

## **Government of Canada Response to**

### **“Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program”**

**The Fifth Report of the Standing Committee on  
Human Resources Development  
and the Status of Persons with Disabilities**

**November 2003**



**For additional copies of this publication, please write or fax, indicating catalogue number ISPB-327-11-03:**

Public Enquiries Centre  
Human Resources Development Canada  
140 Promenade du Portage  
Phase IV, Level 0  
Gatineau, QC K1A 0J9  
Fax: (819) 953-7260


**Also available on the Internet at:**

[www.hrdc-drhc.gc.ca/isp](http://www.hrdc-drhc.gc.ca/isp)

**To obtain additional copies or to order this publication in alternative formats**

(large print, audio cassette, Braille, or computer diskette), call toll-free:

**1 800 277-9914**, or

 **1 800 255-4786** (if you use a TTY machine)

©Her Majesty the Queen in Right of Canada, 2003

Cat. No. RH4-22/2003

ISBN 0-662-67785-4

Printed in Canada

Minister  
of Human Resources  
Development



Ministre  
du Développement  
des ressources humaines

Ottawa, Canada K1A 0J9

Ms. Judi Longfield, M.P.  
Chair  
House of Commons Standing Committee on  
Human Resources Development  
and the Status of Persons with Disabilities  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Colleague, *Judi,*

Pursuant to Standing Order 109 of the House of Commons, I am pleased to provide the attached response, on behalf of the Government of Canada, to the recommendations contained in *Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program*, the fifth report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities.

The government appreciates the work performed by the Committee and its Subcommittee on the Status of Persons with Disabilities, and welcomes its recommendations. The Committee's report is the result of the first parliamentary study undertaken on the Canada Pension Plan (CPP) Disability program since the 1980s. Using e-consultations to learn of Canadians' experiences was a unique way to capture the voices of those who would not normally have had an opportunity to offer input to a parliamentary committee.

Your Committee and its subcommittee have played an important role in providing all stakeholders with the opportunity to share their knowledge, experiences and concerns in dealing with the CPP Disability program. Further, the Committee's work has provided vital input for addressing the challenging, interdependent and complex issues facing the CPP Disability program and its clients.

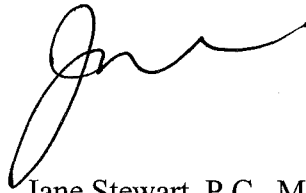
.../2

Canada

The government's response to *Listening to Canadians* describes the steady progress the CPP Disability program has made over the last decade in improving the application and appeals processes, updating its adjudication tools and working towards a more coordinated disability income system. Work remains to be done, and your Committee's report has provided valuable advice on where our efforts should be concentrated. It has helped to clarify the forward work plan for the CPP Disability program, and I look forward to working closely with the Committee to implement many of the suggestions made for improvement. I will also ensure that the Committee is kept up to date on the department's progress in making the CPP Disability program easier to navigate and an effective component of the disability income system.

I wish to express my personal gratitude to the Committee for the many insights it has provided in *Listening to Canadians*. This work will be integral to the ongoing efforts of the government to engage all sectors of Canadian society on disability income issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Stewart', with a large loop at the start and a long horizontal stroke at the end.

Jane Stewart, P.C., M.P.

Enclosures: 2

c.c. Dr. Carolyn Bennett, M.P.  
Chair  
Subcommittee on the Status of Persons with Disabilities

**GOVERNMENT OF CANADA RESPONSE TO  
“Listening to Canadians:  
A First View of the Future of the  
Canada Pension Plan Disability Program”**

**CONTENTS**

<b>1. DEVELOPING THE REPORT</b>	<b>1</b>
<b>2. THE CONTEXT – THE FEDERAL DISABILITY AGENDA</b>	<b>2</b>
<b>3. MAKING THE CANADA PENSION PLAN SECURE</b>	<b>3</b>
<b>4. CPP DISABILITY PROGRAM: OBJECTIVES AND ELIGIBILITY CRITERIA</b>	<b>5</b>
<b>5. CPP DISABILITY PROGRAM: ADJUDICATION POLICY</b>	<b>6</b>
<b>6. CPP DISABILITY PROGRAM: APPLICATION PROCESS</b>	<b>6</b>
<b>7. CPP DISABILITY PROGRAM: CLIENT-CENTRED SERVICE DELIVERY IMPROVEMENTS</b>	<b>6</b>

<b>RESPONSE TO RECOMMENDATIONS</b>	<b>8</b>
<b>I. Expanding Coverage and Enhancing Benefits</b>	<b>8</b>
1. Expanding Eligibility	9
a) <i>General</i>	9
b) <i>Changing Key Definitions</i>	9
c) <i>Drop-out Provisions</i>	10
2. Enhancing Benefits	10
a) <i>General</i>	10
b) <i>Four-month Waiting Period</i>	10
c) <i>Year's Maximum Pensionable Earnings</i>	11
d) <i>Tax Treatment of Benefits</i>	11
<b>II. Improving the Application and Appeals Processes</b>	<b>12</b>
1. Modernizing the Application Process	12
a) <i>General</i>	12
b) <i>Clients with a Terminal Illness</i>	13
c) <i>Simplifying the Application Process</i>	14
d) <i>Additional Assessments</i>	14
e) <i>Personalized Contact with Applicants</i>	14
f) <i>Obtaining Medical Information</i>	15
g) <i>Functional Assessments</i>	15
2. Appeals Issues	16
a) <i>General</i>	16
b) <i>Simplifying the Appeals Process</i>	17
c) <i>Legal Aid</i>	18
3. Other Administrative Measures	18
a) <i>Advisory Committee</i>	18
b) <i>Departmental Performance Report</i>	19
<b>III. Supporting Return-to-Work Efforts and Preventative Strategies</b>	<b>19</b>
1. Augmenting Return-to-Work Provisions	19
a) <i>General</i>	19
b) <i>Vocational Rehabilitation Services</i>	20
c) <i>Automatic Reinstatement</i>	21
d) <i>Other Measures</i>	21
e) <i>Testing and Pilot Projects</i>	21
<b>IV. Enhancing Operational Guidelines</b>	<b>22</b>
1. Degenerative and Cyclical Illnesses	22
2. Comprehensive Evaluations	23
3. Taking Recent Jurisprudence into Account	23
4. Applicants Nearing Retirement Age	24

<b>V. Improving Communications with Clients and Other Stakeholders</b>	<b>25</b>
1. Coordination of Disability Communications	25
a) <i>General</i>	25
b) <i>Information Partnership with CCRA</i>	27
c) <i>OCRT Outreach</i>	27
d) <i>Language Services</i>	28
e) <i>Supporting National Disability Organizations</i>	28
<b>VI. Enhancing Research and Analysis</b>	<b>28</b>
<b>VII. Interaction with Other Disability Income Programs</b>	<b>29</b>
1. General	29
2. Definitions of Disability	30
3. Reducing the Administrative Burden on Healthcare Professionals	30
4. Relationships with Provincially Regulated Programs	31
a) <i>General</i>	31
b) <i>Offsetting</i>	31
5. Withholding Tax at Source on CPP Disability Program Benefits Paid Under Assignment Agreements	32
6. Other Initiatives	32
7. Provincial/Territorial Income Support Programs for Persons With Disabilities	33
8. Cost of Living Adjustments	33
9. Relationship with Part II, Employment Insurance	34
<b>VIII. Future Directions for the Disability Income System</b>	<b>35</b>
<b>CONCLUSION</b>	<b>36</b>
<b>APPENDIX 1: LIST OF RECOMMENDATIONS FROM LISTENING TO CANADIANS</b>	<b>38</b>
<b>APPENDIX 2: EXAMPLE OF A DENIAL LETTER</b>	<b>49</b>

## GOVERNMENT OF CANADA RESPONSE

This document is the Government of Canada's response to the Fifth Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities: *Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program*.

### 1. DEVELOPING THE REPORT

The Government welcomes the Fifth Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities, *Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program*, as a significant contribution to the on-going discourse on how to improve the design and delivery of the Canada Pension Plan (CPP) Disability program. The report demonstrates vividly the deep commitment of Members of Parliament to ensuring that Canada achieves meaningful progress on issues affecting Canadians with disabilities. The report reflects the rich findings that emerged from the original and participatory approach adopted by the Subcommittee on the Status of Persons with Disabilities, an approach which made a major contribution to the first parliamentary review of CPP Disability since 1981. The Subcommittee has set out a clear direction for the Government for future improvements to CPP Disability, and helped to clarify what the priorities should be. The Government looks forward to continuing to work with the committee, and will report back regularly on steps taken and progress.

The Government congratulates the Subcommittee on its innovative leadership in launching a website that enabled Canadians to follow the Subcommittee's deliberations. For the first time in Canadian history, the Subcommittee invited Canadians from across the country to take part in a parliamentary study by contributing via the Internet, their views on, and their experiences with, the CPP Disability program. Some 1,700 Canadians responded to the Subcommittee's call, providing a wealth of information and ideas for possible solutions to a number of the challenges faced by the CPP Disability program. This was complemented by extensive hearings with a wide range of experts and witnesses.

*Listening to Canadians* focuses on the near term, examining a broad array of administrative and program issues, such as how the CPP Disability program works, the definition of disability and eligibility criteria employed by the program, application and appeal processes, adequacy of benefits, return-to-work issues, and interactions between the program and other disability income systems. Notwithstanding its emphasis on the present, the Committee's report also offers insight and recommendations on how to address future challenges, calling on the Government of Canada to undertake background studies for possible major reforms. The studies recommended include de-linking the CPP Disability program and the Canada Pension Plan, providing a single point of entry for other federal and provincial disability income programs, and constructing alternative income programs and measures to help overcome a lack of integration evident across federal, provincial and private disability income programs.



## 2. THE CONTEXT – THE FEDERAL DISABILITY AGENDA

Like the members of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities, the Government of Canada is strongly committed to building a more inclusive society; a society in which all Canadians enjoy a high quality of life. Accordingly, in 1996, First Ministers identified issues relating to persons with disabilities as a priority for social policy renewal. Since then, the Government of Canada has worked in collaboration with the provinces and territories, the disability community, public- and private-sector organizations, academia and Canadians with disabilities to ensure that persons with disabilities can take their full place in our society.

To this end, in 1998, federal, provincial and territorial ministers responsible for social services released *In Unison: A Canadian Approach to Disability Issues*<sup>1</sup>, a shared vision and policy framework for persons with disabilities. This vision reflects a new way of understanding disability issues; it calls for policies that focus on three building blocks: disability supports; employment; and income. The Government's disability agenda, published in 1999 as *Future Directions*, directly reflects these three building blocks, and provides for joint and collaborative actions, as well as complementary initiatives among different levels of government.

Recognizing that persons with disabilities have differing needs, and different needs at different stages in their lives, the Government has many programs and initiatives to support its disability commitments. For example, CPP Disability program benefits and the Veterans Disability Pension help eligible Canadians with disabilities and their families meet their income needs; the Employability Assistance for People with Disabilities and the Opportunities Fund help them succeed in the labour market; the Canada Study Grants for students with disabilities provides assistance for post-secondary education; and low-income Canadians with disabilities can receive financial assistance from the Residential Rehabilitation Assistance Program for Persons with Disabilities to modify their homes to improve accessibility and mobility.

In addition to program benefits, the Government provides tax relief to persons with disabilities or above-average medical expenses, as well as tax relief to those who care for them. These tax-relief measures recognize the reduced ability of persons with disabilities to pay tax; they also help lower the barriers these persons face in joining or returning to the labour force. The measures include the disability tax credit, the medical expense tax credit, the caregiver credit, the infirm dependant credit, the attendant care deduction and the refundable medical expense supplement. Further, in the 2003 federal budget, the Government introduced the child disability benefit, recognizing the special needs of low- and modest-income families that care for children with severe disabilities.

To improve service and make its programs easier to access, the Government has recently embarked on comprehensive service changes, improving the way it does business and

---

<sup>1</sup> Quebec shares the concerns raised in the report *In Unison* and has a consistent vision. The Government of Quebec, however, did not take part in the development of the document.

communicates with Canadians, including those with disabilities. *A Service Delivery Vision for Canadians*, a suite of initiatives to implement these changes, outlines efforts now underway to improve connections between Canadians and the Government.

These efforts, which build on the Government Online initiative but go beyond it, will transform service delivery networks. They aim to satisfy Canadians' clearly expressed wishes surrounding service delivery. The Government recognizes that Canadians want programs and services to be integrated, easy to access, simple to navigate and flexible. They want federal, provincial and territorial governments to work collaboratively—with one another, with business, labour and community organizations, and with Aboriginal communities—to address social and labour market issues. Indeed, these desires are consistent with those expressed by the Canadians who contributed to the work of the Subcommittee, who indicated they want Government to offer more efficient application, assessment and communication processes.

The Government has heard these calls for change and is committed to developing a whole-of-government, client-centred, multi-channel system of service delivery to meet and surpass Canadians' expectations for:

- seamless access to government services that cuts across jurisdictional lines;
- services designed and delivered from a citizen perspective;
- a choice of service delivery channels—Internet, telephone, mail or in-person; and
- high-quality services, regardless of the channels citizens choose.

Consistent with this service delivery vision, Human Resources Development Canada (HRDC) has embarked on major changes to modernize services, and to renew the organization and its policy capacity. As part of this *Agenda for Renewal*, HRDC is taking a comprehensive look at the way it does business with Canadians, with a view to evolving from a department based on programs and transactions to one that is integrated, client-focused, relationship-based, and better at anticipating and responding to the changing needs and expectations of Canadians, including those with disabilities.

### **3. MAKING THE CANADA PENSION PLAN SECURE**

In 1966, Parliament passed legislation creating the Canada Pension Plan, a national contributory social insurance plan funded by the contributions of employers, employees and the self-employed. The CPP operates in all provinces and territories except Quebec, which established the complementary Quebec Pension Plan. The CPP was designed to provide workers and their families with a reasonable minimum level of earnings replacement in the event of retirement, disability and death. The federal and provincial governments are joint stewards of the CPP, and any major changes to the CPP require the approval of Parliament and of at least two-thirds of the provinces representing two-thirds of Canada's population.

The face of Canada's population today, however, is entirely different from what it was when the CPP was introduced. A fast growing seniors population, a large generation soon to retire, and a rapidly shifting economy meant that changes to the CPP were essential to maintain an affordable, sustainable and fair system for all Canadians. Indeed, in the 1990s, the chief actuary of the CPP reported that, if no changes were made to the CPP and the way it was financed, future generations of Canadians would be required to pay more than 14.2 percent of contributory earnings (shared equally between employer and employee) in the year 2030 for the same pensions Canadians were then receiving by paying 7.8 percent of contributory earnings.

Prompted by this troubling report, governments embarked on an extensive series of public consultations concerning the CPP. Certain clear findings emerged from these consultations. Among them was that securing the future of Canada's retirement income system was a key priority for Canadians. Governments also learned that, while Canadians considered disability and survivor benefits important features of the CPP, these benefits had to be designed and administered in a way that did not jeopardize the security of retirement pensions.

To guarantee that the CPP will continue to be available for Canadians in the future, governments put in place a strong and balanced package of changes to strengthen financing, improve investment practices and moderate growth in costs. These changes became law in January 1998.

These amendments to the CPP were designed to ensure its long-term sustainability and affordability. To achieve this, a careful balance had to be struck between making sure that the CPP Disability program serves severely disabled Canadian workers effectively and managing costs overall to keep the CPP sustainable. The 1998 amendments helped to ensure that the CPP is available not only for workers when they retire, but also for contributors and their families should they become disabled or die. As an additional measure to help secure the CPP for the long-term, the legislation now requires that any increase in benefits must be accompanied by a permanent increase in the contribution rate to cover incremental future costs. Ensuring the future sustainability of the Canada Pension Plan remains a key policy objective shared by the Government of Canada and the provinces.

Together, the 1998 changes have led to the growth of a large reserve fund for the CPP. Investment earnings from this fund will help pay for growing costs, primarily due to the retirement of the baby boom generation, keeping the CPP sustainable for future generations. A review of the CPP by federal and provincial ministers of finance in 2002 confirmed that the CPP is financially sound and on track to provide retirement pensions well into the future.

#### **4. CPP DISABILITY PROGRAM: OBJECTIVES AND ELIGIBILITY CRITERIA**

Since its inception in 1966, the CPP Disability program has become the single largest long-term disability income program in Canada. Last year, over \$2.7 billion was paid to over

280,000 adults and some 90,000 of their children. During the same period, over 57,000 applications for benefits were received by HRDC, and close to 6,000 appeals were heard by the Review Tribunal and the Pension Appeals Board.

The eligibility criteria for the CPP Disability program are two-fold: applicants must have made contributions to the program in four of the last six years, with minimum levels of earnings in each of these years; and they must also demonstrate that their physical or mental disability prevents them from working regularly at any job that is “substantially gainful”.

When the CPP was established, parliamentarians decided that CPP benefits payable to contributors should not be affected by benefits from other retirement and disability income plans that employers, workers and provincial governments had established. In consequence, CPP Disability pays benefits to all who are eligible, regardless of other income or benefits received from other programs, and no reference to offsets exists in the statute governing CPP.

However, legislators expected that, with the passage of time, these other plans and programs would be adjusted to offset some or all of the CPP Disability benefit. This has, in fact, happened, and most long-term insurance policies and provincial programs offset CPP Disability benefits. Over time, all provincial social assistance programs, private long-term disability insurance and most workers compensation boards authorized the offset of CPP Disability benefits to some extent. Policy objectives behind these offsets range from reducing disincentives to returning to work (by capping total benefits so they do not exceed pre-disability earnings) to meeting the basic definition of a needs-tested income benefit (as in the case of provincial social assistance). The Government does, not, however, have any control over these offsets, which are not governed by the CPP but are set by provincial programs or provincially-regulated insurers.

These offset arrangements have become the norm for disability income support programs, and with few exceptions, these programs have been designed with the expectation that a proportion of clients will also receive CPP Disability benefits. The general practice of other payers such as provincial social assistance and long-term disability insurers is to pay the full benefit to the individual from the beginning and to collect back the CPP Disability benefit as an offset if it is later approved. For this reason, the common practice of other payers is to require that the client also apply to CPP Disability. From the perspective of individual clients, offset provisions are not well understood, and the requirement for making an additional application to the CPP Disability program is in particular often resented, since the individual does not receive a larger benefit as a result of a successful application.

## **5. CPP DISABILITY PROGRAM: ADJUDICATION POLICY**

As the Standing Committee on Human Resources Development and the Status of Persons with Disabilities and others have acknowledged, determining eligibility for a disability benefit is complex, and poses a challenge to decision makers seeking to make clear,

transparent and consistent decisions. Since the mid-1990s, a body of policy guidelines and tools has been developed and refined to provide HRDC adjudicators and managers with direction in making decisions that are consistent and in keeping with the spirit of eligibility rules. During this time, new legislative provisions have been incorporated into the adjudication policy framework. Further, an important body of jurisprudence has developed, which provides administrators and tribunals with increasingly clear and specific direction from the courts.

## **6. CPP DISABILITY PROGRAM: APPLICATION PROCESS**

The legislation governing the CPP specifies that an application for benefits must be submitted before an entitlement under the CPP Disability program can be determined. An applicant must complete an application kit, which includes a separate form to be completed by a physician selected by the applicant. Clear information regarding the applicant's employment and contributory history must be provided, as well as detailed information on the medical diagnosis and prognosis and functional limitations experienced by the applicant.

The electronic consultation conducted by the Subcommittee on the Status of Persons with Disabilities generated hundreds of individual stories from Canadians who experienced the CPP Disability program's application and appeals processes. The vast majority of respondents found the processes complex, confusing, lengthy and stressful, particularly when responses to applications or appeals were negative.

The Government accepts that additional effort is required to assure applicants and appellants that the process is fair, easy to access and understand, and timely. Simplifying the process alone will not satisfy clients who have been denied benefits. However, making timely and well-supported decisions, and communicating to applicants and appellants the reasons behind these decisions in a more direct and personal way, should reduce stress and provide support to applicants and appellants at a time when they are particularly vulnerable.

## **7. CPP DISABILITY PROGRAM: CLIENT-CENTRED SERVICE DELIVERY IMPROVEMENTS**

Over the last few years, HRDC has identified and implemented a range of improvements to communicate more effectively with CPP Disability program applicants, appellants and beneficiaries. Improvements include initiatives such as increased outreach activities to raise awareness about the CPP Disability program among MPs, healthcare professionals, private insurers and other stakeholders; adopting plain language for communicating with clients in writing; and the early release of case materials to enable appellants to the Review Tribunal to better prepare their appeals.

HRDC is committed to ensuring that these reforms take root and is confident that further improvements can be achieved. Both the Government and HRDC are grateful for the advice and counsel offered by the Committee by way of the recommendations contained in its report, recommendations which were the product of the comprehensive analysis and consultations undertaken by the Subcommittee on the Status of Persons with Disabilities. The experiences and suggestions provided by Canadians through this process constitute a wealth of valuable information. This information is very important to the Government and HRDC as it moves to improve the level of service to Canadians, and especially to those Canadians who rely on the benefits provided by the CPP Disability program.

## RESPONSE TO RECOMMENDATIONS

The Standing Committee on Human Resources Development and the Status of Persons with Disabilities made 53 numbered recommendations, containing 71 specific sub-recommendations, in its June 2003 report, *Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program*. Please see Appendix 1 for a full list of the recommendations. These recommendations can be grouped under eight themes:

- I. Expanding coverage and enhancing benefits
- II. Improving the application and appeals processes
- III. Supporting return-to-work efforts and preventative strategies
- IV. Enhancing operational guidelines
- V. Improving communications with clients and stakeholders
- VI. Enhancing research and analysis
- VII. Interaction with other disability income programs
- VIII. Future directions for the disability income system

The recommendations in the Report that encourage the use of e-consultations by standing committees relate to matters under the authority of the House of Commons and the Library of Parliament. The Government notes, however, that the House of Commons has adopted reports of the Special Committee on the Modernization and Improvement of the Procedures of the House of Commons which support enhancements in the use of new technologies in the House of Commons. The first report of that committee, adopted by the House of Commons on October 15, 2001, recommended that: "the administration of the House of Commons proceed with plans for enhanced use of technology for the House, its committees and its Members." The fourth report of that committee, adopted by the House of Commons on September 18, 2003, also expressed support for greater use of technology by the House of Commons.

While the Government fully supports the development of parliamentary committee websites and the use of e-consultations for the purposes of carrying out committee studies, noting the success of the Subcommittee's electronic consultations process, it has no authority to agree to recommendations touching on the internal workings of Parliament and its committees. The Government, therefore, cannot respond to these recommendations, which are addressed to Parliament itself.

---

### I. EXPANDING COVERAGE AND ENHANCING BENEFITS

<b><i>Recommendations 2.1, 3.3, 3.8, 3.13, 3.14, 3.16, 5.1, 5.2 and 5.3</i></b>
---

This group of recommendations calls for the enhancement of benefits and the expansion of Canada Pension Plan (CPP) Disability program eligibility and coverage so that more contributors would be able to qualify for benefits.

## 1. Expanding Eligibility

### a) *General*

The Committee recommends returning to the disability eligibility criteria contained in pre-1998 CPP legislation. Returning to the eligibility requirements contained in this legislation, however, would jeopardize the gains made in ensuring the sustainability of the CPP as a result of the 1998 reforms. Therefore the Government does not support significantly relaxing contributory requirements and returning to the pre-1998 *Year's Basic Exemption* for disability benefits. Any changes to the contributory requirements would require careful analysis and discussions with the provinces to assess the merit of the proposals and the impact on the longer-term sustainability of the CPP. The government would need the consent of the provinces, who are joint stewards of the CPP, to commit to any recommendations that involve enhancing benefits.

The Government, however, recognizes there may be value in studying the impact of the 1998 amendments to the CPP Disability program, now that a number of years have passed. In particular, the 1998 changes to the contributory requirements may have produced some unintended consequences, especially for long-term contributors. The Government is working with the provinces to explore viable options for addressing the Committee's recommendation without affecting the financing of the CPP.

### b) *Changing Key Definitions*

To be eligible for benefits under the CPP Disability program, contributors must have a disability which is both "severe and prolonged". Disabilities that are of indefinite duration or likely to result in death are characterized as *prolonged*. Indefinite duration is defined as 12 months; therefore, if persons return to work inside 12 months, their disabilities do not meet the criterion of being *prolonged*.

The Committee recommends that the term *prolonged* be defined as any period of 12 months or longer, regardless of whether persons have returned to work prior to the approval of their applications or appeals. To include periods when a person is working, however, would change the fundamental purpose of the CPP Disability program.

In the CPP Disability program, disability is defined very broadly, and HRDC considers this to be an advantage. Although the medical condition is the prime factor when disability cases are adjudicated, as the courts have recently confirmed, the definition of disability is not restricted to any particular set of medical conditions. This means that no medical conditions are excluded as potentially giving rise to a severe and prolonged disability: the key question to be answered is the impact of the condition or conditions on the person's ability to function. A central part of the adjudication of disability cases is therefore the assessment of the client's ability to function in the workplace.

The Committee also made recommendations on the broader issue of the definition of disability, and these are addressed in section VII 2.



### ***c) Drop-out Provisions***

Many CPP contributors have periods of low earnings during their working lives, resulting from a number of factors, such as attending school, unemployment, child rearing and disability. These periods of low earnings may affect eligibility for CPP benefits and the amount of benefits. The CPP allows for some parts of contributors' contributory periods to be "dropped out" or erased from their records to reduce the detrimental effect on future pensions. Years spent caring for children under the age of seven is one example of such a provision in the legislation.

By counting only their highest-earning years, working Canadians increase the amount of benefits to which they will be entitled. The general drop-out allows for labour force absences or low earnings for any reason, including attending school and job training, as well as care-giving for family members, to be excluded from CPP calculations.

To address the issue of care-giving for family members, the Employment Insurance (EI) program has enacted a provision for compassionate care benefits, to be implemented in January 2004. Six weeks of compassionate care benefits, along with eight weeks of Canada Labour Code job protection, will be available to enable Canadians to take temporary leaves of absence from work to care for gravely ill family members.

The Committee recommended that CPP Disability drop-out provisions allow for consideration of partial years for the purposes of qualifying for disability benefits. This complex issue involves interaction between the child-rearing drop-out provision (for years spent caring for children under age seven) and establishing a person's minimum qualifying period (valid earnings and contributions for a minimum number of years) to determine eligibility for CPP Disability benefits. HRDC will study this issue to determine the impact of this interaction on clients, and will raise it with the provinces.

## **2. Enhancing Benefits**

### ***a) General***

The Committee recommends that the Government make changes in how CPP benefits are calculated and treated for tax purposes, which would generally result in increased benefits.

### ***b) Four-month Waiting Period***

Eliminating the four-month waiting period for all new clients, as recommended, would be costly, and would require an increase in the CPP steady-state contribution rate, currently set at 9.9 percent. At present, a four-month waiting period exists between the time persons are considered disabled and the first payment of a CPP Disability benefit. The waiting period, which has existed since the inception of the program, was established because of the availability of other government-sponsored and employer-sponsored programs, which are intended to deal with disabilities or illnesses over the short-term. These programs include EI sickness benefits, employment-related sick leave, business interruption insurance and employment-related disability insurance.

The Government is, however, working with the provinces to explore the possibility of removing the four-month waiting period for terminally ill clients only. These are clients who apply when they have been diagnosed with a terminal illness. Removing the waiting period for this group would be a compassionate measure, and would relieve them and their families of one source of stress at a particularly difficult time in their lives. The Government is very concerned about the needs of the terminally ill and their families, and this issue is a priority for HRDC.

### ***c) Year's Maximum Pensionable Earnings***

CPP Disability program benefits consist of two parts: a flat-rate component and an earnings-related component. The earnings-related component is a payment equal to 75 percent of the maximum retirement pension that CPP Disability program clients receive at age 65. The Committee recommends that the calculation of CPP Disability benefits and retirement benefits return to the pre-1998 method.

Prior to the changes introduced in 1998, retirement benefits were based on an average of Year's Maximum Pensionable Earnings (YMPE) in the last three years prior to retirement. Using the last five years is the most common way of calculating pension benefits in private-sector pension plans. The calculation of retirement benefits for CPP Disability program clients also changed from one based on the YMPE when the recipient turned age 65 and then indexed to wages to one based on the YMPE at the time of disablement and then indexed by prices.

This new calculation is consistent with methods used to compute other benefits and supports the principle that benefit amounts should be indexed to prices rather than wages when beneficiaries are no longer in the labour force. Moreover, both of these changes were made as part of the measures agreed upon by the Government of Canada and provincial governments to constrain future costs and ensure the long-term sustainability of the CPP.

### ***d) Tax Treatment of Benefits***

Both the Committee and disability clients raised the issue of the tax treatment of CPP Disability benefits. CPP benefits are financed by mandatory contributions from employers and employees. These contributions are a work-related expense for employees and a business expense for employers. Because the contributions reduce their ability to pay tax in the year they are made, tax relief is provided for contributions through a tax credit for employees and a deduction for employers. Since tax relief is provided on CPP contributions, CPP benefits are taxable.

The Committee recommends that the Technical Advisory Committee on Tax Measures for Persons with Disabilities examine the best way to adjust CPP contributions deducted for tax purposes, with the final goal being to eliminate the taxation of CPP Disability benefits. The Minister of Finance and the Minister of National Revenue established this committee in April 2003, giving it a mandate to explore policy and administrative issues related to the disability tax credit and other federal tax measures intended for persons with disabilities. Issues to be considered by the committee may include criteria and methods used to

establish eligibility for the disability tax credit, how applicants with episodic and mental conditions fare, and the list of disability-related items considered eligible for the medical expense tax credit.

The Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities has been shared with the Technical Advisory Committee on Tax Measures for Persons with Disabilities. The advisory committee, which is made up of outside experts, independently determines which issues it will examine.

---

## **II. IMPROVING THE APPLICATION AND APPEALS PROCESSES**

***Recommendations 2.2, 3.9, 3.11, 4.1, 4.2, 4.4, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.14, 4.17 and 8.2***

The Committee recommends a wide range of changes to the application and appeals processes intended to improve client service, as well as measures to provide additional accountability for the CPP Disability program.

The Government recognizes that client service is the cornerstone of any public program; its importance cannot be over-emphasized. Therefore, the Government is strongly committed to providing effective and efficient client service—by telephone, mail, in-person centres and via the Internet.

The Government also recognizes that applicants for CPP Disability benefits may find the application and appeals processes to be complex and waiting times lengthy. HRDC has devoted increased effort and resources to service delivery improvements, to try to reduce some of the problems faced by clients. In the current fiscal year to date, HRDC has exceeded its service standards for both initial applications and reconsiderations, finalizing over 80 percent of decisions at both levels within 120 calendar days. One in five applications is decided within 21 calendar days.

In an earlier report, *A Common Vision*, the Committee recommended that HRDC's Income Security Programs Branch create an expert panel, including representatives of disability organizations, to provide a forum for discussion of service and program delivery issues. HRDC acted on this recommendation, establishing the CPP Disability Client Round Table in December 2001. The Round Table meets twice a year, and provides useful ideas and feedback which HRDC draws upon to make service delivery improvements.

### **1. Modernizing the Application Process**

#### ***a) General***

Building on the Government's service delivery vision, HRDC's Modernizing Service for Canadians initiative is mandated to develop an integrated service delivery approach that provides citizen-centred, relationship-based services in an integrated, multi-channel network. The plan is that Canadians will be able to access services through the channel of

their choice. The service strategy is based on the idea that citizens will not need to identify which benefits and services they need—all channels will be able to assist Canadians to find the right solutions. This concept will be realized while ensuring that the privacy and security of personal information is safeguarded at all times.

In keeping with HRDC's initiative to re-think how programs work from the client's perspective, HRDC is committed to improving the quality, timeliness and level of service provided to CPP Disability program applicants. HRDC is working actively to simplify not only applications for CPP Disability program benefits, as recommended by the Committee, but also the entire application process. A simplified client-friendly process will focus, as much as possible, on collecting information from available sources (with client consent), eliminating the necessity of asking clients to provide the same information more than once.

Some aspects of a simplified application process could include—but are not restricted to—negotiating agreements to obtain employment and medical information from sources other than clients; customizing application forms to a client's particular circumstances; developing new or revised adjudication tools for HRDC staff to ensure consistent and timely decisions; and requiring clients to submit necessary documentation only at specific decision points. Any new approach will likely require extensive technological and procedural changes, as well as legislative and regulatory changes. Clients and stakeholders are being consulted and these discussions will continue throughout the course of this project. In addition to simplifying the application process, HRDC intends, as recommended by the Committee, to invest more resources in the initial consideration of applications. This will be achieved by providing support to the adjudication staff from medical advisors.

HRDC has also revamped its process of developing operational policies for staff. The new process brings policies and procedures together using a straightforward and easy-to-understand design. The operational policies and complementary products are being developed in a web-based format, to be available through the Internet in the coming year, so that any interested parties can have access to them. CPP Disability policies have always been available in printed format. The plan to post all CPP Disability policies on its website will ensure wide access and transparency.

Clients can already request alternative formats for all CPP Disability application materials, including Braille, audiocassette, computer diskette and large print.

#### ***b) Clients with a Terminal Illness***

The Committee raised concerns that applications from terminally ill patients must be reviewed in a timely fashion, recommending a turnaround time of 30 days. HRDC is in complete agreement with this recommendation and has already addressed this issue. In July 2002, it implemented a policy under which all applications from terminally ill individuals are reviewed and decided upon within 48 hours of receipt. To permit this speed of service, verbal confirmation by a medical professional is sufficient for a decision and the necessary supporting documentation can be obtained after the decision has been made and communicated to the client or his/her family.

The Committee also recommends that the Government amend the CPP to eliminate retroactivity provisions for terminally ill clients. The intent of this recommendation is not clear, since this would penalize those with a terminal illness. The Government does not plan to change the retroactivity provisions, which apply to all clients. Any entitlement to retroactive payments will be paid.

***c) Simplifying the Application Process***

As mentioned earlier, HRDC is committed to simplifying the entire CPP Disability program application process. As part of this commitment, HRDC will reduce the amount of information it asks from clients, limiting this to only the information it requires to make a decision about eligibility for the benefit. The Committee's recommendation that HRDC add a question on the application form asking clients to identify any third party that required them to apply for the CPP Disability program goes against the principle of application simplification. The Government also does not accept the recommendation to charge programs that refer clients to the CPP Disability program. CPP is not a cost-recovery program and has no legal authority to impose charges.

***d) Additional Assessments***

The Government does not support the recommendation that applicants approved for benefits should be reimbursed for the cost of any additional assessments that they choose to undergo. HRDC currently pays several millions of dollars each year for the medical reports, independent medical examinations and functional capacity evaluations that the program considers necessary to determine eligibility for benefits, and always pays the cost if it refers a client for further tests or examination. HRDC pays these costs regardless of whether or not applications are approved.

Given its responsibility for proper stewardship of CPP funds, HRDC does not consider it appropriate for the department to pay, in addition to these amounts, for any medical reports or assessments applicants felt were necessary to support their applications or appeals.

***e) Personalized Contact with Applicants***

HRDC agrees that clear and full communication of the reasons for eligibility decisions is important. Information must always be communicated in a way that is easy for clients to understand. Clients should also be aware of any recourse available to them if they disagree with decisions to deny applications or to cease disability benefits. HRDC is continually exploring ways of increasing personal contact with clients whose eligibility is under review.

All CPP Disability applicants can expect to receive a telephone call from HRDC officials familiar with their application a minimum of twice during the application process before a decision is rendered—once when an application is received and a second time just before a decision letter is sent. This process has been standard practice since March 2002. Similar telephone calls are made at the reconsideration level. Appellants to the Review Tribunal also receive a phone call at least one month before their hearings. While face-to-face contact with all CPP Disability applicants may be considered ideal, it is not necessarily

feasible to implement and would require an expansion of CPP Disability staff. The personal contact that HRDC extends all applicants through telephone calls is a more cost-effective method than the Committee's recommendation of face-to-face contact. Face-to-face contact would also be impractical for clients who live in remote areas or clients whose physical conditions make it difficult for them to travel any distance.

In addition, over the last two years, HRDC has introduced the use of denial letters written in plain language, with reasons specific to each individual's application, outlining the appeal options available to the individual. These are always in the official language of the client's choice. (An example of a typical denial letter sent to clients is available in Appendix 2.) Letters in alternate formats are also available upon request.

#### ***f) Obtaining Medical Information***

As part of a general initiative to develop a remodelled application process, HRDC is committed to exploring ways to speed up the flow of information required to complete applications. The feasibility of using a form of electronic transmission of medical information from physicians is being examined, but a number of technical issues remain. HRDC is very mindful of the need for the secure transmission of personal information, and must thoroughly examine the privacy considerations surrounding such an initiative. A further issue is the ability of the healthcare sector to provide this information in an electronic format.

HRDC has never discouraged applicants from having other individuals provide assistance in the completion of application forms. Indeed, in areas that have an acute shortage of physicians, medical reports are routinely accepted from healthcare professionals other than physicians. In fact, the CPP Disability program accepts reports and assessments from a wide variety of healthcare professionals, including nurse practitioners, occupational therapists, vocational rehabilitation experts and physiotherapists. Reports from healthcare professionals may also be used to support physicians' reports.

The CPP Disability program currently uses independent medical examinations, functional-capacity examinations and vocational assessments in the decision-making process, where appropriate. Costs for these assessments and examinations are covered by HRDC, if clients are requested to have them. These examinations and assessments, however, are not always required to make decisions regarding eligibility, and are used judiciously, since they tend to result in delays in the decision-making process.

#### ***g) Functional Assessments***

Functional assessments are clearly beneficial in certain cases where clients have physical injuries, and CPP Disability routinely relies on these in the course of its work. However, they would not be appropriate for many applicants, such as persons with mental health conditions or the terminally ill, and in such cases they are not sought. Introducing a requirement for all applicants to have functional assessments before their applications can be adjudicated would introduce significant delays into the process, since there is a limited supply of experts offering such assessments across the country. The Government

believes that the Committee would agree that such delays would not be in the best interests of applicants.

It should also be pointed out that functional assessments are often not necessary to make eligibility decisions. Physician reports and client statements on file can be used to assess an individual's functional capacity. Additional information can also be gathered through telephone calls. Even when a functional capacity assessment has taken place, this is not the only basis for the decision on eligibility. Non-medical factors, such as personal characteristics, employment history and other related information, are always considered when adjudicating applications.

CPP Disability is developing policy tools relating to the assessment of employability. In September 2003, a workshop with the Canadian Association of Occupational Therapists was held to provide expert knowledge to CPP Disability concerning the most effective methods and approaches to assess the employability potential of applicants and clients. Information gathered at this workshop is being used to develop policy tools, as well as materials for staff training on this issue.

## **2. Appeals Issues**

### ***a) General***

Approximately 57,000 Canadians apply for CPP Disability program benefits each year. Some 45 percent are granted benefits on their initial applications. For those who are denied, if they are dissatisfied with the decision, there are several steps they can take, in sequence. The first is a request for an administrative review performed by HRDC, known as reconsideration. Then there are two formal levels of appeal available: first an appeal to the Office of the Commissioner of Review Tribunals (OCRT), and secondly an appeal to the Pension Appeals Board (PAB). An appeal to the OCRT is an automatic right, but the PAB must grant the appellant leave to appeal a Review Tribunal decision. Both the OCRT and PAB are independent agencies that operate at arm's length from HRDC.

Over the last couple of years, the OCRT has initiated a number of successful measures to make the appeals process more accessible and timely for Review Tribunal appellants. In addition to reviewing its correspondence with appellants to ensure clear and concise communications, the OCRT has undertaken a number of new training initiatives for its Panel members and staff. The OCRT has held several workshops for its Panel members on dispute resolution, rules of evidence, decision writing, cultural diversity and medical conditions frequently encountered by appellants.

Currently, there is no backlog at the Review Tribunal level. Hearings are normally scheduled four months from the date appeals are received to ensure that appellants have all necessary documentation and are well prepared for hearings. The standard for issuing decisions is six to eight weeks from the date of hearings; the OCRT is currently meeting this standard.

At the PAB, both the number of appellants waiting for hearings and waiting times for decisions have decreased significantly. Applications for leave to appeal to the PAB are now considered within four months. Several years ago, waits were 18 months. The average time for a final PAB decision on applications is 7.5 months; some years ago, it was two years.

### ***b) Simplifying the Appeals Process***

Although multiple levels of recourse were established to ensure that clients have the opportunity to appeal what they feel to be incorrect decisions, the Government recognizes that the appeals process can be daunting for people who have serious physical or mental conditions. As such, a number of initiatives have been undertaken to make the appeals process less complex and lengthy for appellants:

- improved communication with clients to inform them of their right to appeal and the appeals process;
- personal contact throughout the appeals process to communicate and explain decisions, and identify opportunities for early resolution of disputes;
- new procedures for settling appeals prior to Review Tribunal hearings; and
- support to denied clients through referral to appropriate community services or programs.

In the interest of fairness, steps have been taken to ensure that appellants are much better prepared in advance of Review Tribunal hearings. Two years ago, HRDC started providing appellants earlier with more detailed explanations why the department had denied them benefits during reconsideration of their applications, including all medical reports and earnings information received. This provides the client with the information needed to present the best possible case at the Review Tribunal hearing.

The Government recognizes the need for a fair, accessible and transparent appeals process. As part of its ongoing work, HRDC regularly reviews the appeals process to see where improvements can be made. In addition, HRDC works with the OCRT and PAB to regularly share information and collaborate on initiatives that are in the interest of good client service, while respecting their arm's-length authority. The Government believes there is value in considering at a future date a comprehensive review of the appeals system available to CPP and Old Age Security clients. Any such review would occur in cooperation with the OCRT and PAB.

The Government is obligated to ensure an accessible and arm's-length appeals system for CPP and Old Age Security decisions. Fundamental to the existing system is the notion that the decision to appeal ultimately rests with the client. There are applicants who accept decisions to deny their applications; while a negative decision is always painful to receive, it may be easier to accept in light of ongoing efforts to explain the reasons for a denial in a direct and personalized way. Compelling all denied applicants to go through a reconsideration, as well as requiring a face-to-face meeting with an independent panel, would be unnecessary for some, duplicate the role of the Review Tribunal, and utilize



scarce resources that could be better spent, for example, on other improvements to the application and appeals processes.

The Committee also suggested that the OCRT include in the request for appeal form a question regarding referrals from third parties. The OCRT already collects information regarding inappropriate referrals, and has established a Disability Insurance Complaints Desk to track complaints about private and public providers of disability insurance. While the OCRT does not have the authority to investigate such complaints, it monitors complaints and passes them on to the appropriate provincial program regulator. In addition, like HRDC, the OCRT also does not have legal authority to impose charges on programs that require their clients to appeal decisions.

### ***c) Legal Aid***

Provincial governments are responsible for administration of justice, which includes civil legal aid. The Government funds civil legal aid through the Canada Social Transfer, and criminal legal aid through contribution agreements.

In concert with its provincial and territorial partners, a long-term strategy to ensure equitable access to legal aid services across Canada is under development. The Committee's recommendation demonstrates the need to continue to explore the legal needs of appellants before administrative tribunals.

It also draws attention to a concern that the Government shares with the Committee, that we should have an appeal system that is equally fair and transparent to all appellants. The Government's objective, however, is to preserve as much as possible the informality of the appeal system, particularly at the Review Tribunal level, so that appellants can come and tell the tribunal their own stories in their own words. To convey the message that legal representation or any paid representation is required or necessary in the appeal process would, in the Government's view, erode one of the strengths of the current system and make it more adversarial. (This is not to say that informal representation or support from family members or friends is in any way discouraged.) Both the Review Tribunal and the Pension Appeals Board rely heavily on the credibility of the appellant in reaching their decisions, and this is as it should be.

In the context of its review of the appeals system, the Government undertakes to study the effect of representation on appeal decisions, and to share the findings with the Committee.

## **3. Other Administrative Measures**

### ***a) Advisory Committee***

The Government of Canada and provincial governments are joint stewards of the CPP. Federal and provincial ministers of finance review its financial state every three years to ensure its continued viability. Under the CPP governance structure, major policy changes require the approval of Parliament and of the governments of at least two-thirds of the provinces representing two-thirds of Canada's population. Such changes would include

changes to the method of setting the contribution rate, and benefit and contribution rate changes.

The *Canada Pension Plan* charges the Government of Canada and provincial governments with responsibility for reviewing the CPP's contribution rate every three years. As such, public accountability and reporting processes were strengthened in 1998, and the Government of Canada and provincial governments review the CPP and, if necessary, hold public consultations. These strengthened processes are mechanisms to review CPP Disability's performance and monitor its activities. The Government believes, therefore, that there is no need to set up a separate advisory group to review the CPP Disability program.

***b) Departmental Performance Report***

Given the large number of recommendations contained in the Committee's report, the Government understands the Committee's desire to use HRDC's Departmental Performance Report (DPR) to track the department's activities. The Departmental Performance Report may not be the most appropriate mechanism to accomplish this task.

The Departmental Performance Report has been specifically designed to present HRDC accomplishments against performance expectations and results commitments set out in the department's Report on Plans and Priorities. The DPR can also reflect progress made on established priorities, and progress will also be highlighted in those areas noted for action. For example, the work to simplify the CPP Disability application process is part of an overall HRDC priority to modernize service for Canadians, and will be reported on in the DPR.

Nevertheless, the Government is very open to reporting to the Committee on progress on the initiatives covered in this Response, perhaps in the form of a periodic written report.

---

### **III. SUPPORTING RETURN-TO-WORK EFFORTS AND PREVENTATIVE STRATEGIES**

<b><i>Recommendations 6.6, 7.1, 7.2, 7.3 and 7.4</i></b>
--

This group of recommendations is directed at enhancing CPP Disability return-to-work provisions and introducing a capacity for preventative measures.

#### **1. Augmenting Return-to-Work Provisions**

***a) General***

In recent years, a number of steps have been taken to actively support CPP Disability program clients in their attempts to return to work. The Committee, in its report, noted these efforts. In 1995, work incentives were introduced in response to concerns that the CPP Disability program discouraged clients from trying to return to work or attending school by immediately suspending or cancelling their benefits.

These incentives were established to reflect the realities faced by persons with disabilities trying to re-enter the labour force, a process which often required more than one attempt. Attending school or volunteering to gain new skills were also covered under these incentives.

Clients are now allowed a three-month work trial, during which they can work and still collect CPP Disability benefits. The client's situation is re-evaluated after this work trial. In addition, clients can attend school on a part-time or full-time basis, or volunteer without automatically being reassessed. For clients who returned to work but found that they could not cope because of the same disability, completing the full application process again was not required. Instead, they could submit a shorter application and pass through a fast reapplication process.

In 2001, an "allowable earnings" policy was approved to specify the amount clients can earn before having to inform HRDC (\$3,900 in 2003). Prior to this, clients were expected to inform HRDC as soon as they earned any income. When clients reach this threshold, and contact HRDC, the department reviews their circumstances, offering support to encourage further work activity if appropriate. If the income is earned from only sporadic work, however, and there is no capacity for continued employment, it will not affect the client's benefits. This allowable earnings policy is sometimes misunderstood to represent the threshold over which CPP Disability benefits will be stopped. This is not the case, however, and a client must be able to earn considerably more than this amount on an annual basis to be considered capable of substantially gainful employment.

To improve its support to clients wishing to re-enter the work force, HRDC will be implementing a new continuum of return-to-work services. These services will range from timely advice and information to clients who are able to re-enter the labour force on their own, to assessment and intensive vocational rehabilitation services for those with the potential to return to work but who require additional supports. Using a case-management approach, HRDC will partner with other programs and services to help clients benefit from the full range of available resources.

#### ***b) Vocational Rehabilitation Services***

Vocational rehabilitation services have been offered to clients of the CPP Disability program since 1998. Clients who are medically stable and motivated to return to work may be offered these services, based on individualized return-to-work rehabilitation plans. Services provided include vocational assessment, planning, skills development and job-search assistance.

Vocational rehabilitation services are designed to help clients reintegrate successfully into the labour market—either with their former employers or with employers in new fields to which they can adapt their skills and abilities. Approximately 500 clients of the CPP Disability program take advantage of these services each year.

The Government agrees with the Committee that more clients could benefit from these services. While it is not possible to double the budget of the vocational rehabilitation

program, HRDC will commit to increasing the resources for this program within current CPP resource levels, and broadening the scope of the services provided to assist more clients to return to work.

HRDC has also begun to measure the long-term impact of the vocational rehabilitation program on clients by conducting an independent evaluation of the program. Preliminary results of the evaluation are promising, showing that participants are much more likely to return to work successfully and stop receiving benefits after completing the vocational rehabilitation program. As data for other years becomes available, more will be known about the long-term impacts of this program.

The Government has made it a priority to support all working-age Canadians with disabilities who want to find and keep work. To this end, HRDC has been developing additional work incentives and support to encourage CPP Disability clients to return to work.

### ***c) Automatic Reinstatement***

The Government agrees with the Committee's recommendation that it should provide for the automatic reinstatement of benefits if clients try to return to work, but fail because of a recurrence of their disability. In June 2003 the Government announced that it would introduce automatic reinstatement of CPP Disability benefits. Automatic reinstatement will be available to clients for two years from the date their CPP Disability benefits are discontinued. Since automatic reinstatement provides clients who cannot continue working with a solid safety net for two years, the Government considers that extending the work trial from three months to six months is not necessary.

### ***d) Other Measures***

In the September 2002 Speech from the Throne, the Government made a commitment to modify existing programs to ensure that Canadians can provide compassionate care for gravely ill or dying children, parents or spouses without putting their jobs or incomes at risk. Compassionate-care benefits under the EI program will be implemented in January 2004.

The Committee recommended that CPP Disability program benefits not be treated as earnings when beneficiaries are also entitled to the new compassionate care benefits. The Government accepts this recommendation. CPP Disability program benefits are not currently considered earnings for EI benefit purposes, and legislative amendments to provide for compassionate care benefits will not change current rules.

### ***e) Testing and Pilot Projects***

The Government recognizes that, before major changes are made to public programs, testing a number of scenarios using pilot projects is an effective way to determine the best options. Pilot projects could be especially effective in determining what reforms work and what do not work in helping persons with disabilities reintegrate into the workforce, and in identifying effective preventative strategies which might reduce future CPP Disability program costs.

CPP does not have the legislative authority to carry out CPP pilot projects. The Government therefore cannot follow through on the Committee's technical recommendation to test the impact of increasing the amount associated with a substantially gainful occupation to 125 percent of the annual maximum of CPP Disability benefits. However, the idea of a pilot project authority is an interesting one, and the Government intends to explore it, in consultation with its partners, the provinces.

---

## **IV. ENHANCING OPERATIONAL GUIDELINES**

<b><i>Recommendations 3.4, 3.7, 3.12, 3.10 and 3.15</i></b>
---

The Committee makes a number of recommendations relating to operational guidelines, including how applicants and appellants with degenerative and cyclical disabilities, as well as those in transition to retirement, should be treated under the program.

### **1. Degenerative and Cyclical Illnesses**

The Government shares the Committee's view of the importance of CPP Disability covering a wide variety of conditions, including cyclical and degenerative mental and physical conditions. Recurrent and episodic disabilities are becoming more prevalent in Canadian society.

Current CPP Disability guidelines recognize these types of disabilities, and indeed many clients with such conditions are currently receiving CPP Disability benefits. The Government therefore does not believe regulations and guidelines need to be changed to accommodate the needs of individuals with episodic or recurring conditions. Because the determination of disability for CPP is based on the functional limitations that prevent a person from working, and not simply on a medical diagnosis or prognosis, the adjudication process is able to take into consideration the short- and long-term impacts of recurrent or episodic medical conditions on the client's ability to function in the workplace.

In practice, what this means is that CPP Disability does cover conditions such as fibromyalgia, chronic fatigue syndrome and chronic pain syndrome, as well as episodic or recurring conditions such as Multiple Sclerosis and certain mental health conditions. Even so, as with other medical conditions, not all clients with these conditions will meet the test of having severe and prolonged disabilities.

These are some of the more difficult cases to adjudicate. When adjudicating cases, CPP Disability may therefore obtain evidence from other sources, such as vocational rehabilitation consultants, occupational therapists, physiotherapists and employers. For particularly difficult cases, CPP Disability will request evidence from a wide variety of sources, and may request examinations by independent physicians who specialize in the relevant medical condition.

Since chronic fatigue, fibromyalgia and multiple chemical sensitivities are sometimes difficult to confirm through specific medical tests, CPP Disability program adjudicators have been provided with a reference tool. The chronic fatigue/fibromyalgia reference tool has been in place for the past five years and is in the process of being updated in consultation with disability advocates, associations and organizations and healthcare professionals. HRDC very much appreciates the assistance it is receiving in this work from the individuals and organizations who have been contributing their valuable knowledge and insights to this process. Adjudication tools for other conditions will be added to the administrative guidelines as they are developed, with a similar process for consultations. Professional development is also provided on an ongoing basis to ensure that staff has up-to-date information on these and a variety of other conditions.

Clients with episodic or recurrent disabilities may be affected as much by contributory requirements to qualify for disability benefits as the definition of disability. As a result of recurrent or episodic disabilities, clients may have a minimal or erratic attachment to the workforce. As such, they may not have enough earnings and contributions to meet the minimum qualifying period for CPP Disability benefits.

## **2. Comprehensive Evaluations**

The Committee recommended that evaluations be performed on various aspects of the CPP Disability program, including how eligibility criteria and recent court decisions are factored into the program's decision-making processes. While evaluations of eligibility criteria and the impact of court decisions on the CPP Disability program are important and valuable, these evaluations would cover a limited part of the program's functions.

The last full and independent evaluation of the CPP Disability program was conducted in 1996. The next full evaluation is scheduled for 2006-2007, as part of HRDC's overall evaluation plan. Recognizing the many substantive issues raised by the Committee and other stakeholders, however, HRDC has committed to a comprehensive review of the CPP Disability program and has advanced the date of the program evaluation, which will now start in 2004-2005. While HRDC will begin the evaluation as early in the next fiscal year as is feasible, conducting a full and rigorous evaluation of the CPP Disability program will require 12 to 15 months to complete. The final evaluation, including technical studies, will be shared with the Committee.

## **3. Taking Recent Jurisprudence into Account**

The federal court has provided some useful direction to CPP Disability in recent years with several specific decisions, the first being the *Villani* decision. The Committee recommended that CPP Disability change its definition of disability to incorporate the *Villani* decision, which was delivered in 2001. The CPP Disability definition of disability already incorporates the concepts of the *Villani* decision and has done so for some years. This is not to say that the *Villani* decision has not had an impact on the program. The recent rise in the grant rate (the level of positive decisions) may in part be attributable to this decision.

The *Villani* decision provided direction on the legal test for the CPP definition of disability, the first time a federal court decision provided such direction. The decision confirmed that the medical condition is the primary factor in determining disability, and it also confirmed that personal factors should be taken into account when determining disability. The decision is consistent with the existing CPP Disability policy that requires age, education and work experience to be considered when assessing a person's capacity to hold any job. The *Villani* decision also went on to suggest that factors such as the existence of actual jobs in a particular geographic area, might have a role to play in the determination of disability. The *Villani* decision did not rule on this point, however.

Some have interpreted the *Villani* decision as raising questions about the possible role of socio-economic factors in the determination of disability under CPP Disability. However, a federal court decision a short time later in January 2002 on the *Rice* case, brought some important clarifications to the *Villani* decision. In *Rice*, the court made clear that socio-economic factors, such as labour market conditions, or factors such as where applicants live, are not relevant to assessments of disability for the purposes of the CPP Disability program. *Rice* relied on the *Villani* decision, but limited the personal characteristics to be considered to those relating to the "capacity to be employed". Examples of these characteristics include age, education level, language proficiency, and past work and life experience. The *Rice* decision also affirms that the CPP is national in scope and unlike, for instance, the *Employment Insurance Act*, is not subject to regional differences. Given the same functional limitations, regional differences in labour market conditions should not result in different determinations of eligibility for disability benefits.

There have been other federal court decisions since *Villani* and *Rice* which have helped to bring clarity to the administration of CPP disability. The 2003 *Angheloni* decision confirmed the *Rice* decision that socio-economic factors are not relevant in determining disability. Both *Angheloni* and the 2003 *Inclima* decision also clarified that, where there is evidence of residual work capacity, a person's efforts or lack of effort to retrain or try light work are to be taken into account. The 2003 court decision in *Scott* further clarifies that all relevant medical and other information must be considered in making a decision and that the word "regular" in the legislation applies to the incapacity to work, not to the work itself. In other words, the fact that someone works intermittently is not sufficient to demonstrate incapacity.

The CPP Disability program routinely reflects all relevant case law in its administrative notices and guidelines for staff, to ensure that these are fully reflected in its practices and operations.

#### **4. Applicants Nearing Retirement Age**

The Government agrees that applicants between the ages of 60 and 64 years of age are entitled to CPP Disability benefits if they meet program criteria. In fact, clear provision for this entitlement already exists in the CPP. Applicants are not encouraged to apply for early CPP Retirement Pension over CPP Disability benefits. Rather, applicants are provided with information about both benefits so that they may decide for which benefit to apply.

Individuals between the ages of 60 and 64 years who apply for CPP Disability benefits may be encouraged to also apply for early CPP retirement pension, as this could provide income while their applications for CPP Disability benefits are being processed. If the application for CPP Disability benefits is accepted, the client's retirement benefits are cancelled in favour of disability benefits. Likewise, when clients apply for early retirement benefits, they are questioned on the reason for early retirement. If individuals are applying because they are medically unable to work anymore, they are counselled to also apply for CPP Disability benefits.

---

## **V. IMPROVING COMMUNICATIONS WITH CLIENTS AND OTHER STAKEHOLDERS**

<b><i>Recommendations 4.3(a) - (d), 4.5, 4.13, 4.15, 4.16 and 6.1</i></b>
---

The Committee recommends a wide range of improvements to communications with applicants, appellants and other stakeholders through development of a comprehensive communications plan, launch of a targeted outreach program and provision of translation and support services.

### **1. Coordination of Disability Communications**

The Government agrees that effective communication is an essential part of client-centred service delivery. The Government has taken steps to address the Committee's communications concerns and plans to increase its efforts aimed at providing more integrated information about all programs and services to Canadians with disabilities.

In January 2000, as part of its response to the Sixth Report of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities, the Government established an interdepartmental assistant deputy minister level steering committee led by HRDC to direct its disability agenda. Work is ongoing to pursue common or joint communications approaches and products to help persons with disabilities and healthcare professionals better understand the Government's disability benefits and programs.

#### ***a) General***

The Government recognizes that, given the testimony and input received by the Committee, more effort is required to reach out to its most vulnerable clients to help ensure they are aware of the CPP Disability program, and to provide these clients with the assistance they need to apply to the program. Indeed, the Government agrees with the Committee that making Canadians with disabilities aware of programs they can access is essential.

Within HRDC, the Income Security Programs Branch, which is responsible for administering both Old Age Security and the CPP, has an outreach function that raises awareness about these programs. Regional outreach staff inform and educate Canadians



about benefits for which they may be eligible, and help them through the application process. In addition, HRDC staff in telecentres, as well as in-person centres, are fully trained to assist clients to fill out their applications.

Examples of some recent initiatives to increase awareness about the CPP Disability program among potential applicants, clients and stakeholders include:

- working with private insurers and physicians who refer clients to CPP Disability to provide accurate information about eligibility requirements to these clients;
- sending guides on CPP Disability medical eligibility requirements to 26,000 general practitioners and to specialists across Canada;
- revamping information on the CPP Disability website, tailoring it to the needs of those looking for information on the program, such as applicants, physicians, advocates and other disability income providers;
- sending annual newsletters to all 280,000 CPP Disability program clients to inform them of relevant issues, such as work incentives, tax measures and any changes made to the program; and
- distributing information about the CPP Disability program to medical specialists across Canada to improve their awareness of how they can assist patients applying for benefits.

HRDC recognizes that more effort in this area is required, and is working to develop a new communications framework. A component of this framework will be an outreach strategy which will include dissemination of the new comprehensive information package to be developed, and which will target organizations that support those persons with disabilities who are most vulnerable, who suffer from life threatening illnesses and face significant barriers to participation. Examples of these organizations include groups working with persons with mental health conditions, cancer and HIV-AIDS. In addition, outreach efforts will focus on insurance providers, MPs, disability service providers and organizations within regional communities.

The outreach group within HRDC, as well as HRDC regional offices, have formed external partnerships with provincial income support programs, NGOs, support groups and healthcare professionals, as well as internal partnerships to provide coordinated information to the public regarding EI sickness benefits and CPP Disability benefits.

HRDC is also revising its training curriculum for medical adjudication staff to ensure that new staff are fully trained on all aspects of their responsibilities. Extensive training is provided on CPP legislation and policy. Staff also receive training on how to communicate with clients and how to deal with matters of great sensitivity to clients.

### ***b) Information Partnership with CCRA***

In addition to existing and new outreach strategies, CPP Disability is working with other federal departments to coordinate communication strategies. With extensive guidance from Canada Customs and Revenue Agency (CCRA), CPP Disability has developed a plain language “Tax Information Sheet” to help clients understand their tax liabilities and obligations related to the reimbursement of CPP Disability benefits to private insurers. This information sheet clearly explains the different tax treatments for taxable and non-taxable long-term disability benefits. The information sheet and a covering letter together will provide specific instructions to assist clients in reporting CPP Disability benefits and claiming appropriate tax deductions.

In its report, the Committee suggested that, as a way of better utilizing the resources of other government departments, the annual T4 slip include information about the CPP Disability program and Employment Insurance. The Government believes that this recommendation is not feasible, because the number of persons in receipt of benefits to whom this information would be targeted is too small a percentage of the overall population receiving T4s. Moreover, there are many other programs associated with information reported on T4s and it would be difficult to justify limiting information to CPP Disability and Employment Insurance. HRDC and CCRA, therefore, are exploring options for joint publications and website links to better inform Canadians about the CPP Disability program, the disability tax credit, and other disability-related tax measures, and the specific criteria related to these programs and tax measures. In the interest of improved client service, HRDC and the CCRA are also exploring the feasibility of simplifying the application process for individuals applying simultaneously for CPP Disability and the disability tax credit.

In addition, on an annual basis, HRDC provides support to CCRA tax volunteers who help persons with disabilities complete their taxes. The volunteers are provided with information about all HRDC income support programs, including the CPP Disability program, and encourage Canadians to refer to the HRDC 1-800 line for further information.

### ***c) OCRT Outreach***

In addition to its recommendation that the CPP Disability program develop a comprehensive communications plan, the Committee suggested that the Office for the Commissioner of Review Tribunals (OCRT) appoint outreach officers to contact appellants and inform them of the appeal process. The OCRT is an independent agency, operating at arm’s length from HRDC, and will therefore decide on its own how to address this recommendation.

The Government notes, however, that the OCRT already provides a range of outreach services. Indeed, over the last two fiscal years, the OCRT has implemented a number of initiatives to improve pre-hearing communication with appellants. By the end of 2001-2002, a majority of appellants were receiving, at least one month before their hearings, individual counselling via telephone on relevant legislation and regulations, eligibility requirements for benefits, and what to expect at their hearings. The OCRT’s emphasis on communication and counselling flows from a recognition that many appellants, particularly

in disability cases, not only lack an understanding of the Review Tribunal process and eligibility requirements for CPP Disability program benefits, but also experience psychological stress during the appeal process, due to illness and financial pressures.

**d) Language Services**

The Government recognizes that, in a number of cases, an applicant's first language is neither English nor French. As a result, these applicants may have difficulty accessing CPP Disability program benefits, although the Government notes that community resources are often available to provide this service. However, providing translation services to all applicants who speak neither English nor French to assist them with their applications would be prohibitively costly to the program.

**e) Supporting National Disability Organizations**

Under the Social Development Partnerships Program (SDPP), the Government provides some \$12 million each year to national disability organizations to support them in the important role they play in helping to identify and address issues of concern to persons with disabilities. Demand for funding from disability organizations has grown significantly since 1997, and ongoing pressures on existing sources of funding are likely to continue to increase over the coming years.

SDPP evaluation, third-party reviews of the program and various reports, including the federal disability report, support the argument that disability organizations lack sufficient financial resources to meet current client and government expectations. A process has been launched with national disability organizations to review the current funding priorities including advocacy and service delivery supports, and to make recommendations for future priorities.

---

## **VI. ENHANCING RESEARCH AND ANALYSIS**

<b><i>Recommendations 2.3 (a) - (d)</i></b>
---

The Committee recommends that improvements be made to the analytical base of information about the CPP Disability program by encouraging research on the program and the disability income system. The Government agrees with these recommendations.

In 1999, the Government released its disability agenda, entitled *Future Directions to Address Disability Issues for the Government of Canada: Working Together for Full Citizenship*. One of the key themes of this agenda was identifying ways to help people with disabilities achieve full inclusion in Canadian life by building a comprehensive base of knowledge on disability issues to inform policy and program development. As such, the Government supports research and development to generate knowledge and innovation in the provision of supports and opportunities to Canadians with disabilities.

For example, the 2001 Participation and Activity Limitation Survey (PALS), funded in the 2000 federal budget, will help inform policy decisions. PALS provides information on various disability supports, employment patterns, sources and levels of income, and barriers to participation for persons with disabilities. The Government intends to build on the base of information provided by PALS by performing more in-depth analysis of administrative data, and enhancing CPP Disability's research capacity by developing research partnerships to study various aspects of the disability income system.

Of note, recent additions to CPP Disability's databases have improved the quality of administrative data on both disability applicants and clients. CPP Disability is also establishing linkages with other areas of HRDC that perform research on persons with disabilities, using their expertise to carry out research projects. Discussions have begun between HRDC and the Social Sciences and Humanities Research Council (SSHRC) to identify a number of initiatives that will help make CPP Disability administrative data available to researchers, as well as encourage research on the program. As resources allow, HRDC will also look to form research partnerships with the academic community and fund research on the disability income system. This work will expand CPP Disability's research capacity, which can then be used to promote evidence-based policy making, evaluate the effectiveness of current policies, monitor trends and contribute to the broader disability agenda.

---

## **VII. INTERACTION WITH OTHER DISABILITY INCOME PROGRAMS**

<b><i>Recommendations 3.1, 3.2, 3.5, 3.6, 6.2 (a) - (c), 6.3, 6.4, 6.5, 6.6 and 7.5</i></b>
---

The Committee recommends that the Government work towards establishing a consistent definition of disability across all federal and provincial programs; reduce the administrative burden on healthcare professionals by providing them with a comprehensive package on all federal disability programs; and consider using common forms and assessment procedures. The Committee also suggests that HRDC work more effectively with other disability income programs to improve interaction between these programs and CPP Disability to achieve improved economic welfare of clients of more than one program.

### **1. General**

Although the CPP Disability program was originally designed to provide basic earnings replacement only (with supplementary benefits to come from other programs), its integration with these programs continues to be an issue. The Government recognizes that further work is needed on the efficient functioning of the disability income system in Canada and is addressing this issue on a number of fronts.

Over the past few years, CPP Disability has been working with private insurers through the Canadian Life and Health Insurance Association and federal, provincial and territorial income-support programs to address issues affecting joint clients. These efforts have focused not only on front-end issues, such as joint communications products and referrals to CPP Disability, but also on the interaction of various policies and ways to support mutual clients as they make the transition to employment.

This work will continue. Efforts are also underway to strengthen links with workers' compensation organizations, the other major disability income provider.

## **2. Definitions of Disability**

Concerns regarding disability definitions were brought forward in 2001, 2002 and 2003 by disability organizations and other stakeholders during hearings of the House of Commons Standing Committee on Human Resources Development and the Status of Persons with Disabilities and the Subcommittee on the Status of Persons with Disabilities. Both the Committee and its Subcommittee have played important and valuable roles in providing venues for the disability community and individuals to express their concerns about disability definitions in government policy and programs.

In light of concerns expressed in *A Common Vision*, HRDC set up an interdepartmental working group, with representatives from Canada Customs and Revenue Agency, Finance Canada, Veterans Affairs Canada, and Canada Mortgage and Housing Corporation, to gather information and begin reviewing definitions of disability in key federal disability programs. A report on the "definitions of disability", the first to bring together information on different federal disability definitions, is scheduled to be released in Fall 2003. This report will provide information and knowledge to assist the Government in improving the understanding of its key disability programs and to help clarify the differences between definitions, objectives and eligibility criteria as they relate to federal disability initiatives.

As part of its ongoing initiative to modernize services for Canadians and its continuing discussions with the provinces and territories on disability policy and program delivery issues, HRDC will continue to focus on increasing coherence between federal, provincial and territorial policies and programs, including definitions of disability.

## **3. Reducing the Administrative Burden on Healthcare Professionals**

Witnesses from the medical profession who appeared before the Subcommittee voiced concerns about the forms they must fill out and the time-consuming nature of this work. They argued that this administrative burden took time away from seeing patients. The Government understands that this is an ongoing issue for physicians and has begun to address this issue through bilateral discussions between CPP Disability, the medical profession, and other disability income providers. One major focus of the application process simplification work currently under way is the possible electronic transfer of medical information from doctors, with the objective being to reduce the information

requested from the medical profession. This is seen as a means of reducing the administrative burden on healthcare professionals.

In the coming year, this work will be expanded to include an information package on federal disability programs, including eligibility criteria and assessment forms, to be made available to healthcare practitioners. This work will be conducted in cooperation with the Assistant Deputy Ministers Steering Committee on the Federal Disability Agenda.

Developing a comprehensive information package will help healthcare professionals involved in the assessment of disability better understand the Government's disability programs and benefits, as well as put them in a better position to assist their patients. A website will be developed to house this information, making it widely accessible to healthcare professionals throughout the country.

#### **4. Relationships with Provincially Regulated Programs**

##### ***a) General***

When the CPP was established in 1966, private long-term disability (LTD) insurance coverage was a well-established benefit available to some Canadian workers through their employers. Most private insurance plans provide significantly higher levels of earnings replacement (up to 80 percent of pre-disability earnings) than the CPP Disability program's maximum. Although the CPP is silent on how other payers treat CPP benefits, at the time the CPP legislation was debated, Parliament expected that companies would offset CPP retirement or disability benefits.

A 1993 amendment to the statute governing the CPP permits the Minister of Human Resources Development to enter into agreements to make retroactive CPP Disability program payments directly to LTDs (and to provincial social assistance and workers' compensation boards) if they have paid full benefits to clients who are later granted CPP Disability program benefits. The amendment was intended to reduce pressure on clients by offering assurances that insurers would eventually recoup the CPP Disability program payments they were "advancing" to clients. Currently, 27 LTD insurers have agreements with HRDC for the reimbursement of retroactive payments.

Regular discussions with the Canadian Life and Health Insurance Association (CLHIA) have helped to develop a positive working relationship and to identify ways to better serve mutual clients. CLHIA agrees on the need for improvements in providing mutual clients with better service and information, and it is exercising leadership in this area. Bilateral discussions have been initiated with executives of eight of the largest LTD providers, and client-specific connections at the working level are becoming a regular occurrence. These discussions have allowed HRDC to address issues such as appropriate referrals.

##### ***b) Offsetting***

The Government does not regulate the private insurance industry, which falls under provincial jurisdiction. The department, therefore, is unable to render illegal the offsetting of CPP Disability program benefits to dependent children.

CPP Disability has, however, recently strengthened its policy on the offsetting of children's benefits and will now in no circumstances reimburse an insurance company if the policy in question offsets the children's benefit. (Previously, CPP Disability accepted this offset in limited cases, generally relating to higher-income clients.) HRDC is in the process of drafting new reimbursement agreements with the insurance industry. The new agreements will be stronger than the existing arrangements, with new accountability measures.

## **5. Withholding Tax at Source on CPP Disability Program Benefits Paid Under Assignment Agreements**

The Government appreciates the Committee's concern about CPP Disability program clients being unaware of the taxability of retroactive benefits they receive, following acceptance of their claims, and the resultant unexpected tax liability they face. However, paying the after-tax amount of benefits may not be the most effective way to address this issue. Instead, the Government will work diligently with private insurers to develop possible alternatives to address the Committee's concern.

## **6. Other Initiatives**

As part of HRDC's commitment to provide client-focused service, a review has been initiated of the relationship between the department and private insurers with a view to identifying possible improvements to benefit mutual clients. As a result, a number of initiatives have been identified, including new client-consent forms, new website information, regional outreach activities targeted at private insurers, and cost-sharing of vocational rehabilitation.

Current client-consent forms, through which clients permit the reimbursement of retroactive payments directly to their insurers, are being completely revised in plain language and will include additional information to assist clients' decision-making.

A new website will be launched soon to provide accurate and current information on the CPP Disability program. A section of this website will be aimed at the insurance industry, but it will also be available to provide complete information to any interested party on the interaction between LTDs and the CPP Disability program's benefits.

Private insurers will be offered information sessions on all aspects of the CPP Disability program's eligibility and adjudication. These sessions will be designed to encourage more appropriate referrals to the CPP Disability program.

As a result of discussions with eight insurance companies, vocational rehabilitation support for mutual clients is being cost-shared in a number of cases across the country.

HRDC also works in partnership with Veterans' Affairs Canada (VAC) to ensure that members of the armed forces who become disabled can access CPP Disability benefits. HRDC staff have given briefings to local VAC staff to ensure they are fully aware of the CPP Disability program.

## **7. Provincial/Territorial Income Support Programs for Persons With Disabilities**

Federal, provincial and territorial collaboration continues to be a cornerstone of the Government's work in the area of disability. Federal, provincial and territorial governments have a shared interest in developing and implementing key policy and program initiatives that contribute to the commitment of full citizenship for persons with disabilities. A range of federal, provincial and territorial mechanisms support this collaborative work—from regular meetings of First Ministers and ministers to task-oriented Committees and working groups at the officials' level.

In December 2001, a subcommittee of the Federal/Provincial/Territorial Income Support Directors Committee was formed to examine the interaction between the CPP Disability program and provincial/territorial income support programs. The subcommittee has undertaken research to help determine priorities in addressing issues that affect mutual clients. Areas of focus include not only front-end issues, such as who should be referred to the CPP Disability program and joint communications products, but also the interaction of various policies and how to support mutual clients making successful transitions to employment. The subcommittee's work is a step towards better coordination between the CPP Disability program and provincial/territorial income support programs.

Work to date has shown that there are significant policy variations among provincial/territorial income support programs for persons with disabilities. These variations are not unexpected, given that these programs have evolved in different ways over the years. These variations, however, mean there is no "one-size-fits-all" solution to addressing interaction issues between federal, provincial and territorial disability income programs. The subcommittee is finalizing its work plan for the next one to two years; therefore, the Government believes that it is too soon to consider expanding this group to include all disability income programs. Moreover, CPP Disability is already working closely with private disability providers to address issues affecting joint clients. Efforts are also underway to raise these issues with workers' compensation organizations, the other major disability income provider, and HRDC will also be discussing with provinces issues such as the loss of extended medical care coverage in some provinces for individuals who transfer from provincial social assistance to CPP Disability, and the implications of moving from a tax-free benefit to one which is taxable.

## **8. Cost of Living Adjustments**

By law, all CPP benefits are fully indexed to any rise in the cost of living—as measured by the Consumer Price Index (CPI)—to ensure that the purchasing power of these benefits is maintained. Cost of living adjustments are an important feature of the CPP, providing beneficiaries some protection against inflation.

As mentioned earlier, private disability insurance plans replace a specified percentage of pre-disability income, usually between 70 and 80 percent. Industry guidelines for LTD plans allow an offset of the amount of the initial CPP Disability payment, with no additional



future offset of subsequent CPP cost of living adjustments. Workers' compensation programs provide a range of benefits, depending on the impact of the accidents or injuries that give rise to claims. In addition to medical and healthcare services, these programs provide functional and vocational rehabilitation, and income. Depending on the jurisdiction, income benefits might include some or all of the following: temporary disability benefits, compensation for loss of earning capacity, permanent disability awards, future economic loss awards, dependency benefits and death benefits.

In some jurisdictions (Alberta, Yukon, Northwest Territories and Nunavut), beneficiaries of both CPP Disability program benefits and workers' compensation receive their full entitlement from both programs. Other Canadian jurisdictions, except Quebec, offset all or part of CPP Disability program benefits in determining the amount of workers' compensation benefits. As such, no consistent treatment of CPP cost of living increases exists; some workers' compensation programs offset CPP disability benefits, some do not. Since workers' compensation programs are provincially regulated, the Government of Canada has no say in these matters.

Provincial and territorial social assistance programs are needs-tested, taking all sources of income into account. Most provinces and territories, however, do not index these benefits. Because of their basic structure and premise – that they are the income source of last resort – provincial and territorial income support programs offset the CPP's cost of living increases. Since these programs are provincially regulated, the Government of Canada cannot dictate how these benefits are structured.

## **9. Relationship with Part II, Employment Insurance**

Part II of the *Employment Insurance Act* (EI Part II) authorizes the design and implementation of programs and services to help the unemployed, including persons with disabilities, to prepare for, find and maintain employment. HRDC delivers Employment Benefits and Support Measures (EBSM) in five jurisdictions. In seven other jurisdictions, the province or territory has assumed responsibility for the design and delivery of programs and services similar to EBSM. Employment benefits consist of interventions such as self-employment and skills-development assistance for individuals and wage subsidies for employers, while support measures are mechanisms that provide opportunities to individuals or communities to further their employment and labour market potential.

Part II of the Employment Insurance system is part of a larger network of federal, provincial and intergovernmental labour market programs. The Government of Canada offers several targeted programs to assist Canadians facing labour market barriers. Current programs for persons with disabilities also include Employability Assistance for People with Disabilities (EAPD), which is delivered by provinces and territories, and the Opportunities Fund for Persons with Disabilities (OF), which is delivered by HRDC.

EI Part II also provides support to persons with disabilities within the confines of its primary objective of helping people who have lost their job return to work. Expenditures under EI Part II have increased over the last few years. Since 1996, annual funding levels for EI Part

It have increased by \$800 million; over the same period of time, overall labour market conditions have significantly improved. Ongoing assessment through the Monitoring and Assessment Reports and other research indicates that EI is fulfilling its primary objective of providing temporary income support to people who have lost their jobs and helping them return to work. Analysis through evaluations of EI Part II funded activities will further inform this assessment.

In addition to existing challenges, the economy of the twenty-first century will need workers who are lifelong learners, who can respond and adapt to change. In response, the 2002 Speech from the Throne stated that: “Canada’s labour market programs must be transformed to meet this challenge”. To support this commitment, Canada’s labour market programs, including EI and specific programming for persons with disabilities, are being reviewed to ensure continued responsiveness.

The Committee suggests that income support provided to individuals who participate in programs under EI Part II should be treated as earnings for the purposes of qualifying for CPP Disability benefits. For this to occur, interventions in which clients take part have to be a form of employment. Under the EI Part II Targeted Wage Subsidies employment benefit, employers, as part of their normal operations, hire clients, who continue to make CPP contributions. The Government, therefore, must conduct additional analysis of the impact of treating benefits available under the Job Creation Partnerships and Self-Employment programs as pensionable earnings before considering such a change.

---

## **VIII. FUTURE DIRECTIONS FOR THE DISABILITY INCOME SYSTEM**

<b><i>Recommendations 8.1 (a) - (d)</i></b>
---

In 1998, federal, provincial and territorial governments made a commitment to a vision for the full inclusion of persons with disabilities that identified three building blocks: disability supports, employment and income. In *Future Directions* (1999), the Government of Canada reaffirmed its commitment to promoting greater income equality for persons with disabilities. The Government of Canada continues to support and work towards the achievement of this objective.

With the disability community as an active partner, work has focussed on supporting the full inclusion of persons with disabilities. In that context, working to improve the employment situation of persons with disabilities has been an important priority. Progress on employment issues has been made, with the implementation of Employability Assistance for People with Disabilities (EAPD) in 1998, and the continuation of the Opportunities Fund (OF) in 1999. Over the past two years, HRDC has worked with provinces and territories to put in place a comprehensive labour market strategy for persons with disabilities. Flowing from this work, in August 2003, federal, provincial and territorial Ministers Responsible for Social Services approved, in principle, a Multilateral Framework for Labour Market Agreements for Persons with Disabilities.

The Government of Canada recognizes, however, that people with disabilities are a diverse group with a range of needs. Given the diversity of needs within this population, there will be a continuing requirement for both levels of government to be responsive to these needs. The Government will work to ensure that existing federal, provincial and territorial programs for people with disabilities are as coherent, integrated, effective and efficient as possible.

As we look to the future, more needs to be done. The CPP Disability program plays an important role in effectively addressing the income needs of contributors who, because of a severe and prolonged disability, are no longer able to work. However, there are people with disabilities who do not meet the criteria of the CPP Disability program because it was only designed for those with a recent labour force attachment. The Government of Canada accepts the challenge that this Committee presents, together with our partners and stakeholders, to look at income issues for people with disabilities more broadly.

Some work has already been done. For example, two papers commissioned by the Office of the Commissioner of Review Tribunals outline both a policy and political history of the CPP Disability benefit and consider short and long-term options for its reform.<sup>2</sup> These papers contribute to the policy discourse on the income system for persons with disabilities, and in particular the role that CPP Disability plays.

---

## **CONCLUSION**

The Government wishes to express again its gratitude to the House of Commons Standing Committee on Human Resources Development and the Status of Persons with Disabilities and to the Subcommittee on the Status of Persons with Disabilities for its work. The comprehensive study on the CPP Disability program undertaken by the Subcommittee represents months of careful research and hours of witness testimony. Through its innovative use of the latest information technology, the Subcommittee heard from hundreds of Canadians who offered their suggestions and concerns on the state of the CPP Disability program and its future. The Subcommittee's landmark study and its subsequent report will guide the Government in many crucial ways as it strives to improve the CPP Disability program for the Canadians it serves.

In its report, the Committee made 71 recommendations. In its response, the Government has attempted to address these recommendations with the thoroughness they deserve, using this opportunity to provide a detailed record of current practices and policies relating to the CPP Disability program, for future reference. As has been noted throughout its response, the Government is pleased to report that many of the recommendations of the Committee have been addressed or are in the process of being addressed. Indeed, unless otherwise specified, the Government is committed to responding to the direction provided by the Committee's report as thoroughly as possible.

---

<sup>2</sup> "Wrestling With The Poor Cousin: Canada Pension Plan Disability Policy and Practice, 1964-2001", by Michael J. Prince, University of Victoria, June 2002; "The Canada Pension Plan Disability Benefit", by Sherri Torjman, Caledon Institute of Social Policy, February 2002.

Among these tasks is improving the communications and outreach services offered to CPP Disability program clients. Other areas requiring improvement include disseminating clear information to other stakeholders on how the program works, the definition of disability, and the eligibility criteria employed by the program; simplifying application and appeal processes; streamlining information-gathering processes; resolving return-to-work issues; and harmonizing interactions between the program and other disability income systems. The Committee can be confident that the Government is committed to examining any initiatives that will lead to improvements in these areas and indeed any aspect of the CPP Disability program.

One area, however, where the Government must respectfully disagree with the committee concerns expanding eligibility and benefits. The Government, following extensive consultations with all stakeholders only five years ago, has established prudent rules and guidelines governing CPP Disability program eligibility and benefits levels—rules and guidelines that will guarantee the long-term solvency of the program, enabling it to meet the needs of Canadians with disabilities well into the future. Any reforms undertaken to improve the performance of CPP Disability need to ensure the continued viability of the program.

The Government values the work of the Committee. The Committee's report has given the Government considerable food for thought and an extensive array of suggestions for improvement. The Government encourages the Committee to remain active on issues of importance to the CPP Disability program, and looks forward to continuing to work with the Committee and its members to address the many challenges related to the CPP Disability program.

---

## **Appendix 1: List of Recommendations from Listening to Canadians**

### **Recommendation 1.1**

Given the success of the pilot project on e-consultation in complementing its regular Committee study of the Canada Pension Plan Disability and providing Canadians with information as well as involving them, the Committee recommends that:

- a) Each committee of the House of Commons consider putting in place an information-based Web site. Such a site could include common elements (e.g. information about how Parliament works, how committees operate and how to contact the committee) as well as information specifically related to an individual committee's mandate, activities and background information related to its specific studies.
- b) The House of Commons and Library of Parliament be given appropriate additional resources to put in place information-based committee Web sites with the capacity to facilitate e-consultations.
- c) The House of Commons and the Library of Parliament should put in place an overall framework or suggested course of action to guide any future e-consultations.
- d) Where circumstances warrant, other committees of Parliament consider including e-consultations with Canadians as one of the options in carrying out a study.

### **Recommendation 2.1**

The Committee recommends that the current Federal/Provincial/Territorial Review of the Canada Pension Plan Disability take into account the fact that the current operations of the plan do not fully reflect the values that underlie the current legislation and regulations. One of these relates to equal access and we recommend that the Year's Basic Exemption (YBE) for the purposes of disability be returned to \$3,500, the same as that for retirement benefits.

### **Recommendation 2.2**

The Committee recommends that the Government of Canada establish a permanent joint government and stakeholder advisory group (the CPP Disability advisory committee) with an ongoing mandate and resources to monitor and appraise the performance of the CPP disability program to ensure that it meets its stated purpose and objectives. Representation on the advisory group should include federal officials (Human Resources Development and Finance), health care providers, various disability organizations, patient advocacy groups, return to work and rehabilitation professionals. This advisory group should review performance and recommend changes to the CPP(D) on an ongoing basis and as part of the three-year federal/provincial/territorial review. The advisory committee should submit an annual report on its activities to the Standing Committee on Human Resources Development and the Status of Persons with Disabilities.

### **Recommendation 2.3**

So that future policy decisions pertaining to CPP(D) will be based on higher quality information, the Committee recommends that the Government of Canada make improvements to the analytical base of information about CPP(D) by encouraging research and establishing:

- a) partnerships between Human Resources Development Canada and the Social Sciences and Humanities Research Council of Canada;
- b) financial support for academic research on disability income and supports to improve quality of life for Canadians with disabilities;
- c) fellowships to lever money for research on the disability income system; and
- d) public sources of data pertaining to the operations of the federal disability income system, at Statistics Canada data centers across Canada.

### **Recommendation 3.1**

Given the ongoing problems with definitions of disability, the Committee recommends that the Privy Council Office establish a taskforce, modelled on the Voluntary Sector Taskforce, to work with relevant partners from the community to address these problems (particularly those associated with CPP(D) and the Disability Tax Credit). The Committee further recommends that the federal government initiate discussions with the provincial and territorial governments to bring some consistency and coherence to the definitions of disability used by programs in all jurisdictions.

### **Recommendation 3.2**

The Committee recommends that a comprehensive information package be developed to provide a description of each federal disability program which requires medical assessments, its eligibility criteria, the full range of benefits available, copies of sample forms, and any other relevant material.

### **Recommendation 3.3**

The Committee recommends that the terms “severe and prolonged” in section 42 of the *Canada Pension Plan* be amended to take into account cyclical and degenerative mental and physical conditions.

### **Recommendation 3.4**

Whether Recommendation 3.3 is implemented or not, the Committee recommends that Human Resources Development Canada (HRDC) immediately amend its CPP regulations, administrative guidelines, and manuals to ensure that the interpretation of the term “severe and prolonged” disability properly considers degenerative diseases, as well as mental, episodic and invisible illnesses (e.g. chronic pain, chronic fatigue syndrome, fibromyalgia and multiple chemical sensitivities). In addition, HRDC should develop, in consultation with the community and health care professionals, specific

evaluation tools for these particular disabilities to be used in assessing eligibility for CPP(D).

### **Recommendation 3.5**

The Committee recommends that the mandate of the taskforce to clarify the definition of disability (see Recommendation 3.1) include, as a priority, consideration of specific ways to reduce the administrative burden placed on health care providers and applicants for federal disability benefits by using a common application form (or by consolidating application procedures) and common assessment procedures (e.g. using CPP(D)'s nurse practitioners also to determine eligibility for the Disability Tax Credit).

### **Recommendation 3.6**

The Committee recommends that Human Resources Development Canada provide the comprehensive information package (see Recommendation 3.2) to all health care professionals and put in place an outreach program to provide them with information and education.

### **Recommendation 3.7**

The Committee recommends that HRDC immediately commission an independent evaluation of how the "severe and prolonged" eligibility criteria for CPP(D) are applied by CPP personnel in making decisions about eligibility. The Committee further recommends that the results of this evaluation be submitted to the CPP Disability advisory committee (see Recommendation 2.2) for discussion and recommendations no later than June 2004.

### **Recommendation 3.8**

The Committee recommends that the Government of Canada amend the *Canada Pension Plan* to define "prolonged" for the purposes of establishing eligibility for CPP(D) benefits as any period of 12 months or longer regardless of whether an individual has returned to work prior to the approval of his/her application or appeal.

### **Recommendation 3.9**

The Committee recommends that qualified health care professionals in addition to physicians be allowed to provide medical assessments for the purposes of determining eligibility for the CPP(D) and to complete application forms.

### **Recommendation 3.10**

Given the inconsistency in CPP(D)'s program administrators' understanding of "socio-economic" factors, the Committee recommends that CPP(D)'s definition of disability be revised to explicitly include the decision of the Federal Court of Appeal in the *Villani* case. All CPP policies, manuals, administrative procedures, medical evaluations, and information to the medical professions and to the public should consistently and explicitly incorporate the spirit of the *Villani* decision.

**Recommendation 3.11**

The Committee recommends that HRDC amend its administrative practices so that no application for CPP(D) shall be deemed completed and assessed for eligibility until it contains a full and complete functional assessment of the applicant that specifically discusses non-medical factors that affect the individual's employability.

**Recommendation 3.12**

The Committee recommends that HRDC conduct a detailed evaluation of how the CPP(D) program administrators are applying CPP(D) legislative guidelines in light of recent Review Tribunal and Federal Court decisions. The results of this evaluation should be submitted to the CPP Disability advisory committee (see Recommendation 2.2) for discussion and recommendations by June 2004.

**Recommendation 3.13**

In keeping with the Government of Canada's commitments in the Skills and Learning Agenda and in its promotion of family-friendly workplaces, the Committee recommends that HRDC incorporate dropout provisions in CPP(D) for attending school or training, and for caregiving of family members. These new dropout provisions should be the same as the child-care dropout provisions.

**Recommendation 3.14**

The Committee recommends that all CPP(D) dropout provisions include identical provisions for allowing partial years in determining the duration of the dropout.

**Recommendation 3.15**

The Committee recommends that CPP(D) applicants 60 years of age and over be entitled to CPP(D) benefits if they meet the eligibility criteria instead of being encouraged or forced to apply for CPP retirement benefits. CPP(D) administrators should be instructed accordingly.

**Recommendation 3.16**

The Committee recommends that the Government of Canada amend the *Canada Pension Plan* after paragraph 44(2)(a) so that it reads:

- (i) for at least four of the last six calendar years included either wholly or partly in the contributor's contributory period or, where there are fewer than six calendar years included either wholly or partly in the contributor's contributory period, for at least four years; or
- (ii) for at least one-third of the total number of years included either wholly or partly within an applicant's contributory period but in no case for less than three years, or



(iii) for at least ten years; or<sup>3</sup>

(iv) for each year after the month of cessation of the contributor's previous disability benefit.

#### **Recommendation 4.1**

The Committee recommends that Human Resources Development Canada (HRDC) establish, as a priority, client-friendly policies and practices in the application, assessment and approval processes for CPP(D).

#### **Recommendation 4.2**

The Committee recommends that HRDC process and approve all applications from clients who are terminally ill within 30 days of receipt and that the Government of Canada amend the *Canada Pension Plan* to eliminate for them the retroactivity provisions.

#### **Recommendation 4.3**

The Committee recommends that CPP(D) prepare and implement a comprehensive communications plan for CPP(D), that includes strategies to provide information to clients or potential clients of the program. People with disabilities, or their representatives, should be consulted during the development of this plan. This communications plan should include:

- a) training for frontline HRDC staff to provide appropriate responses to questions about CPP(D) and to assist people in filling out application forms;
- b) a targeted campaign to raise awareness of the program among organizations and community groups in contact with large numbers of possible applicants;
- c) better utilization of the resources of other government departments (particularly the Canada Customs and Revenue Agency); and
- d) formation of partnerships with other federal departments, provincial governments, income support programs, non-governmental organizations, support groups and qualified health care professionals to provide information about CPP(D).

#### **Recommendation 4.4**

The Committee recommends that the application forms and the accompanying guide be reviewed and revised to ensure that they are written in plain language, are as short as possible and provide clear information on how to submit the application. All information should be made available in alternate formats. Persons with disabilities, advocacy organizations representing them and the health care community should be consulted in this review process.

---

<sup>3</sup>The wording for (ii) and (iii) is currently included in paragraphs 44(3)(a) and 44(3)(b) of the Canada Pension Plan as the eligibility requirement for calculating the minimum qualifying period for other supplementary benefits.

**Recommendation 4.5**

The Committee recommends that CPP(D) launch a targeted outreach program for organizations, support groups and individuals who provide information and assistance to applicants for CPP(D). This outreach program should have dedicated resources to answer their questions and provide them with up-to-date information about application procedures.

**Recommendation 4.6**

The Committee recommends that HRDC, at its own expense, make greater use of independent medical examinations, functional capacity examinations and/or vocational assessments to provide more information about an individual's inability to work.

**Recommendation 4.7**

The Committee recommends that when an individual's application for CPP(D) is approved, the applicant should be reimbursed for the cost (upon submission of a receipt) of additional assessments (medical or functional) in addition to the physician's report currently paid for by CPP(D).

**Recommendation 4.8**

The Committee recommends that HRDC:

- a) include in the CPP(D) application form a question asking all applicants to identify any third party that required them, for whatever reason, to submit an application for benefits to CPP(D); and
- b) charge the third party the cost of processing any such unsuccessful application.

**Recommendation 4.9**

The Committee recommends that HRDC explore ways of speeding up the flow of information required to complete an application. The department, for example, could encourage the electronic transmission of medical information from physicians provided this can be done in a manner that ensures confidentiality.

**Recommendation 4.10**

The Committee recommends that HRDC eliminate the use of form letters to deny an individual a CPP(D) benefit. HRDC should provide each client whose application is denied with a personal letter written in plain language (and in alternate formats if requested) that sets out all specific information related to the individual's circumstances, explains the reasons for the denial of benefits and includes all information needed to appeal the decision. The Committee further recommends that similar procedures be followed for all reassessments.

**Recommendation 4.11**

The Committee recommends that HRDC allocate more resources to the initial consideration of applications in order to lower the number of unjustified denials and resulting appeals. In light of the important contribution of personalized contact in determining the eligibility of an applicant, the Committee further recommends that there be person-to-person contact between an applicant and the person adjudicating the application before a decision is reached on the application.

**Recommendation 4.12**

The Committee recommends that following an initial denial of an application for CPP(D) benefits, HRDC should automatically put in place a reconsideration procedure. This reconsideration should be conducted by a panel consisting of two health care practitioners — one of whom should be a physician. This panel should have person-to-person contact with the applicant.

**Recommendation 4.13**

The Committee recommends that HRDC offer and provide translation services to all applicants who speak neither English nor French to assist them with their CPP(D) application.

**Recommendation 4.14**

The Committee recommends that the Office of the Commissioner of Review Tribunals (OCRT):

- a) include in the request for appeal form a question asking all appellants to identify any third party that required them, for whatever reason, to appeal a denial of benefits to the OCRT; and
- b) charge such third party the cost of processing each unsuccessful appeal.

**Recommendation 4.15**

The Committee recommends that the Office of the Commissioner of Review Tribunals appoint outreach officers who will personally contact every appellant to explain the appeal process, the resources that might be available to assist them in their appeal, and their right to use representatives in the appeal process. This would also provide an opportunity to explain a decision respecting the applicant's eligibility for disability benefits under the CPP.

**Recommendation 4.16**

The Committee strongly recommends that HRDC fund disability organizations (e.g. independent living centres) to help them provide advocacy and service delivery supports to individual CPP(D) applicants and appellants.

**Recommendation 4.17**

The Committee recommends that HRDC work with the federal Department of Justice to determine to what extent automatic legal assistance can be provided to all those who appeal CPP(D) denials at the Office of the Commissioner of Review Tribunals or the Pension Appeal Board in order to ensure that appropriate representation is available for appellants.

**Recommendation 5.1**

The Committee recommends that Human Resources Development Canada return to the pre-1998 method for calculating CPP(D) benefits and retirement benefits for CPP(D) recipients.

**Recommendation 5.2**

The Committee recommends that Canada Pension Plan Disability payments commence on the day that Human Resources Development Canada qualifies a person to be eligible for CPP(D) benefits.

**Recommendation 5.3**

The Committee recommends that the Technical Advisory Committee on Tax Measures for Persons with Disabilities established by the Minister of Finance examine how best to adjust CPP contributions deducted for tax purposes in order to remove amounts paid in respect of disability benefits and thereby eliminate the taxation of Canada Pension Plan Disability benefits. This measure should be fully anticipated in the next federal budget and be in place by the beginning of the fiscal year 2004-2005. Once in place, similar treatment should be afforded to all Canada Pension Plan Disability benefits in pay.

**Recommendation 6.1**

The Committee recommends that Human Resources Development Canada, in conjunction with the Canada Customs and Revenue Agency, prepare a plain language brochure that outlines the tax treatment afforded long-term disability earnings replacement plans. This brochure should also indicate how these plans operate vis-à-vis the CPP(D) with, and without, an assignment of benefits agreement between Human Resources Development Canada and private insurers.

**Recommendation 6.2**

The Committee recommends that:

- a) Human Resources Development Canada work vigorously with private insurers, Workers' Compensation Boards and other providers of disability income support program to ensure that integration improves the economic welfare of CPP(D) recipients, especially in instances where the level of disability income support payments to these individuals is low;

- b) HRDC broaden the membership of its working group with provincial/territorial social assistance providers to include all disability income providers; and
- c) This working group report annually to the advisory group we recommended be created (see Recommendation 2.2).

### **Recommendation 6.3**

Until such time that CPP(D) benefits are non-taxable, (see Recommendation 5.3), the Committee recommends that all payments made under any assignment of benefits agreement, particularly those pertaining to re-imbusement payments, be paid in after tax funds using a standard deduction.

### **Recommendation 6.4**

The Committee recommends that Human Resources Development Canada examine comprehensively the impact of cost of living adjustments made to CPP(D) benefits that are integrated with other disability income support plans. If it is determined that the benefit of indexation on CPP(D) benefits is not being realized fully by CPP(D) beneficiaries, the Government of Canada must ensure that the full impact of cost of living adjustments flows directly to CPP(D) beneficiaries.

### **Recommendation 6.5**

The Committee recommends that the Government of Canada enact the necessary legislative amendments to render illegal the offsetting of CPP(D) benefits paid to dependent children of a CPP(D) recipient.

### **Recommendation 6.6**

The Committee recommends that the necessary amendments be made to the *Employment Insurance Act* and *Regulations* to ensure that CPP(D) benefits are not treated as earnings in instances where CPP(D) beneficiaries are entitled to Employment Insurance compassionate care benefits.

### **Recommendation 7.1**

The Committee recommends that Human Resources Development Canada double its budget of \$4.6 million (2002-2003) for the Vocational Rehabilitation Program and begin to measure the long-term impact of this program on the success of clients' return to work and the total economic benefits associated with these outcomes.

### **Recommendation 7.2**

The Committee recommends that Human Resources Development Canada undertake a pilot project to measure the impact of increasing the amount associated with substantially gainful occupation (SGO) to 125% of annual maximum CPP(D) benefits. In addition to measuring the impact of this measure on program costs, this pilot project should study the benefits and work incentive effects of a gradual reduction in CPP(D) benefits as the earnings of project participants exceed the experimental SGO threshold following the return-to-work trial period.

### **Recommendation 7.3**

The Committee recommends that Human Resources Development Canada extend the three-month work trial period to six months and provide an immediate and automatic reinstatement of benefits for two years following a successful return to work.

### **Recommendation 7.4**

The Committee recommends that the federal government create the necessary conditions to permit Human Resources Development Canada to implement pilot projects that test various approaches for integrating CPP(D) with other disability income and supports, including the medical community, to strengthen incentives for beneficiaries to return to work.

### **Recommendation 7.5**

The Committee recommends that the federal government increase expenditures under Part II of the *Employment Insurance Act* as well as extend eligibility for these benefits to a much broader population than is currently captured under the definition of “insured participant.” Moreover, Part II benefits should be treated as pensionable earnings for the purpose of determining CPP(D) eligibility.

### **Recommendation 8.1**

The Committee recommends that the Department of Finance and the Department of Human Resources Development collaborate in the preparation of background documents that can be provided to the Subcommittee on the Status of Persons with Disabilities by 1 November 2003. Officials from the two departments will be asked to appear as witnesses to present the results of their research. The background documents should:

- a) outline the issues, options and costs to disaggregate CPP(D) contributions into two components: one for retirement benefits and the other for disability benefits;
- b) discuss the possibilities and costs for a single point of entry for federal/provincial disability income programs; and
- c) examine various options and costs for alternative income programs. These options should include:
  - applying the national child benefit model to a disability income program;
  - examining the applicability of programs in other countries such as the Netherlands where non-categorical income programs integrate disability into a broader set of programs based on overall criteria regarding employability; and
  - incorporating partial benefits into the Canada Pension Plan Disability program.

- d) Examining the options to establish a case-management system of addressing problems that arise because of the lack of integration between CPP(D) and other disability income support programs (e.g. workers' compensation, social assistance and long term disability).

**Recommendation 8.2**

In order to monitor the implementation of the recommendations in this report, the Committee recommends that for the next five years, the Departmental Performance Report of the Department of Human Resources Development Canada contain a section setting out progress in addressing our recommendations.

---

## Appendix 2: Example of a Denial Letter



Human Resources  
Development Canada

Développement des  
ressources humaines Canada

August 1, 2003

**- IMPORTANT -  
PLEASE RETAIN THIS LETTER  
FOR YOUR RECORDS**

Dear Mr.:

### **CPP disability decision**

This is further to your disability application of February 15, 2003. As explained when we spoke on August 1, 2003, we regret to inform you that Canada Pension Plan (CPP) cannot pay you disability benefits. A careful review of your application shows that you are not eligible for disability benefits because you have the ability to work.

### **CPP disability rules**

To qualify, you must meet **four rules**:

1. You must be under age 65.
2. You must have paid into CPP for at least **four** of the last **six** years.
3. You must have a disability that stops you from doing **any** type of work on a regular basis (full-time, part-time or seasonal), not just the work you usually do.
4. You must have a disability that is long term and of unknown duration, or a disability that is likely to result in death.

In your case, you meet the **second** rule, but you may not meet it after December 2003. However, you do not meet the **third** rule listed above.

**Canada**



## Reasons for the decision

We have reviewed all the information and documents in your file including all the reports you sent. These are the reports we have on file:

- your application and your questionnaire
- your Family Doctor's report dated February 5, 2003
- your Neurosurgeon's report dated February 3, 2003
- MRI dated November 2002
- a report from B\*\*\*\*\* Rehabilitation dated January 8, 2003
- a letter from your Family Doctor to the WCB dated January 15, 2003
- a report from a Neurologist dated November 2002
- reports from your Orthopedic Surgeon dated June 2000 and September 2001
- a hospital discharge summary dated November 2000
- x-rays of your spine dated March 18, 2000 and June 5, 2002

We recognize that you have identified limitations resulting from a low back injury. However, we considered the following factors in making the decision:

- According to your Neurosurgeon's report, a rehabilitation program is the best treatment for your back condition.
- According to the MRI report, you have degeneration in the discs of your low back.
- According to your Orthopedic Surgeon's report, he advised that you should consider re-training for a light job, as you will not be able to return to your previous job.
- We expect that you would be able to retrain for a light suitable job because of your work experience.

While you may not be able to do your former job as a roofer, we have concluded that you should be able to do some type of light work.

We are aware that you are receiving benefits under the Worker's Compensation Board. However, the Canada Pension Plan legislation defines **disability** differently from other disability programs. Others may give you benefits because you can't do your regular job or because you were injured at work.

Although you may be disappointed, we hope that you understand the reasons for this decision.

## If you have questions

If you have questions about this decision, please call 1800 XXX-XXXX. A telephone agent will ask me to call you.

## **If you disagree with the decision**

You have the right to ask that this decision be reconsidered. If you decide to do this, you must write to us within 90 days from the date you receive this letter. Please see the attachment for more information.

Yours truly,

### **TELEPHONE NUMBERS**

Service Delivery Specialist

Human Resources Development Canada  
P.O. Box

In Canada or the United States call:

English 1 800 XXX-XXXX

French 1 800 XXX-XXXX

T.T.Y./Teletypewriter Users Only 1 800 XXX-XXXX

If outside Canada or the United States,

call: 1-613-XXX-XXXX

Enclosure:

Canada Pension Plan medical decisions are made  
by professionals with medical backgrounds  
who have received extensive training on CPP legislation.



## How to Ask Canada Pension Plan (CPP) to Reconsider Its Decision

---

You have the right to ask CPP to reconsider its decision regarding your application for disability benefits. Your request must be made in writing **within 90 days** after receiving this letter. **Please write to:**

### Canada Pension Plan Disability Benefits Reconsideration Income Security Programs

#### What you need to include in your request:

- your name, current address, telephone number, and social insurance number;
- an explanation of why you are asking CPP to reconsider its decision;
- any new medical or other information that could affect the decision; and,
- the date and your signature.

**Note:** You are responsible for providing all information required to support your case. If you do not have copies of new medical reports or other information, please do not wait to send your request for reconsideration.

#### What will happen after CPP receives my written request?

- We will review all information on your file and any new information you provide.
- We will contact you by telephone to discuss your request and answer your questions and, if necessary, clarify any information you have provided.
- We will try to reach you to inform you of the decision by phone.
- We will also send you the decision in writing.

#### How long will it take CPP to reconsider its decision?

It usually takes about **3 months** to reconsider a decision. This is the average time it takes to evaluate all the information on your file. In complex cases where we may need to request additional information, it may take longer. We will contact you if we need more time to make a decision in your case.

## How does CPP define “disability”?

It is important that you understand the definition of “**disability**” used by the Canada Pension Plan (CPP). Under the CPP legislation, your disability must be **severe** and **prolonged**.

- **Severe** means that a person is incapable regularly of pursuing any substantially gainful occupation. This means that the disability stops you from doing **any** type of work on a regular basis.
- **Prolonged** means that the disability prevents you from going back to work in the next 12 months, or is likely to result in death.

## How to reach us if you have any questions:

- English – General Inquiries: 1 800 XXX-XXXX
- French – General Inquiries: 1 800 XXX-XXXX
- TTY/TDD users: 1 800 XXX-XXXX (for people with speech or hearing impairments)
- Internet: [www.hrdc-drhc.gc.ca/isp](http://www.hrdc-drhc.gc.ca/isp) (for general information about CPP)