). Such examinees may be attempting to malingering different types of impairment (e.g., “slow” versus “poor memory”) or may simply have a different style (e.g., missing easy items versus attempting odd errors on harder stimuli).

Due to the lack of consistency from DDS workers in referral questions (e.g., “learning and mental”; “mental and back problems”), it is difficult, if not impossible, to categorize the referral problems. However, it is clear that low intellectual functioning is the central focus of most PCE referrals even when there may be other psychological problems. In the adult sample, fully 76.3% of the consults had received Special Education services, and 85.8% had less than a 12th grade education. Also, when prior PCE evaluations are available, they usually indicate low IQ levels. As the Wechsler tests usually provide the only source of objective data in the PCE, the current inferences of functional limitations are largely made from low scaled scores and low IQ scores. Thus, the examination of effort in the social security disability PCE provides an opportunity for understanding effort in mostly low functioning adults and children.

The purpose of this study is to validate the use of internal indicators within the psychological consultative examination so that psychologists can provide reliable and valid statements to DDS about malingering. A rating scale for the PCE is developed and validated against the TOMM and the medical symptom validity test (MSVT—formerly the MACT: memory and concentration test).

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