

Employer Validation of Jobs Allowing Five-Minute Breaks Each Hour of the Workday

**Craig Johnston, Maya Codina, and
David Haefke**

Vocational experts are challenged to go beyond “professional experience” when testifying on the types and numbers of jobs available given their functional restrictions. Although placing individuals in jobs and conducting job analyses are important to the knowledge base of the expert, having an empirical basis for citing occupations and job numbers can enhance the credibility of testimony. This is particularly true when opining the impact of psychiatric and non-exertion limitations, which often carry with them restrictions not readily identified by the *Dictionary of Occupational Titles*. One common psychological restriction involves avoidance of stress-inducing activity. Although all workers experience some stress in the workplace, those with psychiatric impairments may feel overwhelmed and unable to maintain concentration, persistence, and pace. These individuals may require a short break, as much as five (5) minutes every hour, removed from the workstation, to engage in stress reducing activities such as deep breathing or muscle relaxation exercises. This can be problematic in maintaining employment. To address this issue, a labor market survey was conducted to ascertain the opinions of employers of those occupations commonly cited by vocational experts in Social Security Administration hearings on how a 5-minute break every hour would impact employability. Results indicate that work activity still exists, but in reduced numbers. Empirical evidence can reinforce expert testimony and assist job placement professionals in identifying feasible occupational alternatives for their clients.

Individuals alleging physical, cognitive, or mental impairments may be awarded disability benefits through the Social Security Administration (SSA) if they can demonstrate an inability to perform work that exists in significant numbers in one or more regions of the national economy. To assist in the determination of employability, the Administrative Law Judge (ALJ) calls on specially trained rehabilitation counselors, called Vocational Experts (VE), to help identify how functional limitations combine with the claimant’s age, education, and work history to impact the ability to sustain gainful employment.

The VE begins by identifying and defining the claimant’s past work activity. The ALJ then typically proposes a series of hypothetical scenarios consisting of progressively severe functional limitations to determine whether the individual can return to past or other work activity. These hypothetical scenarios may involve simple, straightforward physical limitations easily interpreted through use of standard occupational informa-

tion including the *Dictionary of Occupational Titles* (DOT). In cases where there are limitations placed on strength and postural demands, the VE is typically able to promptly compare the demands of the past work against current functional levels.

In cases involving mental or cognitive impairments, there is likely to be much more ambiguity. In these cases, the ALJ utilizes the Social Security Administration’s Mental Residual Functional Capacity Assessment (MRFCA) form, a psychological functional capacity checklist of 20 work-related activities, to propose functional restrictions. The DOT does not contain information *directly* addressing these work-related activities, nor does it have any category that purports to speak to psychological demands of work. What it does have however, is information on work temperaments, a category of 11 adaptability requirements made on the worker by specific types of jobs, which closely equate to psychological tolerances and which can be theoretically connected to the MRFCA form (Johnston, 2010). Connecting this form to the

temperaments category is most helpful when the mental or cognitive impairment are clear and total, so for example, a hypothetical claimant limited by the hypothetical to “no contact with the general public” would subsequently be incapable of any occupation listed in the DOT which requires the temperament of “dealing with people”. In these clear-cut scenarios, the VE – as when they are dealing with strength and postural restrictions – is able to readily provide a clear rationale for elimination of select occupations.

More problematic are those hypotheticals which can be connected to the DOT in this manner, but where the severity is somewhere less than a total restriction. An example arises when an individual is mostly productive, but does have difficulty persisting throughout the workday due to symptoms of stress. When raised as a limitation in Social Security adjudication, the ALJ is seeking to understand the impact on employability when the worker needs to take short breaks to alleviate everyday stressors that would not be expected to adversely impact the average worker. Excluding work activities requiring the “S” temperament would only eliminate inherently stressful occupations (e.g., prison guard), a rather small portion of the total number of occupations in the DOT (2.1%), and again would not address the point of the hypothetical. Often the ALJ will instead inquire what percentage of the workday the employee would have to persist, and additionally, what would happen if the employee stepped away from the workstation for some period of time to alleviate symptoms of stress. The DOT provides no information on this issue, and therefore the

VE must render an opinion based on their professional experience and understanding of the world of work. The MRFCA form does have two work-related activities that VEs consider to speak to the ability to function in stressful situations, “the ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods”, and the “ability to respond appropriately to changes in the work setting”. When restrictions are placed on these activities, the VE can consider the extent to which an employer requires the worker to persist in these matters, and compare this against the stated limitation. Because the VE cannot point to the DOT for this information, they may defend their opinion on the basis of “professional experience”. Soliciting labor market information directly from employers on these issues may add weight to their experience. Figure 1 demonstrates the process of obtaining an opinion of psychological impairment from the treating or testifying medical expert and converting it into an opinion of employability.

The Concept of Stress

Stress is a difficult concept to define, in that it is not a tangible entity that can be easily measured outside of lab settings. Stress is individualistic, based on one’s own perception to a situation. In this regard, an occupation is not inherently stressful, but rather it is the individuals’ perception of the job that determines the



Figure 1. Process of Adapting Psychological Impairment into Vocational Opinion

level of stress experienced. While some occupations are identified by the *Dictionary of Occupational Titles* as invoking a heightened level of stress among workers, the definition of stress is broadly stated as a non-specific response of the body to any demand (Selye, 1976). There are multiple types of stress that can be provoked from different types of stimuli, typically broken into two broad categories of good stress (eustress) and bad stress (distress), the later which can result from work demands that causes dissonance, disease, and dissatisfaction. It is this distress and the inability to cope that can be linked to psychiatric illness. When an individual experiences stress they experience a negative emotional response such as anxiety or depression. These psychological difficulties can create changes in behavior that increase the risk for illness and disease (Herbet & Cohen, 1994).

Although many individuals experience some degree of stress in the workplace (Webster & Bergman, 1999), individuals with psychiatric impairments experience heightened reaction to threats to their routine which may impair effective functioning in performance. These routine demands in the workplace which cause an inordinate amount of stress can stem from factors as standard as being evaluated by a supervisor, answering questions from the general public, maintaining regular attendance, maintaining a production rate, making independent decisions, and dealing with co-workers. Thus, individuals with mental illness may have difficulty maintaining work in even those jobs considered "low stress" (SSR 85-15). Reactions to these stressors may range from decreased motivation and production to absenteeism or verbal or physical outbursts (Anxiety and Depression Association of America, 2006). Ultimately, the response to stress is individualized, so that one individual may be able to work in an occupation that is commonly regarded as stressful (e.g., prison guard), while another individual may be unable to tolerate working in what would be assumed as a low stress occupation (e.g., parking garage cashier). In this later example, an individual with mental illness may find it difficult to answer questions from customers, feel pressure when multiple cars are waiting in line to pay their fare, or become anxious when a request is made for change in specific denominations. Therefore, the skill of the job alone cannot be used to determine whether an individual susceptible to the negative symptoms of stress could perform specific work activity (SSR 85-15).

Although stress is individualized upon the worker and the situation, there are generalities upon stressors in the workplace. In a 2006 Anxiety Disorders Association of America (ADAA) stress and anxiety survey, it was found that stress is mainly the result of deadlines, interpersonal relationships, staff management, and dealing with issues and problems that arise. Those that work in environments that do not reflect their own temperament restrictions may have more stress involved in their workday. Individuals who have difficulty dealing with

people may find more stress from interpersonal relationships. Others that are not good at making judgments and decisions may find stress from dealing with issues and problems that they are responsible for resolving. Those that find particular situations in their job stressful must find a way to ameliorate their stressor. In the same study it was found that most people cope with stress at work by taking over the counter prescription medication, sleeping more, eating more, talking to family or friends, or by talking to medical or mental health professionals. Some coping mechanisms are obviously self-destructive while others benefit overall health.

Those that are able to seek out positive resources and ways to cope have a better chance of fulfilling job duties while keeping the negative psychological and physiological effects of stress to a minimum. These individuals that cope with stress from their vocation adequately are able avoid the negative effects of stress while maintaining employment. Those that cannot are at risk for termination. Difficulty coping with vocational stress is common for those individuals who suffer from psychological illness. Treatment and services including vocational supports are not always available to help these individuals manage their symptoms in order to maintain employment.

A potential strategy for alleviating stress – one that may even be necessary to maintain work through the day or week, is taking short but unscheduled breaks away from the workstation. Treating psychologists may recommend stepping away from the workstation for 5-minutes each hour to practice stress relieving techniques such as deep breathing. To this end, an ALJ may pose a hypothetical to a VE inquiring as to the impact of stepping away from the workstation to take these short pauses. Although a 5-minute break every hour would only account for approximately 8% off-task time, and although many VEs informally report testifying that individuals can be "off-task" 10-15% of the workday, the need to take repeated breaks, and take them away from the workstation throughout the workday, can be alarming for employers concerned with a lack of productivity.

One method for verifying the availability of suitable employment in light of varying degrees of functional limitation is to ask employers directly. This process is termed a labor market survey (Van de Bittner, Toyofuku, & Mohebbi, 2012). The labor market survey can be utilized to obtain opinions and hiring practices of employers of those occupations under consideration for the claimant, and help assess the impact on whether it would be allowable to take a short break each hour to alleviate symptoms of "some" level of anxiety.

Yes or No, could this position be performed by an individual who was required to take breaks away from the workstation of 5-minutes every hour to relieve stress (As a point of reference: The individual would be productive the other 55-minutes of the hour, but would simply need to remove themselves from the workstation for 5-minutes)?

Yes or No, would you consider it a reasonable accommodation to allow an individual who was required to take breaks of 5-minutes every hour to relieve stress to work in this position?

Yes or No, would the quality of this job be negatively affected if the worker needed to take a break 5-minutes of every hour to relieve stress?

Figure 2. Questions from Labor Market Survey

Methods

Procedures

Approval for this study was granted through the Institutional Review Board (IRB) at Northeastern Illinois University. The researchers identified unskilled occupations commonly cited by Vocational Experts in Social Security Administration disability hearings and which the researchers believed could be performed with hourly 5-minute breaks. A list of employers potentially hiring individuals into these positions was generated through the on-line occupational database Skilltran. The geographical area was a 50-mile radius from Chicago, IL. Employers were contacted through multiple methods including: in person visit, telephone call, and electronic mail. An individual responsible for the hiring decision was requested to take part in a short interview or asked if they would be willing to schedule a call at a later date. The interviewee was provided an explanation of the study and their ability to terminate the interview at any time, as well as the contact information for the lead researcher and staffer at the Northeastern Illinois University IRB. The basis for the current study was a line of research by Marini, Payan, et al. (2008) and Marini, Rodriguez, et al. (2008) focusing on restrictions stemming from physical disabilities.

Survey

A labor market survey was selected as the most optimal means for assessing hiring practices among employers of the occupations identified for this study, and as this is the generally accepted practice among VEs to provide evidence on the number of jobs available for an individual (Bakkenson, 2003). Once a hiring individual was contacted, verification was made that the business or entity actually employed individuals as a hotel maid, janitor, cashier, stock clerk, sales clerk, parts assembler, dishwasher or table busser. Three questions eliciting yes/no responses were posed, constructed via combination of select work activities from the MRFCA form identified in previous research as being reflective of stressful activities (Johnston,

2012) and those common hypothetical questions posed in SSA disability adjudication. These questions are found in Figure 2.

Results

Results to the three questions are found in Tables 1, 2, and 3. Data for eight occupations are listed, with additional occupations not yielding enough responses to be included here.

Question 1 asked employers to assess whether an individual could perform the respective occupation if the worker was required to take breaks away from the workstation for 5-minutes out of every hour. More than half of employers in each of the surveyed occupations believed that such an individual could indeed perform the work activity, with the highest percentage (81%) belonging to the occupation of sales clerk in a retail store. Cashier and Janitor were also identified by at least 70% of employers, while Hotel Maid received the lowest affirmation of ability to perform with just 51% responding positively. Table 1 provides employer responses to this question.

Question 2 asked employers whether it would be a reasonable accommodation to allow the worker to take a break of 5-minutes every hour. Results are found in Table 2. When compared to Question 1, all employers other than those of assemblers reported a more positive response rate, although the occupation of Hotel Maid saw only a minimal increase and was again the lowest occupation receiving employer support. Although just 68% of employers believed that such an individual could perform the occupation of Table Busser, 95% believed it would be a reasonable accommodation to allow the individual to take a 5-minute break every hour. Similar jumps in positive responses were found for dishwashers (89%) and cashier (93%). Again, at least half of all employers responded that it would be a reasonable accommodation to allow an individual to take such a break.

Question 3 asked if the need to take a 5-minute break every hour would negatively affect job performance. Only 22% of employers of janitors found these breaks

Table 1
Can the Individual Perform the Occupation?

Job Title	Work Setting	Percentage saying, yes, could perform	Sample Size
Hotel Maid	Hotels	51%	37
Cashier	Retail & Market	70%	30
Janitor	Building	74%	27
Stock Clerk	Retail	61%	23
Sales Clerk	Retail	81%	21
Assembler	Manufacturing	65%	20
Dishwasher	Restaurant	68%	19
Busser	Restaurant	68%	19

Note. Results rounded to nearest whole number

Table 2
Would Employer Consider it a Reasonable Accommodation?

Job Title	Work Setting	Percentage saying, yes, could perform	Sample Size
Hotel Maid	Hotels	57%	37
Cashier	Retail & Market	93%	30
Janitor	Janitor	78%	27
Stock Clerk	Retail	70%	23
Sales Clerk	Retail	86%	21
Assembler	Manufacturing	65%	20
Dishwasher	Restaurant	89%	19
Busser	Restaurant	95%	19

Note. Results rounded to nearest whole number

to have a negative impact on work performance while 63% found that this accommodation would negatively impact work performance. Responses to this question are found in Table 3.

Discussion

The current study attempted to assess employer opinion regarding the availability of jobs for those individuals who, because of adverse symptoms arising from stress intolerance, require a 5-minute break away from the workstation every hour during the workday. The results have utility for both direct job placement and determination of benefit eligibility. In Social Security Disability adjudication involving individuals with psychological and cognitive impairments, a common restriction posed to the VE in a hypothetical scenario is the need for a 5-minute break every hour in

order to relieve symptoms associated with stress. These experts can rely on their professional experience having placed individuals in gainful employment, but increasingly the courts are asking for empirical evidence to support their assertions. In response, Marini, Payan, et al. (2008) and Marini, Rodriguez, et al. (2008) surveyed employers to validate the availability of select occupations in light of physical limitations (sit-stand option, use of only one arm). When compared to physical impairments, psychiatric limitations are often more difficult to accommodate, primarily due to a lack of understanding of the disease process by potential employers, the need for what often amounts to work-incompatible accommodations (e.g., setting own pace, difficulty with interpersonal communication, need for frequent prompts), and the real functional impact of associated symptoms (e.g., difficulty with concentration, hyper-

Table 3
Would the Accommodation Have a Negative Impact on Work Performance?

Job Title	Work Setting	Percentage saying, yes, could perform	Sample Size
Hotel Maid	Hotels	49%	37
Cashier	Retail & Market	33%	30
Janitor	Janitor	22%	27
Stock Clerk	Retail	43%	23
Sales Clerk	Retail	29%	21
Assembler	Manufacturing	45%	20
Dishwasher	Restaurant	37%	19
Busser	Restaurant	63%	19

Note. Results rounded to nearest whole number

sensitivity to criticism, and as discussed here, the inability to tolerate stressful conditions). Individuals react to the demands of work in differing manners. For those with psychological illness, routine duties can cause an inordinate amount of stress. The treating or testifying medical expert may opine the individual can work, but would require short breaks throughout the day to relieve symptoms related to stress. These breaks go beyond the typical two 15-minute morning and afternoon rest breaks and one 30-minute lunch break. Ultimately, the VE is called on to opine the availability of jobs in the region or national economy that would be available to an individual requiring this type of work restriction.

The occupations chosen for examination are generally unskilled, as this is typically the threshold for proving employability. The occupations included for examination were those that would appear to be, on face, occupations that would not inherently cause stress magnification. These occupations also are found to exist in significant numbers in one or more regions of the national economy, as determined by a review of employment numbers provided by the United States Department of Labor.

General perception is not sufficient as the basis for an expert opinion, but it does provide a starting point when considering the potential impact of taking short breaks throughout the day on the base of jobs in these occupations. It would seem to be reasonable that a table busser or dishwasher may be able to take short breaks during off-peak hours, but would be unable to do so during prime meal times. For both of these occupations, 68% of employers reported that an individual with these restrictions could perform the work, with no distinguishing between peak and off-peak hours. Interestingly, while 63% of employers of table bussers believed job performance would be negatively impacted by taking breaks, only 37% of employers found

the same adverse impact to be true of dishwashers. This discrepancy among individuals on the same staff may be explained by the customer service aspect of their jobs. Table bussers are responsible for clearing tables of dishes and waste. A backup on work production results in delay in customers being seated, or tables overcrowded with dirty kitchenware during the actual meal service. Conversely, the public cannot see, or may not feel, the impact on backups in the cleaning of dishes, as there may be enough extra plates to provide consistent service. Regardless, an overwhelming majority of respondents indicated that it would be reasonable to allow table bussers (95%) and dishwashers (89%) to take these short breaks.

Cashiers, stock clerks, and sales clerks also work in the public eye and provide customer service. Interestingly, while stock clerks would have the least amount of direct customer service, this was the occupation in this group of retail that received the least amount of support (61%) for being performed with the needed break, the least amount of support for an accommodation (70%), and the retail position this limitation was perceived by employers to carry the most negative impact on job performance (43%). Employers of cashiers and retail sales clerk, despite their direct service to the public, were more amenable to the functional limitation. Perhaps this is due to the availability of other individuals to fill-in for 5-minutes every hour. While approximately 33% of employers believed this limitation would have an adverse impact on performing these jobs, nearly 90% found it reasonable to allow this accommodation, and between 70% (cashier) and 81% (sales clerk) ultimately opined the individual could perform the work.

Only one occupation in the manufacturing industry was examined. Here, 65% of employers reported that the individual could still perform the work, with the

same percentage reporting it would be reasonable to accommodate this restriction.

Finally, within the cleaning industry were the jobs of janitor and hotel maid. It was somewhat surprising to find such discrepancy in employer opinions. Of hotel maids, 51% indicated that the individual could perform the position, 49% that the job would be adversely impacted, and 57% found it reasonable to accommodate. The minimal jump from performance of the job to reasonable accommodation suggests that employers feel either the person can perform the work, or that when they cannot an accommodation would make little difference. For janitors, 74% found the individual could perform the occupation, with only 22% finding a negative impact on job performance. It is possible that like with table bussers, hotel maids provide more direct service to the customer in the form of turning over rooms for new customers or cleaning rooms for existing customers quickly to ensure minimal disruption and high customer satisfaction. Janitors, even though their role influences the opinion of the general public, typically provide their service to the building in which they work, as opposed to any specific individual. It is also possible that the hotel maid has no convenient place to take their breaks, as an occupied hotel room would be an inappropriate location to recover from stress. Janitors on the other hand may have more access to break rooms, or the ability to freely move to a quiet location outside of the public's eye. Again, these are only untested suppositions and not based on employer feedback.

Many VEs informally report that they testify an individual must be on-task in the range of 85-90% (or conversely, off-task no more than 10-15%) of the workday. This would equate to up to 51-54 minutes on-task each hour. A 5-minute break then would not take the individual outside of this range. But unlike off-task time, a break involves actually removing oneself from the workstation. This may be seen as disruptive to the flow of work and render the job seeker unemployable. The results of this study generally don't support this assertion. Instead, the data suggests that individuals requiring breaks each hour could maintain employment, although there would be some erosion of jobs (between 20-50%, depending on the occupation), with this percentage lessened when considering the potential for accommodations. As discussed in the limitations section below, the response rate was low, and it is possible employers were responding in a socially appropriate manner, but the data at least opens the possibility that these jobs would remain available to individuals with psychological impairments requiring time away from the workstation to alleviate symptoms associated with stress. Further, the results could be used by job developers to educate employers on the willingness of others in the industry to provide accommodations, in turn increasing employment rates of persons with psychological disabilities.

Case Study

Janice, a 40 year old female, appeared before an Administrative Law Judge appealing a previous denial for Social Security Disability Benefits. She had been treating with a psychologist for a social anxiety. She possessed a high school diploma with no other training for direct entry into the workforce and had most recently been employed for 6 years prior as security guard in a chain superstore. She had worked in this position for 3 years, and had no other past relevant work.

At the hearing she testified that her job duties involved walking the store to detect theft of merchandise. Using an earpiece, she would receive instructions from a security guard watching the store on a closed circuit monitor notifying her of suspicious behavior throughout the store. She would initially try to dissuade the suspicious individual merely by making her presence felt but if she detected the theft had already occurred, she would contact the police or, if possible, detain the individual. On the day of her injury she had attempted to apprehend a young woman who was suspected of shoplifting. The woman was initially docile when approached by Janice, but then suddenly struck her in the face and attempted to flee. Janice followed outside the store where she caught up with the shoplifter. Other store security came outside to assist Janice and keep the suspect calm until the police arrived.

After the suspect was taken into custody, Janice returned to the store and completed an incident report. Her manager directed her to go to the hospital to make sure she received medical treatment. Despite some minor bruising, she was cleared to return to work the next day. When she entered the store, her manager summoned her to his office and informed her that she was suspended for 1 week for violating the store's policy against following suspects outside the store. Janice testified that she was crushed. She felt that she had done her job and expected to be commended. Instead she was being punished. She returned to work the next week but soon discovered that when she was alerted to possible theft, she would experience shortness of breath, tightening of her chest, trembling, and sweating. She became hesitant in her job, and when she was able to intervene through either subtle dissuading or direct interaction with a suspect, these symptoms would continue following the intervention. She became unsure of herself, worried that she was making the wrong decisions, and feeling overwhelmed she began to seek out a quiet place in the back of the store away from co-workers and the public to try and calm herself. When the manager realized that she was disappearing for stretches of time he terminated Janice's employment.

The firing shattered whatever remaining confidence Janice still had in her abilities to perform work. She attempted to look for a job but found herself unable to

competently engage in interviews. The same symptoms that plagued her following the initial incident returned whenever she prepared to meet with the hiring authority. Several times she drove to the employers for an interview, but couldn't bring herself to enter the establishment. Soon she stopped seeking work all together.

Janice sought the assistance of a psychologist for her anxiety, and was diagnosed with generalized anxiety disorder with panic attacks. He restricted her to work that would be no more than moderate stress, and to work in a position that would allow her to take short breaks when she felt the onset of symptoms. The medical experts at the hearing testified that he agreed with the diagnosis, and so the ALJ next turned to the vocational expert to pose a series of hypotheticals, with the following exchange:

ALJ: Have you had the opportunity to review the record provided to you and listen to the testimony given today?

VE: I have

ALJ: Can you provide a description of the claimant's work history, and indicate if the claimant performed the work as defined in the Dictionary of Occupational Titles?

VE: Yes your Honor. I have identified one occupation performed by the claimant in the past 15 years, as a Security Guard. This is a semiskilled, SVP 3 occupation. The DOT identifies this as a Light occupation, and the claimant testifies that she performed it at the Light level.

ALJ: I want you to assume a hypothetical individual of the same age, education, and work history as the claimant and further assume this individual has no physical limitations. Further assume that the individual is capable of simple and detailed, but not complex, work activities. Could this hypothetical individual perform the claimant's past work?

VE: Yes

ALJ: For the second hypothetical I want you to assume the same limitations as in the first hypothetical but additionally consider an individual who is precluded from engaging in work activity that involves more than moderate stress. Could this individual still perform the claimant's past work?

VE: They could not.

ALJ: And what do you base that opinion on?

VE: The occupation requires the temperament for working under stressful conditions. Although it is a persons' reaction that determines whether the work is stressful, the DOT identifies the occupation of security guard as one that would typically

be performed under more than moderately stressful conditions.

ALJ: What other work activities exist in the National Economy could such an individual perform?

VE: The individual could work as a cashier. There are approximately 538,000 Light, unskilled cashiers in the National Economy. The individual could work as a dishwasher. There are approximately 249,000 Medium unskilled dishwashers in the National Economy. The individual could work as a Production Assembler. There are approximately 600,000 Light, unskilled production assemblers in the National Economy. These occupations are not identified by the DOT or it's companion the Classification of Jobs as requiring the individual to work under stressful conditions.

ALJ: What if the individual, regardless of what the DOT says about stress, needed to take a 5-minute break, every hour, away from the workstation to alleviate symptoms of stress?

VE: My response would remain unchanged.

ALJ: And on what do you base that opinion on?

VE: I base this on professional experience.

This type of response naturally peaks the interest of claimant representatives, who typically challenge VEs on how mere experience placing individuals in jobs can be extended to the number of jobs in the National Economy. Indeed, this can be the basis of an appeal. If one accepts the validity of the current study however, the VE would need to consider job erosion, but could also support their opinion and ultimately expand on their response as follows:

ALJ: What if the individual, regardless of what the DOT says about stress, needed to take a 5-minute break, every hour, away from the workstation to alleviate symptoms of stress?

VE: I need to preface my response by indicating that the DOT makes no mention of time away from the workstation, and therefore my opinion is not based on the DOT or its companion resources. That said, the individual could still perform these occupations, but in reduced numbers. It would be my opinion that the claimant could perform approximately 360,000 cashier positions, 156,000 dishwasher positions, and 270,000 production assembler positions.

ALJ: If the DOT makes no mention of time away from the workstation, how did you arrive at your conclusion about the number of these jobs that would remain despite the restriction of a 5-minute break, every hour, away from the workstation?

VE: I base my opinion on results of a labor market survey in which this very question was posed to

employers. For example, there are 538,000 cashier positions in the United States National Economy. Results of this survey indicate that 70% of those who employ cashiers believe that an individual who requires this break could still perform the position, and 67% do not feel this position would be negatively impacted by this limitation. Finally, 93% of these employers feel it is a reasonable accommodation to allow the individual to work despite requiring this break. From this data I believe that between 67-93% of employers would hire an individual requiring a 5-minute break every hour. Taking a conservative approach, I accepted the low end, or 67% of employers, that would actually hire such an individual. This equates to 360,000 remaining cashier positions.

Limitations

This study does have limitations. The response rate was approximately 20%, and the non-respondents were not interviewed to determine if they would have opined differently from the respondents. Unfortunately, this response rate seems typical of labor market surveys dealing with questions interpreted as hiring practices of individuals with disabilities. It is the opinion of the authors that employers are leery of answering any questions that they feel may be used to portray them in a negative light, despite the assurances that the survey was anonymous to the greatest extent possible. Those that did respond may have been answering in socially appropriate ways not indicative of their true employment practices. The survey was also restricted to the Chicago metropolitan region, and it is possible that employers in other regions of the United States may have answered differently. A larger scale survey, with follow up interviews to delve deeper into employer expectations, would be beneficial. Practicing VEs are encouraged to combine their resources to complete a more in-depth, multi-regional labor market survey of occupations allowing for a 5-minute break every hour. Still, despite the limited scale of the present survey, the responses do appear to reveal that there are at least some employers that would allow for 5-minute breaks each hour with minimal impact on job performance.

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Author Notes

Craig Johnston is a professor of Rehabilitation Counseling at Northeastern Illinois University and teaches coursework on psychological diagnosis, functional impacts of disability, and vocational evaluation. He is a practicing vocational expert with Johnston Vocational Consulting and provides testimony in a variety of disability adjudication, including the Social Security Administration. He can be reached at johnstonvoc@sbcglobal.net. Maya Codina graduated in 2015 with her Masters Degree in Rehabilitation Counseling from Northeastern Illinois University. She currently works in the field in the Tampa Bay, FL area. David Haefke is a graduate student at Northeastern Illinois University with an expected graduation in 2016. He is currently completing his internship.

Editorial Comments

Johnston and colleagues have offered an article addressing the potential value of five-minute breaks to accommodate a variety of physical, cognitive, and mental disabilities and disorders. Very simply, this article suggests that a slight accommodation may offer to differentiate an employment opportunity for someone with a disability in contrast to a lost chance to gain economic self-sufficiency. As an addendum to the article, several editorial comments are offered to further enhance similar initiatives.

First, educate the employer about your individual role. Potentially these initiatives may be taken by a Rehabilitation Counselor, Rehabilitation Nurse, Physical Therapist, or others. Each professional has a set of skills to afford accomplishment of this goal. Identify yourself not only the client but also the potential employer. If needed, and available, bring in an additional person to address any feature of the accommodation that you as an expert may lack. It is better to seek a silly consult than make a serious mistake. Educate the employer about your goals and roles, and envelop the opportunity to seek outside consult, if needed.

Second, recognize the potential costs by the person receiving Social Security benefits. I would estimate that I have listened to five presentations of rehabilitation consultants advocating for persons that receive Social Security benefits to "take the risk" and "return to the workforce." The persons giving these presentations are most often financially set, living well, and have not had the unfortunate opportunity to "walk in the shoes" of their client seeking to make this employment step. As a professional, it is necessary to critically evaluate whether job placement offers a benefit for the person with a disability, or in contrast simply offers a greater benefit of a case closure. There must be some form of symbiotic goal and relationship with a job placement arrangement. It would be recognized that the risk may not overcome the potential benefit. If the benefit is substantial and of advantage for the person with a disability, then job placement must continue. However, if the benefit is solely the attainment of a case closure, then the job placement specialist from an ethical and humanitarian standpoint should evaluate the utility of the placement.

Third, identify and recognize the potential costs for the employer. In reality, an employer provides a product or service to attempt or ensure a profit. If the hiring of an individual with a disability enables an employer to maintain a profit, then most probably the person with a disability will continue identified employment. However, if accommodations result in lost productivity, reduced or eliminated profit, and reduced financial rigor for a company, then the length of employment will be limited. In contrast to public opinion, employers infrequently will hire someone with a

disability solely for altruistic reasons. The presentation to an employer must envelope financial reality that a business must hire, fire, and makes business decisions to assure profitability.

Fourth, one must recognize that as Rome was not built in a day, successful job placement will not be accomplished within the span of a week. Growing pains will incur as a result of job placement. The employer and employee will seek guidance regarding components of placement that are not operating efficiently.

Fifth, learn from your mistakes and replicate your accomplishments. Placing an individual with a disability into the workforce represents a tremendous accomplishment, not only for the professional making the placement but most importantly for the individual with a disability. Mistakes will be made along the pathway, offering an opportunity for everyone to build upon the mistakes. Also, gratefully, correct steps will be taken, which should be marked and applicably replicated.

Lastly, all parties must recognize that all placements will vary. While lessons may be learned from individual placements, all parties must recognize that future placement will result in future challenges. Ultimately, these accommodations will offer benefit for not only persons with disabilities but also societal profits.

Theodore Scott Smith
Alyssa Schwartzenburg