



# **The Canada Pension Plan Disability Benefit**

*by*

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## *Executive Summary*

This report presents a policy history of the Canada Pension Plan (CPP) disability benefit.

The Canada Pension Plan is a national public insurance program that provides income protection to workers in the event of a long-term interruption of earnings resulting from retirement, disability or death. The disability benefit delivers benefits to contributors who cannot work because of a severe and prolonged disability. The CPP also pays a flat-rate benefit to the eligible children of disability beneficiaries.

The CPP disability benefit confers a number of important advantages not available through private insurance or most other income security programs. It provides disability coverage for all working Canadians including the self-employed (who are not eligible for workers' compensation or Employment Insurance). The CPP does not exclude workers on the basis of former medical history or require higher premiums for contributors deemed to be high risk. It takes some account of disability-related costs by incorporating a flat-rate component into the benefit calculation. It guarantees coverage until recovery from the disability or until retirement or death. Unlike most private insurances, the CPP ensures full inflation protection.

The CPP has seen steadily increasing caseloads since disability benefits were first paid in 1970. The disability caseload grew from 27,000 in 1970 to 283,508 beneficiaries by 2000.

The steady growth in caseload until 1995 can be attributed to a number of factors, including the easing of eligibility criteria in response to legislative changes in 1987 and 1992. But concerns regarding the ability of the CPP to sustain a growing disability caseload led to several administrative and program changes designed to tighten eligibility, resulting in falling caseloads since the mid-1990s. Not surprisingly, the downward slope has raised questions about the responsiveness of the program and whether the restrictions in both eligibility criteria and program administration in recent years have gone too far in the opposite direction.

The program still seems to be under pressure to balance fairness and adequacy with reasonable growth in caseload and costs. The high rate of appeals of disability cases raises questions about the initial adjudication process. But the appeal system itself has come under scrutiny, especially by consumers who have expressed concern about certain procedural issues.

## *Introduction*

This report presents a policy history of the Canada Pension Plan (CPP) disability benefit. While this paper focusses upon the CPP, it is important to note that Quebec runs a parallel program, known as the Quebec Pension Plan. In the area of disability, though, there are some important differences between the CPP and QPP that are discussed.

This report is divided into several sections. Section 1 describes briefly the history of the CPP, its strengths as a national program and how the CPP works. Section 2 outlines the unique features afforded by the Plan. The CPP disability benefit, in particular, is discussed in Section 3. Section 4 presents trends in caseload and cost data for the CPP disability benefit and the children's benefit. Section 5 discusses key issues related to the CPP disability benefit. Section 6 examines the appeals process. In Section 7, the CPP disability benefit is explored from a comparative perspective – relative both to the QPP and to international experience. Section 8 discusses the CPP disability benefit within the context of the broader income security system for persons with disabilities. The final section considers short- and long-term options for reform.

Several sources were consulted for this work. Reports on the Canada Pension Plan and on related aspects of income security reform were reviewed. Departmental memos, administrative documents and program data were included as well. Interviews were conducted with key informants from government, disability groups, the insurance industry and Members of Parliament.

## *History of the Canada Pension Plan*

The Canada Pension Plan was established in January 1966 by an Act of Parliament, entitled the *Act to Establish a Comprehensive Program of Old Age Pensions and Supplementary Benefits* (known in short title as the *Canada Pension Plan*). The Act was the result of a near-decade of political debate and strife.

The first step in the development of the Canada Pension Plan was the addition of Section 94A in 1951 to the *British North American Act* (now known as the *Constitution Act, 1867*). The new provision enabled the federal government to enact laws related to old age pensions as long as the legislation did not affect the laws administered by the provinces.

The constitutional amendment allowed the introduction of the Old Age Security program in 1952, which paid universal benefits to Canadians age 70 and older. But the \$40 monthly payment clearly was not sufficient to provide an adequate income to workers in their retirement. And private pension plan coverage was restricted in scope. Companies with pension plans tended to limit their coverage to certain classes of employees, notably their salaried staff [Health and Welfare Canada 1992: 12].

The Old Age Security benefit's adequacy remained a concern. In 1958, the federal government commissioned Robert Clark, an economics professor at the University of British Columbia, to study the Canadian and American old age security programs. In response to the 'Clark Report,' the federal government set up an Interdepartmental Committee on Pensions in 1962. The Committee explored a range of options, including various contributory earnings-based pension schemes.

A Liberal Party policy conference in 1962 articulated in a 'blue paper' the framework for a national pension plan. In 1963, the federal government gave itself "60 days of decision" to implement the paper [Health and Welfare Canada 1992: 15].

That same year, the three federal parties – Liberal, Progressive Conservative and New Democratic Party – made a commitment to the principle of a contributory, wage-related pension [Health and Welfare Canada 1992: 16]. An interdepartmental Task Force on Old Age, Survivors and Disability Insurance Plan for Canada was established under the Deputy Minister of Welfare. By June 1963, a Resolution was ready for a new national insurance scheme, the details of which already had been considered by the Interdepartmental Committee on Pensions.

A White Paper was released in July 1963 which set out the components of the proposed retirement income system: a universal base for Canadians aged 70 and over, a means-tested allowance for those aged 65 to 69 and an earnings-related benefit (i.e., the Canada Pension Plan) to be

added to the universal base. But Quebec viewed this proposal as an infringement of its jurisdiction and other provinces were reticent for various reasons. Moreover, there were no provisions for disability pensions or survivor benefits because the constitutional amendment had applied only to seniors' benefits and not to other populations.

In March 1964, another White Paper on the CPP was published. Bill C-75, which sought to establish a comprehensive program of old age pensions payable to contributors and survivors, received first reading in the House of Commons that same month [Health and Welfare Canada 1992: 19]. A federal-provincial conference was held in Quebec City in April to consider the federal proposal. It was crucial at that point to engage all provinces in order to build a truly national scheme.

There was considerable controversy about the Plan even at its earliest stages. In the House of Commons, for example, Progressive Conservative Jay Waldo Monteith focussed his concerns upon the federal-provincial dimension of the Quebec City conference: "There have been newspaper conjectures concerning what is going to happen in Quebec City at the federal-provincial conference starting in Quebec on March 31. The government probably knows by now what its approach to the provinces is going to be. It was obvious after last night's Budget that there is going to be a cold shoulder put to the provinces concerning any further financial easement for them. What is going to be the position concerning the Canada Pension Plan? Is the government going to that conference with its mind made up that if everything does not go according to their wishes they will call an election? This has been intimated more than once. May I suggest, Sir, that an attitude of conciliation would be much more beneficial to all the people of Canada. Surely the greatest step of unity would be to stress to Quebec the importance of this being a comprehensive one-Canada pension plan, and I plead with the government to do this" [Sinclair 2000].

It almost seemed as though the CPP proposal might be in danger of collapse. The two largest provinces already were developing plans for their own pension programs. Ontario was working on an earnings-related scheme, having put forward a blueprint for a provincial program in 1961 (although the province faced considerable controversy about the concept of a government-operated pension).

Quebec's vision of a comprehensive pension scheme also differed from Ottawa's view. The federal proposal had respected Quebec's wishes by proposing a fully funded plan (described below). The federal government was prepared to allow Quebec to 'opt out' if it ran a comparable program.

But the proposed CPP did not measure up to Quebec's vision – which included a broader scheme with wider coverage and more comprehensive benefits. Another constitutional amendment would be required for the federal government to provide survivor and disability benefits. Under the earlier amendment, it would have had the authority to provide only for aged survivors.

The 1964 conference ended with no agreement in two crucial areas: the differences in the benefits under the proposed federal and Quebec plans, and the underlying fiscal arrangements. Quebec agreed to support an amendment to the *British North America Act* (BNA Act) only if it could withdraw from the federal plan with full compensation. An agreement finally was reached 11 days later – but only after intense negotiations.

A third White Paper on the CPP was published in August 1964. The Paper explicitly addressed one of the key areas of controversy: It made clear that the CPP was not intended to provide the sole source of income for recipients. “The Plan is comprehensive in the sense of covering as many people as is practicable. It is *not* intended to provide all the retirement income or survivors’ income which many Canadians wish to have. This is a matter of individual choice and, in the Government’s view, should properly be left to personal savings and to private pension plans. ... The purpose of the Canada Pension Plan is to make reasonable minimum levels of income available at normal retirement ages, and to people who become disabled, and to the dependents of people who die. There will be scope for the continuation and extension of private pension plans to provide benefits over these minimum levels” [Killeen and James 2001].

The terms of the proposed new arrangement negotiated at the Quebec City conference were sent for approval to the provinces. The initial legislation was withdrawn. A revised plan, set out in Bill C-136, was given first and second reading in November 1964.

The proposed CPP again was hotly contested in the House of Commons. When the CPP was introduced in the House of Commons as Bill C-136, the Minister of National Health and Welfare, the Honourable Judy LaMarsh, referred to the proposed legislation as a “comprehensive social insurance measure ... which provides help as of right rather than on a need or a means test, for those who suffer the loss of a loved breadwinner or those who find themselves disabled and unable to carry on work. I think Honourable members will agree this is a giant step forward in Canada’s social security program” [Killeen and James 2001].

But some Members of Parliament felt that the Plan was too broad in scope. Others, such as Gordon Harvey Aiken, Progressive Conservative member of the Opposition from Parry Sound-Muskoka, believed that it did not go far enough. “There are 14,929,000 Canadians who will not benefit from the Canada Pension Plan as it is presently constituted. This amounts to 81.66 percent of the entire population. There is nothing in it for that group. These are not phony figures. They are taken from the literature that has been supplied by the government and figures obtained through the Dominion Bureau of Statistics Census returns that all of us have in our offices, population statistics in Canada” [Sinclair 2000].

The Honourable Member also was disturbed by the uncertainties in the Plan. “I think I speak for all in our party when I say we are in favour of an equitable retirement pension plan on a scale

that the country can afford. The proposed plan is deficient in that it does not provide survivor benefits; it does not provide equitable coverage; it does not provide an arrangement for the survival of private plans and private capital; and it provides for those who do not really need them while, at the same time, it does not provide the pensions for those who need them most.”

Liberal member John Munro replied: “One Honorable Member devoted his whole speech to an attack on the many features of the plan which is to be submitted to this Parliament for its approval. I refer to the Honourable Member for Parry Sound-Muskoka. After reading his speech in *Hansard* it would seem to me that in summary, it falls under these several headings. First, he says that the Plan does not cover a sufficient number of our people; he complains it is not wide enough laterally. Second, he says that those Canadian citizens who are covered are not covered adequately. In the third place, he tells us this Canada Pension Plan would have inflationary effects. Another point he makes is that because it is partially funded, it would constitute a drain on our investment resources. That contention is, I think, somewhat contradictory of his previous statement. It also seems to me that his statement about inflation is somewhat inconsistent with the two points he made about the adequacy of coverage. These attacks have one thing in common; there does not seem to be any indication of what type of plan would be preferred” [Sinclair 2000].

Clearly, the implementation of the Canada Pension Plan was a long and difficult journey. It evolved from heated debates and subsequent compromise. Quebec agreed to an amendment of the BNA Act, which allowed Ottawa to incorporate a wider range of benefits within the CPP. A second constitutional amendment (actually a modification of the original amendment, Section 94a) was passed by the British Parliament and took effect in July 1964. The proposed CPP gave Quebec (and all other provinces) the choice of introducing a comparable plan.

In February 1965, the House of Commons again reviewed Bill C-136, taking into account the proposals of the Joint Parliamentary Committee. The Bill was given third reading in March 1965 and received Royal Assent in April 1965. In June 1965, the Quebec Assembly passed legislation introducing the Quebec Pension Plan.

The provisions for a disability benefit in the early proposals for a Canada/Quebec Pension Plan were not easily come by. Its possible inclusion raised serious questions about disincentives to work, eligibility criteria and cost. As a result of these concerns, “it was considered that qualifications should be family rigorous until some experience has been gained under the new plan” [Health and Welfare Canada 1992: 6].

## *Unique Features*

Despite the difficult negotiations around its inception, the Canada Pension Plan has been judged a major social achievement. “The introduction of the CPP in 1966 represents an outstanding example of the value of the negotiation process and a demonstration of mutual accommodation between federal and provincial governments towards a common goal. The unlikely event of a national social insurance program instituted in nine provinces and the territories and a parallel but independent program operating in Quebec became against all odds a reality. It was heralded as a political miracle” [Health and Welfare Canada 1992: 1].

The protection afforded by the Canada Pension Plan is as important today as it was when the program took effect in 1966. Its initial purpose remains entirely relevant: “To make reasonable minimum levels of income replacement available to workers at normal retirement ages, when they became disabled or to their dependants when they died” [Health and Welfare Canada 1992: 27].

But because the CPP is only one component of a multi-tiered pension system, its retirement benefit was set at a relatively modest level to leave room for employer-sponsored private pension plans and individual retirement savings. However, the CPP afforded other crucial protections and advantages that better the existing private insurance system. These features include: universal coverage, defined benefit, indexation, portability, drop-out provisions and disability protection.

### *Universal Coverage*

The CPP is a critically important program because it is the only earnings-based pension plan available to most women and, for that matter, the majority of men. In 1998, only 39.1 percent of female paid workers belonged to an employer-sponsored private pension plan, and just 30.6 percent of female taxfilers under age 65 managed to save in Registered Retirement Savings Plans (RRSPs). Employer-sponsored pension plan coverage is down from 40.8 percent in 1991, due to the growth of self-employment (which is not eligible for RPPs) and the concentration of job growth in the small business sector of the economy, which typically does not provide employer-sponsored pension plans.

The figures for male employees are not much better; 41.9 percent had a company pension plan in 1998, down from 49.2 percent in 1991 and only 38.0 percent of male taxfilers under age 65 contributed to an RRSP in 1998. By contrast, the CPP and its twin program, the Quebec Pension Plan, cover virtually every Canadian in the workforce, including most of the growing proportion that work part time or are self-employed.



### ***Defined Benefit***

The Canada Pension Plan is a ‘defined benefit’ program. It guarantees a fixed percentage of employment earnings (up to the average wage) averaged over a person’s working life. Most employer-sponsored pension plans and all individual retirement savings plans (Registered Retirement Savings Plans or RRSPs), by contrast, are known as ‘defined contributions’ plans. The actual level of benefits they will receive depends upon how well their investments fare in the private market, and is not known while they are working. By contrast, the CPP ensures a guaranteed, albeit modest, benefit for all contributors based upon their average lifetime earnings.

CPP benefits are calculated as 25 percent of a contributor’s average lifetime pensionable earnings. ‘Pensionable earnings’ means earnings up to the Year’s Maximum Pensionable Earnings (YMPE) level, which is about the average wage. In 2002, the maximum annual CPP retirement benefit was \$9,465, and the maximum CPP disability benefit was \$11,473, the maximum survivor benefit was \$5,256 for recipients under 65 and \$5,679 for those over 65, and the maximum children’s benefit was \$2,205.

### ***Indexation***

The Canada Pension Plan is fully indexed to inflation, so benefits keep pace with annual rises in the cost of living as measured by changes in the Consumer Price Index. Most private pensions do not ensure full inflation protection.

### ***Portability***

Both the CPP and its counterpart, the Quebec Pension Plan, are portable pension plans. This means that Canadians can move from job to job or employer to employer (or to self-employment) anywhere in the country and still maintain the value of their contributions to the Plan, which covers them throughout their working life.

### ***Drop-out Provisions***

The Canada Pension Plan recognizes that there may be periods in a person’s working life during which earnings are low or non-existent. Reductions in income may be due to any number of

## ***The CPP Disability Benefit***

factors including temporary sickness or disability, periods of unemployment and planned drop-out in order to upgrade educational qualifications and technical skills. When calculating career earnings for pension purposes, the CPP allows 15 percent of the lowest earning years in a worker's contributory period to be dropped.

In addition to the regular drop-out provisions available to all workers, the CPP allows workers to exclude from the calculation of pensionable earnings on which their retirement pension is based the years when they stopped work or had lower earnings while they had a child under age 7. There is no limit to the number of years that can be dropped for this purpose. The child rearing drop-out measure ensures that workers (still mothers for the most part) who leave the workforce to take care of children will not be penalized in terms of lower pensions when they retire. Workers may also drop out periods while on the CPP disability benefit.

### ***Survivor Benefits***

The CPP provides benefits for surviving spouses and children. While these are modest payments, they nonetheless ensure some stability in household income, which typically declines after the death of a breadwinner. The CPP also pays a small death benefit to help offset funeral costs.

### ***Disability Protection***

The CPP disability benefit provides coverage to almost all workers who fulfill its two major eligibility criteria: They suffer severe and prolonged disability, and they meet the minimum contributory requirements, discussed later. It is an important means of sharing risk and protecting society from the burden that might result from uninsured disability. Its national protection for all workers ensures equitable benefits across Canada; its portability guarantees consistent benefits throughout the country.

The public provision of disability protection guarantees universal coverage with no exclusion of workers with a severe or prolonged disability who are considered 'high risk' or an inordinate burden to private insurers. The CPP is the only pension plan that affords this protection regardless of the medical history of the contributor. Private pension plans carry out extensive screening. They typically disallow from coverage persons with certain health-related conditions or require that these workers pay higher premiums, thereby eliminating protection for many Canadians.

## *How the CPP Works*

### *Contributions to the Plan*

The Canada Pension Plan is administered by the Income Security Programs Branch of the federal Department of Human Resources Development Canada. The Canada Customs and Revenue Agency is responsible for collecting the mandatory employer and employee contributions which finance the Plan. Self-employed workers make double contributions as both employer and employee. The CPP also is financed through revenues from the CPP Investment Fund, which is expected to grow rapidly in the coming years.

Contributions to the CPP are based on ‘contributory earnings’ – i.e., the difference between the Year’s Basic Exemption or YBE (the earnings level below which no contributions are required) and a designated upper limit known as the Year’s Maximum Pensionable Earnings (YMPE).

In 2002, employees paid 4.3 percent of their contributory earnings to a maximum of \$1,496.40 for those earning the YMPE (\$39,100) or above. Employers match each employee’s contribution. Self-employed Canadians pay both the employee’s and employer’s share (up to a maximum \$2,992.80 for the year).

The YMPE originally was set at an amount related to average annual earnings. It remains indexed to wages according to changes in a scale called the “Earnings Index.” CPP benefits, by contrast, are pegged to the Consumer Price Index. (Benefits initially had been tied to a special Pension Index constructed at the outset of the Plan. It could not increase by more than two percentage points a year. The Pension Index was dropped in 1974 and all benefits subsequently were tied to the annual change in the Consumer Price Index.)

The Year’s Basic Exemption used to be set at 10 percent of the YMPE. As a result of legislative changes that took effect in 1998, the YBE was deindexed and remains at its 1996 level of \$3,500, which means that it is falling in value by the rate of inflation each year. (It should be noted, however, that this deindexation of the YBE does not apply to the disability benefit.) No changes were made to the Year’s Maximum Pensionable Earnings – which was \$39,100 in 2002 and remains wage indexed.

### *From Pay-as-you-go to Partial Funding*

From its inception in 1966 until 1998, the CPP was financed on a ‘pay-as-you-go’ basis. This means that contributions were set at a level which would support current pension payouts and would provide a contingency fund equivalent to two years of benefits.

## *The CPP Disability Benefit*

The actual initial contribution rate, which included coverage for a disability benefit, was 1.8 percent of contributory earnings. Employers made a matching contribution for a combined rate of 3.6 percent.

This initial contribution rate of 3.6 percent was set as a compromise between those who wanted a lower rate (2 percent) and those who thought a higher rate (4 percent) would be more desirable. The contribution rate remained at the 3.6 percent level from 1966 to 1986, after which it began to increase in order to finance the growing pressure upon the CPP from an aging population.

Under the pay-as-you-go arrangement in place prior to 1997, contribution rates were slated to rise every year to reach an estimated 10.1 percent by 2016. They would have climbed to a forecast 14.2 percent by 2030 to cover escalating costs due to higher demand.

The changes which took effect in 1998 shifted the CPP from pay-as-you-go to partial funding. Contribution rates are slated to rise from 5.85 percent of contributory earnings in 1997 to 9.95 percent by 2003 – a much more rapid increase than would have occurred under the old pay-as-you-go arrangement [Tamagno 2001: 1]. However, these rates are expected to hold steady at 9.95 percent after 2003 instead of rising to the earlier-scheduled 14.2 percent under pay-as-you-go financing.

This ramping up of contribution rate increases will result in a larger surplus fund equivalent to about five years of benefits. The reserve fund that is growing from the increased contributions is being invested broadly in a diversified portfolio of securities [Tamagno 2001]. Prior to the changes, the funds had been invested narrowly in non-negotiable provincial bonds.

The rapid rise in contributions until 2003 will create a disproportionate burden upon lower-income workers since their contributions comprise a larger percentage of their (lower) earnings. Workers earning below the average wage also are being hit by the frozen Year's Basic Exemption. The level at which contributions begin will drop in value every year (as noted, this provision will not affect the CPP disability benefit).

CPP contributors can claim a nonrefundable tax credit to ease the burden of their CPP contributions, calculated as 16 percent of the amount they contribute. When provincial and territorial income tax savings are factored in, the CPP contributions tax credit is worth, on average, 24 percent of contributions. But this tax credit offsets only part of the burden of rising contributions on lower-wage workers.

### *Checks and Balances*

It is not easy to effect changes to the Canada Pension Plan. The CPP Act states that the federal government cannot make substantial amendments without the agreement of two-thirds of the 'included' provinces (i.e., those included under the CPP or with comparable plans) with two-thirds of the population of the 'included' provinces.

Amendments considered substantial involve the classes of benefits, level of benefits, contribution rates, the formula for calculating contributions and benefits, and the management of the CPP Account and the CPP Investment Fund. Substantial changes also require a two-year notice before taking effect unless all provinces agree to waive such notice. Any proposal for significant reform is subject to an actuarial review of its long-term effects.

The Office of the Superintendent of Financial Institutions is responsible for the actuarial assessments of the Plan. An actuarial assessment is carried out at least once every three years or whenever a bill is introduced in Parliament that has financial implications for the Plan. Seventeen actuarial reports have been prepared since the inception of the Plan in 1966.

The CPP used to be monitored by an independent group known as the Advisory Board (called the 'Advisory Committee' in the original Act). Its purpose was to carry out a periodic review of the CPP Act, the state of the Investment Fund, and the adequacy and coverage of CPP benefits. The Advisory Board was required to submit an annual report to the Minister responsible. But the CPP Advisory Board no longer exists; it was dismantled with the amendments to the CPP that took effect in 1998.

Finally, individuals wield their own form of checks and balances on the CPP through a structured appeals system. This system is discussed more fully below.

## *The CPP Disability Benefit*

The CPP disability benefit provides basic protection for the long-term interruption of earnings in the event of severe and prolonged disability that interferes with a person's capacity regularly to pursue any substantially gainful occupation. If individuals were in receipt of a disability benefit and it ceases, they may re-qualify if they have made contributions in every year including the year in which the disability benefit ceased (until they satisfy the general contributory requirements, currently four out of six).

### *Eligibility Criteria*

#### *i. Contributory Requirements*

The disability benefit has two eligibility criteria: contributions to the Plan and the definition of disability.

The first eligibility criterion relates to contributions to the Plan. Workers must have paid into the CPP for a specified period, currently four of the last six years. Workers who have less than a six-year contributory period must have contributed in any four years.

Between September 1986 and December 1997, workers had to pay into the CPP for two of the last three years or five of the last ten years before they became disabled for CPP purposes. A 'late applicant provision' introduced in 1992 allows workers who are disabled more than 15 months before their application to qualify for benefits. However, the provision is used for the determination of eligibility – not for the receipt of retroactive payments. Prior to September 1986, workers had to pay into the CPP for five of the last ten years and at least one-third of the total years in their contributory period.

The CPP also allows for the payment of retroactive benefits. These are available for up to 15 months prior to the date of application. However, a four-month waiting period applies for the receipt of CPP disability benefits. Its purpose is to determine whether the disability is expected to last over the long term. Workers may claim Employment Insurance benefits in the interim.

CPP contributions are levied on a band of earnings between the Year's Basic Exemption (\$3,500 in 1996) and the Year's Maximum Pensionable Earnings (\$39,100 in 2002). Legislative changes that took effect in 1998 froze the basic exemption at \$3,500 but it remains at 10 percent of maximum pensionable earnings (\$3,910 in 2002) for purposes of minimum contributory requirements to qualify for disability benefits.

The contribution rate for 2002 was 4.7 percent for employers and for employees for a maximum contribution of \$1,673.20. Self-employed workers pay double the contribution rate – 9.4 percent in 2002.

## *ii. Definition of Disability*

The second eligibility criterion relates to the disability itself. It must be both severe and prolonged.

According to the CPP Act, a disability is considered severe only if a person is incapable regularly of pursuing any substantially gainful occupation. It is important to note that the ‘severe’ component of the definition criterion has been interpreted inconsistently. In some cases, the interpretation has been quite narrow and restrictive, while in other cases, ‘real life’ circumstances related to inability to work have been taken into account. These circumstances include age, education level, language proficiency, past work and life experience. With respect to appeals, in particular, a recent Federal Court judgment (discussed more fully under the “CPP Appeals System”) questioned the stringent interpretation of ‘severity’ and argued that the inclusion of real life factors appeared to be more consistent with the original intent of the CPP legislation.

The inconsistency of interpretation appears to be due in part to 1995 guidelines, which effectively reinforced medical criteria as the basis for adjudication decisions. The guidelines rescinded a 1989 policy directive that had alluded to the consideration of socioeconomic factors, such as regional unemployment rates, types of industries in the region and skills required for those industries, in determining eligibility for the CPP disability benefit. Shortly after the 1989 policy directive, a memo from the Director of Disability Operations stated with respect to persons with medical conditions that applicants over age 55 who could not do their own job would be considered disabled for CPP purposes.

Once a disability is deemed ‘severe,’ it then must be assessed to determine whether it is also ‘prolonged.’ According to the CPP Act, a disability is prolonged only if it is determined that the disability is likely to be “long continued and of indefinite duration or is likely to result in death.”

Applications for a disability benefit as well as for reconsideration are assessed by nurse adjudicators who determine whether the contributory and definition requirements have been met. (Prior to 1990, a Board composed of two persons, at least one of whom was a physician, made initial eligibility and reconsideration decisions.)

Because of the complexities involved in determining eligibility, the CPP allows a reconsideration process. If a disability benefit has been denied upon initial application, applicants may

## ***The CPP Disability Benefit***

request reconsideration if they believe that their claim was unjustly denied or if there is new information about their case that has become available. Applicants whose benefits are denied at the reconsideration stage may launch an appeal of their case.

Finally, there is an expectation that claimants will report in writing any changes that affect their ability to work. These include an improvement in their medical condition, a return to work or successful completion of an educational or retraining program. Any delay in reporting a return to work requires the repayment of CPP benefits the claimant was not entitled to receive.

If the condition improves and claimants become capable regularly of pursuing a substantially gainful employment, then benefits may be cancelled. Under an initiative of the Department of Human Resources Development Canada, benefits would be cancelled only after a three-month trial work period to determine whether the individual could reasonably continue to pursue gainful employment over an extended period.

A new departmental initiative that came into effect in May 2001 allows CPP beneficiaries to earn up to \$3,900 in 2002, without having to inform the CPP administration. This provision is intended to build upon other measures to encourage workforce participation, such as the vocational rehabilitation program described below.

### ***Amount of Benefit***

The disability benefit is a fully indexed, taxable benefit. It is paid monthly, beginning in the fourth month following the month in which the contributor became disabled.

The disability benefit consists of two parts. One part is a flat-rate component (\$364.49 a month in 2002) payable to all beneficiaries. The second component is an earnings-related portion equal to 75 percent of the retirement pension that the contributor would have received at age 65, up to a maximum \$591.56 a month in 2002. The total maximum monthly benefit was \$956.05 or \$11,473 for the year.

But the average benefit is substantially below the maximum benefit because many workers earn less than average earnings over their lifetime. The average monthly benefit in 2000 was \$737.21 for men and \$625.15 for women. The gender difference derives from the earnings-related component of the benefit; it reflects the fact that women's earnings are lower, on average, than men's earnings.

For historical purposes, it is of interest that the maximum disability benefit when it first became payable in 1970 was \$106.43 per month (of which \$26.53 was the flat-rate component,



which amounts to \$514.66 a month in 2002 dollars). Thanks to a substantial increase in the flat-rate component from \$91.06 to \$233.38 a month in 1987, the maximum disability benefit is worth \$75.18 more per month – a 14.9 percent increase over its 1970 value.

Finally, as noted, the disability benefit is subject to federal and provincial income taxes. This means that both the maximum and the average benefits typically are higher than what recipients receive in net (post-tax) dollars.

CPP beneficiaries may arrange to have their tax withheld at source from their CPP benefits (i.e., their CPP cheque is for the after-tax amount). However, they must know about this option in order to make this arrangement. Another possibility, suggested by a key informant, is for the CPP administration to hold back a standard amount. Actual tax owing from all sources of income would be reconciled at income tax time.

### *Duration of Benefit*

Disability pensions are paid until age 65 (when they are converted automatically to a retirement pension), until recovery from the disability or death. In calculating the retirement benefit, the months in which the contributor received a disability benefit are excluded. Since 1992, disability benefits from the Canada or Quebec Pension Plans can be claimed as earned income for the purpose of determining contributions to a registered retirement savings plan.

CPP retirement pensions can be taken as early as age 60, though with an actuarially determined reduction. But few disability recipients opt for this provision because the disability benefit is greater than the comparable early retirement benefit for other workers and is not actuarially reduced at age 65 when converted to a full retirement pension. The latter is based on average wages at the time the beneficiary turns 65 and is thus wage indexed for the period of disability.

The reforms that took effect in 1998 modified the way in which retirement benefits are calculated – thereby affecting the earnings-related portion of the disability benefit. These changes are discussed below under “Options for Reform.”

### *Vocational Rehabilitation*

While the CPP Act allows vocational rehabilitation measures, the program has engaged in only modest rehabilitation efforts over the years. Small steps in this area began in the early 1990s. (The Quebec Pension Plan has no vocational rehabilitation program.)

## *The CPP Disability Benefit*

In April 1990, the CPP approved a limited pilot project to examine the feasibility of the rehabilitation provisions of the disability benefit. The pilot originally was restricted to the provinces of Ontario and BC. Its purpose was to identify suitable CPP beneficiaries and provide the necessary vocational rehabilitation services to allow those individuals to return to remunerative employment. The assessment and rehabilitation plans were determined on an individualized basis with the approval of the client. Benefits were paid during the rehabilitation period; they also continued after completion of the program to permit a three-month job search.

In 1991, the project was integrated with the National Strategy on the Integration of Persons with Disabilities as a five-year interdepartmental initiative to promote the independence of Canadians with disabilities. The Minister of Human Resources Development Canada announced a \$6 million, five-year expansion of the initiative and extended the project to all provinces.

Effective August 1995, several additional measures were introduced to encourage self-reliance. In order to promote the development of useful skills and reduce isolation, engaging in volunteer activities no longer triggered an automatic reassessment. CPP disability beneficiaries who return to work have their benefits extended for three months to assess their capacity to work. Recipients generally are not considered to be gainfully employed until they have returned to work for three months and unless their annual earnings are greater than one-twelfth of 25 percent of the Year's Maximum Pensionable Earnings (\$811 in 2002).

In 1996, a proposal was approved to establish a Vocational Rehabilitation Program as an integral component of the CPP disability program. The following year, the CPP introduced a policy guideline concerning vocational rehabilitation. The program is based on the premise that vocational rehabilitation is more likely to be successful if undertaken as quickly as possible after the onset of a disability. It recognizes that new training techniques, assistive devices and medical technologies enable many individuals with disabilities to return to work even in the presence of a severe and prolonged disability. While the disability must be severe and prolonged, the medical condition must be stable. Where appropriate, a referral is made to a rehabilitation case manager for in-depth review.

The vocational rehabilitation plan may focus upon educational upgrading, new skills training, on-the-job training, or workplace and job accommodation. Vocational services are delivered through a network of rehabilitation contractors located throughout the country. As a general guideline, the financial limit on each rehabilitation plan should not exceed the annual average disability benefit.

The rehabilitation plan also should include a job search period that typically lasts about three months. It may be extended for an additional three months if the individual has not yet found employment. Total job search should not exceed one year.

If the rehabilitation effort is unsuccessful, the individual may remain on the CPP disability benefit. Beneficiaries also are permitted to participate in volunteer opportunities and academic courses; these 'self-guided' measures are not considered vocational rehabilitation.

The policy guideline requires that CPP beneficiaries deemed to have employment potential comply with "reasonable vocational rehabilitation measures." A CPP beneficiary is considered to have ceased to be disabled upon evidence of a capacity to return to regular, gainful employment or failure to comply with reasonable vocational rehabilitation measures without "good cause."

### *Children's Benefit*

The dependants of disability beneficiaries may be eligible for a children's benefit, paid as a flat-rate amount worth \$183.77 a month in 2002 or \$2,205 a year. The benefit is not granted automatically; an application must be made.

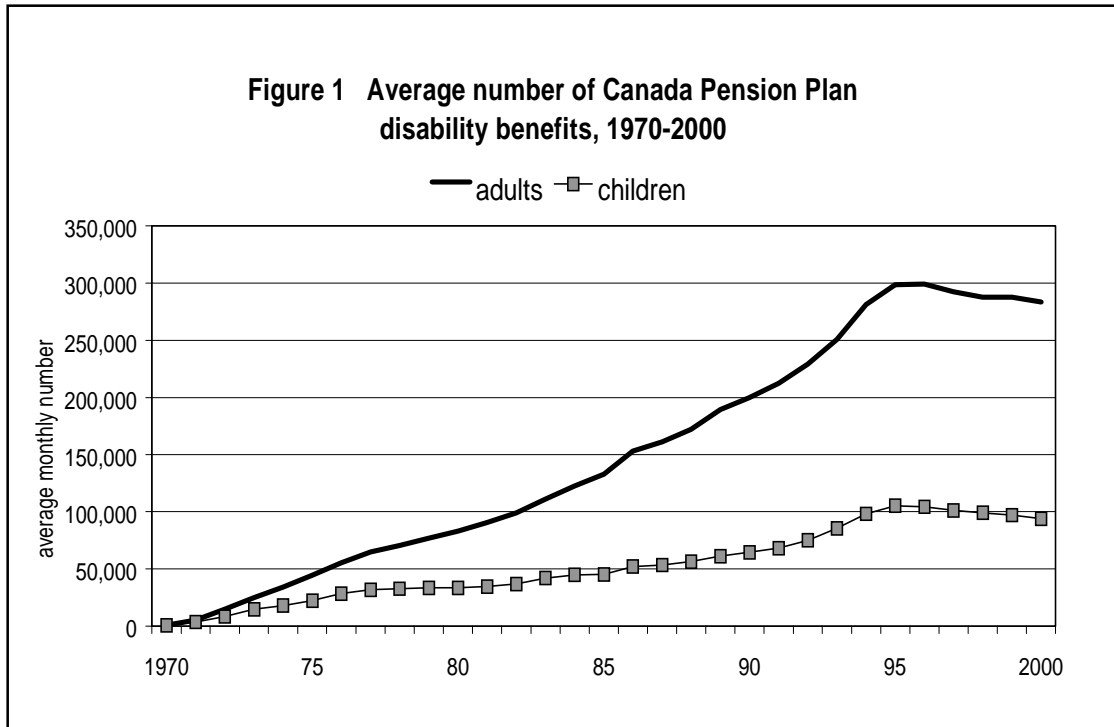
The dependant must be a natural child, a legally adopted child or a child in the contributor's custody and control. The child must be under age 18 or between ages 18 and 25 and in full-time attendance at school or university. Children between ages 18 and 25 must apply on their own behalf.

If the recipient ceases full-time attendance at school or university, the child's benefit is cancelled. It may be reinstated if the dependant is between the ages of 18 and 25, resumes full-time attendance at school or university and reapplies. A child may receive two benefits if both parents were CPP contributors and are either deceased or disabled, and if all conditions of eligibility are met.

It is of interest that the eligibility criteria for the children's benefit were more stringent when the CPP was introduced. At that time, no more than four children's benefits per family could be claimed at the full amount. Additional children received only 50 percent of its value.

### *Combined Benefit*

A person who receives a survivor benefit may be eligible for a retirement or disability pension in his or her own right. The two benefits are then combined but cannot exceed the maximum retirement or disability benefit payable at the time.



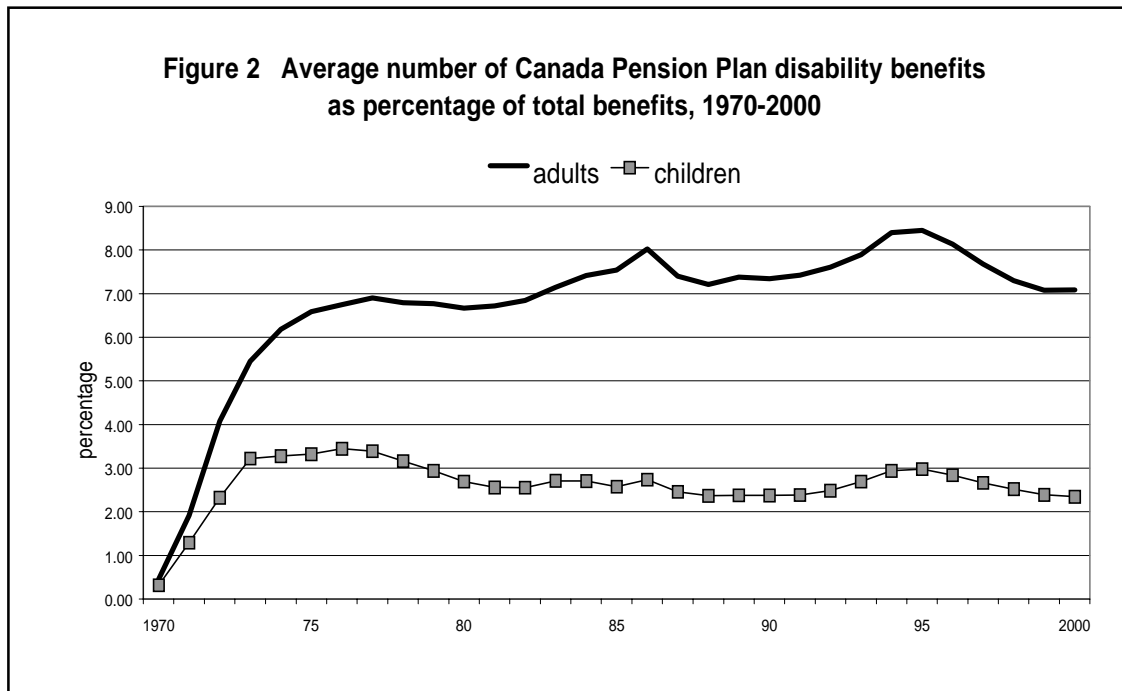
Source: Human Resources Development Canada; Caledon Institute of Social Policy

### *Caseload and Costs*

Figure 1 shows the average number of disability benefits for both adults and children between 1970 and 2000. In 2000, a monthly average of 283,508 Canadians received the disability benefit and 93,956 children received the children’s benefit (71,392 for those under age 18 and 22,564 for those between 18 and 25).

Figure 1 also shows how the caseload trends for the children’s benefit mirror the pattern of the adult benefit; a parent must be in receipt of a disability benefit in order for a child to receive the children’s benefit.

The CPP disability caseload has shown a fairly steady pattern of growth since the inception of the program in 1970 until the mid-1990s. Disability benefits first became payable in 1970 – which allowed for five years of contributions to establish eligibility. The caseload grew steadily as more workers became eligible through contributions and as more learned about the program.

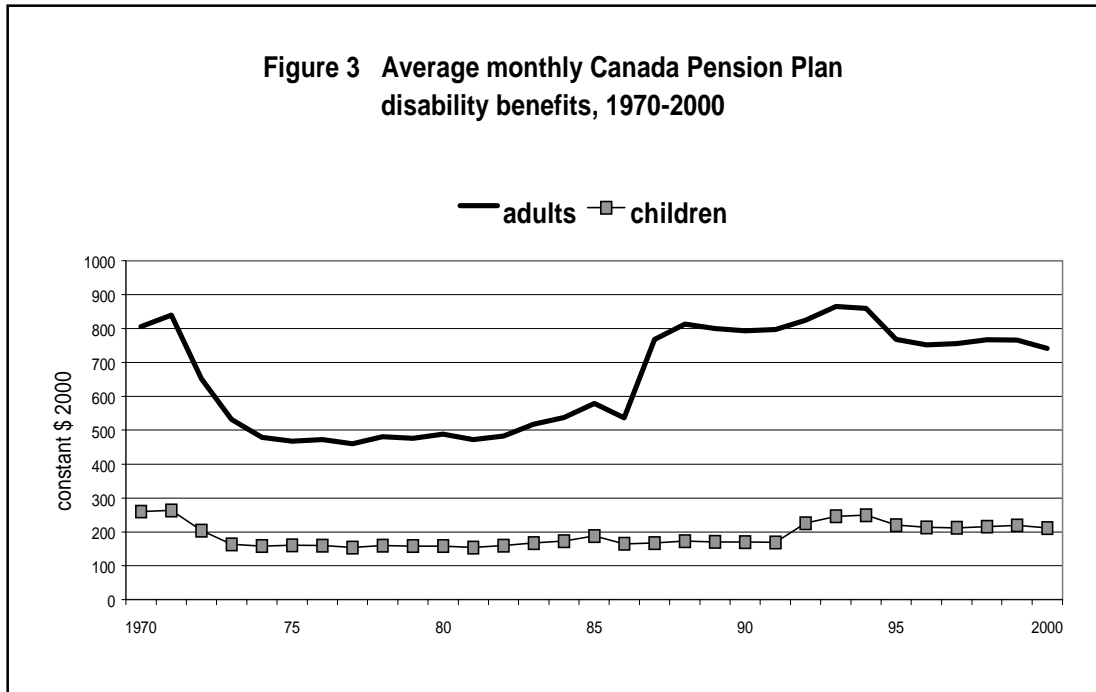


Source: Human Resources Development Canada; Caledon Institute of Social Policy

The disability caseload increased in the 1984-95 period following the recession of the early 1980s. There was a slight decline in 1987-88, followed by a far more rapid expansion between 1989-90 and 1994-95. This surge was the result of several factors – including legislative changes in 1987 to open up the program. In that year, contributory requirements for the disability benefit were relaxed to allow workers who had contributed to the Canada Pension Plan for two of the past three years to qualify for benefits. Also in 1987, retroactivity claims were extended from 12 to 15 months.

The eligibility criteria for the disability benefit were loosened yet again by the introduction of a private member's bill, Bill C-57, which took effect in 1992. The Bill opened up disability claims to many workers who previously had been denied benefits by lifting the time limit on late applications.

But legislative changes were not the only reasons for the dramatic increase in caseload and costs. Other major factors included: improved information about the program and its benefits, changing labour market conditions resulting in the unemployment of older workers, referrals to the CPP by provincial social assistance programs and referrals to CPP disability from insurance companies, which also were experiencing an increase in applications.



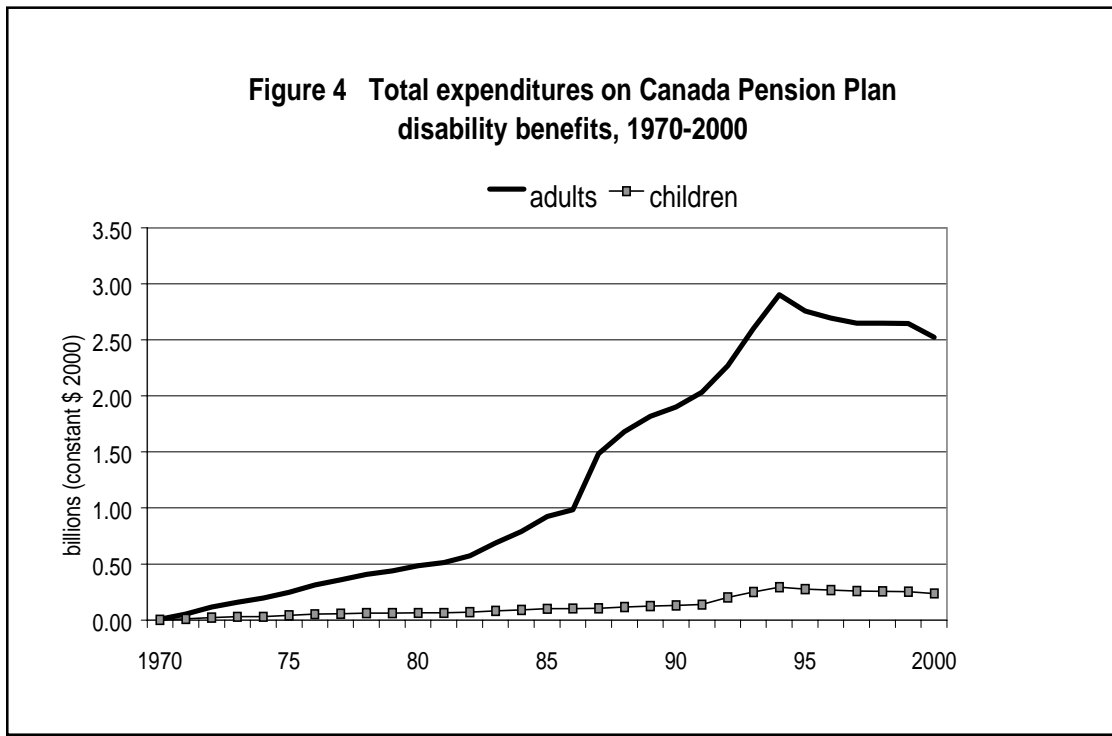
Source: Human Resources Development Canada; Caledon Institute of Social Policy

Growth began to slow in the mid-1990s – largely the result of medical adjudication guidelines introduced in 1995 and other administrative measures (described under “Key Issues”).

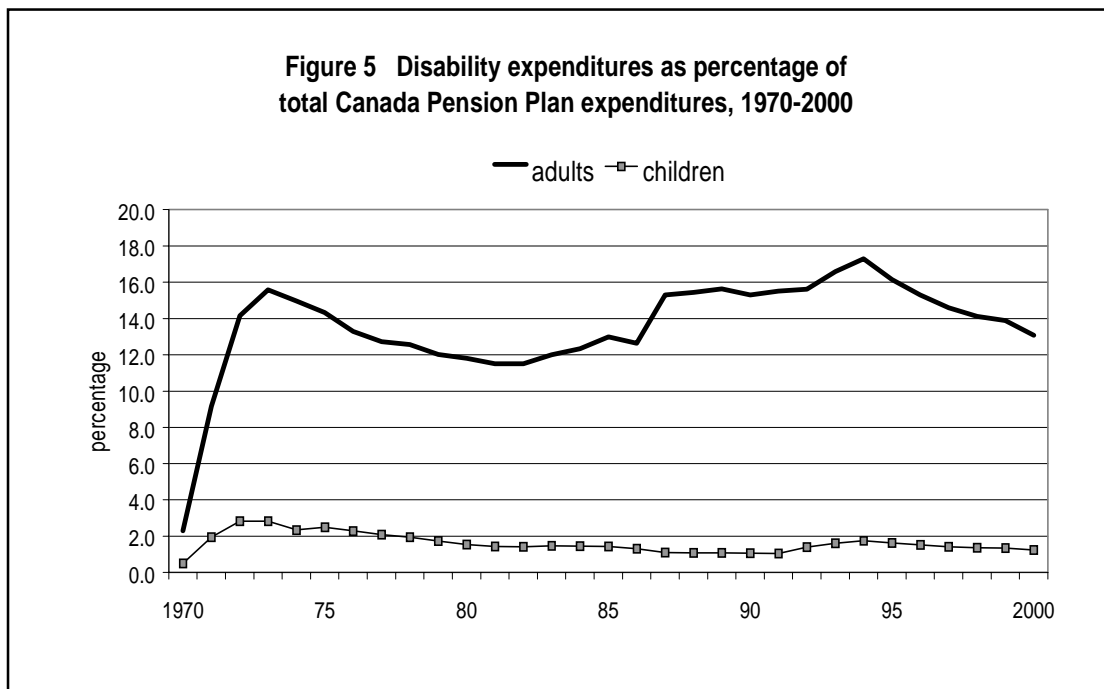
Figure 2 shows the average number of adult and children’s disability benefits as a percentage of total CPP benefits between 1970 and 2000. While the proportion of the total caseload represented by the disability benefit has risen and fallen over the past three decades, disability and children’s benefits together represent less than 10 percent of the overall CPP caseload (7.1 percent for the adult disability benefit and 2.4 percent for the children’s benefit in 2000). The figures are down from 7.4 percent and 2.5 percent for the adult benefit and children’s benefit, respectively, in 1999 and have been declining since 1995.

Average monthly CPP disability benefits for adults and children are shown in Figure 3. In 2000, average monthly benefits were \$741.32 for adults and \$211.40 for children.

Figure 4 presents total expenditures on disability benefits between 1970 and 2000. In the latter year, the CPP paid \$2.5 billion in disability benefits and \$238 million in children’s benefits. These figures are down from \$2.6 billion and \$250 million on disability benefits and children’s benefits, respectively, in 1999.



Source: Human Resources Development Canada; Caledon Institute of Social Policy



Source: Human Resources Development Canada; Caledon Institute of Social Policy

## *The CPP Disability Benefit*

Not surprisingly, the expenditure trends mirror the changing caseload patterns. The rapid rise between 1987 and 1994 in the adult benefit was due not only to an expanding caseload but also to a substantial increase in the flat-rate component of the disability benefit in 1987. Its monthly flat-rate portion went from \$91.06 in 1986 to \$242.95 in 1987, raising the total maximum disability benefit from \$455.64 in 1986 to \$634.09 in 1987.

Finally, Figure 5 shows the expenditure on disability benefits as a percentage of overall CPP payouts. The percentage for the adult disability benefit has dropped steadily since 1994, from 17.3 percent of the total in 1994 to 13.1 percent in 2000. Expenditure on the children's benefit as a percentage of total costs also has fallen, from 1.8 percent of total CPP outlays in 1994 to 1.2 percent in 2000.

### *Beneficiary Profile*

The vast majority of disability beneficiaries are between the ages of 50 and 64. This profile is consistent with the fact that the incidence of disability rises with age. However, the proportion of disability beneficiaries between ages 50 and 64 has declined gradually since 1993 and has levelled off at around 70 percent since 1996. The age breakdown at last count (June 2000) is presented in Table 1 [Gibson-Kierstead and Fawcett 1999: 3].

A snapshot of the disability caseload in 1995 found that close to half of beneficiaries had been on benefits between two and five years. Those on benefits for more than five years tended to be older than those on benefits for fewer than two years [Gibson-Kierstead and Fawcett 1999: 5].

The CPP disability caseload has shown a rise in female beneficiaries since the inception of the program. Part of the increase is due to the dramatic rise in the female labour market participation rate that began in the 1970s. In 1984, 30 percent of all disability beneficiaries were female; this figure rose to 35 percent by 1992 and 42 percent by 1995 [Gibson-Kierstead and Fawcett 1999: 3].

The large caseload increase throughout the 1980s and early 1990s resulted partly from a rise in the proportion of claims resulting from musculoskeletal diseases, mental disorders and diseases of the nervous system and sense organs. The greatest decline was in the area of respiratory illnesses.

Finally, a 1995 profile of beneficiaries found that mobility impairments were the most prevalent disability type (88.3 percent). This category was followed by agility disabilities (66.9 percent), mental disabilities (45.1 percent), seeing disabilities (19.6 percent), hearing disabilities (18.6 percent), speaking disabilities (17.3 percent) and unknown conditions (4.8 percent) [Gibson-Kierstead and Fawcett 1999: 8].



**Table 1: Age Breakdown of CPP Disability Beneficiaries, by Gender, 2000**

Age	Males %	Females %
Less than 25	.06	.04
25-29	.53	.48
30-34	2.0	2.0
35-39	5.0	5.8
40-44	8.3	9.6
45-49	11.9	13.5
50-54	16.9	18.5
55-59	22.7	22.2
60-64	32.5	27.9
Total	100	100

Source: Gibson-Kierstead and Fawcett 1999.

## *Key Issues*

### *Rising Caseloads*

If there is any notable trend in the CPP disability benefit, it is that caseloads have risen steadily – in all except the past five years – since the program began paying disability benefits in 1970. The first benefit did not come into pay until 1970, after prospective disability beneficiaries had contributed to the program for at least five years.

The program grew steadily and rapidly in its first few years until the mid-1980s when growth began to level off. However, the rise in caseload picked up its pace in 1990 and actually exceeded the growth that can be attributed to demographic change.

The number of CPP disability beneficiaries has climbed from 27,000 when the benefits were first paid in 1970 to a monthly average of 260,068 Canadians in 2000. The most rapid period of increase was during the 1990-95 period. While 182,000 persons with disabilities received benefits in 1990, the number had climbed to 298,000 by 1995.

These figures are significant from an international perspective as well. A comparison of public insurance programs in eight industrialized countries (Australia, Germany, Great Britain, the

Netherlands, New Zealand, Sweden and the US) found that the growth in Canada's disability caseload exceeded all other seven countries during the 1983 to 1993 study period [HRDC 1996c: ii].

However, these numbers must be placed in context. Despite the rapid growth in Canada's caseload, its size actually was smaller than other countries. The percentage of the population between the ages of 20 and 64 receiving benefits was lower than all other countries identified in the review [HRDC 1996c: ii]. The study found, for example, that CPP disability beneficiaries comprised 1.8 percent of the Canadian population aged 20 to 64 compared with 2.5 percent in the US, 3.9 percent in Australia and 9.7 percent in the Netherlands [HRDC 1996c: 41].

Several factors explain the rapid rise in caseload growth. First, more people are applying to the program. Over the years, the number of applications had been increasing steadily – until the slowdown in growth that became evident after 1995.

Another key factor is that the average age of beneficiaries is declining. At the current time, an estimated 43 percent of disability beneficiaries are under age 55. In the past, the vast majority of disability beneficiaries (and they are still the majority) were people close to retirement who came onto the program for a shorter length of time and then were transferred to a full CPP retirement benefit.

The disability benefit program also faced a large increase in demand due both to policy decisions in the late 1980s and early 1990s and to recommendations from the Office of the Auditor General to make the CPP better understood by Canadians.

Several legislative changes to the Plan were introduced in response to the recommendations of the House of Commons Committee on the Disabled and the Handicapped. This Committee had been struck by Parliament in respect of the International Year of the Disabled in 1981. The Committee recommended in its *Obstacles* report that Canada take steps to design and implement a Comprehensive Disability Insurance Program [Canada 1981: 53]. As a first step towards comprehensive reform, the Committee proposed that the CPP disability benefit be increased – that the flat-rate component of the benefit be raised to that of the Quebec Pension Plan – and that fewer people be excluded from coverage under the CPP [Canada 1981: 53].

In response to these recommendations, a Federal-Provincial Task Force was established by Social Services Ministers in 1982 to examine various options for reform of the disability income system. While the proposals put forward in its *Joint Federal-Provincial Study* were not adopted, several reforms were introduced to address serious deficiencies in the program.

Prior to 1987, contributors were required to work and to have made CPP contributions for at least five of the last ten years before claiming disability benefits. As noted, contributory requirements for the disability benefit were relaxed in 1987 to allow workers who had contributed to the

CPP for two of the past three years to qualify. Also in that year, retroactivity claims were extended from 12 to 15 months. The flat-rate component of the disability benefit was increased in 1987 from \$91.06 to \$233.38 to be consistent with Quebec's benefit.

The eligibility criteria for the disability benefit were loosened yet again by the introduction of a private member's bill, Bill C-57, which took effect in 1992. By lifting the time limit on late applications, the Bill opened up disability claims to many workers who previously had been denied benefits.

The rationale for the private member's bill was that many potentially eligible candidates had not applied for the disability benefit because they were unaware that the CPP paid such a benefit. Most people view the CPP as a retirement pension only and have no knowledge of its other components.

This problem was confirmed by the Auditor General in his 1993 report. The report noted that most Canadians do not understand the operations of the CPP and the benefits to which they may be entitled under the Plan. In response to the Auditor General's recommendations for more public information, the Department of Human Resources Development Canada conducted a major information campaign [Wills 1996: 74].

The result was an increase in the number of applications from individual Canadians as well as a rise in referrals from other programs – notably, workers' compensation, social assistance and private insurers – all of which reassessed their respective caseloads and referred to the CPP any candidates deemed possibly eligible.

Ontario, New Brunswick and British Columbia undertook special initiatives in which all social assistance recipients potentially eligible for disability benefits applied to the Canada Pension Plan. In a 1993-94 operation known as the 'Peterborough Project,' for example, the Ontario Ministry of Community and Social Services prepared more than 16,000 applications for submission to the CPP [HRDC 1996a: vi].

In addition to factors essentially beyond the control of the program, several practices internal to the CPP helped encouraged caseload growth. One factor that contributed to rising caseloads was the growing acceptance of conditions – such as stress, chronic fatigue and environmental hypersensitivities – as 'disabilities.'

Another internal factor that contributed to caseload growth had to do with the 1989 policy guideline that reflected the decisions of the Pension Appeals Board. As noted, this guideline effectively allowed non-medical factors to be taken into account – unemployment rate in the region, availability of certain jobs and applicants' skills – in determining eligibility for a disability benefit.

## *The CPP Disability Benefit*

The guideline had allowed applicants under age 55 who were unable to do their own job to be considered unable to do any job.

The 1989 internal memo basically eased the eligibility criteria for those in the pre-retirement age groups (55-64) and was consistent with changes enacted in legislation for the Quebec Pension Plan disability benefit in 1984 with respect to the 60-64 age group [HRDC 1996a: i]. The memo implied that, given the applicants' disability, there must be a reasonable number of jobs that they can perform. The change led to a disproportionate growth in the caseload among those between the ages of 55 and 64 who were approaching retirement.

Older workers became over-represented among CPP disability beneficiaries relative to their share of the population. In 1994, the CPP Advisory Board noted that this over-representation "can be attributed not only to the greater susceptibility of older workers to disability but also to the greater difficulty faced by older workers re-entering the workforce after accident or illness" [CPP Advisory Board 1994: 4].

The guideline was quite consistent with practice in several European countries. A cross-national study of disability policy attributed the growth of disability income support to faltering economic growth; disability income programs became, in effect, an instrument to encourage early retirement [Aarts and de Jong 1996: 1]. "Improper use of disability benefits as a more generous, and less stigmatizing, alternative to unemployment benefits was quite common in the 1975-1990 period" [Aarts and de Jong 1996: 9].

It should be noted that the medical adjudication guidelines introduced in 1995 withdrew the policy directive to consider socioeconomic factors in the adjudication process. But a recent Federal Court judgment (discussed below under the "CPP Appeals System") not only points out the inconsistency in interpretation of the severity criterion in particular but also argues that the stringency of interpretation in recent years is inconsistent with the spirit of the CPP legislation and the original intent of Parliamentarians.

Despite the over-representation of older workers in the CPP disability caseload, the average age of beneficiaries actually is declining. About 45 percent of disability beneficiaries are under age 55. In the past, the vast majority of disability beneficiaries (and they still comprise the majority) were people close to retirement age who came on to the program for a shorter period of time and then went on to a full CPP retirement benefit.

In short, the growth in caseload – especially in the 1990s – was largely the result of explicit policy decisions and administrative directives intended to open up the program and redress its perceived inadequacies in terms of both benefit and coverage.

However, some of the caseload increase was due to the fact that the CPP was being used as a *de facto* unemployment insurance program. High unemployment tends to encourage greater use of income support or earnings replacement programs and the early 1990s had seen the slowest period of economic growth in Canada since the Great Depression of the 1930s. An econometric analysis of the impact of unemployment and economic fluctuations suggests that applications to the CPP increased dramatically in times of recession and economic restructuring [HRDC 1996a: 62] – an understandable but inappropriate use of the program.

### *Administrative Issues*

The administration of the disability benefit has become more effective and efficient in recent years. New administrative procedures were introduced partly in response to substantial criticism over the years – notably by the Office of the Auditor General.

In a tough report issued in 1985, the Auditor General pointed out: “There were virtually no written policies, procedures or directives for reviewing and processing applications, entitlements and appeals, and for establishing boundaries within which medical decisions were made.” The report also stated: “At the time of our audit, in December 1984, it took 90 days to complete the processing of an initial application for a CPP disability pension and up to two years to process appeals” [4.143]. The report noted, as well, that 38 percent of the rejected initial applications were being appealed, the majority successfully.

Beginning in January 1985, several measures were initiated to correct the many administrative deficiencies in the program. These steps included the introduction of procedures to clear backlogs in processing applications, improved communications with client service centres and studies to improve workflow at all levels and to measure performance. While it was too early at the end of the audit to assess the full extent of these improvements, the Auditor General concluded: “They appear to be substantive” [4.145].

Subsequent administrative measures were introduced partly in response to the Fifteenth Actuarial Report issued in 1995. The report concluded that action had to be taken to stem the rapidly growing disability caseload. Contributions to the CPP either had to rise to reflect this increase or spending had to be cut.

The new administrative measures tightened up the program with respect to initial assessments, reassessments and the tracking of clients, improved communications, return-to-work incentives, data linkage between programs, and the redesign of program technology to ensure consistency of adjudication decisions.

## *The CPP Disability Benefit*

In the area of initial assessments, for example, new medically based guidelines were introduced for determining eligibility. The percentage of applications denied is currently 60 percent, and is likely to go higher as a result of the new guidelines. This level of denial is generating a significant number of requests for reconsideration. In 1998-99, there were 22,452 requests for reconsideration. Of these requests, 6,317 disability benefits were granted and 16,135 benefits were denied – which means that 28 percent of benefits were awarded at the reconsideration stage in that year. This percentage was up slightly from the 23 percent and 27 percent of benefits awarded at reconsideration in 1996-97 and 1997-98, respectively.

In addition to stricter procedures with respect to initial assessments, there are new measures for the review of approved cases. A Disability Reassessment project conducted between May 1993 and November 1995 reviewed 12,055 cases and ceased payments to more than 4,911 beneficiaries. In 1997-98, new tracking mechanisms were introduced to identify individuals no longer eligible for benefits. In the last fiscal year, about 23 percent of reassessments resulted in the cessation of benefits.

In 1995, the CPP began to redesign its program delivery. It introduced a pilot project in Victoria to devolve the adjudication process to regional offices. Regional delivery was undertaken as part of a broader HRDC Income Security Programs Redesign, which reorganized the delivery of Old Age Security and the Canada Pension Plan.

While these measures are intended to make the program more responsive to the clientele as well as to the local region, the revamped structure also can give rise to considerable differences in adjudication decisions. An initiative was launched in 1997-98 to review consistency in the adjudication of disability applications and to identify practices likely to result in consistent decisions.

Despite the many administrative changes, the Auditor General still was reporting significant problems in 1996. Concerns were identified around limited management information systems, the need for reassessments and the minimal exchange of information with other insurers. The Auditor General did point out, however, that: “The CPP management is starting to come to grips with determining more clearly the causes of growth in disability payments.”

### *Declining Caseloads*

As noted, the year 1995 was a turning point for the CPP disability program. The rapid increase in the caseload of the early 1990s ended and numbers started to fall.

The decline reflects, in part, a drop in the number of applications for disability benefits, with a corresponding reduction in the number of requests for reconsideration. The annual number of applications grew from 27,966 in 1975-76 to a high of 109,000 in 1993-94 [HRDC 1996a: 51]. It then declined to 90,449 in 1995-96 and has gone down ever since.

There are several possible reasons for the decline in the number of applications. One possible factor is that the economy grew strongly after 1997 and there likely were more employment opportunities available, even for those who typically might have difficulty finding work.

The adjudication guidelines adopted in 1995, earlier described, were another key factor that help explain the decline in the number of new cases. The guidelines stress the medical basis of disability determination and rule out socioeconomic factors in adjudicating applications. (As noted, a recent Federal Court judgment calls into question the appropriateness of the narrow interpretation of 'severity' in particular.) The tighter medical interpretation of disability appears to exclude many potential claimants with conditions that are not verifiable or quantifiable in a laboratory. These include stress-related conditions, mental disorders and environmental sensitivities.

Other reforms have encouraged return-to-work efforts and have removed disincentives to work. For example, CPP recipients who return to work can be 'fast-tracked' back onto the program if their medical condition deteriorates. Full-time school attendance no longer results in automatic cessation of benefits and a paid work trial of three months is permitted.

## *CPP Appeals System*

### *The Process*

Applicants dissatisfied with a decision regarding their application for CPP disability benefits have three opportunities to appeal that decision.

Under ‘first level’ appeals, applicants may request a reconsideration or administrative review. The request for reconsideration must be made within 90 days of receiving the initial rejection.

When a request for reconsideration is initiated, a departmental adjudicator not involved in the initial decision is assigned to review the case. While the work of review officers is similar to that of initial adjudication officers, the administrative units are separate. This separation helps ensure that the decision-making processes in the two different phases of the process are kept distinct.

At the reconsideration stage, the applicant generally provides new evidence to support the claim for a disability benefit. The availability of new evidence may explain the substantial number of reversals at this stage – an estimated 28 percent at last count in 1998-99.

In 1994-95, there were 22,000 requests for reconsideration. The figure dropped to about 18,000 in 1996-97 but jumped back to 22,000 in 1997-98. It is possible that the rise reflected the impact of the new medical adjudication guidelines – which initially spurred a large number of appeals.

The requests for reconsideration fell to 19,200 in 1998-99. The decline may reflect, in part, the drop in the number of applications, with a corresponding decrease in the number of requests for reconsideration. Despite the variations in the numbers of requests, the percentage of denials on reconsideration remained constant – at about 72 percent.

Review Tribunals comprise the second level in the appeals process (‘Level 82’ appeals). The Review Tribunals replaced in 1992 the former structure, which had consisted of Review Committees.

Under the former system, the appellant and the Minister each appointed a member. These two individuals, in turn, selected a third person who served as the Committee Chair. But when a third party happened to be involved, that party had no opportunity to appoint an individual to represent his or her interests. Moreover, the membership of the Review Committees changed with each appeal, making it difficult for members to gain ongoing experience for fair and objective decisions.



Under the revised appeal system, all interested parties now have an opportunity to be heard by an impartial Review Tribunal. All parties have the right to be represented by an advocate or they can choose to represent themselves.

The Review Tribunals are also composed of three members. In contrast to the former system, these members are chosen from a national panel of several hundred members appointed by the Governor-in-Council.

A Commissioner of Review Tribunals, located in Ottawa, determines the composition of the tribunals. The Chair of each tribunal must be a lawyer. In the case of an appeal related to disability benefits (which comprises an overwhelming 95 percent of cases), one of the three members must be qualified to practise medicine or a related profession. The third member can come from any occupation.

These changes were based on the premise that members of the Review Tribunals have no link to the involved parties and are therefore in a better position to make objective decisions. It also was assumed that members would gain valuable experience from regular attendance at hearings and that they would develop a body of knowledge which could be applied with consistency across cases. An improved appeals process at the second level was intended to reduce the numbers of appeals proceeding to the next stage.

The third level of appeals (known as 'Level 83 appeals') is a tribunal composed of three judges or retired judges. Applicants must request leave (i.e., permission) to appeal to the Pension Appeals Board.

The Pension Appeals Board is considered the authority of last resort when it comes to interpretation of the CPP legislation and its provisions – although pension appeals decisions may be subject to review by the Federal Court. Judges of the Federal Court or the Superior Court of a province serve as Chair and Vice-Chair of the Pension Appeals Board. Members are appointed by the Governor-in-Council on the recommendation of the Minister of Justice.

The numbers of cases going to appeal are substantial. In 1998-99, as noted, 22,452 applicants for CPP disability benefits requested reconsideration of the initial decision made with respect to their case. Of that total, 6,317 (or 28 percent) of the formerly denied benefits were awarded. In that same year, 9,607 hearings were held by Review Tribunals at the second level of appeals. By the end of 1998-99, there were 3,967 cases pending at the Pension Appeals Board.

### *Policy Implications*

The decisions of the Review Tribunals and Pension Appeals Board are significant not just for the individuals involved in the case. These decisions are also important from the perspective of their implications for future hearings. Certain key judgments are considered leading decisions that can affect the outcomes of related cases. In this sense, private troubles become public issues.

Several examples of leading decisions are presented here for illustrative purposes. Generally speaking, the Pension Appeals Board has taken a narrow and strict approach to the definition of disability. The Board has made clear that there is no scope under the legislation for it to exercise any humanitarian or compassionate discretion. For example, it stated with respect to Potyok (Feb. 21, 1973): “This Board, as we have repeatedly stated, is not concerned with compassionate considerations which invariably arise in cases of this sort. Our job extends only to applying the law to such facts as are put before us.”

The Board further noted in Stewart (Nov. 9, 1973) that: “The Canada Pension Plan is a contributory scheme. It is nothing else. To become entitled under this Plan, an applicant must demonstrate that he is incapable of following any substantially gainful occupation on a regular basis. It is irrelevant to this inquiry that jobs which he might be able to do are not to be had, and it will readily be seen that this must be so if the scheme is to be applied justly throughout Canada. There can only be one standard for all; there is no provision for special cases such as Mr. Stewart’s.”

But the Board later appeared to reverse this narrow stance by taking into account the availability of employment. In 1988, it rendered the following Leduc decision: “The Board is advised by medical authority that despite the handicaps under which the appellant is suffering, there might exist the possibility that he might be able to pursue some unspecified form of substantially gainful employment. In an abstract and theoretical sense, this might be true. However the appellant does not live in an abstract and theoretical world. He lives in a real world, peopled by real employers who are required to face up to the realities of commercial enterprise. The question is whether it is realistic to postulate that, given all of the appellant’s well documented difficulties, any employer would remotely consider engaging the appellant. The Board cannot envision any circumstances in which such might be the case.”

It was the Leduc decision that led to the policy directive to allow the consideration of socio-economic circumstances in adjudication decisions. In 1996, the Board also attempted to limit the interpretation of the Leduc precedent by stating that the Leduc and associated decisions were decided in “special and restricted circumstances” which should not be expanded. These circumstances included (but were not limited to): total disability depending on both combined medical and non-medical conditions and somewhat complicated in nature; the consideration of learning disability; and unqualified acceptance of symptoms by certain medical witnesses and Board members.

Some members of the Pension Appeals Board have argued that certain personal circumstances may be deficiencies or deficits. However, they are not to be considered as disabilities. For example, in *Guerriero* (Oct. 11, 1996), the appellant's limited knowledge and literacy were noted along with the fact that his only work experience – in heavy construction – reduced the probability of re-entry into the labour market. It was concluded that while these factors may be deficiencies, they could not be considered disabilities.

In *Barbiero* (Oct. 27, 1997), the Pension Appeals Board held that factors such as literacy, education, language skills, training, motivation, experience and availability of jobs were not in themselves true physical or mental disabilities and their implications had to be “judiciously separated” from the implications of true disabilities. The Board has reinforced that position in several subsequent cases.

There are, however, a number of cases in which a combination of physical disability and personal factors was found to amount to disability. For example, a 50-year-old miner with Grade 7 education had a degenerative disc disease that prevented him from doing heavy labour. His case was accepted due to his limited education, his condition and his attempts to secure employment.

In a similar example, a 59-year-old dressmaker with a Grade 4 education left work because of a heart condition and other ailments. She tried to return to work but had to quit after two days. In light of both her physical condition and limited education, she was deemed to have no capacity for substantially remunerative employment.

But a Federal Court judgment rendered on August 3, 2001, is expected to have a significant influence upon future decisions. In the *Villani* case, the judge concluded that a review of the Pension Appeals Board's disability decisions, particularly the severity requirement in the CPP definition of disability, has been applied not only inconsistently but also unfairly. The judge noted that recent decisions of the Pension Appeals Board represent a “decidedly ungenerous version of the statutory definition of a ‘severe’ disability.” These ungenerous decisions have had the effect of “subverting the benevolent purposes of the legislation.”

An analysis of the actual language of the statute suggests a strong legislative intent to apply the severity requirement in a ‘real world’ context. According to the Federal Court decision: “Requiring that an applicant be incapable *regularly* of pursuing any *substantially gainful* occupation is quite different from requiring that an applicant be incapable *at all times* of pursuing any *conceivable* occupation.” In the judge's opinion, Parliament viewed as ‘severe’ any disability which renders an applicant incapable of pursuing with consistent frequency any truly remunerative occupation. The judge concluded: “In my view, it follows from this that the hypothetical occupations which a decision-maker must consider cannot be divorced from the particular circumstances of the applicant, such as age, education level, language proficiency and past work and life experience.” In effect, the Court reinstated the *Leduc* decision.

## *Comparative Context*

### *Quebec Pension Plan*

The Quebec Pension Plan is often referred to as the twin to the Canada Pension Plan. The two plans effectively operate the same way.

The CPP and QPP disability programs are similar in terms of their overall objectives, structure, financing and levels of benefit. While they have shown distinctly different patterns of growth over the past few years, there always has been a desire to ensure uniformity and consistency between the two programs so as to provide a common public pension system for all Canadians.

In 1987, for example, the CPP raised the flat-rate component of the disability benefit to match the QPP. That same year, the federal government introduced the two-of-three-years rule for eligibility for the disability benefit; the QPP followed suit but only in July 1993.

Despite the interest in convergence, there have been important differences related to patterns of growth, adjudication procedures and links to the broader system of income security. These areas are discussed below.

#### *i. Patterns of Growth*

Both programs have grown significantly over the long term. The growth is the result of the maturation of the programs, population growth, changes in the economy and the liberalization of certain eligibility criteria.

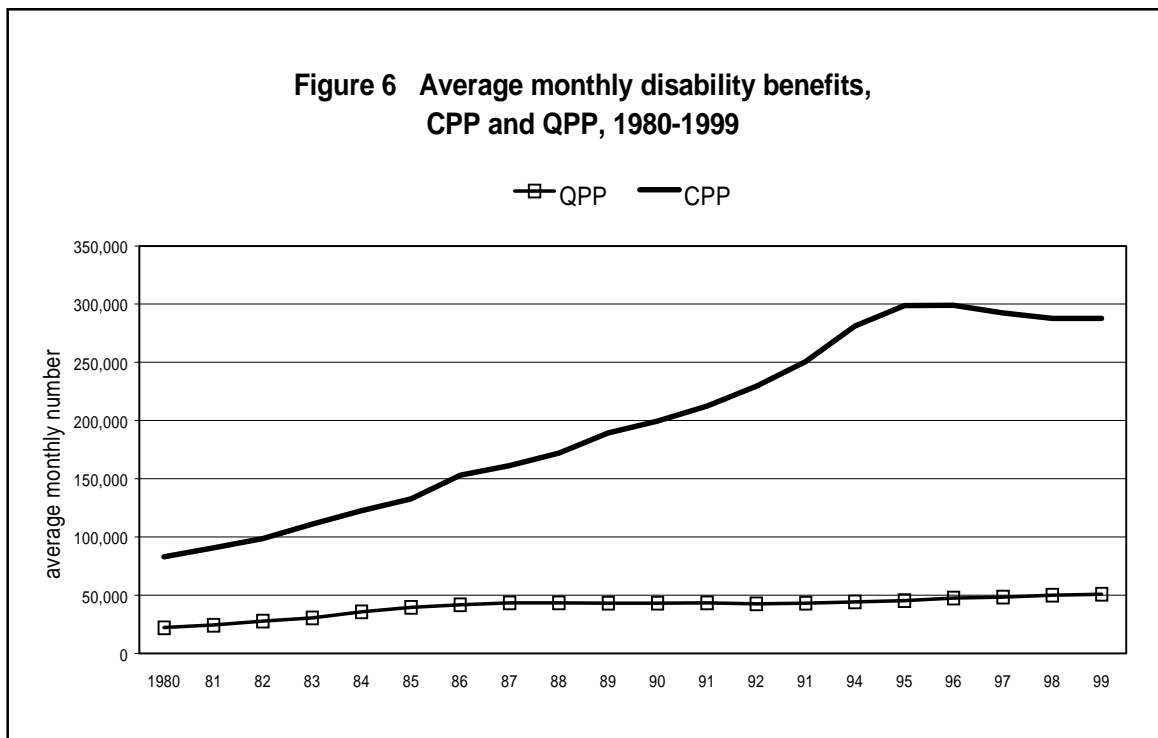
But the two programs diverged after the early 1980s. In the early part of that decade, both programs experienced a rapid rise in the number of disability benefits granted. The increase can be attributed largely to the sluggish economy and high rates of unemployment.

Following the surge of new grants in the early 1980s, the QPP experienced a levelling-off period. This slowdown lasted until 1993, after which the QPP disability program began to expand again at a moderate pace. The CPP disability program, by contrast, continued expanding at a slow but relatively constant pace between 1986 and 1992. The growth in the CPP disability caseload peaked in 1993-94.

As earlier explained, the upward trend in the CPP caseload, especially between 1987 and 1994, can be attributed largely to legislative changes that had the effect of opening up the program. The changes were intended explicitly to expand the caseload for those deemed to have been unfairly left out.

But legislative changes were not the only factor leading to the dramatic increase in caseload and costs. Other major factors included greater awareness of the disability program, changing labour conditions resulting in fewer unemployment opportunities for older workers and referrals to the CPP disability benefit from provincial social assistance programs and insurance companies that also were experiencing an increase in applications.

Quebec, by contrast, did not open up its eligibility for disability benefits in the same way until 1993. As a result, it experienced a far more stable and moderate growth in caseload, especially during the 1991-94 period (see Figure 6). Prior to 1993, claimants under age 60 must have contributed to the program for at least one-third of their contributory period and at least five of the past ten years to be covered under the QPP disability program. In 1993, Quebec introduced the two-of-three-years rule to correspond with the federal contributory criteria. The caseload growth was therefore held off in Quebec until after the 1993 liberalization.



Source: Human Resources Development Canada, Caledon Institute of Social Policy

There are other differences with respect to retroactive provisions. The CPP allows applicants to have their eligibility assessed from the onset of disability rather than from the time of application for benefits. In Quebec, by contrast, eligibility is assessed retroactively from the onset of disability – but only up to a maximum one year prior to the application for benefits. Retroactive payments are made for only eight months; a four-month waiting period applies after the onset of a disability [HRDC 1996b: 10].

The discrepancies in caseload also may be explained by differences in the operation of the overall income security system in Quebec (described below).

## ***ii. Adjudication Differences***

Another major area of difference is rooted in the adjudication practices. On the whole, the Quebec Pension Plan has been found to apply stricter criteria and adjudication to applicants under age 60. But Quebec's stricter eligibility criteria have been offset somewhat by the fact that its statutory definition of disability includes a relaxed provision for workers between ages 60 and 64. In 1984, the Quebec Pension Plan was amended to give 60- to 64-year-olds somewhat easier access to disability pensions.

Quebec effectively applies a different standard of evidence for people near retirement by allowing a more liberal application of the 'own occupation' rule for older workers. Through this provision, the province basically recognizes that older workers – especially if they happen to have a disability that is severe and prolonged – are more likely to experience difficulty getting back into the labour market.

This more liberal adjudication practice for older workers means that the QPP disability caseload has an older caseload, on average, than the CPP. The former effectively has acted as a retirement bridge to help older workers with disabilities close the gap between leaving the workforce at an early stage and going onto retirement benefits. The QPP also appears to have more cases terminated as a result of death and conversion to retirement benefits than the CPP. This fact is not surprising given that the QPP has a disproportionately larger number of older beneficiaries.

The QPP disability caseload tends to be smaller than that of the CPP. On average, QPP disability beneficiaries spend a shorter time on the program because they are transferred within a maximum five-year period to the retirement component of the Plan.

As noted, the CPP issued an internal memo in 1989 that instructed adjudicators to relax the eligibility criteria in the assessment of disability applicants aged 55 to 64. This directive was

rescinded, however, as part of a broader set of adjudication guidelines introduced by the CPP in 1995. The CPP now applies a uniform standard, regardless of applicants' age.

Another difference arises from the decision-making process. The adjudication of disability claims within the QPP is divided between the administrative unit and the medical department. There is a clear division of administrative and medical roles.

The administrative staff first assesses all applications to determine whether claimants are eligible in terms of required contributions, completion of forms and receipt of benefits from other programs. For example, the receipt of workers' compensation in Quebec disqualifies a QPP disability claim.

Once the administrative requirements are deemed complete, the file is forwarded to the medical staff for assessment. The QPP medical personnel assess whether the condition meets the definition of disability and determine the date of onset to see whether retroactive payments must be made. Outside experts are consulted when required.

In comparison to the CPP, the QPP disability program has tended to require diagnoses based on objective verifiable medical criteria [HRDC 1996b: iii]. The QPP has a smaller group of beneficiaries diagnosed with mental or emotional disorders or with repetitive strain injuries. In fact, a cross-country study of public insurance plans that included the QPP in its sample found that "Quebec is the only jurisdiction included in this review which seems to use a purely medically oriented definition of disability" [HRDC 1996b: 11].

There are also somewhat different procedures in the area of reassessment. The CPP conducts reassessments when a beneficiary has returned to work, when there is a third-party complaint, when there has been a pre-scheduled reassessment or if they show earnings. The QPP, by contrast, initiates a reassessment when the medical personnel deem it appropriate. A reassessment also may be conducted when a beneficiary under age 60 returns to the labour force for a period of more than three months but is not pursuing a substantially gainful occupation [HRDC 1996b: 19].

The appeal systems also work somewhat differently. QPP applicants who request reconsideration are referred to an internal administrative review. Cases are assessed by a different administrative division than the one which made the initial decision.

Claimants for the QPP disability benefit are encouraged to present additional medical evidence at the administrative review process. The medical assessment is conducted by a different physician than the initial one and a medical exam may be carried out by an independent expert. As in the CPP, there are significant numbers of reversals at this stage – often triggered by the availability of additional information.



There are also substantial numbers of external examinations conducted at this stage. The additional information is important if the case moves to the second level of appeal: the formal hearing procedure by the *Section des affaires sociales*, one of four divisions within a reconfigured super-tribunal structure established in 1998 pursuant to the *Loi sur la justice administrative*. The *Section des affaires sociales* is responsible for proceedings related to social security, welfare and family allowances, health and social services, immigration, and pension and compensation plans.

A description of the QPP noted: “One of the main factors contributing to lower reversal rates at QPPD seems to relate to the practice of collecting more extensive medical evidence at two lower levels (initial adjudication and administrative review) to defend the board’s decision before the review tribunal. The extensive use of independent medical evaluations at the administrative review level probably goes a long way to providing adequate medical information to support the board’s decisions before higher tribunals and preventing inappropriate grants” [HRDC 1996b: 24].

Pursuant to the *Loi sur la justice administrative*, potential appellants now have an opportunity to pursue an informal dispute resolution process in the form of conciliation. In the presence and with the assistance of a conciliator, the parties explain their positions and share views on possible alternative solutions towards settling the case through dialogue rather than confrontation. The intent is to take the pressure off the more formal and costly system of appeals.

### ***iii. Relation to the Income Security System***

There are significantly fewer people applying to the QPP for a disability benefit than to the CPP. One possible explanation is the fact that the program is better integrated with other income security measures. This integration means that decisions tend to be taken strategically within the overall system of income programs.

The CPP, by contrast, is not well integrated – at least at the formal level – with other income programs. This lack of integration means that programs often overlap. The CPP generally becomes the first payer and another public program or private insurance acts as a second payer. The second program effectively provides a top-up to a certain level or, in the case of workers’ compensation programs in some provinces, may pay a full amount in respect of compensation.

The key components of the disability income system in Quebec include automobile insurance, workers’ compensation and social assistance. The Quebec Public Auto Insurance Plan provides no-fault insurance in the event of an automobile accident.

Workers’ compensation (*Le Conseil de la santé et la sécurité du travail*) pays income assistance to persons injured on the job or whose illness or condition is the result of work-related factors.



Workers' compensation and the QPP disability benefit are considered mutually exclusive programs. In fact, in 1986, Quebec introduced the single-payer rule for workers who had experienced occupational disease and injury, making workers' compensation the only payer in these cases. As a result, persons with disabilities in Quebec may receive financial assistance under workers' compensation or the QPP disability program – but not both. This practice is different from the CPP, which shares responsibility with workers' compensation plans in most provinces.

Social assistance is a last-resort program that pays benefits to households whose assets and income fall below designated levels and whose needs exceed their resources. The Quebec social assistance system has two components. *Action positive pour le travail et l'emploi* (APTE) provides temporary assistance for persons considered employable. The Financial Support (*Support financier*) stream is intended for persons who are considered unemployable and do not qualify for other programs of income support.

The available data suggest that Quebec directs more of its disability caseload to social assistance than to the QPP. The rest of Canada appears to rely more on the CPP as a first payer in the event of disability and upon social assistance as a last resort.

In short, there appears to be basic agreement among the various components in Quebec as to their respective roles and responsibilities. As a result, there is less pressure to move individuals back and forth between jurisdictions in order to save costs. It is of interest, though, that the Quebec government launched a communications campaign in the early 1990s to inform social assistance recipients who are disabled about the QPP disability benefit. Perhaps the province preferred that benefits be paid from a program supported by employer and employee contributions rather than by one paid for primarily by general tax revenues.

### ***International Experience***

In 1995, a formal evaluation was undertaken which examined the key components of the CPP disability benefit: eligibility criteria, adjudication procedures, caseload growth, reassessment and appeals [HRDC 1996c]. It is often difficult, however, to assess the strengths and weaknesses of a program in the absence of standards for comparison. Despite the substantial differences in public insurance programs throughout the world, it is instructive to examine trends in Canada relative to developments in other countries.

A cross-country comparison of public disability insurances found that Canada experienced a higher caseload increase during the study period of 1983 and 1993 than the other countries: Australia, Germany, Great Britain, the Netherlands, New Zealand, Sweden and the United States. But

while Canada had the highest rate of growth, three countries also saw their caseloads rise by more than 50 percent in that period.

In the area of benefits, Canada's levels appeared modest compared to other public insurances. Canada's maximum disability benefit was lower than any other public disability insurance program in the industrialized world. However, it was comparable to benefit levels in other countries when assessed as a percentage of average industrial wages. The flat-rate portion of the benefit at least ensured a minimum amount and incorporated an important redistributive dimension within the CPP.

Contribution and benefit structures were found to vary widely throughout the world. The payroll contributions to support the Canada Pension Plan appeared low relative to other industrialized countries. But this information must be interpreted within the context of benefits – which generally were lower in Canada and not available for partial coverage. (The United States, Great Britain and New Zealand were the other countries in the study that did not provide for partial benefits.) Moreover, the comparative study was carried out prior to the 1998 shift to partial funding which is requiring a substantial rise in contribution rates.

The international study also noted that the increase in disability caseloads, as evidenced clearly in Canada, appeared to be a worldwide phenomenon. Program enrollment generally exceeded population growth in most of the developed world. But despite the rapid *growth* in Canada's caseload, its *size* actually was low relative to other countries. The percentage of the population between the ages of 20 and 64 receiving benefits was lower than any other country in the review [HRDC 1996c: ii].

All developed countries were grappling with the problem of rising caseloads and have tried to respond by reforming their disability benefits. In fact, "the international trend is clearly towards program retrenchment, with three countries (Australia, Great Britain and the Netherlands) having introduced dramatic measures designed to control growth in disability caseloads" [HRDC 1996c: ii].

Another international trend involved a move away from the use of vocational and socioeconomic criteria in the adjudication of claims toward medical condition as the primary determining factor. The purpose is to ensure that these disability plans are not acting as *de facto* unemployment insurance programs.

Despite the move away from the use of vocational factors or socioeconomic conditions in determining eligibility, most countries were involved actively in rehabilitation efforts. Canada only recently stepped up its vocational rehabilitation focus, as earlier described.

Finally, most industrialized countries provided a link between their sickness benefits and public disability insurance schemes to ensure a smooth transfer to the long-term disability program

when the entitlement to short-term benefits expired. There is no coherent transition at the current time from the Employment Insurance sickness benefit to the CPP, despite the fact that the Department of Human Resources Development Canada administers both programs. This problem is discussed in the final section on “Options for Reform.”

## *The Disability Income System*

The Canada Pension Plan is the single largest long-term disability income program in Canada. But it is difficult to understand the importance of the CPP disability benefit without considering its links to other programs of income support.

The design of any given program often is affected by other related programs. Moreover, changes to one part of a system often have an effect on its other components. In modifying the CPP disability benefit, there invariably will be an impact on related programs. Many people who are refused a disability benefit will turn to provincial social assistance (commonly known as ‘welfare’).

The disability income system consists of categorical programs, social insurances, general programs and private insurance. The present system of disability income is more accurately described as a ‘patchwork’ of uncoordinated programs. Eligibility and benefits are based largely on cause of disability (how and why the disability occurred) rather than on level of need. People with virtually the same functional capacity can receive different types and levels of benefit depending upon how the disability occurred.

### *Categorical Programs*

The first set of programs in the disability income system can be referred to collectively as ‘categorical programs.’ Their purpose is to compensate for the effects of disability or injury related to specific causes or events. Categorical programs include tort liability, automobile accident insurance, criminal injuries compensation and veterans’ benefits.

The introduction of tort actions in the last century allowed people who experienced a disabling accident as a result of someone else’s negligence to seek redress through the courts [Muszynski 1992: 3]. Tort liability is an important component of the disability compensation system except in cases when the right to sue has been removed explicitly – i.e., in workers’ compensation programs and in provinces with no-fault accident schemes.

Partial no-fault systems of automobile accident insurance have been adopted in Ontario, Manitoba, Saskatchewan and British Columbia; a full no-fault system operates in Quebec. Criminal injuries compensation is also available for people who are victims of violent crime. Veterans' benefits may be paid to members or former members of the Canadian Armed Forces who have a disability resulting from an injury or disease attributable to military service in war or peace.

### *Social Insurances*

There are three major social insurances in Canada: workers' compensation, Employment Insurance and the Canada/Quebec Pension Plan. These are referred to as 'insurances' because they represent a pooling of risks in the event of earnings loss as a result of designated contingencies. These programs are 'social' insurances in that contributions to the plans are compulsory and all workers who meet the required eligibility criteria are covered.

#### *i. Workers' Compensation*

Workers' compensation replaces between 75 percent and 90 percent of lost insured earnings in the event of occupational injury, disability or disease (the variation is smaller than the numbers suggest because the programs with a 75 percent replacement rate base the benefits on gross earnings while the 90 percent benefits are based on net earnings). Employees receive compensation in the event of injury but abrogate their right to seek legal damages. Benefits are determined by the length and severity of the incapacity; lost earnings potential also may be taken into account. In addition to cash awards, workers' compensation plans include a variety of in-kind benefits, such as rehabilitation services. Employers pay 100 percent of the cost of workers' compensation, though effectively at least part of the cost is borne in the form of lower-than-otherwise wages.

#### *ii. Employment Insurance*

Employment Insurance is a federally administered program that replaced the former Unemployment Insurance (UI) program. EI provides income protection from temporary work absences arising from unemployment, illness, temporary disability, or birth or adoption of a child. The risk against which the insurance is afforded must be a temporary interruption. Those unemployed over a prolonged period receive assistance under different programs – notably, the Canada Pension Plan and welfare.

The Employment Insurance Act introduced in 1996 provides for two types of benefits: income benefits and employment benefits. Income benefits pay temporary income support for income recipients while they look for work. Employment benefits include a package of measures – wage subsidies, earnings supplements, self-employment assistance, job creation partnerships, and skills loans and grants – intended to help unemployed workers prepare for and find a job. The programs under this stream are operated by the provinces under the terms of the Labour Market Agreements (Ontario has not yet signed an agreement with the federal government).

### *iii. Canada/Quebec Pension Plan*

The purpose of the Canada Pension Plan is to protect Canadian workers and their families from interruption of earnings resulting from retirement, severe and prolonged physical or mental disability, or death. Quebec operates an analogous program.

## *General Programs*

### *i. Social Assistance*

Social assistance is the income program of last resort. It provides financial aid to individuals and families whose resources are inadequate to meet their needs and who have exhausted other avenues of support.

Each province and territory sets its own rules that govern eligibility, amount of basic assistance, type and amount of special assistance, enforcement policies and provisions governing appeals. Despite the differences, social assistance programs in all jurisdictions have several features in common. Applicants must qualify on the basis of provincial definition. Provinces generally require that the disability be severe and prolonged and that the applicant with a disability be considered ‘unemployable’ (i.e., unable to engage in remunerative employment). Social assistance benefits are low everywhere, though the amount for disability typically is higher than for other categories.

In addition, applicants must qualify for social assistance on the basis of a needs test. This test takes into account assets, income and needs. The value of applicants’ liquid assets (e.g., cash, bonds) and fixed assets (e.g., house, car) must not exceed designated levels. Their incomes cannot exceed certain levels. Applicants must identify any special needs that may generate higher costs than their available resources.

## ***The CPP Disability Benefit***

In addition to providing income for persons who qualify, social assistance also on occasion provides a top-up to CPP disability beneficiaries when their benefits are low relative to the size of the household or its needs.

### ***ii. Tax Credits***

#### ***a. Medical Expense Tax Credit***

The medical expense tax credit helps offset the cost of a designated list of health-related goods and services, and disability supports. These include payments to medical practitioners, nurses and hospital services, attendant care and registered nursing services, including home care. Total medical expenses must be more than \$1,637 or three percent of net income, whichever is less. There is no limit on the amount of disability expenses that may be claimed, though the value of the federal credit is only 16 percent of the amount claimed (roughly 24 percent once provincial income tax savings are included).

The credit may be claimed in respect of the medical expenses of an individual, spouse or dependants. Its provisions apply to all Canadians and not just to persons with disabilities.

The 1997 federal Budget enhanced the medical expense tax credit. Prior to that time, the credit was nonrefundable. This means that the credit reduced income taxes owing but did not benefit Canadians with incomes below the taxpaying threshold. The medical expense credit was therefore of little or no assistance to very poor households. Now there is a refundable component to the medical expense tax credit. The maximum refundable portion of the credit is the lesser of \$507 and 25 percent of eligible medical expenses. Taxfilers must earn at least \$2,598 to qualify for this refundable portion.

#### ***b. Disability Tax Credit***

The disability tax credit provides modest tax relief for the additional – but often hidden and indirect – costs of disability. In contrast to the medical expense tax credit, there is no designated list of allowable expenses. The hidden costs of disability include, for example, higher utility costs for heat or air conditioning, additional transportation costs, higher prices for goods because of fewer shopping choices and reduced capacity to earn income.

Unlike the medical expense tax credit, the disability credit has a limit. The basic amount of the disability tax credit was increased from \$4,233 to \$6,000 in 2001 (worth \$960 in federal tax savings and \$480 in average provincial tax savings for a total \$1,440). An additional amount of \$3,500 may be claimed for a child under age 18 who qualifies for the disability amount (worth \$560 in federal tax savings and \$280 in average provincial tax savings for a total \$840).

To qualify for the disability tax credit, claimants must have a severe and prolonged disability that markedly restricts their ability to perform one or more activities of daily living all or almost all of the time. ‘Prolonged’ means that the impairment has lasted or may be expected to last for a continuous period of at least 12 months. ‘Severe’ and ‘markedly restricted’ mean that all or almost all of the time the person is unable, or requires an inordinate amount of time, to perform a basic activity of daily living even with therapy or appropriate devices and medication.

The specific diagnosis or condition is irrelevant. What is important is the impact of that condition upon the person’s ability to carry out one or more basic activities. These include feeding and dressing; eliminating (bladder or bowel functions); walking; perceiving, thinking and remembering; hearing; and speaking so as to be understood in a quiet setting by another person familiar with the individual.

### *Private Insurance*

In addition to the various components of the public pension system, some workers have access to private disability insurance through a group plan provided as a work-related benefit. Employers and employees make contributions to these plans according to a formula that their employer, union or professional association has negotiated with a private insurer. Canadians who work for small companies that do not offer group insurance plans or who are self-employed may purchase private insurance on an individual basis for disability coverage above and beyond the Canada Pension Plan.

While not all workers have private disability insurance coverage through group or individual plans, a substantial number are covered in this way. The Canadian Life and Health Insurance Association reported with respect to disability insurance that: “At the end of 1999, about 58,300 group contracts in force in Canada provided more than 1.8 million workers with short-term income replacement; 90,700 group contracts gave more than six million workers long-term coverage; and 807,200 contracts were purchased individually” [Torjman 2001]. Thus about 8.6 million workers had some form of private disability insurance in 1999, which represents 59 percent of total employment that year.



Workers with private insurance generally are required to apply for a Canada Pension Plan disability benefit if they potentially would qualify. Many workers with impairments and conditions that may be disabling over the long term nonetheless do not qualify for a CPP disability benefit and must rely upon private disability insurance alone.

Moreover, the current definition of disability employed by the Canada Pension Plan requires applicants to have a disability that is both severe and prolonged. A severe disability is one that renders a person incapable regularly of pursuing any substantially gainful occupation. This requirement is different from a number of private insurance plans and even workers' compensation programs which relate initially to a person's inability to do his or her current job.

Each private insurance company has its own policies regarding the percentage of pre-disability earnings that it will insure and the treatment of income from other sources. Generally speaking, private disability insurance replaces between 60 and 85 percent of gross earnings. Benefits from group or individual insurance plans take into account government plans so that total benefits do not exceed a certain percentage of pre-disability earnings. Workers who qualify for the CPP disability benefit have the latter deducted from their total insurance entitlement.

### ***Options for Reform***

Over the past 20 years, Parliamentary committees, disability organizations, researchers and academics have put forward various proposals for reforming the CPP disability benefit. The proposals focus both on reforms that can be made to the existing program and on changes that would reconfigure the structure of the current benefit. There is also a stream of proposals that would maintain the CPP disability benefit but link it more closely with related income security programs, such as Employment Insurance, workers' compensation and private insurance.

The impetus for reform of the CPP disability benefit can be traced to two key recommendations set out in the 1981 *Obstacles* report by the Special (House of Commons) Committee on the Disabled and the Handicapped. The Committee called for improved access to the existing CPP disability benefit, claiming that many potentially eligible Canadians were not aware of the program. In addition to incremental improvements in the short term, the Committee called for major structural reform that would integrate the disability benefit from the Canada Pension Plan with a proposed new Comprehensive Disability Insurance Program.

Both recommendations led to a series of actions. The proposals for improved access were followed by several legislative changes in 1987 and 1992 that liberalized the eligibility criteria for



the benefit. The second recommendation for long-term reform led to a multi-year federal-provincial/territorial review of existing income security programs in Canada. Its findings as well as other proposed options for comprehensive reform are discussed below.

There are advantages and disadvantages to both the internal changes and to the more substantive pathways to reform. The advantage of internal changes that can be made within the CPP itself is the relative simplicity of this approach. There are fewer barriers to change if reform efforts are directed toward the internal administrative and design elements of the program. (It should be noted, however, that nothing is relatively simple when it comes to the CPP; any substantive change requires the approval of two-thirds of the provinces, including Quebec, with two-thirds of the population of Canada.)

The disadvantage of focussing upon only the CPP is that fundamental problems related to the disability benefit and the disability income system, more generally, remain unresolved. Maintaining the current configuration of programs does nothing to address concerns arising from the patchwork quilt of existing programs including haphazard coverage, multiple eligibility criteria and several complex administrative structures.

### *i. Internal Reforms*

Over the past 20 years, reforms have been proposed with respect to both the administration and the design of the CPP disability benefit. At the administrative level, many improvements have been made – especially in response to the 1993 Auditor General’s report.

Changes also have been introduced to various dimensions of the benefit. The reforms that took effect between 1987 and 1992 made the CPP disability benefit more generous both in adequacy and eligibility. But the changes effected subsequent to that expansive period basically have tightened eligibility through adjustments to administrative guidelines and to contributory requirements.

In 1996, the federal government issued a Consultation Paper with various options for reform of the Canada Pension Plan. Just days before tabling the 1997 federal Budget, the Finance Minister announced several legislative amendments which took effect in 1998.

Most of these changes affected the financing of the Plan and introduced the shift from pay-as-you-go to partial funding described under “How the CPP Works.” The other significant reforms involved changes to the way benefits are calculated for both the retirement benefit and the earnings-related portions of the disability and survivor benefits.

## *The CPP Disability Benefit*

Prior to the 1997 announcement, retirement benefits were based on the average of the last three years' YMPE (Year's Maximum Pensionable Earnings). The amendments now require that benefits be calculated on an average of the last five years' YMPE.

While this reform is more consistent with the majority of private disability insurance plans, it nonetheless will reduce benefits for two reasons. First, workers' wages usually reach their peak at the end of their working life. The overall average based on a five-year span typically is lower than an overall average based on a three-year period, which generally includes the highest level of earnings. In addition, since each year's YMPE is stated in current rather than constant dollars, a five-year average arithmetically will be lower than a three-year average. Thus the maximum benefit will be lower under the new rules, as will all benefits less than the maximum.

Several other changes were made to the disability benefit in particular. Eligibility for the disability benefit used to require that contributions be made in two of the past three years or five of the past ten years. The amendments replaced these rules with a single contributory requirement: Contributions to the Plan now must be made in four of the past six years.

The calculation of retirement benefits for disability beneficiaries also was modified. Retirement benefits used to be based on the YMPE when the recipient turned 65 and then indexed to wages. The retirement benefit for disability beneficiaries now is based on the YMPE at the time of disablement (regardless of when this occurred) and subsequent indexation to prices. In addition, disability benefits no longer are paid to estates and recipients of an early retirement benefit no longer are eligible for disability benefits.

Prior to the changes, the combined survivor-disability benefits were based on a ceiling equivalent to the maximum retirement pension plus the larger of the two flat-rate components of the survivor and disability benefits. The new ceiling is now one maximum disability benefit.

Taken together, the various reforms have the effect of tightening up the disability benefit. The longer contributory requirements will keep some workers off the disability caseload even if they meet the definitional requirements.

The reduction in the ceiling of the survivor-disability benefit will lower the maximum value of these combined benefits. The change in the calculation of the retirement benefit – i.e., using the earnings base at the time of disablement and moving toward price rather than wage indexing – also will have a negative impact upon benefits. Many disability beneficiaries will experience a larger drop in income when they move onto retirement benefits. Workers who may have become disabled early in their careers could suffer a substantial loss of income.

## *ii. Integration with Other Programs*

A second stream of reform options has proposed closer linkage between the CPP disability benefit and related programs. Integration could help reduce the duplication that arises from double assessment and administrative procedures, medical reports, overpayments, delays and lack of coordination around key areas, such as rehabilitation.

### *a. Employment Insurance*

One possibility is to merge parts of the disability benefit with the employability measures in the Employment Insurance (EI) program. EI provides income protection from temporary work absences arising from unemployment, illness, temporary disability, or birth or adoption of a child.

At the current time, there are no formal links between EI and the CPP. There is no automatic referral from the short-term to the long-term program as there are in other countries. Most European jurisdictions link their sickness benefits and public disability insurance schemes to ensure a smooth transfer to the long-term disability program when the entitlement to short-term benefits expires.

Closer ties with Employment Insurance would enable rehabilitation and retraining to begin at earlier stages. The program provides financing for a package of measures – wage subsidies, earnings supplements, self-employment assistance, job creation partnerships, and skills loans and grants – that help workers prepare for and find a job. Far more persons with disabilities could be working successfully but are not because of the barriers they face in getting retraining and disability supports.

But while integration may sound easy in theory, it would be difficult in practice. The current disability benefit is framed upon a definition which basically expects that most claimants will be out of the workforce for a prolonged period or forever.

The closer integration of CPP with Employment Insurance would add another layer of complexity to the latter program. EI has been criticized by several federal commissions and studies over the years on the grounds that it is trying to accomplish too much under the same umbrella.

A related complication arises from the fact that the CPP provides protection in the event of loss of earnings from three very different contingencies: retirement, prolonged disability and death. The original rationale for the program was to provide protection from loss of earnings in the face of factors that result in *long-term* earnings interruptions. Employment Insurance, by contrast, was intended to protect earnings in the event of *short-term* work interruptions.

The different purposes of the two programs might complicate their linkage. However, there may well be integration possibilities from the perspective of administration and rehabilitation as described below. The fact that both programs are administered by the Department of Human Resources Development Canada might facilitate the integration process – at least on paper.

***b. Workers' Compensation***

The purpose of workers' compensation is to compensate for earnings loss in the event of a work-related accident or injury. While workers' compensation offsets earnings loss for work-related accidents or injuries, the CPP pays benefits in the presence of a severe and prolonged disability that prevents a person from working at any job, regardless of cause. This means that a worker could receive benefits under both workers' compensation and the CPP.

A closer link with workers' compensation could help integrate certain administrative and rehabilitation functions now carried out independently by both programs. In fact, the CPP administration has contacted all Workers' Compensation Boards in the country to ascertain their interest in information-sharing agreements to provide joint service and undertake cooperative efforts around re-employment.

Another option for reform seeks to resolve the issue of first and second payer. In some provinces, workers' compensation is added to the CPP. Recipients can make more money from both programs than when they were working. In other provinces, workers' compensation deducts CPP benefits on a dollar-for-dollar basis and thereby reduces its own costs. In Quebec, as described, the disability income system is far more coherent. Workers with a job-related injury go to workers' compensation; they cannot apply to the Quebec Pension Plan.

The key issue with respect to the Canada Pension Plan is to determine which program should assume the role of first payer. It could be argued that workers' compensation should bear the primary cost of a disability resulting from a work-related injury. The program was set up for that purpose. The CPP then could top up benefits from other programs to a designated maximum.

Once again, a proposal that appears straightforward on paper actually might be complex in practice. Turning the CPP into a second payer could make it a residual program rather than an insurance that provides guaranteed coverage for all who have made the required contributions.

For example, a worker injured on the job might receive workers' compensation and nothing from CPP. The lack of payment potentially could create a problem, given that the worker had made compulsory contributions to the CPP. (This concern does not appear to be an issue, however, in Quebec where the QPP is second payer to workers' compensation.)

Another problem in proposing a closer merger of CPP and workers' compensation (especially if the latter becomes the designated first payer) is that the cost burden could shift to employers who now pay 100 percent of contributions for workers' compensation but only 50 percent of contributions for the Canada Pension Plan. If, by contrast, CPP becomes first payer to workers' compensation, then CPP would assume more of the cost, thereby increasing the burden on employees. In addition, a closer integration of workers' compensation and CPP could complicate the experience-rated base of workers' compensation, which is intended to act as an incentive to provide a safe workplace.

Finally, workers' compensation is different from other programs because it provides compensation for partial loss of capacity. The CPP disability benefit, by contrast, is an 'all or nothing' approach with no provision for partial benefits.

### *c. Private Insurance*

This option would link CPP with private insurances that pay compensation for disability. There is considerable variation among private long-term disability insurance plans. In general, most private insurances act as second payer to the CPP. They either top up the CPP benefit or provide a sum to compensate for future loss of earnings. Private insurers typically replace between 60 and 85 percent of gross earnings. They take into account income from other sources including CPP. Insurance premiums are calculated with this offset in mind.

The fact that private insurers are second payers means that they generally encourage applicants to apply for the CPP. This practice increases the workload for the CPP administration and the associated costs. Closer integration could reduce the likelihood of inappropriate referrals and unnecessary appeals.

Closer links with private insurers could help reduce unnecessary testing and administrative duplication. There is value in collaborating on reassessments in particular. If these are not carried out jointly, then the same person could be found by one administration to be capable of working while deemed unemployable by the other program.

The lack of collaboration around rehabilitation, in particular, is unfortunate. Private insurers often come into contact with workers at relatively early stages in the development of a disability and could provide earlier rehabilitative intervention, which generally results in a higher rate of success.

***d. Integrated Assessment/Rehabilitation***

Under this option, existing income programs would remain in place but would share common functions, such as assessment and rehabilitation. The purpose of this approach is to streamline various programs by reducing costly assessment for eligibility and rehabilitation. Recent amendments to the CPP allow the Department of Human Resources Development Canada to enhance its ability to share information with other program providers. The provisions also simplify the reimbursement process among various payers, including workers' compensation, social assistance and private insurers.

The Canada Pension Plan already has tested a model of integrated assessment/rehabilitation with the BC Ministry of Labour, the Insurance Bureau of British Columbia (responsible for automobile insurance), the provincial workers' compensation board, a private insurer and the regional Employment Insurance office. The pilot operated on a case management basis in which each claimant was assigned to an individual who assessed needs and rehabilitation potential, developed a rehabilitation plan, set out a training program and assisted in finding a work placement. These functions were carried out according to a set of mutually agreed 'best practices.' The BC Paraplegic Association provided case management and job placement.

This experiment required extensive collaboration among all involved parties including the federal government, provincial/territorial governments and bodies (e.g., workers' compensation boards) and private insurers. Because of the administrative complexities involved in the arrangement, a national program would have to be implemented on a province-by-province basis.

***iii. Comprehensive Reform***

Proposals for comprehensive reform fall into several major streams. The first involves new earnings replacement options in lieu of the current CPP disability benefit. The second stream entails the creation of a new disability-related insurance program. Finally, some form of guaranteed income has been proposed that would combine both earnings replacement and income support programs into a new benefit.

***a. Earnings Replacement Options***

Several options for comprehensive reform of the disability income system were developed by a Joint Federal-Provincial Task Force struck in response to the recommendations of the *Obstacles*

report. The Task Force identified three models for reforming the earnings replacement component of disability income. Model #1 would be privately administered and would extend long-term disability to all workers. Model #2 involved a CPP-type program with federal administration. Model #3 was based on provincial administration and provided both full and partial disability.

All the options were designed to replace 60 percent of pre-disability earnings up to the C/QPP ceiling tied to the average wage; provide inflation protection; begin payments 17 weeks after the onset of disability; protect all employees and the self-employed; and include a rehabilitation component [Federal-Provincial Task Force 1985]. All the options assumed the continued existence of workers' compensation, other categorical programs (e.g., automobile insurance) and social assistance. Two of the options assumed public administration.

### ***b. Full and Partial Benefits***

One option would provide protection for earners in the event of full or partial disability of a long-term nature. Both the population protected and the level of earnings covered would be identical to the C/QPP. But the definition of disability would be based on the experience from past workers' compensation claims and would include an estimated percentage loss of individuals' earning capacity.

The *Joint Federal-Provincial Study* proposed that a full benefit would be 60 percent of 'final insured earnings' up to the earnings ceiling – i.e., a formula based on earnings in the pay period (usually a year) just prior to the onset of the disability. Partial benefits would be paid on a pro-rated basis relative to the loss of earnings capacity. Partially disabled workers would receive 60 percent of their wage loss. The program would have a strong commitment to rehabilitation.

Although the CPP Act allows for rehabilitation, the inclusion of partial benefits would represent a fundamental shift in the nature of the CPP, its eligibility criteria and associated benefits. The provision of partial benefits means that the current eligibility criterion of severe and prolonged disability with no capacity to work would have to be re-examined.

A program that paid partial benefits – whether within the CPP or another program – would recognize that many individuals with disabilities are capable of working to some degree. But there are dangers that a program which pays partial benefits may create unrealistic expectations with respect to work performance. There must be associated personal and work-related supports as well as available jobs. Otherwise, the program could withdraw benefits inappropriately because it is based on the false assumption that certain individuals can resume employment in the absence of these supports or available employment.



## ***The CPP Disability Benefit***

There are also concerns that partial benefits could leave people in insecure positions and in a state of poverty. “A person with a disability which effectively excludes him or her from the workforce needs a full income, not 15 or 50 percent” [Beatty 1991: 119].

Another concern relates to the potential for skewing the nature of an insurance program – whether it is CPP or some other configuration. A decision to introduce partial benefits would have to consider whether the benefit as currently paid (i.e., as a percentage of former earnings) must change to take earnings into account. The program could become, in effect, an income-tested benefit and move away from the concept of an insurance based on former earnings.

The *Joint Federal-Provincial Study* recognized the difficulty of implementing a private insurance that compensated for anything other than full disability. It noted that serious administrative problems could arise if efforts were made to extend protection further by paying partial disability benefits, given the wide range of physical and mental conditions which could be used to justify a partial benefit claim [Federal-Provincial Task Force 1985: 21].

### ***c. Mandatory Private Insurance***

The *Joint Federal-Provincial Study* put forward a proposal for a mandatory private insurance that would replace the CPP disability benefit. Benefits would be paid to persons who, by reason of disability, are unable to perform the duties of any occupation for which they are reasonably qualified or may become qualified through training, education or experience.

The new benefit would incorporate an active rehabilitation component that would be patterned on the individual assessment approach now used in private plans. Insurers would have an explicit obligation to promote rehabilitation. Individuals who engage in training or an occupation under the supervision of a physician and with the approval of the insurer would have benefits reduced. Total income from all sources would not exceed 100 percent of pre-disability income. However, benefits would increase to the full amount if the beneficiary were unable to continue the work activity.

The danger of the proposed reform is that there could be a strong profit motive to lower costs, control eligibility and shorten the length of claims. A private scheme could reduce coverage – with many individuals effectively denied inclusion on the grounds that they are considered to be too high risk. Many private plans already exclude persons with pre-existing disabilities. Alternatively, persons deemed to be high risk could be covered but may be required to pay inordinately high premiums.



***d. Universal Accident Insurance***

A universal accident insurance scheme was proposed by the Ontario Task Force on Insurance in 1986. The new benefit would consolidate the categorical programs currently in place including tort liability, automobile accident insurance, criminal injuries compensation and war veterans' benefits.

The major strength of this proposal is that it would replace the range of programs which compensate for accidents – whether the result of workplace injury, automobile accident, household injury or war-related injury. Both the cause and venue of the disability would be irrelevant; the focus would shift to the consequence of the accident.

A universal accident insurance scheme would go a long way toward addressing problems in the current system. Under the tort system, compensation is paid on an irrational basis. More than half of all injuries go uncompensated. A universal accident insurance also would reduce the cost of tort for injury compensation. A large portion of every premium dollar is diverted toward transaction costs.

The weakness of the proposal is that it provides support in the event of a disabling accident. While it would be relatively easy to determine eligibility for benefits, the majority of claims for disability are not made as a result of accidents. Disability and death due to disabling diseases are far more prevalent than disability and death due to accidents [Weiler 1983: 16-17].

***e. Comprehensive Public Insurance***

In its 1994 report, the CPP Advisory Board proposed a universal disability insurance program. A detailed proposal for comprehensive disability insurance was set out in the 1988 *Transitions* report of the Ontario Social Assistance Review Committee (SARC). Under the SARC proposal, a comprehensive insurance plan would pay benefits for disability due to accident, illness or injury primarily on a mostly no-fault basis, regardless of cause. Coverage against total and partial disability would be extended to all full-time, part-time and self-employed workers.

The proposal would integrate the range of earnings replacement programs, including workers' compensation and the CPP disability benefit. The integration also could abolish or limit the right to sue for damages arising from accidents that cause personal injury or death. Private insurance could continue to be provided for temporary or short-term disability or for the provision of benefits over and above the earnings level established by the comprehensive plan.

## *The CPP Disability Benefit*

Under a similar model for comprehensive insurance put forward by academic Terence Ison, all government programs for compensation or premature death would be combined into one plan. The plan would include workers' compensation, actions for damages for personal injury and death, automobile accident benefits, compensation for the victims of crime, the sickness benefit under Employment Insurance, the disability and death benefits under the Canada Pension Plan and veterans' benefits [Ison 1994: 132]. Only social assistance would remain separate – as a last resort to provide temporary assistance in the event of short-term disability or until another plan came into effect in the event of long-term disability. Private insurance would neither merge with the plan nor be prohibited, but it would become largely unnecessary.

The advantages of comprehensive insurance include the fact that the program would cover all disabilities, regardless of cause or where the accident, injury or disabling condition happened to occur. This design would help respond to a fundamental problem in the disability income system: type and level of benefit now paid are determined more by type and cause of disability rather than its *consequence* – i.e., inability to perform a basic activity of daily living or inability to work.

### *f. Guaranteed Annual Income*

This option is often referred to as *the* guaranteed annual income as though there is only one possible design for a comprehensive benefit. In reality, there are several possible designs for a guaranteed income – which refers more to a concept than a single model. The idea for some form of guaranteed income has been discussed since the 1960s. It was part of the federal-provincial Social Security Review of the mid-1970s. The concept was raised again in the federal Social Security Review of the mid-1990s.

In March 1996, all provinces (except Quebec) released a *Report of the Ministerial Council on Social Policy Reform and Renewal*. The *Report* proposed the possible integration of income support for individuals with long-term and significant disabilities into a single national program. It was not clear whether the proposal was intended to include other provincial programs, such as workers' compensation, automobile accident insurance and social assistance.

One possible design for a guaranteed income involves the shift of persons with disabilities who receive provincial social assistance to a federally funded benefit. It would be financed from general revenues and through integration with the CPP disability benefit. Payments would be calculated on the basis of an income test that takes into account the availability of other resources. Benefits would decline as income from other sources rose.

Another form of guaranteed income is sometimes referred to as the ‘big bang’ approach. This approach rationalizes and integrates *all* existing income programs – federal, provincial and private – that deliver disability-related benefits. It would eliminate the need for publicly financed insurance programs, although individuals and employers could continue to purchase private disability insurance as a form of top-up. Provinces would provide temporary assistance in the event that a person’s income changed dramatically over the course of a year or in the event of temporary disability (e.g., an accident or operation that left someone temporarily incapacitated).

Under this scheme, persons with disabilities no longer would have to classify themselves as unemployable. Those who become involved in some form of work or training would not risk losing basic income. And herein lies a major concern related to any form of guaranteed income, regardless of design: It could have the opposite-than-intended effect upon work performance. Participation in the labour market could be discouraged through the presence of an income guarantee, regardless of work involvement.

There is no way to get around this conundrum. If the purpose of the program is both to provide a guaranteed income and encourage workforce participation, there always will be individuals who choose not to work. It is assumed that they will comprise a minority of the potential recipient population; most people want to work when they have the opportunity.

## *Conclusion*

There is no shortage of proposals for reform of the Canada Pension Plan disability benefit and of the disability income system more generally. Comprehensive reform, regardless of design, is a complex and potentially costly undertaking that would require the integration of several administrative apparatuses.

It is unlikely that there will be comprehensive reform in the foreseeable future. The closest that the CPP will come to major reform is to integrate its administration more strategically with related programs.

In the meantime, there are still many reasons to ensure the adequacy and integrity of the CPP disability benefit. Its protection remains as vital as it was when introduced 35 years ago.

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