

The Canada Pension Plan Disability Adjudication Framework

The Adjudication Framework was developed to improve the clarity and transparency of the policy used to determine medical eligibility to the Canada Pension Plan Disability program. It consolidates the policy elements of disability adjudication into one comprehensive framework that provides Canada Pension Plan decision-makers with all of the information required to adjudicate Canada Pension Plan disability applications.

The basis of the adjudication framework resides in the Canada Pension Plan legislative definition of disability. The Adjudication Framework lays out in a simple format the relationship between the legislation and the various policy components.

The Adjudication Framework has a set of criteria against which the pertinent facts of each case is analyzed and evaluated. It is presented in a cascading order of criteria, components and factors and sub-factors.

The Canada Pension Plan criteria are “severe” and “prolonged”. These criteria are broken down into the prime indicator (the medical condition) and a series of components which make up the “severe” and “prolonged” definition under paragraphs 42(2)(a) and 42(2)(b) of the Canada Pension Plan. These components are again broken down into factors and sub-factors. The factors and sub-factors represent the facts and legal principles determined over time by Pension Appeal Boards to be important to a determination of disability under the Canada Pension Plan.

The Adjudication Framework for Canada Pension Plan disability benefits consists of five components:

1. [Severe Criterion for the Prime Indicator \(Medical Condition\)](#)
2. [Severe Criterion for “Incapable Regularly of Pursuing any Substantially Gainful Occupation”](#)
3. [Personal Characteristics and Socio-Economic Factors](#)
4. [The Prolonged Criterion](#)
5. [The Reasonably Satisfied Standard of Review for Determining Eligibility and/or Continuing Eligibility for Canada Pension Plan Disability Benefits](#)

A [Glossary of Terms](#) further explains terms presented in the Adjudication Framework.

Severe Criterion for the Prime Indicator (Medical Condition)

Purpose

This guideline provides a framework for evaluating medical conditions to determine eligibility for Canada Pension Plan (CPP) disability benefits.

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1. Introduction

The medical condition is considered the prime indicator. That is, a person must first have a medical condition and secondly, that medical condition must result in a “[severe](#)” and “[prolonged](#)” disability in order for a person to be eligible for CPP disability benefits.

The importance of the medical condition was confirmed in the [Federal Court of Appeals](#) (FCA) decision in Villani v. Canada (2001). In this case the FCA said that a person applying for a CPP disability benefit must be able to demonstrate that they have “a serious and prolonged disability”. Medical evidence will still be needed as will evidence of employment efforts and possibilities.

2. Policy

Prime Indicator: Medical Condition

The medical condition is always the prime indicator in determining a “[severe](#)” and “[prolonged](#)” CPP disability. There are a number of factors to consider in assessing the medical condition:

- The nature of the medical condition, and whether it is progressive;
- Functional limitations imposed by the medical condition;
- Impact of treatment(s);
- Statements/opinions expressed by medical practitioners and/or other health professionals, and by the client;
- Existence of multiple medical conditions; and
- Personal characteristics.

The [medical adjudicator](#) must determine if the medical condition regularly prevents a particular person from working.

2.1 Factor: Nature of the Medical Condition

A medical condition can be evaluated as mild, mild to moderate, moderate, moderately-severe or severe in nature. Certain conditions can be described as cyclic, acute, slowly progressive, rapidly deteriorating, chronic or terminal. Certain medical conditions can have periods of exacerbations, remissions, stability and deterioration.

In some cases there will be conclusive evidence that the medical condition alone supports the “[severe](#)” and “[prolonged](#)” criteria for CPP purposes. In these cases no additional determination is required.

These medical conditions can include: AIDS, aneurysm, brain tumor, cancer, carcinoma, cerebral hemorrhage, cerebral infarction, cerebrovascular accident (CVA), coma, end stage amyotrophic lateral sclerosis (ALS), end stage degenerative neuromuscular disorders, glioma, Guillain-Barré syndrome, Hodgkin's disease, leukemia, liver failure, lymphoma, massive stroke, melanoma, muscular dystrophy, myeloma, neoplastic disease, renal failure, and sarcoma.

In most cases the [medical adjudicator](#) uses his or her health science knowledge, the CPP legislation and the medical information provided by the individual and health professionals, to determine whether the nature of a medical condition could be “severely” disabling and lead to an inability to work. The [medical adjudicator](#) must also consider any other pertinent factors and/or sub-factors, [personal characteristics](#), and [work capacity](#) evidence that influence the determination of a “[severe](#)” and “[prolonged](#)” disability.

2.1.1 Sub-factor: Progressive Nature of the Medical Condition

Many medical conditions are cyclic, and/or slowly or rapidly progressive in nature. They require evaluation over time to determine when a person is eligible for CPP disability benefits.

Consideration of the progressive nature of the medical condition is particularly pertinent when adjudicating under the [late applicant provision](#). This is because sometimes the signs and symptoms of a disability can occur before the medical condition has been diagnosed and/or before the person has insufficient earnings and contributions to support their disability entitlement.

The [medical adjudicator](#) therefore evaluates these signs and symptoms in conjunction with his or her knowledge of disease processes, the entire history and all the evidence in a case.

The goal of this evaluation is to determine whether the signs and symptoms, which were present and could be identified by the medical history, support on “a more likely than not” basis a “[severe](#)” and “[prolonged](#)” disability prior to the date of diagnosis or the [Latest Possible Date of Onset](#).

2.2 Factor: Functional Limitations

A [functional limitation](#) is an impairment that leads to less than normal performance for an individual. The focus of CPP disability is only on those functional limitations that affect the capacity to work.

2.3 Factor: Impact of Treatment

For Canada Pension Plan purposes treatment can be defined as what is needed to restore or improve the health and function of a particular person, or what is needed to prevent or delay deterioration.

Treatments can vary depending on the nature, and severity of the medical condition or conditions, and the person's response to those treatments. In some cases the goal of treatment or treatments is to cure or remove the cause of the medical condition. In other cases the goal of treatment or treatments is to control the progression of the medical condition, and/or provide relief of symptoms, and/or provide insight and necessary coping mechanisms for adapting to the person's identified limitations.

The [medical adjudicator](#) must determine how ongoing medical treatments are likely to affect the medical condition and a person's ability to work in the short term and/or in the future. Short term in this context means within one year.

2.4 Factor: Medical Statements

Medical statements contained in reports form part of the medical evidence in a case. The medical statements must be evaluated in terms of what is consistent and logical in relation to all of the evidence in a case and the way CPP determines a "[severe](#)" and "[prolonged](#)" disability.

2.5 Factor: Multiple Medical Conditions

For CPP purposes, a person who has been diagnosed with two or more medical conditions has multiple medical conditions.

The [medical adjudicator](#) must determine if this is a case in which consideration of one medical condition might not indicate incapacity for any work, but when two or more medical conditions are considered together they would indicate such incapacity.

2.6 Factor: Personal Characteristics

These are described in the [Personal Characteristics and Socio-Economic Factors](#) policy.

Severe Criterion for “Incapable Regularly of Pursuing any Substantially Gainful Occupation”

Purpose

The purpose of this section is to describe the component of the “severe” criterion related to, “incapable regularly of pursuing any substantially gainful occupation.”

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1. Introduction

In addition to the medical condition, which is the prime indicator, the Canada Pension Plan (CPP) disability determination is based on [work capacity](#) and [personal characteristics](#). The applicant must demonstrate that he or she has a “severe” and “prolonged” physical or mental disability that prevents him or her from regularly pursuing any [substantially gainful occupation](#).

2. Policy

The framework dealing with "incapable regularly of pursuing any substantially gainful occupation" provides the reference point for the analysis and evaluation of pertinent factors related to a person's capacity to work. The individual has to demonstrate that this test is met by the date they last qualify on earnings and contributions.

Satisfying the CPP disability test requires consideration of their performance, productivity and the profitability of the work activity. Performance, productivity and profitability are not considered in isolation but are considered based on the interrelationship of the 3 requirements. Performance, productivity and profitability contain factors and sub-factors that must be considered. These factors and sub-factors may or may not apply to all individuals depending on the circumstances of the case.

2.1 Performance, Productivity and Profitability

Performance, productivity and profitability are not legislatively defined terms. These concepts help link the components in the legislation to assess a person's ability to work.

Determining whether or not a person has capacity for work is based on an assessment of the interrelationship among a person's performance, productivity and profitability. This also applies at [reassessment](#) to determine whether or not there has been an adaptation to the medical condition and/or improvement in the medical condition that has resulted in an increased capacity to work.

2.1.1 Performance

Performance is the actual effort that the individual undertakes in order to carry out the work. Performance relates to the person's ability to perform all of the tasks and duties required for a specific job.

A person's disability can result in functional limitations and restrictions that affect his/her ability to do certain jobs. The [medical adjudicator](#) must determine if the overall evidence related to a person's disability, notwithstanding their functional limitations and restrictions, indicates that the person has the ability to perform any job that exists in the competitive workforce.

2.1.2 Productivity

Productivity is the amount of work produced in a given period of time. Productivity relates to the person's ability to produce the standard amount or number of products, services or outcomes as described in a work description.

The [medical adjudicator](#) must consider if the work or work-related activity of a particular person indicates the ability to produce a standard amount or number of products, services or outcomes as described in a work description.

2.1.3 Profitability

Profitability refers to the amount of money an individual earns for a work activity from employment or self-employment. Profitability is always assessed in conjunction with performance and productivity.

2.2 Determination of Capacity for Work

There are 5 components in the Canada Pension Plan (CPP) statute which relate to a person's capacity to work. The 5 components are: "incapable," "regularly," "pursuing," "any," and "substantially gainful occupation."

2.2.1 Component: Incapable

The first word in the CPP legislation to be considered when determining capacity for work is the component "incapable." "Incapable" means that as a result of the disability, an individual would not be able to work in any [substantially gainful occupation](#). Incapable of work does **not** relate to profitability.

To determine if an individual's disability meets the Canada Pension Plan criteria of "[severe](#)" and "[prolonged](#)," it must be established that the individual's disability directly affects his or her capacity to work. Individuals with mild medical conditions that have no physical and/or mental limitations and restrictions to affect their ability to work are not considered "incapable" of working.

When there is no current work or other work-related activity at the date of application, the [medical adjudicator](#) must rely on the overall evidence with regard to past work activity to make a decision. When there is work activity, it must be considered in the determination.

There are a number of factors to consider in determining whether or not an individual is capable of working. These include: work activity, applicant working or not, receipt of Employment Insurance and school attendance.

2.2.1.1 Factor: Work Activity

Determining whether or not work activity indicates capacity and/or an increased capacity for work is based on [performance](#) and [productivity](#).

There are individuals who do not work, but who may nevertheless have the capacity for work. It is important to determine the reasons why these individuals are not working, or, are not seeking work.

If the reason these individuals are not working is unrelated to their disability, eligibility for CPP disability is not likely in an initial application or a request for [reconsideration](#). At [reassessment](#) it may be determined that beneficiaries have [work capacity](#) but require additional support to help them re-enter the workforce.

There are individuals who do some work despite the severity of their disability, but who nevertheless are considered as incapable. These individuals may periodically work minimal hours for limited remuneration or they may work in sheltered employment. Since that is all they are capable of doing, they are still eligible or continue to be eligible for a CPP disability benefit.

In rare circumstances, there will be individuals who receive earnings from employment because they are working for a [benevolent employer](#), but whose [performance](#) and [productivity](#) are very limited, or non-existent. While they may "work" regular hours and the amount of income may be considered to be a [substantially gainful occupation](#), the applicant could still be considered "incapable" of working.

2.2.1.2 Factor: Individual Working or Not

It must be determined why the individual is or is not working. Any absence from work is pertinent. Absences related to the medical condition are the only absences that may establish a “[severe](#)” and “[prolonged](#)” disability. Other absences are pertinent since they may establish that the person does not meet the “[severe](#)” and “[prolonged](#)” criteria.

When the nature of previous employment is seasonal, periods of unemployment during the “off season” do not by themselves indicate an individual does not have the capacity for work.

A significant indicator that the individual is capable of working is whether the individual is working at a substantially gainful level at the [date of application](#) and/or the [date of adjudication](#). Generally speaking, this indicates that the disability has not resulted in the individual being “incapable regularly.”

An indicator that the individual may be showing an increased capacity for work is when the individual is working at a substantially gainful level at the time of [reassessment](#). Further assessment is required to determine whether the disability has stabilized and/or whether there has been an adaptation to and/or improvement in the disability which has resulted in an increased regular capacity for work.

When considering whether an individual is or is not working, there are several sub-factors to be considered. These are: full-time and part-time work, self-employment and volunteer activity.

Sub-factor: Full-time Work

At the date of application, individuals engaged in full-time employment who are capable regularly of pursuing any [substantially gainful occupation](#) will be denied a CPP disability benefit.

Individuals who are engaged in sheltered employment or working for a [benevolent employer](#) are not considered to be demonstrating the regular capacity to work for CPP purposes.

At [reconsideration](#) or at appeal to the [Office of the Commissioner of Review Tribunals](#) the [Pension Appeals Board](#), an individual who, after ceasing work, meets the “severe” and “prolonged” criteria can be granted a CPP disability benefit. In these cases the [Date of Onset](#) or [Offer of Settlement](#) is set for the date when the evidence clearly establishes that the “[severe](#)” and “[prolonged](#)” criteria are met, and at a time when the person meets the [contributory requirements](#).

At the time of reassessment, full-time work can be a strong indicator of an adaptation to and/or an improvement in the medical condition that resulted in an increased capacity for work.

Sub-factor: Part-time Work

Part-time employment may be a matter of personal choice rather than a reflection of the person's [work capacity](#). It may also be a matter of current economic conditions and labour market conditions. [Socio-economic factors](#) are not a factor in determining eligibility and/or continuing eligibility for a CPP disability benefit.

Generally, if a person is doing part-time work on a regular basis at the [date of application](#) and/ or the [date of adjudication](#), the person will not be eligible for CPP disability benefits. For part-time workers, it is the capacity for work not the amount of work that the person is doing that is pertinent to the decision. The [medical adjudicator](#) must determine whether the individual has the regular capacity to engage in any [substantially gainful occupation](#) whether that is full-time or part-time.

At [reassessment](#) part-time work, on its own, does not support the ceasing of disability benefits. Part-time work may be an indicator that the person is attempting a return to the workforce. It may be determined that a [beneficiary](#) needs additional supportive measures to return to work. Further assessment is required to determine if:

- there has been an improvement in the medical condition; and,
- the disability has stabilized such that the person could benefit from additional return to work support; and,
- the improvement in the medical condition has resulted in an increased capacity for work which warrants a cease of the CPP disability benefit.

Sub-factor: Self-employment

Eligibility for a CPP disability benefit does not distinguish between whether the individual is self-employed or an employee. A self-employed person must meet and/or continue to meet the "[severe](#)" and "[prolonged](#)" criteria.

A self-employed person must be determined and/or continue to be "incapable regularly of any substantially gainful occupation", and not just the work that he/she was doing in a self-employed capacity. "Incapable regularly" must be determined or reassessed on the basis of the disability regularly preventing or continuing to prevent the self-employed person from working at any [substantially gainful occupation](#) and not on other factors like socio-economic conditions.

Sub-factor: Volunteer Activity

Volunteer activity is often referred to as “volunteer work.” Volunteer work is not, by itself, an indicator of capacity for work. CPP disability beneficiaries are not required to report volunteer activity.

The [medical adjudicator](#) must determine if the demonstrated capacity for volunteer activity indicates capacity for paid employment. When determining initial eligibility for CPP disability, individuals who do volunteer activity are to be considered to be in a situation equivalent to where the applicant is **not** working.

2.2.1.3 Factor: Employment Insurance

Employment Insurance (EI) coverage provides regular benefits, sickness benefits, parental benefits and compassionate leave benefits to insured contributors. Receipt of EI maternity benefits and compassionate leave benefits are not equated to the person being eligible for CPP disability benefits. In general, an individual should not simultaneously be eligible for regular EI (i.e. capable of working) and for CPP Disability, but in some cases it will be the EI benefit rather than the CPP disability benefit which is inappropriate.

Receipt of regular EI benefits may be a factor to consider in deciding if the person has a capacity for work. To receive regular benefits, the person declares that he/she is “ready, willing and capable of working” at a suitable occupation. The [medical adjudicator](#) must consider the pattern of usage of regular EI benefits to make their determination.

EI sickness benefits are an indicator that an individual has a medical condition and should be explored with the individual. An individual is entitled to receive both EI sickness benefits and CPP disability benefits.

Receipt of regular EI cannot be relied on as conclusive evidence of capacity for work, but should be used as supporting evidence.

2.2.1.4 Factor: School Attendance

At initial determination full-time school attendance is considered to be equivalent to the capacity to work. The demands required for full-time school attendance can be the same as the demands for [performance](#), [productivity](#) and [profitability](#). However, a [beneficiary](#) can attend full-time school to upgrade their education and skills and continue to be eligible for a CPP disability benefit.

2.3 Component: Regularly (as in incapable regularly)

The second word in the Canada Pension Plan (CPP) legislation considered under capacity to work is “regularly.” “Regularly” means that the limitations associated with a disability are persistent to the point of being continuous or

uninterrupted. It is the continuous or uninterrupted nature of a severe disability that prevents a person from doing any substantially gainful work.

The determination of whether or not the work activity demonstrates a person to be and/or continues to be “incapable regularly” of working because of a severe disability is made with reference to the following: medical condition, hours of work, absences, and sporadic work.

2.3.1 Factor: Medical Condition

The medical condition is always the [prime indicator](#) in determining “incapable regularly” for a determining eligibility for CPP disability benefits.

This determination is based on the nature of the medical condition, functional limitations, impact of treatment, and medical statements from physicians or other health care professionals.

2.3.2 Factor: Hours of Work, Absences

Hours of work, reasons for the hours of work, and reasons for absences are all to be considered. Any reason for the hours of work or absences is pertinent. If the reason is related to the disability it would be supporting evidence towards establishing entitlement for CPP disability benefits. If the reason is not related to the disability, it could be supporting evidence towards establishing that the individual is not eligible for CPP disability benefits. An absence from work related to seasonal employment is a socio-economic factor and is not part of a “severe” and “prolonged” determination.

If a person has worked regular hours in the past, followed by periods of limited or no work activity, this may be an indicator of a progressive, episodic and/or cyclical medical condition. Further investigation is required to determine if the reason for the change in working hours and/or absences from work are related to periods of exacerbation and remission in a medical condition which has progressed. Employer reports and/or medical reports related to dates and reasons for the person’s visits to their physician(s) may be pertinent.

2.3.3 Factor: Sporadic Work Due to the Disability

Sporadic or intermittent work in and of itself does not usually result in a person being “incapable regularly.” The reasons for the sporadic work pattern must be determined.

The overall evidence may indicate for episodic, cyclical and/or recurring medical conditions that the sporadic work is a result of the disability, particularly when the

beginning of the sporadic work pattern coincided with the onset of the disability. In these cases the person may be considered as incapable regularly of performing any substantially gainful work.

If the person's work activity prior to the disability shows that their work was intermittent or infrequent, it is less likely that the person will be considered to be "incapable regularly" based on their pattern of work activity.

If a person chooses to work on a casual basis the person is exercising their preference for working hours. This is not pertinent to a CPP disability determination.

At [reassessment](#) sporadic work determined to be due to the disability would result in a continuation of disability benefits.

2.4 Component: Pursuing

The third word in the CPP legislation considered under capacity to work is "pursuing." "Pursuing" means to actually engage in an occupation. "Pursuing" is **not** used in the sense of seeking work.

2.4.1 Factor: Engaging in Work

The fundamental test of a "severe" and "prolonged" disability relates to the inability to actually engage in employment rather than being unable to find or obtain work.

A person who is not looking for work may be capable of work and, conversely, a person who is looking for work may, because of their disability, not be able to "pursue" work.

2.5 Component: Any (occupation)

The fourth word in the Canada Pension Plan (CPP) legislation considered under capacity to work is "any." "Any" refers to an [occupation](#) in which a person might reasonably be expected to be employed because of his or her skills, education and training. It may also refer to the capacity to acquire the necessary skills, education or training in the short-term whether on the job or otherwise given the person's limitations and restrictions. In some instances, an individual may have worked at a highly skilled position such as an engineer in the field and can no longer continue in that work. However, the individual has the capacity to work at a desk job.

The factor considered under any is skills, education and training. The determination of “any” occupation also considers the person’s personal characteristics.

2.5.1 Factor: Skills, Education, Training

Retraining must be considered as a means to support an individual’s [work capacity](#) for those in their most active years of their working career or for older workers where there is a demonstrated suitability. However, age may be a factor. Generally, the possibility of retraining for an occupation for which there is no previously demonstrated suitability, in itself, would not be an appropriate reason for concluding that an older worker is capable or incapable of work.

At [reassessment](#) a person may demonstrate through their work trial and return to work activities that they have the skills, education and training to pursue a [substantially gainful occupation](#).

2.6 Component: Substantially Gainful Occupation

The phrase “substantially gainful occupation” forms the fifth component for consideration under capacity to work. A “substantially gainful occupation” means an occupation where the remuneration for the work performed and services rendered was at a substantially gainful amount. The substantially gainful amount is a benchmark of earnings that likely indicates whether a person is showing regular capacity for work.

The substantially gainful occupation can include three factors:

- profitability,
- profitable but not productive, and
- highly motivated.

2.6.1 Factor: Profitability

Profitability in a specific time period refers to the amount of money an individual earns from a work activity.

The substantially gainful amount is the maximum monthly CPP retirement pension. The annual amount is equal to twelve (12) times the maximum monthly CPP retirement pension. CPP [payment rates](#) are adjusted every January.

Generally speaking the medical adjudicator needs to examine the pattern of earnings at the [substantially gainful occupation](#) where the person has recorded earnings and contributions after their [latest possible date of onset](#). The earnings may indicate whether the person had the regular capacity to pursue a substantially gainful occupation during that time.

If necessary at [reassessment](#) the [medical adjudicator](#) would evaluate the monthly earnings of an individual who reports a return to work beyond the [Allowable Earnings](#) limit and provide appropriate support to assist the client to return to regular substantially gainful employment.

Normally, earnings based on the substantially gainful amount are broken down into three levels to properly determine their value in the disability determination process. These levels are:

- from no earnings up to a substantially gainful amount,
- between the substantially gainful amount and twice that amount, and
- above twice the substantially gainful amount.

Generally, as the earnings increase, the likelihood of capacity is seen to increase.

2.6.1.1 Sub-factor: Earnings up to a Substantially Gainful Amount

An individual, who is working to the maximum capacity that his or her disability permits, and whose earnings are less than the substantially gainful amount, is not productive and is not performing. This individual can be determined incapable of working at a substantially gainful level.

The substantially gainful amount is the maximum monthly CPP retirement pension. The annual amount is equal to twelve (12) times the maximum monthly CPP retirement pension.

2.6.1.2 Sub-factor: Between Substantially Gainful Amount and Twice Substantially Gainful Amount

The presence of earnings at the substantially gainful amount does not automatically indicate that the [beneficiary](#) is, or is no longer, eligible for the CPP disability benefit. An individual who is earning between the substantially gainful amount and twice this amount does not necessarily have the regular capacity for work. Other factors related to [productivity](#) and [performance](#) need to be assessed to better understand the relationship between the person's earnings and their capacity for work.

2.6.1.3 Sub-factor: Twice Substantially Gainful Amount and Over

A person with earnings at or above twice the substantially gainful amount is generally presumed to have a capacity for work at a substantially gainful level.

The [medical adjudicator](#) confirms that the earnings level is the result of the person performing and being productive.

Although rare, there may still be grounds for considering such an individual to be disabled if the work effort is accommodated to a significant degree, or if the work is irregular because they are working for a [benevolent employer](#).

2.7 Factor: Profitable but not Productive

Another factor to consider under [substantially gainful occupation](#) is profitable but not productive. Earnings are a strong indication of capacity for work. It must be determined whether the individual is performing and productive in the work on a regular basis. An individual who is profitable may not be productive.

However, earnings from employment may not always lead to the conclusion that a person has the capacity for work.

2.8 Factor: Highly Motivated (when an individual is working in spite of medical advice to the contrary)

There are some situations where individuals who are highly motivated and who cannot accept a complete lack of work activity work despite the fact that they may have a serious and/or terminal medical condition. If the individual's earnings are below the substantially gainful amount, the person would be eligible and/or continue to being eligible for CPP disability benefits.

At initial determination an individual who is working and is determined to be performing, productive, and profitable, despite having a serious medical condition, will not be eligible for CPP disability benefits. This should be discussed with the individual in the [early client contact](#) call to be sure the individual is aware of the implications of their continuing to work on their ability to qualify for a CPP disability benefit.

Personal Characteristics and Socio-Economic Factors

Purpose

The purpose of this section is to define the personal characteristics considered by the Canada Pension Plan (CPP) and provide additional direction for the consideration of personal characteristics in the determination of a “severe” and “prolonged” disability.

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1. Introduction

Personal characteristics are those intrinsic factors that are unique to a particular person and directly affect that person’s regular capacity to pursue any [substantially gainful occupation](#).

Personal characteristics have always been considered in the determination of a “severe” and “prolonged” disability. However, personal characteristics alone do not establish entitlement to CPP disability benefits. The determination of CPP disability eligibility is based on the overall evidence related to the medical condition, [work capacity](#) and personal characteristics. The overall evidence must establish on a more likely than not basis, that the person is "incapable regularly of pursuing any substantially gainful occupation."

The [Federal Court of Appeal](#) decision in Villani touched on many key aspects of CPP disability adjudication namely: consideration of personal characteristics, taking a “real world” approach to adjudication, the primacy of the medical condition in decision-making, taking into account an applicant’s efforts to work and the notion of employability.

The subsequent [Federal Court of Appeal](#) decisions in Rice and Angheloni clearly state that socio-economic factors such as labour market conditions, or where the claimant lives, are not relevant to the assessment of the severity of a disability for CPP purposes.

2. Policy

Personal characteristics will be considered in the determination of CPP disability. Socio-economic factors will not be considered in the determination of CPP disability.

2.1 Personal Characteristics

The [medical adjudicator](#) will consider personal characteristics as part of a comprehensive approach to a case. The medical adjudicator will determine when, where and if [personal characteristics](#), in combination with the medical condition and [work capacity evidence](#) support the determination of a “[severe](#)” and “[prolonged](#)” disability under the CPP.

The personal characteristics to be considered are:

- age,
- education,
- work experience.

Personal characteristics are to be evaluated as follows:

- on a case-by-case basis,
- always in conjunction with a medical condition,
 - considering the interrelationship among the three characteristics,
 - considering the impact of these characteristics on the medical condition, work capacity and the person’s ability to do perform in a [substantially gainful occupation](#).

2.1.1 What to Consider

The personal characteristics of age, education and work experience directly affect a person’s ability to work.

When the evidence related to the medical condition is not decisive, the disability determination also requires consideration of work capacity evidence and personal characteristics.

Age

Age, alone, does not entitle a person to a CPP disability benefit. However, age, in terms of function, is an important consideration. With increasing age there is a

gradual reduction in the reserve capacity of most body organs. This can affect a person's ability to recover from injury or illness and his or her ability to sustain work.

Individuals are affected differently and at a different rate by the aging process. With increasing age, the physical findings related to the medical condition change. The medical condition usually deteriorates and there can be an associated increase in the incidence and severity of impairments, leading to disability. Therefore, given the same medical condition, the picture portrayed by **all** of the evidence for an older person can be significantly different from that of a younger person.

The [medical adjudicator](#) must determine, within the context of the medical condition(s), how the person's capacity for any work is affected or influenced by the person's age.

Education

A lack of education, alone, does not establish entitlement to a CPP disability benefit. Generally speaking, the more education an individual has the more likely it is that the person will be able to do some form of work.

Education includes both formal and informal knowledge and skills obtained through a learning process and/or work experience.

Both the individual's [formal education](#) and [informal education](#) must be considered within the context of the disability to determine if the person's level of education affects the capacity for any work.

Work Experience

Work experience is the third personal characteristic contributing to a comprehensive evaluation of an individual.

Like the other two personal characteristics of age and education, findings related to work experience alone do not entitle a person to a CPP disability benefit. Work experience must be evaluated within the context of a disabling medical condition and how it affects that particular person's regular capacity to pursue any substantially gainful occupation.

In relation to determining eligibility for a CPP disability benefit, a person's work experience includes:

- the type(s) of work done,
- reason(s) for stopping work, and
- the pattern of work activity indicated by the [Record of Earnings](#).

When determining continuing eligibility for a CPP disability benefit, the evaluation of work experience also includes:

- the number of years out of the workforce.

The Type(s) of Work Done

The type(s) of work done reflects the physical and mental capacities required in the person's previous jobs. These include the degree of physical endurance (heavy to sedentary work), and mental aptitudes (hearing, seeing, memory, and routine mental functions for complex problem solving). These previous job experiences can determine the employment options for some individuals with functional limitations.

Generally, there are more physical barriers to returning to heavy work than to sedentary occupations. Skills acquired in a previous job or jobs may enable a person to find other work that is suitable to the person's limitations and restrictions.

Reasons for Stopping Work

A person can stop work for many reasons which may or may not relate to their disability. The determination of eligibility for CPP disability benefits is based on a person's capacity to work as it relates to a medical condition. Socio-economic factors such as industry closures or seasonal lay-offs are not considered in a CPP disability determination. Other personal reasons such as returning to college, trade school or university, bankruptcy, moving, early retirement, child or elder care, in and of themselves do not establish eligibility to a CPP disability benefit.

A person's disability must regularly prevent him or she from working at any occupation that he or she might reasonably be expected to pursue.

The Pattern of Work Activity as Indicated by the Record of Earnings

The [Record of Earnings](#) is pertinent only when it is reviewed in relation to the medical condition.

The pattern of work activity indicated in the record of earnings can be a useful indicator of a person's capacity to work at a substantially gainful level since starting their contributions to the CPP. The Record of Earnings can identify gaps in the work history or fluctuations in earning patterns. This provides some indicators of the person's capacity to earn at a substantially gainful level. When reviewed with other evidence it may identify a pattern of work activity and/or a decline in earnings that is consistent with deterioration in the medical condition.

By considering the type of work done, reasons for stopping work, and the pattern of work activity indicated by the Record of Earnings, the [medical adjudicator](#) determines whether the person's past work experience is pertinent to his/her regular capacity to pursue any [substantially gainful occupation](#).

Individuals may have had an employer who provided extensive work accommodations so that they could perform a job within the regular workforce. If they subsequently lose such employment, they should not be determined to be capable of pursuing any substantially gainful occupation as a result of that employment experience alone. Determining whether or not the individual has capacity for any substantially gainful occupation requires an assessment of the interrelationship among their medical condition(s), their [performance](#), [productivity](#) and [profitability](#) and their [personal characteristics](#).

2.2 Socio-Economic Factors

The [Federal Court of Appeals](#) (FCA) decision in Rice and Angheloni state that socio-economic conditions are **not** considered in a CPP disability determination.

Socio-economic conditions, such as the unemployment rate or the availability of certain types of jobs in a particular locality, are factors that exist in society which are outside the context of the individual with the disability. They affect groups or populations living in regions or provinces, or the country as a whole, and may constitute a barrier to work.

Similarly, factors such as the lack of child care or elder care, family responsibilities or preferred working hours are also not to be considered in a CPP disability determination.

2.2.1 What Not to Consider

Socio-economic factors are **not** considered when determining a “severe” and “prolonged” disability.

Although these factors may constitute a barrier to work they are not related to a person’s regular capacity for any work as a result of a “severe” and “prolonged” disability as a person cannot change these socio-economic conditions. For example, a person cannot influence the local economy or the skills required for regional industries. Another way of looking at this is that, two individuals with identical conditions and personal characteristics would have the same disability determination made regardless of where they lived. For example, we would not find one disabled because unemployment is high while the other was not, because jobs were available.

Examples of socio-economic conditions are:

- regional unemployment rates
- local access to specific jobs
- types of major industry in a region
- types of occupations offered by regional industries
- occupational skills needed for those industries
- predominant language spoken in the region. If a person was able to work using a language other than English or French, and contributed to CPP as a result of this work activity, this regional factor cannot be considered in determining eligibility.

The Prolonged Criterion

Purpose

The purpose of this policy is to assist the medical adjudicator determine if the “prolonged” criterion of the Canada Pension Plan (CPP) legislation is met.

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1. Introduction

“Prolonged” applies only at initial determination and is assessed at the date the medical adjudicator is making a decision on an application. The “prolonged” criterion is only considered after the “severe” criterion is met. It refers to the length of time a person is expected to be unable to do any work because of their severe disability.

“Prolonged” requires an assessment of the likelihood that the severe disability will continue into the future and whether or not it is likely that a person will go back to any work. In determining “prolonged”, the medical adjudicator reviews the interrelationship among factors related to the medical condition (prime indicator) that could affect a particular person’s recovery period.

At [reassessment](#), as long as the “[severe](#)” criterion continues to be met, the “[prolonged](#)” criterion is met. When a reassessment determines that a [beneficiary](#)

no longer meets the severe criteria, this means there is now capacity for work and the beneficiary is no longer eligible for CPP disability benefits.

2. Policy

“Prolonged” does not refer to past duration. “Prolonged” is only considered after the “severe” criterion is met; that is, only after it has been determined that a person has a severe disability.

To be eligible for CPP disability benefits, an applicant must demonstrate that both the “severe” and “prolonged” criteria are simultaneously met. The point at which the disability became “prolonged” may be important in determining the [date of onset](#).

In looking at a “severe” disability, it is the expectation that the “severe” disability will prevent a person from returning to any work for a period of time that must be demonstrated.

“Prolonged” has two components. These are:

- “likely to result in death,” or
- “likely to be long continued” and “of indefinite duration.”

Only one of these components must be met to establish “prolonged.”

2.1 Component: Likely to Result in Death

When the evidence is conclusive that the disability is likely to result in death in the near future and there is no work activity at the [Date of Application](#) the “prolonged” criterion is met.

The evidence related to the nature of the medical condition supports that no recovery is expected and the prognosis supports that death is likely to occur in the near future. In these cases, the second component, “likely to be long continued and of indefinite duration” is not relevant. The person is eligible for CPP disability benefits.

2.2 Component: “Likely to be Long Continued” and “of Indefinite Duration”

Under this requirement “prolonged” is only met when the “likely to be long continued” and of “indefinite duration” components are simultaneously met. The individual must demonstrate that both components are met at the same time to be eligible for CPP disability benefits.

There is no reference in the CPP legislation or regulations to a numerical timeframe for “prolonged.” However, one year is considered to be a reasonable period of time from which to predict the likelihood of whether the severe disability will improve enough so that the person may return to any work. The prediction of the likelihood of improvement is based on a more likely than not basis which is the reasonably satisfied standard.

These components assess whether there is uncertainty and/or unpredictability with respect to the length of time a severe disability is expected to continue into the future. The [medical adjudicator](#) makes this determination based on a combination of evidence and health science knowledge as to whether it is likely that:

- the severe disability will last for at least the next 12 months (can also be more than 12 months if the expected date of return to work is given in the evidence); and
- the capacity to do any work can be predicted with a definitive degree of certainty.

2.2.1 Component: Likely to be Long Continued

To meet the “likely to be long continued,” the combination of evidence and health science knowledge related to the disabling medical condition(s) must support that there is no possibility of a return to any work within one year. The possibility of a return to any work must be considered into the future.

The onset of the disability may have been months or years prior to the application; nevertheless, it must be determined that the disability will also continue into the future, for at least a year and prevent the individual from doing any work.

If the capacity to do any work can be predicted in the future the individual does not meet the component of “likely to be long continued” and is not eligible for CPP disability benefits.

2.2.2 Component: Likely to be of Indefinite Duration

The second legislative requirement to be considered is “likely to be of indefinite duration;” that is, there must be no definite end in sight for the period of disability.

Generally when there is a definite end in sight to the disability such as a fixed return to work date, medical intervention, medical treatment or the completion of retraining or upgrading this component is considered not to be met. If it can be predicted based on a planned return to work, medical treatment or intervention

that the capacity to do any work will be beyond 12 months the “likely to be of indefinite duration” would not be met.

Where there is uncertainty and unpredictability with respect to the time that a person will take to recover sufficiently in order to resume some kind of substantially gainful employment, the person will be granted disability benefits. A [reassessment](#) date will be scheduled for a time when potentially the client may be able to go back to work.

2.3 Recurrent Medical Conditions/Episodic and Cyclical Medical Conditions

Medical conditions such as cancer can recur given the nature of the medical condition. Recurrent medical conditions tend to be more severe with complications and can have an increased impact on an individual’s ability to function. Each recurrence has an impact in terms of treatment, recovery and likelihood of deterioration. Recurrence generally results in shorter intervals between relapses, more aggressive treatment and medical interventions and longer absences from the workplace. Functional limitations may be more significantly affected with each recurrence. The individual’s ability to function as a result of a long-term medical condition that recurs may be reduced with each recurrence. The cumulative effect of recurrences may result in a “prolonged” disability.

Episodic and cyclical medical conditions can result in deterioration of the individual’s ability to function with each exacerbation. Examples of such conditions are schizophrenia and multiple sclerosis. Each exacerbation can result in a decreased likelihood of improvement or recovery. The cumulative effects of exacerbations can result in a significant decrease in function over a period of years. Each exacerbation has an impact in terms of treatment, recovery and likelihood of deterioration. Long-term medical conditions that are recurrent, episodic or cyclical may not meet the “prolonged” criterion looking back on the person’s history; however, with a new exacerbation it may be predicted that it is more likely than not that the “prolonged” criterion is met into the future.

The Reasonably Satisfied Standard of Review for Determining Eligibility and/or Continuing Eligibility for Canada Pension Plan Disability Benefits

Purpose

The purpose of this section of the adjudication framework is to assist the medical adjudicator to apply a “reasonably satisfied” standard of proof when determining eligibility or continuing eligibility for Canada Pension Plan (CPP) disability benefits.

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1. Policy

1.1 Reasonably Satisfied: Legal Concepts and an Administrative Law Principle

The legal concepts of [onus of proof](#) and [standard of proof](#), and the administrative law principle of [fairness](#) form the basis of a ["reasonably satisfied" standard](#) of decision-making.

[Diligence](#) is a principle of good adjudication that assists the Department to fulfill its obligations to make an informed decision under the [“reasonably satisfied” standard](#).

1.2 The Reasonably Satisfied Standard

The “reasonably satisfied” standard, as defined in this document, is the standard to be applied in determining a person’s eligibility or continuing eligibility for disability benefits under the CPP. It is an adaptation of the civil standard of proof of “on a balance of probabilities,” or “on the preponderance of the evidence” and is synonymous with the phrase “more likely than not.” In this policy the phrase that is most often used is “more likely than not.”

The standard is not whether the disability would cause “any person” or “most people” to be incapable, but whether it causes a “particular person” to be incapable regularly of pursuing any [substantially gainful occupation](#).

It is not a decision based solely on medical facts. The reasonably satisfied standard of proof requires a [medical adjudicator](#) to consider not only the medical condition(s), but also work capacity and [personal characteristics](#) and how they affect the individual.

The medical condition is the prime indicator of a disability. The analysis includes an evaluation of the [“severe”](#) and [“prolonged”](#) criteria related to the nature of the medical condition, progressive nature of the medical condition, functional limitations, impact of treatment, medical statements, and multiple medical conditions as defined in this guideline.

Work Capacity is the capacity to perform physical and/or mental work-related activities despite certain functional limitations and restrictions resulting from the medical condition(s). Assessment is based on pertinent medical and work capacity evidence, vocational findings and personal characteristics. When considered together, these facts provide evidence to support the necessary judgment(s) related to the person’s capacity to pursue any [substantially gainful occupation](#).

[Personal characteristics](#) to be considered are age, education, and work experience. The reference to “the person in respect of whom the determination is made” means that a “severe” and “prolonged” disability must be evaluated within the context of the whole person.

1.3 Evidence

The person’s description of his or her disability is the starting point for the determination of whether that person meets or continues to meet the [“severe”](#)

and “[prolonged](#)” criteria. All pertinent evidence related to the disability issue(s) identified in the application is considered.

1.3.1 Pertinent Evidence

Pertinent evidence is **all** the evidence required to make an informed decision in a case. This decision is based on any evidence about the person’s medical condition(s), work impairments, or work capacity. In addition, the medical adjudicator’s knowledge of the health sciences and of the CPP legislation must be applied to the evidence under consideration.

Pertinent evidence includes evidence obtained from [Early Client Contact](#) calls to the client, phone calls to physicians, medical reports by family physicians, specialists and/or other health care professionals, reports of diagnostic investigations, employer reports and [functional capacity assessments](#). It also includes information obtained from federal and provincial government on Employment Insurance benefits, Workers Compensation benefits etc. Pertinent evidence must always relate to the time period in question.

Pertinent evidence based on objective evidence linked directly to the medical condition(s), affords a greater degree of certainty as to the level of capacity and/or disability experienced by the person.

Pertinent evidence resulting from subjective evidence can afford a lesser degree of certainty as to the level of capacity and/or disability experienced by the person and must be evaluated within the context of **all** the evidence.

Pertinent evidence includes both medical and [work capacity](#) evidence as defined in this document.

1.3.2. Medical Evidence

Medical evidence may be subjective or objective:

1.3.2.1 Subjective medical evidence

- Any evidence that cannot be observed or measured objectively through diagnostic testing. This includes the person’s or physician’s description of symptoms or complaints (e.g. pain, weakness, etc.).

1.3.2.2 Objective medical evidence

- A sign, deficit or impairment that can be observed and described or measured and may validate subjective symptoms. Examples include diagnostic test results, observation of function (can lift X kilos, can sit X minutes, walks with a limp, measured lack of short-term memory, etc.).

Medical evidence includes reports by qualified family physicians, specialists, and other health professionals, and results from physical examination(s), diagnostic and investigative tests etc.

1.3.3 Evidence of Capacity to Work

Capacity for any type of substantially gainful occupation is based on all the evidence concerning the person's physical and mental abilities, restrictions and limitations. Work capacity evidence includes reports from psychologists, neuropsychologists, physiotherapists, occupational therapists, vocational rehabilitation professionals, [functional capacity assessments](#), statements from educational institutions and employers, [power of attorney](#) documents, certificates of incapacity and other sworn affidavits which validate mental incapacity, etc.

1.4 Considering All the Evidence

The [medical adjudicator](#), using his or her health sciences knowledge and knowledge of CPP legislation and policy, considers **all** evidence and decides whether he or she is reasonably satisfied that the person meets or continues to meet the "[severe](#)" and "[prolonged](#)" criteria.

While many medical conditions can be readily recognized and evaluated based on objective medical evidence, some conditions, such as Fibromyalgia, Chronic Pain Syndrome and Chronic Fatigue Syndrome will not have the traditional objective tests available to determine whether the person meets or continues to meet the "severe and prolonged" criteria. The adjudication of these cases can be a challenge.

In these conditions, evidence can be obtained from other sources, such as a vocational rehabilitation consultant, an occupational therapist, a physiotherapist, an employer, etc. For particularly [difficult/complex cases](#), CPP will request evidence from a wide variety of sources and may request an examination by an independent physician who specializes in the medical condition.

The objective medical findings may not indicate any pathology. However, the residual effects of a medical condition, injury or medical treatment(s) may have a significant impact on the individual's ability to function in the workplace. In some instances, an individual may develop a condition such as depression or chronic pain related to the primary medical condition resulting in the regular inability to pursue any substantially gainful occupation. It may be reported or described, but no clear documentation or test results can be provided. Consistent references and opinions in the overall evidence must be accepted as valid and substantive when provided by duly qualified professionals.

Opinions provided by all of the professionals must be compared and evaluated with the statements made by the person in order to obtain a total picture of the individual. Where the overall available evidence supports that the person meets the “[severe](#)” and “[prolonged](#)” criteria, the benefit is granted.

The [medical adjudicator](#) therefore does not require absolute proof that the person has or continues to have a “severe” and “prolonged” disability. The [medical adjudicator](#) must only conclude that based on the overall evidence, it is more likely than not that the person meets or continues to meet these criteria.

1.5 Making an Eligibility Decision

1.5.1 Determining Eligibility

When determining eligibility for disability benefits, two possible decisions can be made:

- If, after reviewing a file, the [medical adjudicator](#) is reasonably satisfied that the person meets the “severe” and “prolonged” criteria, grant.
- Otherwise, the [medical adjudicator](#) will deny.

1.5.2 Reassessing Eligibility

When reassessing eligibility for disability benefits, two possible decisions can be made:

- If, after reviewing a file, the [medical adjudicator](#) is reasonably satisfied that the person continues to meet the “severe” criteria, continue disability benefits.
- Otherwise, the [medical adjudicator](#) will cease disability benefits.

1.6 When a Decision Cannot be Made

If, after reviewing a file, the [medical adjudicator](#) cannot make a decision, further assessment and/or consultation may be needed.

Glossary of Terms

Adjudication Framework

This document outlines the policies used to determine the medical eligibility of applicants for the Canada Pension Plan disability benefit. It is effective as of May, 2004.

Allowable Earnings

Allowable Earnings is a client's total earnings from all work in a calendar year that is equal to or less than the Disability Basic Exemption. A CPP disability beneficiary is allowed to work and earn \$4,100 in the 2005 calendar year without a requirement to report earnings from employment and without being reassessed on earnings from employment alone.

Beneficiary

A CPP contributor who has met the "[severe](#)" and "[prolonged](#)" criteria and is in receipt of a CPP disability benefit.

Benevolent Employer

A "benevolent employer" is someone who will vary the conditions of the job and modify their expectations of the employee, in keeping with her or his limitations. The demands of the job may vary, the main difference being that the performance, output or product expected from the client, are considerably less than the usual performance output or product expected from other employees. This reduced ability to perform at a competitive level is accepted by the "benevolent" employer and the client is incapable regularly of pursuing any work in a competitive workforce.

Work for a benevolent employer is not considered to be an "occupation" for the purposes of eligibility or continuing eligibility for a CPP disability benefit.

Date of Application

This is the date an application for Canada Pension Plan is received by the Department. When there is eligibility for retroactive payments the amount is calculated from this date.

Date of Onset

The date a person is determined to be disabled for CPP purposes. This date can be no more than 15 months prior to the receipt of the application. Payment begins from the fourth month following this date.

Difficult/Complex Case

A case in which the subjective complaints/behaviors related to a mental and/or physical medical condition exceed objective findings; and/or when the recovery time related to a mental and/or physical medical condition greatly exceeds typical duration guidelines.

Diligence

As it pertains to onus, is a legal concept. Within the context of this policy, it is closely associated with the concept of fairness and is the foundation of good adjudication. Diligence is defined as careful and persistent effort. While the Department and the person are responsible for different aspects of the process, it is through mutual co-operation and shared responsibility that clear and well-founded decisions are reached.

Disabled

In this policy, “disabled” means “disabled for Canada Pension Plan (CPP) purposes” unless otherwise stated. This is described in the Canada Pension Plan legislation under paragraph 42.

Early Client Contact

In accordance with Operational Directives Early Client Contact (ECC) refers to the telephone contacts that are made by CPP departmental representatives at the initial application and reconsideration stages. No less than two attempts to contact the client are to be made for each rapport and decision call. The rapport call is to inform the client of the process and the required documentation. The decision call is to explain the reasons for the decision and the appeal rights.

Fairness

An administrative law principle. The “duty to be fair” means the medical adjudicator keeps an open mind in reviewing the evidence in a case and carefully reviews all of the evidence to determine if the person meets or continues to meet the “severe and prolonged” criteria. This approach begins upon receipt of the first document and is observed throughout the disability determination and reassessment processes.

Federal Court of Appeal

Is a section of the Federal Court of Canada which reviews the PAB decisions that an applicant is not disabled according to the CPP legislation. The applicant or the Minister can request judicial review of decisions. However, the Federal Court does not have jurisdiction to make a decision on the substantive issue of eligibility for CPP benefits; but it can refer the case back to the previous decision-maker to re-hear the issue of disability. The Federal Court and the Federal Court of Appeal can only hear arguments about how the decision-maker reached its decision. Did it have the statutory authority to make the decision? Did it apply the correct law? Were the proceedings fair? Was its decision based on the evidence before it? The Angheloni, Rice and Villani decisions are Federal Court decisions that can be accessed at its Web site.

Formal Education

A formal education includes basic learning, elementary and high school, and post-secondary school (college, trades or technical school, or university).

Functional Capacity Evaluation

A functional capacity evaluation (FCE) is a series of tests used to evaluate a person’s abilities and limitations in activities of daily living and activities related to work. The activities include positions and movements such as sitting, standing,

walking, bending, lifting, reaching, carrying, climbing, kneeling, etc. A trained professional such as a physiotherapist, occupational therapist or kinesiologist, conduct the FCE and in many cases, it is done by a team.

Functional Limitation

An impairment that leads to a less than normal performance for an individual. The focus of CPP Disability is only on those functional limitations that affect the capacity to work.

Incapable

As a result of the continuous and uninterrupted nature of the disability, an individual would not be able to do any substantially gainful occupation. This is described in the Canada Pension Plan legislation **under paragraph 60(8) and 60(9)**.

Informal Education

Informal education can contribute to learning a new job or transferring skills which were not necessarily the principal skills for a previous job. These include communication, organizational, time management skills and the ability to set priorities. Sometimes only a few weeks or a month of “on-the-job training” can assist an individual to be able to perform a new job. Informal education also includes learning and specialized skill development pursued in job-sponsored orientation courses (e.g. computer training courses, project management).

Late Applicant Provision

This provision is to help an applicant of a CPP disability benefit that has not worked recently enough to fulfil the CPP eligibility requirement to have contributions in four of the last six years. As long as an applicant had enough years of CPP contributions when they first became severely disabled, **and** as long as the medical evidence demonstrates they are continuously disabled (as defined by CPP legislation) from that date up to the present time, they may still be eligible. Please [contact us](#) for further information.

Latest Possible Date of Onset

The date when an applicant last meets the contributory requirements for being eligible for Canada Pension Plan disability benefits - that being, when they last made contributions.

Medical Adjudicator

Social Development Canada’s medical adjudicators are health professionals who review applications for the Canada Pension Plan (CPP) disability benefit, except when the applicant has not made enough CPP contributions.

Social Development Canada’s medical adjudicators are trained nurses with extensive knowledge of CPP legislation, regulations, policies and procedures. The medical adjudicators are drawn from all medical specialties.

Occupation

An occupation is work or a job/career/profession that is conducted in a

competitive workforce. It is an activity in which a person might reasonably be expected to be employed because of his or her skills, education and training. It may also refer to the capacity to acquire the necessary skills, education or training in the short-term whether on the job or otherwise given the person's limitations and restrictions.

Offer of Settlement

In exceptional circumstances an offer of settlement is made by the Minister to an appellant prior to a Review Tribunal or Pension Appeals Board hearing. Neither the Review Tribunal nor the Pension Appeals Board is involved in any way.

Onus of Proof

A legal concept that refers to who bears the burden of proof.

Onus on the Client

At all levels of decision-making in the determination of eligibility for a CPP disability benefit, the "onus of proof" is with the individual. As such the person, or the representative acting on behalf of the person, must provide the necessary documentation to satisfy the Minister that he or she meets the "severe" and "prolonged" criteria. The person is responsible for contacting the Department to obtain assistance when he or she is unsure about what evidence is required to determine eligibility. Once contacted the Minister has an obligation to explain to the person what may be required to help meet their onus when applying for a CPP disability benefit.

Onus on the Minister

At reassessment, in order to cease benefits, the onus to prove that the disability benefit recipient is no longer eligible rests with CPP. The onus is on CPP to establish on "the balance of probabilities" that since the time the individual was granted a CPP disability benefit there has been:

- an adaptation to the limitations of the medical condition and/or an improvement in the medical condition;
- this adaptation to the medical condition and/or improvement in the medical condition has resulted in an increased capacity for work; and
- the increased capacity for work warrants a cease of the CPP disability benefit.

At reassessment, a statement of a physician or a qualified health professional that a beneficiary's medical condition has improved would not be sufficient evidence to cease the CPP disability benefit. The medical adjudicator must determine whether this improvement is related only to the ability to perform his/her basic activities of daily living or whether this improvement results in an increased capacity to pursue any substantially gainful occupation.

Pension Appeals Board

The Pension Appeals Board is an independent body, operating separately from CPP Disability. It is the second formal level of appeal of the Canada Pension Plan appeal process. This is described in the Canada Pension Plan legislation

under sections 83 and 84.

Performance

The actual effort that the individual undertakes in order to carry out the work. Performance relates to the person's ability to perform all of the tasks and duties required for a specific job. It is not considered in isolation but is considered based on the interrelationship with [productivity](#) and [profitability](#).

Personal Characteristics

Personal characteristics are those intrinsic factors that are unique to a particular person and directly affect that person's regular capacity to pursue any [substantially gainful occupation](#). They alone do not establish entitlement to CPP disability benefits.

The personal characteristics to be considered are:

- age,
- education,
- work experience.

Power of Attorney

When a person authorizes another person to act on his or her behalf in specific situations.

Prime Indicator

The medical condition is always the prime indicator in determining eligibility for CPP disability benefits. This determination is based on the nature of the medical condition, functional limitations, impact of treatment, and medical statements from physicians or other health care professionals.

Productivity

The amount of work produced in a given period of time. Productivity relates to the person's ability to produce the standard amount or number of products, services or outcomes as described in a work description. It is not considered in isolation but is considered based on the interrelationship with, [performance](#) and [profitability](#).

Profitability

The amount of money an individual earns for a work activity from employment or self-employment. Profitability is always assessed in conjunction with [performance](#) and [productivity](#).

Prolonged

"Prolonged" means that your disability is likely to be long term **and** of indefinite duration, **or** is likely to result in death. This is described in the Canada Pension Plan legislation under paragraphs 42(2)(a) and 42(2)(b).

Proof

Proof is the result of evidence; while evidence is the means by which a fact is proven or disproved. For example, a statement from an employer is considered as evidence, but this evidence alone may not be sufficient to determine that a person has a “severe” and “prolonged” disability.

Pursuing

Means actually doing a job. “Pursuing” is **not** used in the sense of seeking work.

Reasonably Satisfied Standard for CPP Disability

The standard of proof that must be met for a person to be entitled to a CPP disability benefit or for a CPP disability benefit to continue.

The standard of proof is established by considering all evidence that is pertinent to the person’s medical condition, capacity to work and personal characteristics, and only evidence that is pertinent.

In relation to all the evidence that is before the medical adjudicator, the questions to be asked to establish a reasonably satisfied standard of proof are:

- Is this person’s medical condition likely to result in death, thus supporting a finding of a severe and “prolonged” disability? Or,
- Based on the overall evidence, is it more likely than not that this person meets the CPP “severe” and “prolonged” criteria?

That is:

- Is it more likely than not that this person’s disability makes him/her incapable regularly of pursuing any substantially gainful occupation?

And if so,

- Is the disability more likely than not to be long continued and of indefinite duration?

At all levels of determining eligibility for CPP disability benefits, if the standard of reasonably satisfied is met, the application is granted. If the standard of reasonably satisfied is not met then the application is denied.

At all levels of reassessing eligibility for CPP disability benefits, if the standard of reasonably satisfied is met, entitlement to benefits continues. If the standard of reasonably satisfied is not met then disability benefits are ceased.

Reassessment

A systematic review of medical and employment information of selected CPP disability recipients. This review results in a decision to continue or stop CPP disability benefits. It can also assist to identify the services which would best support a person attempting to return to work.

Reconsideration

The first level of recourse for CPP claimants is an administrative review or reconsideration carried out by a staff member who was not involved in the initial decision. Claimants must request reconsideration in writing within 90 days of receiving the initial decision letter. This is described in the Canada Pension Plan legislation in paragraphs 81(1) and 81(2).

Record of Earnings

A record of all earnings and CPP contribution information of every working Canadian collected by Canada Revenue Agency and provided to CPP for the administration of its programs. CPP benefits are based directly on this database. Québec Pension Plan contributions are also provided for dual contributors.

It does not capture periods prior to age 18 when someone may have been working. The Record of Earnings amounts directly related to work are to be considered. Earnings which are related to severance, vacation, sick leave, etc. are not considered.

Regularly

The limitations associated with the disability are persistent almost to the point of being continuous or uninterrupted.

Representative

A person who the client has identified to the Canada Pension Plan as representing them in their Canada Pension Plan disability application or appeal processes. In these cases depending on the directions given Canada Pension Plan staff will communicate with the client and representative or directly with the representative depending on the directions given.

Sheltered Employment

Sheltered employment is not considered to be an "occupation" for the purposes of eligibility or continuing eligibility for a CPP disability benefit. Sheltered employment involves simple tasks performed in a closely supervised environment where performance goals are defined by the employee's capabilities. The work is therapeutic in that it gives the employee a sense of accomplishment as well as an income. The client employed in a sheltered work environment is incapable regularly of pursuing any work in the competitive workplace. Often sheltered employment is offered in co-ordination with other public programs, psychiatric or mental health organizations.

Severe

Severe means that you have a mental or physical disability that regularly stops you from doing any type of work (full-time, part-time or seasonal), not just the work you usually do. This is described in the Canada Pension Plan legislation under sections 42(2)(a) and 42(2)(b).

Socio-economic conditions

Conditions, such as the unemployment rate or the availability of certain types of jobs in a particular locality, are factors that exist in society which are outside the context of the individual with the disability. They affect groups or populations living in regions or provinces, or the country as a whole, and may constitute a barrier to work.

Similarly, factors such as the lack of child care or elder care, family responsibilities or preferred working hours are also not to be considered in a CPP disability determination.

Socio-economic conditions are not considered when determining a “severe” and “prolonged” disability.

Standard of Proof

The “standard of proof” is a legal concept. It is the level of proof that must be met by the person who has the onus.

Substantially Gainful Occupation

An occupation where the remuneration for the work performed and services rendered is at a substantially gainful amount. The substantially gainful amount is a benchmark of earnings that likely indicates whether a person is showing regular capacity for work.

The substantially gainful amount is the maximum monthly CPP retirement pension. The annual amount is equal to twelve (12) times the maximum monthly CPP retirement pension. CPP payment rates are adjusted every January.

Work Capacity

The capacity to perform physical and/or mental work-related activities despite certain functional limitations and restrictions resulting from a medical condition(s).

The capacity to perform physical and/or mental work-related activities despite certain functional limitations and restrictions resulting from a medical condition(s).