

# Vocational & Disability Assessment in Chronic Fatigue Syndrome Cases

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# Outline of Topics

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  - ▶ Basic Work Behaviors
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# History of Vocational Rehabilitation

## Veterans

- 1917 Smith–Hughes Act: vocational education
- 1918 Soldier Rehab Act: vocational training for disabled vets

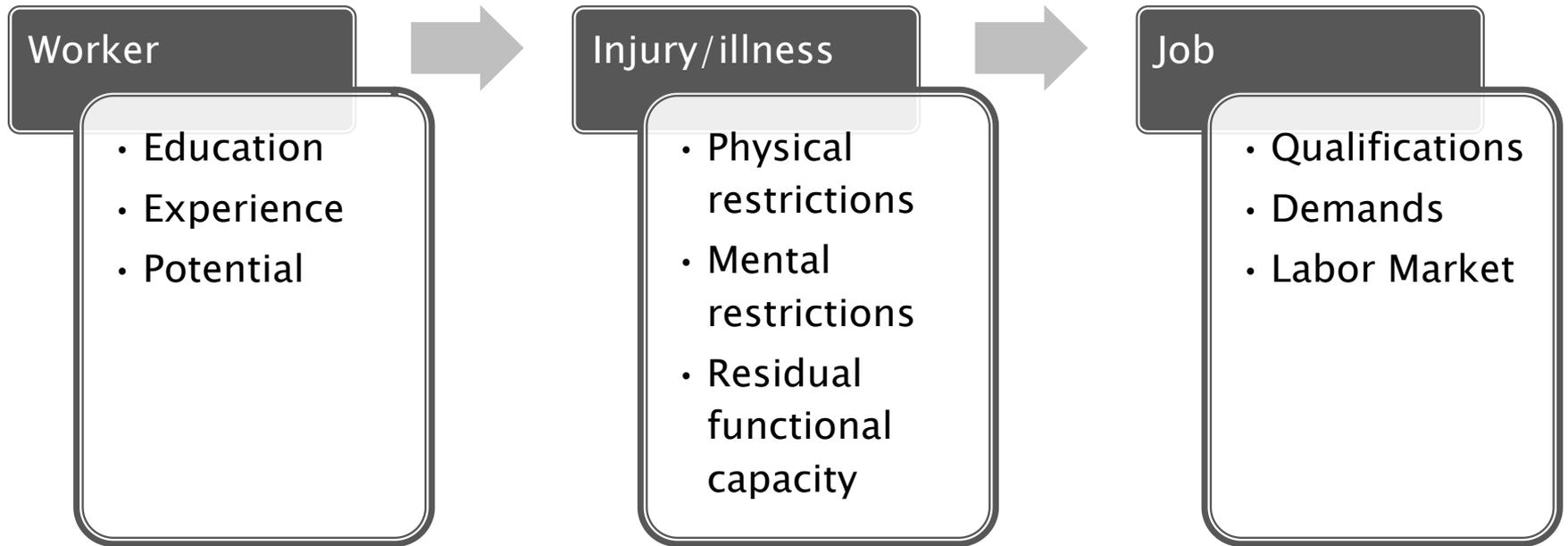
## Federal Legislation

- 1920 Vocational Rehabilitation (Smith–Fess) Act included civilians
- 1935 Social Security Act
- 1973 Rehabilitation Act: anti-discrimination
- 1990 Americans with Disabilities Act (ADA)

## Worker's Compensation

- 1970's transition to private sector
- California mandates VR in worker's compensation
- Other states follow, some repealed

# VR Principles



# Earning Capacity Assessment

## Personal Injury (Civil/PI)

- Pre-injury Wage Earning Capacity (WEC)
- Post-injury WEC
- Mitigation
- Training

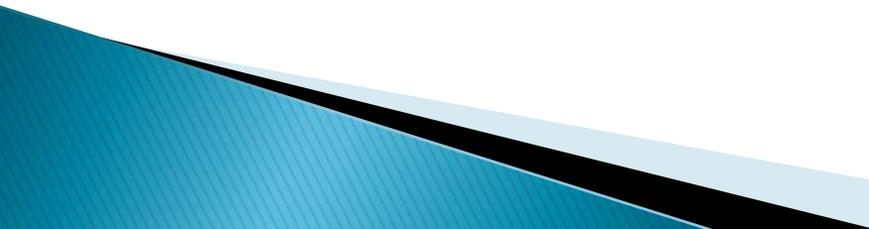
## Long-term Disability (LTD)

- Own Occupation
- Any Occupation
- Pre-disability earnings %
- Exclusions

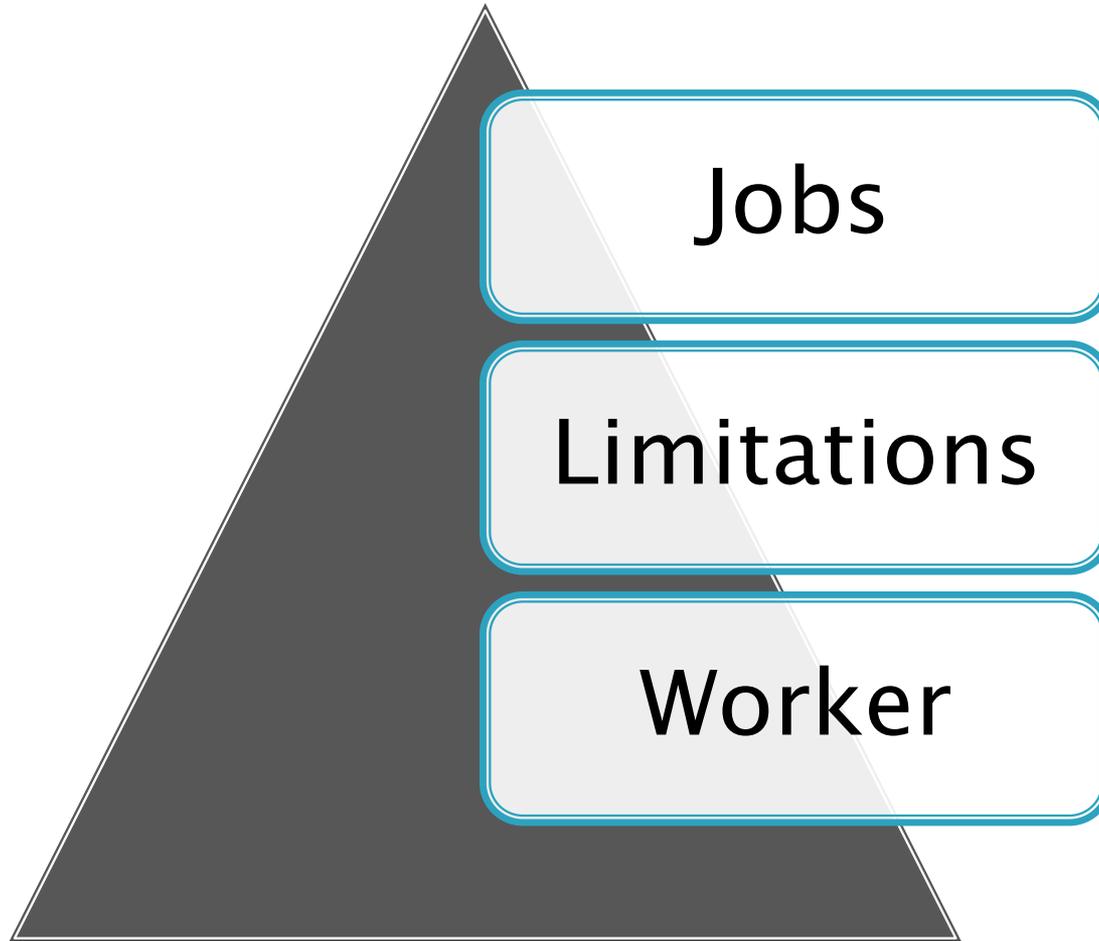
## Other Insurance

- Union trusts
- Definition of disability

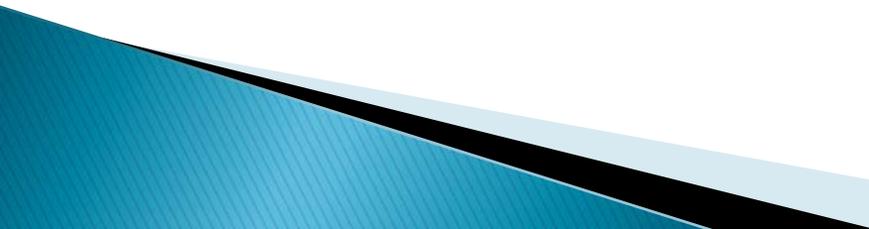
# LTD Insurance Denials

- ▶ Medical issues (primary/secondary conditions, physical/mental conditions, documentation)
  - ▶ Vocational issues (own occupation, any occupation, transferable skills analysis, earning capacity)
  - ▶ Physical capacity assessment (PCE, CPX, Attending Physician statement, work restrictions)
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# Vocational Analysis



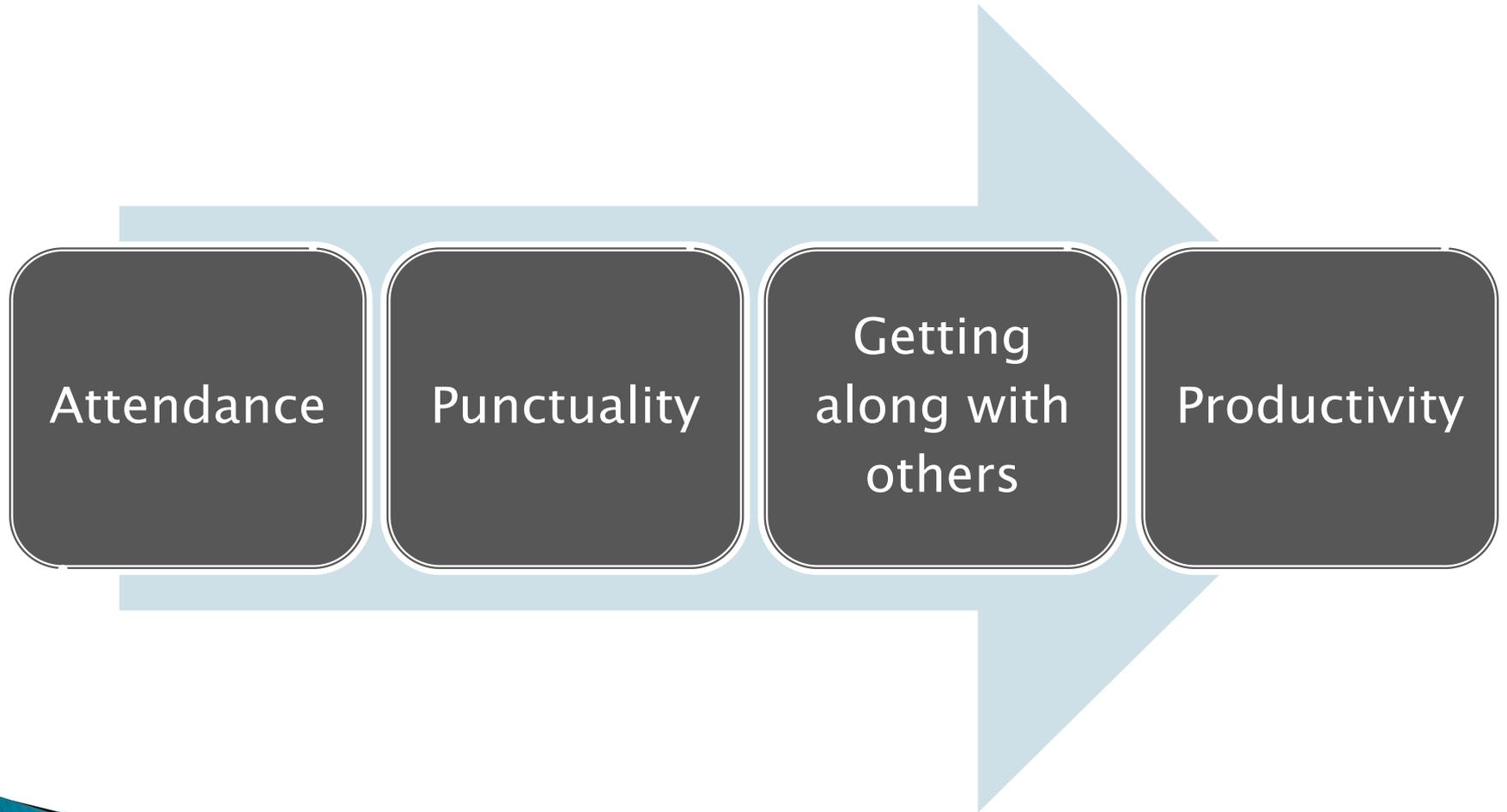
# Dictionary of Occupational Titles (DOT)

- ▶ Published 1939, supplements 1982 & 1986, revised 1991. O\*NET replacement not ready.
  - ▶ Classification by strength (sedentary, light, medium, heavy, very heavy)
  - ▶ Other physical demands (climb, bend, squat, reach, handle, see, hear, etc.)
  - ▶ Classification by skill (education, specific vocational preparation, data–people–things)
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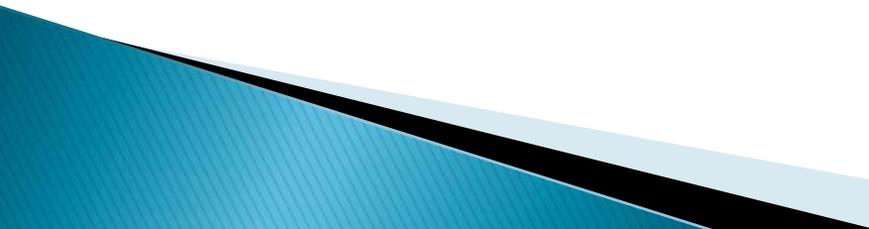
# Job Analysis

- ▶ Worker interview
- ▶ Employer job description
- ▶ Labor market research (DOT, local publications, employers)

# Basic Work Behaviors



# CFS

- ▶ Doesn't fit neatly into DOT categories (endurance vs. strength)
  - ▶ Interferes with basic work behaviors—especially regular attendance
  - ▶ Interferes with consistent productivity— due to fatigue, pain and/or cognition
  - ▶ Difficult to accommodate (unpredictable)
  - ▶ Home-based work can help, often delays full disability, may be temporary
  - ▶ Similar to fibromyalgia and other chronic pain conditions in vocational impact
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# Medical Foundation

- ▶ PCE/CPX may show inability to tolerate work
  - ▶ Consult with evaluator about how capacities and limitations would play out in an regular workday (sit, stand, walk, breaks, discontinue work, consecutive days)
  - ▶ Mental/cognitive limitations– determine if primary or secondary
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# Case Examples

- ▶ 50-year-old woman
  - ▶ High school graduate
  - ▶ OJT medical records, certified coder
  - ▶ Job description words “utilization review”
  - ▶ Incorrect DOT title
  - ▶ LTD medical opinion able to do sedentary, not light work
  - ▶ Denied benefits
- ▶ 27-year-old man
  - ▶ Harvard graduate
  - ▶ Business consultant (long hours, travel)
  - ▶ CFS, mild depression, cognitive slowing
  - ▶ LTD carrier found 40–77 hour week
  - ▶ Denied benefits
  - ▶ PCE/CPX work intolerant, fatigue affect
  - ▶ DOT/OOH notes stress, deadlines, must impress clients

# Case Example

- ▶ 51-year-old man
- ▶ College graduate
- ▶ Construction, real estate investor, CEO
- ▶ CFS and fibromyalgia
- ▶ LTD benefits for 2 years
- ▶ 2 PCEs: medium strength, part time, pacing, rest periods
- ▶ LTD carrier terminate benefits as DOT President/CEO is sedentary-light work
- ▶ Becker critique of PCE protocol and data, found poor endurance and recovery. Re-tested: work intolerant
- ▶ Vocational research showed would not be competitive as a business executive (BA English)
- ▶ Not able to earn 80% of pre-disability earnings (\$104,000/\$130,000)

**Thank you for your work  
towards increasing  
understanding of CFS.**

