




Testifying
about

your physical
limitations

4 questions to expect about your physical limitations

At your Social Security disability hearing, expect the judge to ask you these 4 questions:

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- A man wearing a white hard hat and a blue long-sleeved shirt is lifting a large, empty cardboard box with both hands. He is standing in a warehouse or industrial setting, with metal shelving and other boxes visible in the background. The image is in grayscale, except for the man's shirt and the box, which are in color.
1. How far can you walk?
 2. How much can you lift?
 3. How long can you stand?
 4. How long can you sit?

You must give the judge a
genuine estimate
of what you can do.

So it is important to think about how to answer
these questions before your hearing.

What the judge really wants to know

What the judge really wants to know is how long you can do the activity in a work setting during an 8 hour work day and a 40 hour work week.

Unfortunately, the judge doesn't usually make that clear. You should NOT interpret the question to mean, "How much sitting/walking/standing/lifting can you do before you are in so much pain that you must go home and go to bed?"

The usual advice of “Don’t volunteer”
does **NOT** apply

Lawyers often tell their clients “Don’t volunteer any information” when they are about to testify in court.

**In Social Security hearings, this rule
does NOT apply.**

If you don’t “volunteer” information, you will not give the judge the facts needed to decide the case in your favor.

Provide lots of details



Answer as though talking with a friend. If a friend asks you how far you can walk, you probably start thinking of places you have walked to recently, how you felt when you got there, whether you had to stop and rest along the way, and so forth.



Example 1

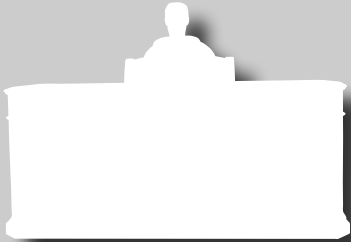


Example 2

You are likely to answer your friend's question by giving one or more **examples** of walking someplace recently. If the judge asks this question, answer it the same way. **Talk to the judge the same way that you would talk to an old friend.**

Let's look at some examples.

An unhelpful answer



Judge: How far can you walk?



Claimant: Two blocks.

This answer may be true, but it doesn't give the judge a realistic picture of the claimant's difficulties with walking.

A better approach



Judge: How far can you walk?



Claimant: Judge, I can't walk more than about 2 blocks without stopping to rest. Just yesterday, I went to the store, which is only about a block and a half from my house. By the time I got there, my back felt like it had a hot spike driven into it. I started limping. All I bought at the store was a loaf of bread. I could barely carry it home. On the way home, I had to stop three times because my back hurt so much. When I got home I sat down in my recliner chair and put my legs up before I even put the bread away.

As you can see, the person who talks to the judge as an old friend provides a lot of **important information**, some **good examples**, and some **relevant details**.

Answer with several examples

Many times it is best to **answer the question more than one way**. First, you could give the judge an example of what happens when you overdo it. Be sure to explain fully. For example, explain that you were able to stand and wash the Thanksgiving dinner dishes for an hour, but afterwards you had to go lie down for a half an hour.

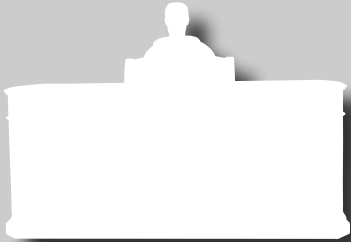
Otherwise, the judge may think that you have the capacity to stand for one hour at a time, when your true capacity in a work situation is much less.

Then follow with *other examples* that demonstrate how long you can stand in a work situation.

For example, suppose you are able to stand for 30 minutes to wait on customers, but then need a 10 minute break. Make sure you explain, if true, that when you return to standing, you can stand for only 15 or 20 minutes before needing another break and that the length of time you can stand declines as the day progresses.



Questions about sitting can be a trap



This sort of exchange happens all the time:

Judge: How long can you sit?



Claimant: Twenty minutes.

When the judge hears this answer, the judge may look at a clock and write down that the claimant had already been sitting at the hearing for 40 minutes. Thus, the judge could conclude that this claimant is a liar.

What the claimant actually meant

What this claimant meant, of course, is that he could sit for 20 minutes in a work situation, then stand or walk for a while and return to sitting. In all likelihood, a claimant with a sitting problem, after forcing himself to sit through an hour-long Social Security hearing, will go home and lie down for a long time in order to relieve the pain in his back.



He answered the question truthfully. He can sit for only about 20 minutes in a work situation. If he forces himself, he can sit longer but then it takes some time to recuperate.

Avoiding the trap

It is important to explain all this to the judge so that the judge can understand what you are able to do day in and day out in a work situation. Let's look at an example of how this can be done.

Judge: How long can you sit?





Claimant: If I force myself, I can sit here for perhaps a whole hour; but after this, I'll have to go home and lie down, and I won't be much good for the rest of the day. When I am trying to do things around the house, like pay bills, I only sit for about 20 minutes at a time and then I get up and walk around for 15 or 20 minutes before I go back to sitting. If I were on a job where I could change positions between sitting and standing or walking, the length of time that I could sit would get shorter as the day wore on. Sitting is really hard on my back. It's better, though, if I can sit in my recliner chair with my legs up. I can sit in that chair for a long time but I find it really hard, for example, to pay bills sitting in that chair. I usually sit at the dining room table when I pay bills.

Tell the judge what you need to do after sitting

It is useful to provide information about what you need to do after sitting for a while. Can you sit for a while and then stand up, stretch, and sit back down and continue working? Do you need to alternate sitting and standing? Can you alternate sitting and standing at a work station all day long? Do you need to walk around after sitting or standing in one place? If so, how often do you need to walk around? How long do you need to walk around each time?



Most jobs give breaks from work every couple of hours. Do you need extra breaks from work? What do you need to do on such a break? Sit? Walk around? Lie down? Sit in a recliner? How often during the workday do you need such breaks? How long should each break be?

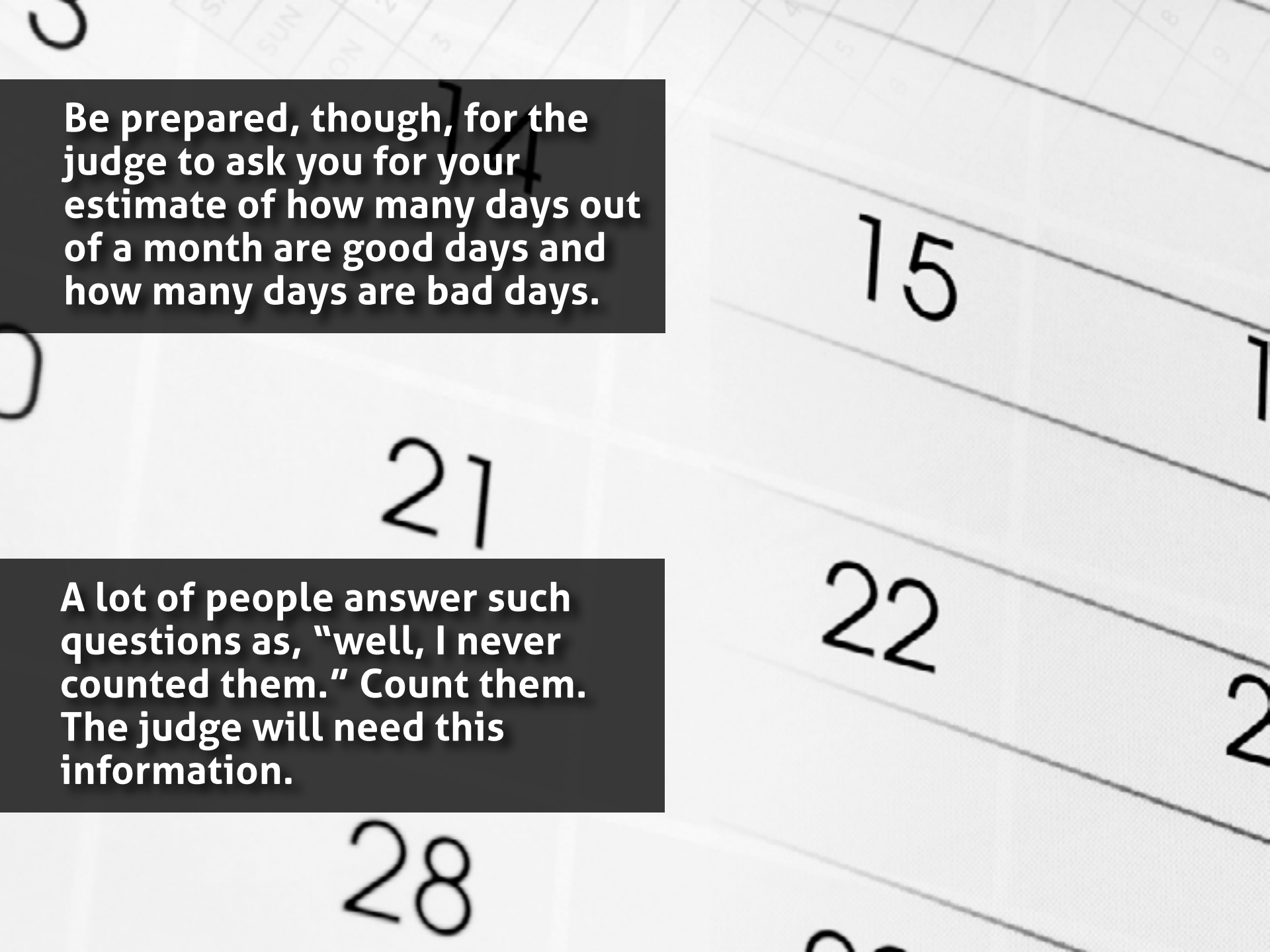


Be prepared with an **estimate**

The judge or your lawyer may ask you how long out of an 8-hour working day you can sit. What the judge needs to know is the total length of time during an entire 8-hour working day that you are capable of sitting, even though sitting is in short stretches.

You're going to have to think about this **before the hearing** so that you can give a realistic estimate.

The judge may also want to know the same about standing.



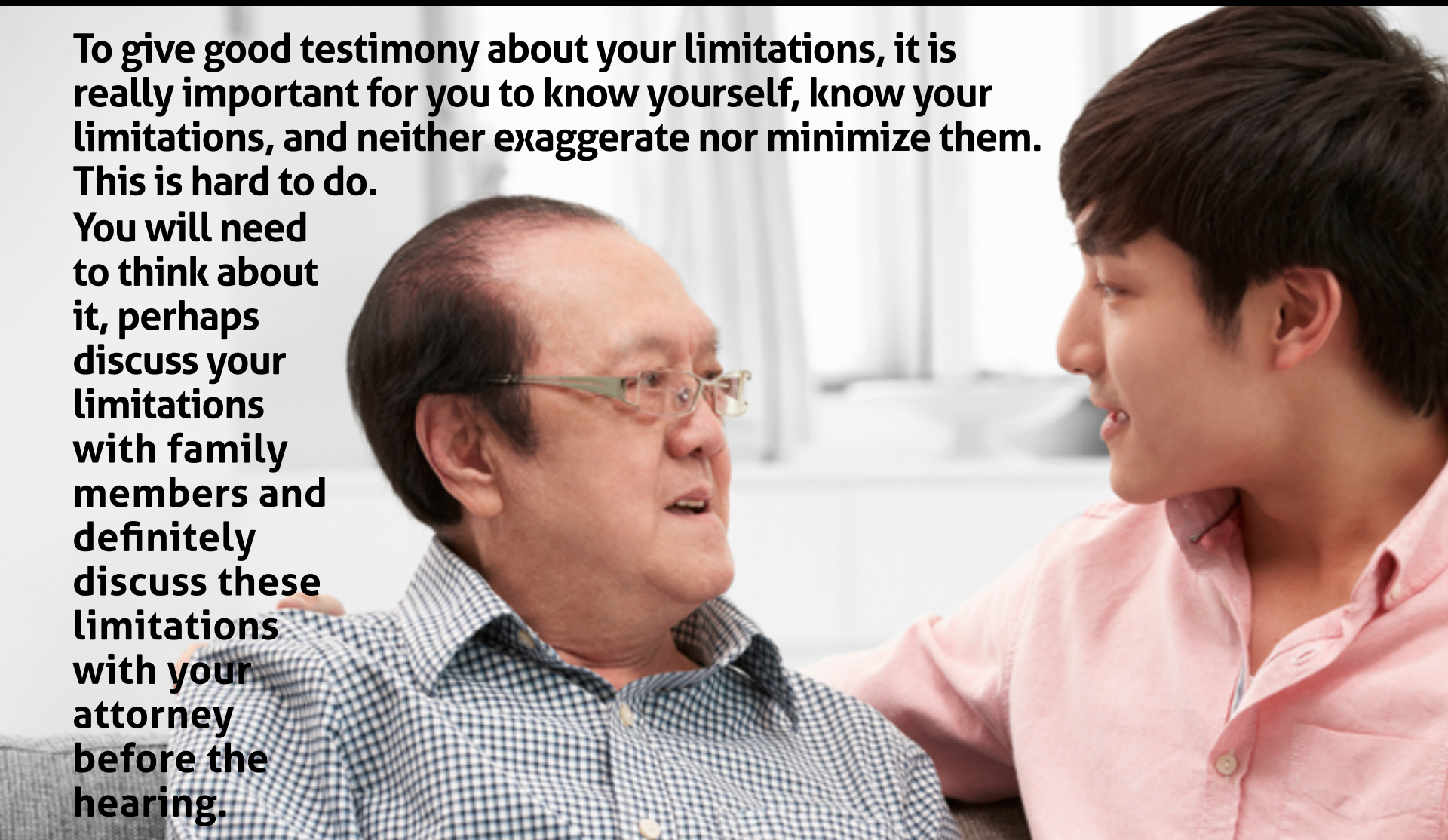
Be prepared, though, for the judge to ask you for your estimate of how many days out of a month are good days and how many days are bad days.

A lot of people answer such questions as, "well, I never counted them." Count them. The judge will need this information.

In summary

To give good testimony about your limitations, it is really important for you to know yourself, know your limitations, and neither exaggerate nor minimize them. This is hard to do.

You will need to think about it, perhaps discuss your limitations with family members and definitely discuss these limitations with your attorney before the hearing.



The more
**details and
specific examples**

that you can provide, the easier it is for the
judge to understand your testimony about your
limitations and how they interfere with your
ability to work.