



Canada Pension Plan Disability Benefits

for People with MS



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Introduction

This booklet helps people with MS in three ways:

- Provides information on Canada Pension Plan Disability (CPP-D) benefits
- Helps you complete an application for benefits that is likely to succeed
- Helps you understand the three appeal processes you can use if you are denied benefits

This booklet is one in a series of five that have been developed by the Volunteer Legal Advocacy Program (VLAP). Other booklets available:

- Advocacy
- MS and Human Rights
- Community and Legal Resources
- Disability Insurance

Booklets are available at www.mssociety.ca/bc/vlap.htm or from the Multiple Sclerosis Society of Canada, BC & Yukon Division office.

VLAP provides a range of legal and advocacy support to people living with MS throughout British Columbia and the Yukon by utilizing volunteers who have legal expertise and/or advocacy experience.

Pro bono legal representation is available in specific legal areas of expertise in several communities throughout the BC & Yukon Division. Please contact the BC & Yukon Division office for details.

CHAPTER 1

Canada Pension Plan Disability Benefits

Overview

Canada Pension Plan (CPP) is a federal benefit system administered by Human Resources and Social Development Canada (HRSDC). CPP is linked to employment income related contributions and consists of several different benefits that may be available to Canadian residents, based on their contributions and situation including:

- Retirement pension (CPP)
- Survivor benefits
- Disability benefits (CPP-D)

This booklet will focus on Canada Pension Plan Disability benefits.

CPP-D is a monthly benefit for people between the ages of 18 and 65 who have made **adequate contributions to the plan and are considered disabled according to CPP-D legislation.**

Key Facts:

1. CPP-D is not income or asset-based. It is based on the amount of contributions made to CPP over a person's working life.
2. Eligibility does not depend on whether you live with someone.

- 3.** CPP-D is portable across Canada and is not affected by moving from one province or territory to another.
- 4.** If you volunteer or attend school, you will not be penalized.
- 5.** You can earn up to \$4,600 per year (as of 2009) without losing CPP-D.
- 6.** CPP-D income is not affected by income from other disability or insurance plans such as Long-term Disability benefits or WorkSafeBC or Yukon Workers' Compensation Health & Safety Board income.
- 7.** Dependent children of people who qualify for CPP-D will receive a child benefit. Please refer to Children's Benefits, Chapter 3 (page 22) for details.
- 8.** CPP-D does not provide funding for special medical services or equipment.
- 9.** CPP-D is taxable.
- 10.** Receiving CPP-D does not mean that you automatically qualify for the Disability Tax Credit (DTC).

CPP-D benefits, including the child benefit, are indexed, meaning that the benefit amount is raised each year in January according to increases in the cost of living.

Each qualifying person will receive a different amount of income up to the maximum available. In 2009, the maximum benefit available, regardless of employment income and years worked was approximately \$13,272. Individual benefit payments consist of the combination of a flat rate and an

earning-related portion. The earning-related portion is based on how much and for how long you contributed.

You can find out how much you would qualify for as well as the current maximum benefit amount by calling 1-800-277-9914.

CHAPTER 2

Eligibility Criteria

To be eligible for CPP-D you must:

1. Be over 18 and under 65
2. Have stopped working because of your medical condition
3. Have made sufficient contributions
4. Meet CPP's definition of having a disability

Contributions

There is a minimum qualifying period for CPP-D. The date that your disability that prevents you from working began is very important. According to CPP-D legislation:

- If you became disabled **after January 1, 1998**, you must have made contributions to CPP in 4 out of 6 years before you became disabled.
- If you worked for 25 or more years before you became disabled, you must have made contributions to CPP in 3 out of the last 6 years.
- If you became disabled **before January 1, 1998**, you must have worked and made contributions to CPP.

During these contributory periods, you must have earned at least 10% of each year's maximum pensionable earnings (YMPE). This amount changes every year. The YMPE used in determining your eligibility is the one in effect during the year you apply for benefits.

Exceptions

If you did not contribute to CPP for enough years, or did not apply within the contribution time frame there are certain exemptions that may affect your eligibility to qualify for CPP-D:

- 1. Child rearing provision:** The applicant made little or no contributions to CPP because of being a full-time caregiver to children under the age of 7 during the qualifying period.
- 2. Late application:** The applicant did not apply within the contribution time frame after stopping work due to the disability. You will have to prove that you were disabled earlier – within the time frame stipulated above.
- 3. Separated or divorced:** You can apply for credit splitting with your ex-spouse for the time you were married.
- 4. Working in another country:** You may be able to use credits you contributed to a National Pension Plan in another country if that country has an agreement with Canada.

If you have not made enough contributions, it does not matter how disabled you are; you will not be eligible for CPP-D.

Definition of Disability

Disability is generally defined as a limitation in a person's ability to carry out regular day-to-day activities, including self-care, work, and leisure activities as a result of illness or

injury-related impairments. Impairments are closely related to symptoms of a specific illness or injury.

To qualify for CPP-D:

- You must have a **severe** disability, meaning that you are so incapacitated that you cannot work full-time, part-time, or seasonally to support yourself. According to the legislation, a disability is severe if it results in the person being **“incapable regularly of pursuing any substantially gainful occupation”** (Section 42 [2] [a] [i]). Determining what is considered “substantially gainful” involves looking at a number of factors, such as the level of your earnings, and how well you are able to do job tasks.
- You must have a **prolonged** disability, meaning that your disability must be expected to continue for a long time or a significant time after your application. According to the legislation, a disability is prolonged if it is determined that the disability is **“likely to be long continued and of indefinite duration or is likely to result in death”** (Section 42 [2] [a] [ii]).

“Prolonged” at the time of application does not refer to past duration of the disability, although that may help show it is prolonged. The question is whether the disability is likely to be long continued in the future.

The following section provides examples illustrating the definitions of **“incapable regularly of pursuing any substantially gainful occupation,” “long continued,”** and **“indefinite duration”** based on these categories and terms:

- A. Medical condition**
- B. “Incapable”**
- C. “Regularly”**
- D. “Pursuing” and “Any” Occupation**
- E. “Long Continued” and “Indefinite Duration”**

A. Medical Condition

Your medical condition is the prime factor in determining severity. The medical diagnosis of MS does not necessarily equate a severe and prolonged disability. The level of disability that an individual experiences is determined by the nature of symptoms and their impact on everyday functioning.

At first glance, some disabilities may not seem severe according to the legislation, while others will. Analysis of the medical condition will be required. Medical experts do the initial “medical adjudication” when your application is received. In order for the experts to be able to assess your level of disability, they will need clear information as to the impact of symptoms or impairments on your functioning and ability to perform day-to-day activities, especially as they relate to work.

In looking at the medical condition as an indicator of severity of disability, there are many factors that may be taken into account.

What is the nature of the medical condition?

This is assessed using medical knowledge. Complete information, provided by you and your doctors, is essential.

What are the functional limitations of the condition?

Such limitations must impact the ability to work and they must do so to a severe degree – not mildly or moderately. You need not be bedridden or completely confined to your home. Other symptoms, such as extreme fatigue or spasticity, if properly explained, can show inability to work.

What is the impact of treatment?

Ongoing medication or treatments may affect long-term ability to work and if so, you must be sure to show how.

What do the medical statements suggest?

A medical statement of “severe” disability will be examined to determine whether it fits the CPP-D definition or is being used in another way. For example, your doctor may consider factors not relevant to a CPP-D determination, such as the availability of a job in your area. If your doctor states your condition is severe, the evidence presented must support this.

Are there multiple medical conditions?

A symptom or impairment may not be considered severe on its own but a combination of mental or physical limitations may be.

Will personal characteristics be considered?

Any personal characteristics that show incapacity to work now and in the future are considered, although medical condition is the most important factor. For example, your age and education will be considered in whether or not you are suitable for other employment. Remember, each case is decided individually.

B. “Incapable”

In determining whether you are “incapable” of working, many factors will be considered. These can include past and current work history, any reduction in hours due to your condition or sick leave, and medical history including assessments of your functional abilities.

What is the effect on eligibility if I am currently working?

If you are working full-time, your claim will be denied as you do not require disability benefits. Part-time work may also indicate that you do not require benefits. If your disability does not allow a greater amount of work and if your earnings level is below the earnings of a substantially gainful occupation, you may be able to demonstrate a need for CPP-D. However, any type of employment is often interpreted to mean that you do not need disability benefits.

If I am not working, what effect does that have?

To have the greatest chance of receiving benefits, you should not be working when you apply. However, the mere fact that you do not work does not mean that it will be assumed you do not have the capacity to work. The issue is whether or not your medical condition indicates inability to work and if your evidence can support this.

Will volunteering affect eligibility?

Volunteering does not automatically indicate capacity to work. Medical condition and medical evidence will still be looked at. However, volunteering may be considered as an indicator of capacity to work. Factors that will be considered

will be the nature of your volunteer engagement and the amount of volunteering you do.

If I am self-employed, what effect will this have?

Your capacity to work is assessed with an even greater reliance placed on medical evidence. They will also look at the impact of the disability on the business, previous job duties compared with current job duties, whether others aid in your efforts, and income tax and business statements (to look at earnings).

If I am receiving Employment Insurance (EI), will this affect my eligibility?

Because EI requires that the applicant be available to work, if you are receiving EI and applying for CPP-D, your application will be viewed cautiously. You are believed to have the capacity to work if on EI and your CPP-D application will likely be refused.

However, EI sickness benefits indicate that you are not able to work due to illness or disability, therefore, you should apply for CPP-D.

What if I am receiving other insurance benefits or WorkSafeBC or Yukon Workers' Compensation Health & Safety Board benefits?

Whether you are receiving other benefits is not a factor in determining eligibility for CPP-D, or in determining the amount given, if qualified. Many benefit providers of other insurance benefits will reduce their benefits by the amount of CPP-D you will receive. This is called **offsetting of benefits**.

What if I am going to school or pursuing retraining?

Just because you are acquiring new skills and education does not automatically make you capable of working. However, you should be aware that it will indicate capacity to work in the future, thus likely not making your disability prolonged. You will still want to apply while you are going to school, as there is no guarantee that you will be able to work when you have completed the schooling or retraining.

What if the job market is bad and I cannot find work that is suitable for my abilities?

If the only reason you are not working is because the job market is poor, you will not qualify. You are able to work in this case but have just been unable to find a job.

C. “Regularly”

You must be able to show that you are incapable “regularly” of pursuing any substantially gainful occupation. If you are incapable “regularly,” the incapacity is persistent. In other words, your capacity to work cannot be sustained.

What if I work only a few hours a week or only once in awhile?

If your condition prevents you from working more than this, that will be considered, along with your past work history. If you have only ever worked a few hours a week or you worked periodically, then this may show your disability is not causing reduced work and the disability is not severe.

D. “Pursuing” and “Any” Occupation

CPP-D requires incapacity to actually engage in the employment rather than the incapacity to find or obtain work. You are also assessed based on your ability to do any occupation that you may have the skills to do or are able to acquire the skills or training to perform, with consideration to other barriers to employment that you face.

If I am looking for work, will that disqualify me from eligibility?

While the fact that you are looking for work does not automatically mean you are capable of actually working, this may show you do not think you need disability benefits and you may be denied. Other factors will continue to be looked at.

“Any” substantially gainful employment is not limited to employment similar to what you previously had. According to CPP-D legislation, “any” employment refers to employment that you might reasonably be expected to do.

Will HRSDC look at whether I can do a different job than my current and consider my skill level for other jobs?

HRSDC will first evaluate your ability to work in general, not only limited to your current job. Next, they will look at your general skills and the suitability for retraining.

Different scenarios exist:

- You may have broad skills that would allow you to do a range of jobs, even some that you never did before, but nevertheless be unable to work regularly because of your disability. For example, your fatigue is so severe that you

can only tolerate working for two hours per day. In this case you would likely qualify for CPP-D.

- You may not be able to do your job because of its unique demands but can still do other work. For example, you are no longer able to perform your current work due to its physical demands (heavy lifting or walking/standing all day, etc.) but you could be gainfully employed in a more sedentary position (primarily sitting).

In this instance they will consider factors such as your education, skills, and ability to be retrained. This will determine if you will qualify for CPP-D or not (see next question for details on retraining).

It is important that you provide them with clear information as to what you can and cannot do in the work place, how long you can work, and whether you have the ability to be retrained. For example, you may be able to tolerate sedentary work but you don't have any office skills such as computer knowledge, and have significant difficulties remembering new information. This may limit your ability to be retrained.

Will my ability to be retrained be considered?

Yes. If you would be capable of working regularly with retraining, and retraining is a practical option, then you will likely not qualify. If retraining can be obtained in the long-term, you may be granted the benefit and then be offered vocational rehabilitation, if appropriate.

Factors considered with respect to retraining include:

- Your age: being in the most active years of your working career

- Your level of education and other skills
- Availability of retraining options of short duration for your level of education and other skills

If retraining is a suitable option but requires a longer period of time, you may be granted the benefit and then be offered vocational rehabilitation.

Will CPP consider barriers unrelated to my disability in assessing my ability to do any occupation?

Yes, language barriers and lack of adequate basic education will be considered. The lack of suitable jobs where you live will likely not be considered in granting you CPP disability.

At what level of earnings will I be deemed ineligible for CPP-D?

HRSDC uses a set earnings level which is based on a formula and which changes every year, as a guideline to determine eligibility. At first glance, the receipt of earnings, wages, and income will usually indicate capacity to work for CPP-D purposes and your claim will be denied.

However, they will still consider your reduced workload due to your disability, whether you are viewed as working to your full capacity, and your ability to work at a different job. It is possible to show that the earnings are not sufficient and disability benefits will be required.

What if I have income but it is not from actual work on my part?

It is rare that you will have income and not be considered productive. Strong evidence would have to show that the

earnings or profit is not a sign of capacity (e.g., the earnings are attributed to the person with a disability only for tax purposes).

What if I am employed but have so many difficulties that I cannot carry out my job duties?

Your current job performance will be considered if it is affected by your disability. Some individuals can continue to be employed because of a generous employer, for example, but they are really unable to work. Your difficulties doing your job must be long-term and related to your disability. Statements from your employer outlining the change in your performance and any accommodations that have been attempted may be helpful.

E. “Long Continued” and “Indefinite Duration”

There is no precise definition of what is considered “long continued” but the disability must be seen to continue after the date of application.

If I will regain my capacity to work within one year of the date of application, will this affect my eligibility?

Your disability will likely not be considered “long continued,” thus not prolonged. Therefore, even if it is considered severe, you will still be denied.

In order for a disability to be deemed of “indefinite duration,” a date for potentially regaining the capacity to work can not be accurately predicted. If a date of regained capacity can be identified, even if it is greater than one year, you will not be eligible for the benefit.

If it is believed I will be able to return to work in the future, will this affect my eligibility?

If it is thought that you will be able to work by a certain date, you will not be considered to have a disability of indefinite duration. Therefore, you do not meet the “prolonged” component of disability. However, your ability to return to work is often not a certainty. Where return to work is not certain, you are encouraged to still apply, as there is a possibility you will not regain capacity. If you do regain capacity, your benefits can be discontinued.

Likelihood of Death

Where the evidence shows that the medical condition is likely to result in death, then the criteria of prolonged is met. The date at which death is likely to occur is not a factor.

CHAPTER 3

Receiving CPP-D Benefits

Duration of CPP-D Benefits

CPP-D is not a lifelong benefit. Benefits will be discontinued when:

1. The recipient reaches age 65 and CPP-D will automatically be converted to a regular retirement pension.
2. The recipient is no longer considered to have a “prolonged” and “severe” disability according to CPP as a result of a significant improvement in level of disability.
3. Human Resources and Social Development Canada (HRSDC) cancels the benefit as a result of non-compliance with CPP-D legislation such as:
 - Not reporting earnings above the allowed limit
 - Refusing to provide updated medical information
 - Not reporting a change or improvement in circumstances



When you apply for CPP-D, you agree to continue providing information about your medical situation and your ability or inability to work.

HRSDC can:

- Find out if you have been working by checking with insurance companies, employers, and Revenue Canada
- Make you pay back benefits you received when they think you should not have been receiving them

Any decision by HRSDC can be appealed. Please refer to Chapter 6 (page 49) for information about appeal processes.

Offsetting of Benefits

Most private insurance carriers that offer long-term disability benefits and other benefits will reduce their benefits as soon as you begin receiving CPP-D. This is called **offsetting of benefits**.

In the case of retroactive CPP-D benefits (payments for time when you were eligible but were not receiving benefits) you will have to repay your other benefit provider, as you are essentially being paid twice for the same period (once by CPP-D and again by the other benefit provider). This will be done with your first CPP-D payment.

You can make arrangements for CPP-D to pay the money directly to the other benefit provider by giving written consent. CPP-D can only do this from your first retroactive payment and your first monthly payment. You should not cash your cheque right away if you have not had the repayment amount automatically deducted by CPP-D. Although you may need the money, you need to repay the other benefit provider first.

Children's Benefits

Dependent children may receive benefits if you as an applicant qualify for CPP-D (2009 maximum is \$213.99/month).

Dependent children are:

- Under 18 years or between 18 and 25 and attending school full-time
- Your natural or adopted children
- In your custody and control



In the event of joint custody of a child, contact HRSDC at 1-800-277-9914.

Children under 18

For children under 18 and who are in your care, attach their birth certificates and proof of their relationship to you along with the applications.

For children under 18 who are in someone else's care and custody, a form called **Application for Benefits for Under Age 18 Children of Disabled Contributor** should be filled out by the caregiver. That person (or provincial/territorial agency) will receive the benefit for that child.

Children between 18 and 25

When children turn 18, they are not considered dependent and must be going to school in order to continue receiving benefits. Benefits are paid directly to the child. Children between 18 and 25 who are attending a recognized educational institution must fill out two forms:

- **Application Child's Benefit Canada Pension Plan**
- **Declaration of Attendance at School or University**

Both forms must be signed by a school official every year or semester.

If the child ceases to be a full-time student, he/she no longer qualifies for benefits. If he/she resumes student life, he/she must reapply for benefits

Children over 25

If the child is over 25, he/she is not considered dependent whether or not he/she is attending school full-time. If at any time you, as the applicant, are no longer eligible to receive benefits, your children are no longer eligible either.

Other Benefits

Any person receiving CPP-D **may be eligible** for other benefits. These benefits are not automatic and require individual applications. There will be some differences between provincial/territorial benefits available to those living in British Columbia compared to those living in the Yukon. Federal benefits, such as the Disability Tax Credit, are available throughout Canada.

Examples of other benefits include:

- Accessible and affordable housing
- Property tax deferment
- Home owner grants
- Disability Tax Credit (for people with income)
- BC Ferry pass, Rail pass, Coach line
- HandyDART, HandyPASS and Taxi Saver (if you have mobility limitations)
- Handicapped driver discount
- Federal gasoline tax refund

- Provincial motor vehicle fuel tax rebate
- Parking permits

Additional Information

Details of these benefits may be found in the *Disability Resource Manual*. It is available at www.mssociety.ca/bc/pubs.htm or from the MS Society of Canada, BC & Yukon Division office.

CPP-D and Employment

- 1. Earning Exemption:** Once you are deemed eligible for CPP-D you are able to earn up to \$4,600 (accurate as of 2009) before tax within a calendar year without it affecting your CPP-D benefit. You do not need to declare this money or contact HRSDC until you have earned over \$4,600 at which time HRSDC requires that you contact them so you can discuss the regularity of your work and the possibility of your return to gainful employment.



Caution: Many Long-Term Disability (LTD) Insurance plans will not allow you to work in any capacity. If you are receiving combined LTD & CPP-D benefits, and are considering going back to work, it is very important that you check the terms of your LTD plan carefully. Contact the MS Society for more information.

- 2. Return to Work:** Should your functioning improve so that you think you may be able to return to work, you have several options:

- a. **Trial Return to Work:** HRSDC will give you 3 months to explore if you are medically capable of regular employment while continuing to provide your CPP-D benefit. If, at the end of 3 months you are coping with the demands of the job, your CPP-D benefit will stop.

It will be important to communicate with HRSDC regularly during the work trial to inform them of your actual ability to work. You may be able to continue receiving CPP-D if you are only able to work occasionally or very limited hours as a result of your disability, even if your income is somewhat higher than the yearly \$4,600.



It is important that you make the necessary contributions to CPP once you have returned to work. Most employers do this automatically, however, if you are self-employed, you must file payments manually.

- b. **Vocational Rehabilitation:** This is a voluntary program meant to assist people in returning to work at some point. Eligibility criteria include:

- Receiving CPP-D
- Medical stability
- Motivation and willingness to participate
- Ability to cope with a work-related rehabilitation program according to a doctor
- Residency in Canada

These are the stated regulations. Prior to agreeing to vocational rehabilitation, you need to evaluate and consider:

- Your ability to work regularly to ensure sufficient income
- The impact that regular employment may have on your symptoms and overall functioning

Rehabilitation services may include guidance, a return to work plan, or assistance in retraining. HRSDC may cover the costs of, and assistance in finding new employment. Retraining may be for a different kind of work than you had before.

While in receipt of vocational rehabilitation services, you will continue to receive CPP-D. After retraining, the rehabilitation worker will assist you with finding work for three months, (which may be extended in exceptional circumstances), during which time you will continue to receive benefits.

Retraining may not result in finding new work. If you are capable of working, but you have not found work, your benefits will probably stop after three months because the reason you are not working is due to labour market conditions, not your inability to work. If you do find a job, you will receive benefits for the first three months of your new job.

You may volunteer and retrain as much as you like without being a part of this program and without having to notify HRSDC.

c. Automatic Reinstatement and Fast Track Re-Application

- **Automatic Reinstatement:** If, within two years of the date your benefit stopped, you cannot continue working because your disability has recurred, you can ask to have your benefits reinstated without having to

go through the usual re-application process. Automatic reinstatement covers CPP-D beneficiaries who reported a return to work and began earning enough for their benefits to be stopped as of January 31, 2005, or later.

There may be times when you can work on a regular basis, followed by periods when you cannot work because of your disability. With automatic reinstatement, there is no limit to how many times you can request a reinstatement of benefits, provided you meet the requirements.

- **Fast-Track Re-Application:** If your disability recurs after you've been working and contributing to CPP for more than two years and up to five years, you may be eligible for a fast-track re-application. That means when you re-apply there is a shorter application process and that if you re-qualify, you will receive a retroactive payment reinstating your benefits within 90 days.

Even if you are fast-tracked, you will not automatically become eligible for benefits. You must still meet the definition of disability and have made the appropriate contributions. The years you were receiving benefits are left out of the calculation of contributions.

CHAPTER 4

Application Package and Process

Obtaining the Application

To obtain an application, call 1-800-277-9914. Ask for an application form and a Statement of Contributions. Also ask if you are eligible for benefits based on your contributions.

Application packages are also available online at:
www1.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=isp1151

The application package must be printed out and mailed to the nearest Service Canada office.

The application package includes:

- A booklet called General Information and Guide that tells you what information to provide with your application
- Application for Disability Benefits
- Questionnaire for Disability Benefits
- Consent for Service Canada to Obtain Personal Information / Physician's copy
- Consent for Service Canada to Obtain Personal Information / Service Canada's copy
- Medical Report
- Child Rearing Provision Form
- Information sheet for the Child Rearing Provision

Application for Disability Benefits

You should apply for CPP-D as soon as you are unable to work because of your disability. This section asks you to provide basic information about yourself, such as your date of birth, address, etc.

Questionnaire for Disability Benefits

Along with the Medical Report, the way you answer these questions will determine whether or not your application is accepted. Answer them clearly, accurately, and completely. If you need to add pages to your application, do so. Put your name and Social Insurance Number (SIN) on the top of every additional page.

Important Tips:

- Base the information you give on days when the symptoms and functional limitations of MS are in the **average to most severe range**.
- Only provide **relevant** and **focused** information on your medical condition(s).
- Provide enough relevant detail to show how MS is **preventing** you from working and how it is affecting your daily life.
- Make sure your answers throughout the application are **consistent** with each other.
- Make sure your doctors have provided **consistent** rather than contradictory information.
- Type your answers, if possible.

When an application is denied, most often it is because the applicant is believed to be still capable of doing some kind of work. Therefore, it is crucial for the success of your application that you show clearly and thoroughly what your limitations are and how they prevent you from doing any type of work.



Example: If MS exacerbations make you an erratic worker, it would be useful to point out how often this happens and how you are affected by exacerbations. If fatigue is a debilitating symptom for you, describe in detail the triggers that make fatigue worse for you (activity, heat, stress) and how this affects your capacity to work.

While filling out the application, focus on trying to “paint a picture” of how all symptoms related to any medical condition you are living with impact your daily life and your ability to engage in work-related functioning.

This will allow the reviewer(s) of your case to assess your application from a real world approach. This approach includes other aspects of life in addition to working such as:

- Your ability to spend time with your children in addition to working
- Your ability to perform regular household duties (shopping, cleaning, cooking, etc.) in addition to working
- Your ability to socialize with others in addition to working

Question 5 or 6

This is where you enter the date you stopped working as well as details about your most recent work and reasons why you stopped working.

The date you stopped working is very important because disability benefits are payable to you from the fourth month after you have become disabled according to CPP-D legislation.

Provide detail describing how MS has affected your employment and resulted in your stopping work. If there is not enough room attach your response and indicate likewise.

Question 10

Indicate whether your employer accommodated your disability by changing your job so it was easier for you to do, or by reducing your hours.

Questions 11 and 12

In order to qualify for CPP-D, it is assumed you cannot or will not likely return to work because of the prolonged duration of your disability. Therefore, do not suggest or imply that you will be returning to work, want to return to work, or that your doctor thinks you should or can return to work, at some point in the future. Your application will likely be turned down if you do.

Question 16

The date you felt you could no longer work should coincide with the date given in Q. 5 for when you stopped working.

If the dates are not the same, provide a clear and detailed explanation for this.

Question 18

State your illnesses or impairments precisely. This may be MS alone (e.g., Multiple Sclerosis and the symptoms of MS) or MS and other medical conditions (e.g., Multiple Sclerosis and the symptoms of MS; Depression).

Question 19

Describe your illnesses or impairments precisely and thoroughly and how they prevent you from working.

It is useful to describe your symptoms using the following categories and then list your specific symptoms and how they prevent you from working. If one of these symptom categories does not apply to you, you can simply leave this category out or write "I have not had any (e.g., visual problems) at this time." **The following are short examples, however, it is important that you give thorough and concrete examples.**

- **Motor Symptoms:** For example, heaviness of limbs make it difficult to type for hours at a time; weakness of arms and legs which leads to incoordination and difficulty walking and standing for the period of time that my job requires.
- **Sensory Symptoms:** For example, I experience pins and needles in my hands that interfere with my dexterity and ability to type.

- **Visual Symptoms:** For example, I regularly experience double vision that makes me feel off balance and dizzy and I find it very difficult to concentrate on my work.
- **Fatigue:** For example, I experience bouts of fatigue. It is probably my most debilitating symptom. Feelings of weakness, listlessness, and emotional fatigue result in an inability to function towards the end of the work day.
- **Dizziness:** For example, I experience feelings of dizziness and spinning that cause extreme nausea and make my job as a bus driver very difficult.
- **Mood Changes:** For example, I get irritable and impatient at work the more tired I get. This is difficult when I am working with the public every day.
- **Memory:** For example, I have problems with concentration, particularly when I am in meetings or reading information. My short-term memory is noticeably impaired, however, my long-term memory appears to be OK.

Question 20

If you have other health-related conditions or impairments that have not been described yet (in Q. 18) describe them thoroughly here (e.g., osteoporosis). The combined effects of your primary disability (MS) plus these additional conditions and impairments may render you unable to work according to CPP-D legislation (if MS alone did not).

Question 21

In this question you are being asked to describe the extent of your disability as it relates to non-work activities. Answer this

question thoroughly to show how **all** of your life activities have been affected in a negative way. This can include hobbies, social activities, volunteer work, sports, etc. State any limitations that your disability has created in these areas and how along ago you stopped or limited the activity.



Example: I used to play tennis three times per week, however, the effects of heat and fatigue caused me to stop playing in June 2003. I no longer watch TV, as I find it difficult to concentrate, or remember what is happening on the show from beginning to end.

Question 22

This question asks about the extent of your limitations in activities such as standing, sleeping, and driving, etc. For many of these activities, it is useful to describe your ability to perform based on a bad day and on a good day. For each activity, provide as much detail as possible about what you **cannot** do rather than what you can do.



Tip: In the spaces provided for your answers to Q. 22 on the original application, state the page number of the attached page where your answer is (e.g., Reaching – See page 5 of attached pages).

At the top of each page of your application (both original and your appended pages) include your name and SIN.

The following are examples of the sort of detail you need to provide. You need to describe your own experiences in your own words.

Many of these activities may cause or increase pain for you. Explain in detail what triggers or worsens the pain, where you experience pain, and how the pain affects your functioning.



Example: Walking for longer than 10 minutes (or one block) causes a severe increase in pain in my legs. This results in worsening of my leg coordination and a higher risk of falling.

Sitting/standing: How long?

- **Sitting:** For example, on a good day I can sit for 2-3 hours before I feel pain, providing I am sitting in a chair with armrests and good padding. On a bad day I can sit for 1 hour. I tend to have 2 bad days, 3 good days, and 2 average days per week. I find it difficult to cross my legs while sitting as I tend to lose balance.
- **Standing:** For example, on a good day I can stand for 20 minutes without support; on a bad day I can only stand momentarily without support. On average I have 2 good days, 3 bad, and 3 average per week. I can stand for longer if I have a walker or cane, but I still find it difficult.

Seeing/Hearing

- **Seeing:** For example, I have blurred vision that tends to get worse in the evening when I often experience double vision.
- **Hearing:** For example, I occasionally have ringing in my ears, otherwise my hearing is OK.

Walking: How far? For how long?

For example, I can walk 3 blocks on a good day and 1 block on a bad day with 3 minute rests along the way. With a walker I can walk 6 blocks on a good day and 2 blocks on a bad day. I find that walking down hills and using stairs is difficult even on a good day.

Speaking

For example, when I am really tired I tend to slur my words.

Lifting/Carrying: What is the maximum weight you could lift? Would you be able to lift as well as carry it? Do you experience pain? If so, where?

Remember lifting a bag of potatoes or bag of sugar and use that as a point of reference.

- **Lifting:** For example, the maximum I could lift is 10 lbs to waist level. I would require support when bending to pick up. I cannot hoist more than 5 lbs above shoulder level. This is a daily challenge.
- **Carrying:** For example, I could not carry more than 10 lbs without help or using my walker basket to carry items.

Remembering: Do you forget things? What kinds of things?

For example, I have extreme difficulties with my short-term memory and I need to carry a notebook with me at all times to write myself reminders. I forget words very easily, particularly when I am feeling stressed. My long-term memory seems fine.

**Reaching: Can you reach up and/or across for things?
What happens?**

For example, I cannot reach up without getting dizzy and losing balance. I do not use the upper cupboards in my kitchen or closets.

Concentrating

For example, I have difficulty concentrating, during conversations, reading, or watching TV. My mind wanders easily particularly when I am in stimulating and busy environments.

Bending: From standing and sitting position

For example, I can bend at the waist as long as I am holding on to support. If I do not have support I prefer to get on my knees otherwise I get dizzy and feel like I will fall.

Sleeping: How well? Do you need sleeping pills? Do you feel rested in the morning?

For example, My sleeping is fitful. I go to sleep at 10 pm and wake at 3 am. I sleep lightly until 7 am. I rarely feel rested, even when I take a sleeping pill to help me sleep. I need to nap everyday for 2 hours.

Personal needs: Do you need special devices or assistance?

- **Eating:** For example, food tends to go down the wrong way more than they used to. I have particular trouble with hot liquids. I use a straw when I drink.
- **Washing Hair:** For example, I cannot wash my hair in the shower because I need one hand for stability on the wall.

Instead, I usually wash my hair in the sink every 3 days. I used to wash my hair daily.

- **Dressing:** For example, I get dressed sitting on the bed rather than standing due to fatigue. It takes me approximately 15 minutes to get dressed now, whereas before it would take 5 minutes.
- **Other Personal Needs:** Cutting nails; shaving; brushing teeth, etc. Explain how these and any other personal needs have changed due to MS. For example, I can no longer use a razor to shave due to muscle spasms. I used to shave every other day but now I use an electric razor every 4 days.

Breathing

For example, I find myself taking deep breaths/sighs in order to get a good breath.

Bowel & Bladder Habits

- **Bowel Habits:** Constipation, diarrhea, urgency, or loss of control. For example, constipation & diarrhea are common and cyclic occurrences for me. I have experienced a loss of control on a few occasions.
- **Bladder Habits:** Frequency; retention; hesitation; urgency; loss of control. For example, I experience the following bladder issues: frequent voiding (state day/night or both); retention; hesitancy; and the occasional loss of control.

Driving a car

For example, I am able to drive on good days for distances no longer than 40 km (or time: 2 hours maximum). On bad

days I do not drive as I feel less confident in my ability to concentrate and respond.

Household Maintenance: Which tasks? How often, and how much assistance is required

- **Cooking:** For example, I tend to cook instant meals or get takeout because I do not have the energy to cook. I used to enjoy cooking and would make homemade meals from scratch approximately 5 days a week.
- **Cleaning:** For example, I used to vacuum and dust every week. Now I vacuum and dust every 2 months. I use disposable plates as I do not have the energy to do dishes. Although I try to sweep the floors every 2 weeks, I rarely wash the floors.
- **Laundry:** For example, I used to do laundry twice a week but now I do it every 2 weeks as it takes too much effort to walk to the laundry room in my building. I find it difficult to carry large loads and often require assistance.
- **Shopping:** For example, I do not shop for groceries as often as I used to (now every 10 days compared with 2 times per week). I always require a shopping cart for stability while shopping. On a good day I can shop for 20 minutes using the cart as a mobility device. On a bad day I cannot shop and I rely on family to pick up the things I need.

Using public transportation

For example, I do not use public transportation because I cannot walk the 4 blocks to the bus stop. I also worry about not having access to a washroom on a bus. However, if I did take transit I would require a seat as I could not stand without

losing my balance. I sometimes use HandyDART when I cannot drive.

Questions 23-25

These questions ask you about every general practitioner and specialist you have seen and every hospital stay you have had in the past 2 years. **List every one of these.**

Question 26

List all medications you are currently on, including those that may not be for MS.

Question 27

Describe other treatments you have had for MS or treatments you are currently receiving. Include **all treatments**, including counseling, physiotherapy, acupuncture, massage therapy, etc.

Question 28

If your general practitioner (GP) or neurologist is planning on future treatments or medical tests describe what they are and when you expect to start them.

For example, my neurologist is planning to start me on _____ in July or August of this year.

Question 29

List all medical devices you use or need to use (cane, walker, wheelchair, scooter, grab bars, ceiling lifts, etc.). For example, I use a cane everyday and my walker when I am having

extreme difficulty with my balance and walking. I have grab bars beside my bathtub to assist me with getting in and out safely.

Question 30

Indicate **YES** – that you would consider vocational rehabilitation if your condition improved, and if it was suitable. It may be reasonable not to consent, when, for example, you are in your 60s. This question has **no** impact on the application process.

Medical Report

The medical report is the most important part of the application. You should know that if your physician does not support your application, does not provide evidence for severe and prolonged disability or provides contradictory information, you most likely will not receive CPP-D benefits. Here are some points to help you with this section:

- Choose the doctor to complete this report who best knows you, your disability, why and how it has prevented you from working, and how it has affected your daily life.
- Make an appointment with this doctor specifically to talk about your application and how he/she should complete the report to increase the likelihood of your application being accepted.

Your doctor should complete it knowing that HRSDC:

- a.** Wants to know about your medical condition(s), history, treatments, and prognosis

- b.** Will most likely reject the application if the doctor indicates the possibility of return to work of any kind
- c.** Is only interested in the person's inability to work at any job. Therefore being unable to return to former employment is irrelevant.
- d.** Is not interested in irrelevant information such as age, educational level, language ability, and past work history (these may be deficits for some people but they are not disabilities)
- e.** Is only interested in detailed, objective medical information that substantiates the severity and prolonged duration of your disability such as x-rays, lab reports, and other test results

Additional information from specialists such as neurologists, urologists, surgeons, and neuro-opthamologists may carry extra weight or status in the application process. These specialists have a deeper knowledge of the specific condition they are treating you for. This knowledge may be very helpful in illustrating the level of your disability and its impact on your ability to work.

If you have reports from specialists, make sure they include only relevant information. Ensure that their information is **consistent** with your general practitioner's report. Put your name and SIN on every page that is additional to the application.

Request that your physician return the medical report to you so that you can include it with the rest of your application and send it all at once. Photocopy it with his/her permission. All of your doctors will bill you for writing their reports.

If you think your doctor does not understand the variability and unpredictable nature of MS very well, feel free to provide him/her with literature from the Multiple Sclerosis Society of Canada.

Documents and/or letters of support from other medical professionals, employers, family, and friends can also be submitted to support your application. All of these documents must be relevant, consistent, and up-to-date. To be useful, all of them must focus on your inability to work or on the way your daily life has been affected by your disabilities.

Consent for Service Canada to Obtain Personal Information

You will be asked to sign a release of information form. When signed, it allows a very large amount of information to be collected about you. The information includes medical, employment, and educational information. It also provides consent to be evaluated by a doctor and/or to submit to diagnostic tests.

You have the right not to consent. However, in practical terms, your lack of consent may be interpreted negatively and your application may not be accepted. If you do consent, the Privacy Act, Access to Information Act, and Canada Pension Plan Act will protect the information collected about you. You can also request access to any such personal information collected about you.

All of this information is collected to determine your inability to work. Make sure that you are aware of what your employer,

insurance company, doctors, and hospital records say about your inability to work. Make sure they know how important it is that the information they provide is consistent with CPP-D eligibility criteria.

Since the only information HRSDC wants is related to your inability to work, the information given to them by those listed above should only include that information. That is, they do not have to send all information about you to HRSDC, only that which relates to your inability to work. You may want to talk with those people who may be approached in the future by HRSDC representatives for further information about you so that they understand what information to provide and what information not to provide to them.

Child Rearing Provision

Complete the form and send it in even if your eligibility for the tax credit has never been determined.

To receive the child rearing provision, you must have:

- Cared for children under the age of 7 and received the Family Allowance OR
- Been the spouse of someone receiving the Family Allowance and remained at home as the primary caregiver of a child (in this case, the recipient spouse must give up his/her rights to the provision in your favour) OR
- Been eligible for the Child Tax Benefit (under Income Tax regulations) or would have been eligible had you applied for the benefit and no other person was eligible with respect to the same children

The primary caregiver is the person who was most responsible for meeting the day-to-day needs of the child. To be eligible for the Child Tax Credit, you need to have been the primary caregiver of a child under 7, been living with that child, and have been a resident of Canada for income tax purposes.

Submitting the Application

- Make sure you have filled in all parts of the application.
- Be sure you have enclosed all the documentation required.
 1. Application for Disability Benefits
 2. Questionnaire for Disability Benefits
 3. Consent for Service Canada to Obtain Personal Information
 4. Medical Report
 5. Child Rearing Provision (if applicable to you)
 6. Include all optional documentation
- Include photocopies of identification documents for you and your children (Birth Certificate, Social Insurance Number (SIN) card).
- Number and write your name and SIN on all pages you are submitting.
- Sign and date every form.
- Make copies of everything you have submitted including the medical report and any other documents you send.

- If you are mailing your application, send it by registered mail to the nearest Service Canada location. For the BC & Yukon Service Canada location, see Chapter 8 (page 74).
- If you are submitting the application in person, phone 1-800-277-9914 to make an appointment. Bring proof of birth to this appointment.



Submitting the application in person does not speed up the application process or increase the likelihood of being accepted for benefits.

- It will take between 4-6 months to hear if your application has been accepted.

CHAPTER 5

Outcome of Application

Accepted

If you were accepted for CPP-D, you will receive a **Notice of Entitlement** letter. It will tell you:

- The date you will begin receiving money (usually 4 months after HRSDC judges you to be disabled, known as the **date of onset**)
- The amount of money you will be receiving
- The amount of retroactive benefits if any (for no more than 15 months)

Rejected

If you have been rejected you will be notified and receive a letter of decision explaining the reasons for your rejection and an explanation of your right to appeal.

You may appeal the rejection of your initial application, as well as a later withdrawal or cancellation. Benefits may be withdrawn at a later point in time after your disability has been reassessed or may be cancelled due to non-compliance with specific conditions. The appeal process will be similar for all three situations. Please see Chapter 6 (page 49) for further details.

CHAPTER 6

Appeals

Appeals can be made regarding the amount of benefit, the date the benefit begins, the ineligibility decision, or the cancellation decision.

Appeals **must** be based on the reasons for rejection (i.e. why you do not meet the criteria for disability or because of inadequate contributions). It is irrelevant to argue that you need more money to live on since financial need is not one of the criteria for eligibility.



It is helpful at the appeal stage to ask for assistance from a local advocacy program including the MS Society of Canada's Volunteer Legal Advocacy Program (VLAP) or the BC Coalition of People with Disabilities CPP-D Advocacy Program.

There are three stages in the appeal progress:

- 1. Reconsideration**
- 2. Review Tribunal**
- 3. Pension Appeals Board**

If you are not successful at one stage you may then apply for your appeal to be accepted at the next stage.

When you are rejected you will be given the addresses and contact numbers for the relevant stage of appeal. **At each level of appeal it is very important that you make your request within the specified time limit, and if you do not you may lose your right to appeal.**

Assistance with the Appeal process

At the reconsideration stage you may or may not require legal help. The assistance of lay advocates, family, and friends may be all you require. If the appeal process continues on to the Review Tribunal or Pension Appeals Board, you may require legal assistance.

Important Tips for Letter Writing in the Appeal Process

In each stage of appeal you will be required to write letters explaining why you should qualify for CPP-D, as explained in the following sections. Here are some important tips to assist you in this process:

- Make sure you send in all documents within the specified time frame and if you are not able to, contact the body to which you are appealing to notify them in writing.
- Make sure that the arguments and information contained in your letter specifically address the reasons that you were denied; for help with this contact an advocate.
- When explaining a reason why you qualify, reference relevant information you have already submitted.
- Always include your name, address, SIN and phone number.
- If a friend or advocate is helping you at this stage, indicate this and supply their name, address, phone number and describe their relationship to you.
- Sign the letter.

Additional Information

For more information on the appeal process please consult the BC Coalition of People with Disabilities Booklets *Appeal Guide Part 1*, and *Appeal Guide Part 2* available at www.bccpd.bc.ca/publications/cppbenefits.htm.

Stage 1: Reconsideration

If you are turned down for CPP-D and you disagree with their reasons for denying you, you may appeal the decision through the reconsideration process. This level of appeal is an internal written review by adjudicators from HRSDC of your original application and any additional information you submit.

In order to start the appeal process you must send a preliminary notice of appeal to HRSDC.



Important Time Limit: You must send a notice of appeal within 90 days of receiving the letter of decision denying you benefits; if you do not you may lose your right to appeal.

Notice of Appeal

In your letter, provide your name, address, SIN, phone number and date on the denial letter, as well as the date you received

the denial letter. Be sure to provide the reasons for your disagreements and sign the appeal letter.

If someone helped you with this stage of appeal, provide their name, address, phone number, and relationship to you.

It is important to indicate that you will be sending additional information to support your claim.

For a sample Notice of Appeal letter see Chapter 7 (page 67).

Personal Information Request Form

You should request all the information that HRSDC has on your file at this stage so that you can counter their reasoning and decisions.

The Privacy Act of Canada gives you the right to see any file the government has concerning you. You can do this by filling out a Personal Information Request Form. You can request this form by calling 1-800-277-9914 or download it online at www.tbs-sct.gc.ca/tbsf-fsct/350-58-eng.asp.

Return the completed form to your nearest Service Canada office or mail it to:

CPP Applications and Appeals Division
BC & Yukon Region
P.O. Box 1177
Victoria, BC V8W 2V2

It will likely be a month after you submit your request form before you receive your file from HRSDC.

The file you receive will include:

- Your application form

- Your doctor's medical report
- The Disability Summary Sheet which will tell you why your claim was denied
- Other documentation sent in regarding your application that you may not have seen such as a letter from your doctor.

Disability Summary Sheet

This will be included in the Personal Information Request package. The Disability Summary Sheet outlines the review of your application. It is important for you to have because it shows you what areas to address in your appeal. It is important that you provide reasons for your disagreement with their decision.

Gathering Supporting Documents

Gathering supporting documents that address the reasons you were denied is the main way you can convince the adjudicators that you do meet the criteria for receiving CPP-D. Additional documents can be forwarded to HRSDC after your initial notice of appeal although they will begin to evaluate the information already submitted when they receive your notice of appeal and will make a decision in the absence of additional information.



If you are delayed in obtaining important documents and sending them to HRSDC, call them and ask them to wait to finish adjudication of your case until they receive those documents.

Supporting documents should include:

- New information from doctors, addressing the reasons you were denied CPP-D
- Articles on MS that are pertinent to your diagnosis
- A summary of your symptoms
- Additional information from your employer (if relevant)
- A journal of how your life has been affected or a description of the ways your life has changed for the worse. Focus on the relevant time frame HRSDC is interested in.
- Any new information demonstrating that you meet the CPP-D eligibility requirements

New Medical Information

New medical information is the most important type of supporting documentation to include in the reconsideration for adjudicators to reassess your eligibility for CPP-D if you were denied because you did not meet their definition of disability (see Chapter 2, Definition of Disability, page 9).

For this reason, new medical information must focus on the relevant time frame HRSDC is interested in and address the reasons that you were denied as stated in the Disability Summary Sheet.

It is very important to request relevant letters, recent test results, and/or reports as soon as possible from doctors and specialists. This information should specifically address the reasons that you were turned down for CPP-D.

If you have difficulty figuring out the relevant time frame, the reasons you were denied, or would like assistance in requesting letters from doctors please contact an advocate for help.

For a sample letter requesting new information from a doctor see Chapter 7 (page 68).

Letters of Support

You may request new letters of support from anyone who can provide relevant information to support your case so long as the information they provide focuses on the issues and dates contained in the Disability Summary Sheet. This includes health professionals other than your doctors such as physiotherapists, mental health workers, counsellors, and nurses, etc. It can also include past employers, rehabilitation personnel, and family and friends who have observed your difficulties working or managing daily activities.

Submission for Reconsideration Letter

As soon as you have gathered all the information to support your case, you can write your submission for reconsideration letter.

In your submission for reconsideration letter, use the Disability Summary Sheet as a guideline and address all areas that you do not agree with, state why you do not agree, and cite evidence you have gathered including any information already submitted which supports it.

For a sample submission for reconsideration letter, see Chapter 7 (page 71).

Decision

If you are successful at this level of appeal, you will receive a letter stating so. The time this takes will vary depending on many variables including whether or not HRSDC has requested additional information from your doctors. If you are successful, you will receive benefits beginning the fourth month after you stopped working.

If you are unsuccessful, you may proceed to the next level of appeal, Review Tribunal.



If you have received new medical information which was not available when the decision was made, you can apply to reopen your case. Please contact HRSDC, or the MS Society's Volunteer Legal Advocacy Program (VLAP) for more information or contact a lawyer for legal advice.

Stage 2: Review Tribunal

The Office of the Commissioner of Review Tribunal (OCRT) is an independent body separate from HRSDC which organizes Review Tribunals for those wishing to appeal a reconsideration decision. The tribunal will review and hear all evidence presented by you and HRSDC in order to decide if the original decision will be upheld or overturned. Any decision is based on the criteria for CPP-D as set out in the legislation.

The Tribunal does not have the power to change the definition of disability and cannot grant people disability on compassionate grounds if they do not meet the criteria.

The review tribunal is held in person, and is informal in tone. For more information please refer to The Hearing, page 60.

In order to initiate the Review Tribunal process you must submit a notice of appeal within the specified time frame.



Important Time Limit: You must send a notice of appeal within 90 days of receiving the letter of decision denying you benefits; if you do not you may lose your right to appeal.

Submitting Notice of Appeal

In your letter, provide your name, address, SIN, phone number and date on the denial letter, as well as the date you received the denial letter. Be sure to provide the reasons for your disagreements and sign the appeal letter.

If someone helped you with this stage of appeal, provide their name, address, phone number, and relationship to you.

A sample letter requesting a hearing with the Review Tribunal can be found in Chapter 7 (page 73).

Supporting Documents

Submit any new information that supports your case to the OCRT, as soon as it is available. This information does not have to accompany your notice of appeal but should be

sent in as soon as possible. For information on what type of documentation could be helpful, please refer to Gathering Supporting Documents (page 53). For help in gathering documentation please contact an advocate.

When Your Appeal has been Received

When your letter of appeal is received it will be acknowledged by the OCRT. HRSDC notifies the Office of the Commissioner of any other parties that may be affected by the decision of the Review Tribunal. These parties can submit documents and evidence to support their position.

You and other interested parties will receive a **Hearing Case File** within 20 days made up of all the relevant documents (e.g., your application to CPP-D; decision letters; HRSDC explanation of decision under appeal, etc.) to be used at this appeal and the time and location of the hearing.

Before the hearing an OCRT Client Services officer will contact you to confirm the hearing date and answer any questions that you may have concerning the hearing process.

Feel free to contact them at any time with questions, or to change the date of the hearing. You may change the date and place of the hearing if you give them 2 weeks notice, although this is not advisable. **If you are unable to attend the hearing and it is less than 2 weeks away it is still possible to adjourn (delay) the hearing; please contact OCRT immediately and seek the help of an advocate.**

Preparing for the Hearing

Much patience and persistence will be required of you during this process. Because the hearing date is usually set 6-7 months after you initiated your appeal, it is best to use this time to fully prepare and organize excellent evidence on your own behalf for the hearing. Obtaining existing documentation on your case is the best way to do this. Please refer to Gathering Supporting Documents, page 53. You should seek the assistance of a legal advocate to help you in preparing for the hearing and to represent you at the review tribunal.

In advance of the hearing, you will be given HRSDC's **Submission to the Review Tribunal** that outlines your case history. It also presents the arguments they are going to use to support their decision. Review this document carefully so that you can counter any incorrect arguments.

To prepare for the actual hearing:

- Contact the MS Society of Canada's VLAP program or another local advocacy agency for help.
- Make sure your documents are ready, readable, and organized.
- Review the reasons why you were denied and write down point by point why you disagree, and how it is supported by medical information, with accompanying page numbers. Use these notes to create a written submission to distribute on the day of the hearing. You may use the guidelines for the Submission for Reconsideration Letter on page 55 as a guide to crafting your written submission to OCRT.

- If you bring any new information to the hearing (such as a written submission, recent evaluations, MRI reports, doctors' letters, and treatment changes), bring **5 copies** of each document to distribute to those in attendance at the hearing.
- Be prepared to answer questions from tribunal members.
- Bring witnesses, such as physicians, friends, or family to support your case; they should be prepared to provide relevant information about your disability.
- You may bring your family and friends as support; the hearing is not open to the public.
- Keep in mind that as the hearing is in person, it is a good opportunity for the tribunal members to better understand the severity of your disability, including the physical and cognitive aspects less easily understood through written documentation.



There is a possibility that you will receive a letter of settlement shortly before your tribunal hearing is scheduled to take place. If you accept the settlement, the tribunal is cancelled. However, you may choose to not accept the settlement and continue with the hearing.

The Hearing

It is important to arrive early and to bring your hearing file and any new information you want to submit. The entire hearing should take approximately 1-1.5 hours.

There are usually three members in a tribunal. The chairperson is a lawyer, one member is a healthcare professional, and the third is chosen from a pool of people who regularly sit on these kinds of panels.

If you have an advocate assisting you, or if you are waiting for witnesses or family or friends, it is important to notify the chair that you are expecting them shortly.

At the beginning of the hearing the chair will explain how the hearing will be conducted. If you have any new information, it is important to distribute copies to the panel members and HRSDC representatives and allow them time to read it.

Usually you (or your advocate if you are being represented by one) will be given the option to present your case first. Use your notes and the written submission you have prepared to explain to the panel why you meet the right criteria and counter any reasons you have been denied. If you have brought witnesses, you can request that they be able to speak in support of your case.

After you have presented you will be asked questions by the tribunal panel and the HRSDC representative.

The HRSDC representative will then present their case and you and the panel may have the opportunity to ask them questions regarding their decision.

After you and the HRSDC representative have made your arguments, you will both have the opportunity to make a closing statement. It is recommended that you highlight your key arguments as to why you meet the criteria for CPP-D in your closing statement.

Decision Letter

The decision of the Review Tribunal will be sent to you and HRSDC by the OCRT approximately 8-12 weeks after the hearing.

If you are unsuccessful, you may wish to proceed to the final level of appeal: the Pension Appeals Board.



If you have received new medical information which was not available when the decision was made, you can apply to reopen your case. Please contact the Office of the Commissioner of Review Tribunals, or the MS Society's Volunteer Legal Advocacy Program (VLAP) for more information or contact a lawyer for legal advice.

Stage 3: Pension Appeals Board

The Pension Appeals Board (PAB) is an independent tribunal made up of judges. An appeal to the PAB is the only part of the appeal process that requires approval to proceed. It is important that you realize that you are responsible for providing ALL the information to support your appeal, including all the information you previously submitted at earlier stages of appeal.

Follow all the steps that you did in the two previous levels of appeal (contact info; dates; why appealing; new information, etc.).

If you have been successful at the Review Tribunal, it is possible for HRSDC to appeal the decision of your case by

the Review Tribunal to grant you benefits. They have 90 days from the receipt of decision to initiate an appeal.



Important Time Limit: You must send a request Leave to Appeal (permission to appeal) by writing to PAB within 90 days of receiving the Review Tribunal's decision; if you do not you may lose your right to appeal.

When your Request has been Received

When the PAB receives your request, they will decide if they are going to hear it or not. This decision usually takes 2 months. If they decide not to hear your appeal, then the decision of the Review Tribunal is final and binding. If they decide to hear your appeal, they will set the time and location. It is approximately one year before the case will be heard.

Preparing for the Hearing

You will receive a copy of the reasons and arguments for your denial of benefits from the Review Tribunal or the appeal from HRSDC. Once you are aware of these reasons, you will be better able to defend your arguments.



At this level of appeal, HRSDC will have its own lawyer. You should, too. Contact the MS Society of Canada's VLAP program to see if you are eligible for legal support. If you are unable to find a lawyer to help you, try to find an advocate to help you in preparing for the case as it is a very complex legal process.

Research Previous Decisions

Decisions made by the PAB in the past may have a bearing on the decision that will be made in your case if the cases are similar. You may obtain reports of past decisions in Canadian Employment Benefits and Pension Guide Reports. These can be obtained by:

- 1.** Consulting www.pab-cap.gc.ca and visiting the decisions section to search their database for records of previous decisions
- 2.** Calling 1-800-461-5308
- 2.** Visiting your nearest law library
- 3.** Searching the Electronic Law Library of the Legal Resource Centre of the Legal Services Society at www.bcpl.gov.bc.ca/ell
- 4.** Consulting www.povnet.org which allows access to, and discussion of, pertinent court decisions

If you can find a similar case from the past with the outcome you are hoping for, this will be helpful to you.

Attend a Hearing

Another helpful thing to do in preparing for your hearing is to attend one yourself. That way you will know what to expect. You can call the Pension Appeals Board at 1-888-640-8001 to find out when hearings are scheduled in BC & the Yukon.

Written Submissions

It is very helpful to tribunal members and for you and your lawyer to make a written submission to send in to the Pension Appeals Board in advance, rather than constructing your case “on the spot.”

Supporting Documents

As soon as new information is available to you, you should submit it to the PAB. If you are mailing it, it should arrive no later than 2 weeks before the hearing and if you are bringing material with you on the day of the hearing, be sure to bring **5 copies** of your documents. However, if you bring a lot of material with you on the day of the tribunal, you should be aware that you will not have given tribunal members adequate time to consider it in their decision. It is better to ask for an adjournment of your hearing than to bring forward important material that is not going to be given serious consideration.

The Hearing

This hearing is open to the public and is more formal than the previous two levels of appeal.

Travel costs are paid by HRSDC and minimal legal costs if a decision is made against HRSDC. For information on reimbursement costs, call 1-800-311-3820.

Decision

The decision regarding your case will be sent to you in 6-12 months from the date of the hearing. Decisions made by the PAB are **final** unless you proceed with a judicial review.



Important Time Limit: A judicial review must be commenced within 30 days of receiving the decision from the PAB, unless exceptional circumstances apply.

Additional Information

For more information on judicial reviews please contact the Community Legal Assistance Society. Please refer to Chapter 8, page 75 for contact information.

CHAPTER 7

Sample Letters

Sample Notice of Appeal Letter to HRSDC

Regional Director
Income Security Programs
Human Resources and Social Development Canada
P.O. Box 1177
Victoria, BC
V8W 2V2

[Insert Date]

Re [Your Name]
[Your Address]
[Your Telephone Number]
[Your Date of Birth]
[Your Social Insurance Number]

Dear Sir or Madame:

Please be advised that I wish to appeal your decision to deny my CPP-D application [insert date on letter and date received]. I have applied for and am waiting to receive the Disability Summary Sheet for my application. Once I receive it, I will forward additional information for my appeal.

Sincerely,
[Your Signature]

Sample Letter to Doctor Requesting New Information

[Your Doctor's Address]

[Insert Date]

Re [Your Name]

[Your Social Insurance Number]

Canada Pension Plan-Disability Benefits

Dear Dr. _____,

My application for disability benefits from Canada Pension Plan was recently denied by Human Resources and Social Development Canada. I am appealing this decision and require further information from you. It is my hope that you will be able to provide a medical letter that includes objective medical evidence to substantiate the severe and prolonged nature of my disability that prevents me from working.

In order to be found eligible for the CPP-D, I must establish that my disability is severe and prolonged. Severe means that a person is incapable of pursuing any substantially gainful occupation on a regular basis. Prolonged means that the disability will last for a long and indefinite period of time.

Based on my contributions to the Canada Pension Plan, it has to be confirmed that I had a severe and prolonged disability that prevented me from working on or prior to December 31, [Insert year]. (Minimum Qualifying Period)

I would be most grateful if you could include the following information in your letter:

1. Describe my medical condition(s).

List all diagnoses and outline the history, symptoms, physical findings, and test results (x-rays, lab reports) that support your diagnoses.

2. Describe the prognosis.

3. Describe if the condition will worsen or improve and if I be able to return to work.

4. Describe the types of treatment that have been tried. Has there been any significant improvement with treatment? Are there any further treatment options available?

5. Describe referrals that have been made to specialists and other health professionals. Are there any reports that have not yet been made available?

6. Provide your medical opinion on my ability to perform any substantially gainful occupation on a regular basis by or since the [Insert Date]. Please explain your answer in detail, providing as much medical support for your conclusions as possible.

7. Provide me with copies of any other reports which you believe may support my application for disability benefits from Canada Pension Plan.

If you agree to write this letter in support of my disability benefits application I will need to know in advance what fee, if any, will be charged as I have limited resources.

I am available to answer any questions you may have regarding this request. I will need this letter in the very near

future as I must submit all new documentation to HRSDC at the earliest opportunity. Thank you for your assistance with this matter.

Sincerely,
[Your Signature]

Sample Submission for Reconsideration Letter

Regional Director
Income Security Programs
Human Resources and Social Development Canada
P.O. Box 1177
Victoria, BC
V8W 2V2

[Insert Date]

Re [Your Name]
[Your Address]
[Your Telephone Number]
[Your Date of Birth]
[Your Social Insurance Number]

Dear Sir or Madame:

Please be advised that I wish to request a reconsideration of my CPP-D application. The information I am sending you is additional to the preliminary letter of appeal I sent to you on [insert date]. I received your letter of denial on [insert date].

I am appealing based on the fact that I have a severe and prolonged disability and I am not able to pursue regular, gainful employment.

I have submitted the following documents for your consideration. [List documents, including new medical documents and dated letters from doctors and witnesses.]

[Using the reasons you were denied benefits provided in the Disability Summary Sheet, explain how the documents listed

support your case. For example, I was denied because it was stated in the letter of the denial that although I was not able to do my own occupation, I should be able to do another job. However, in the doctor's note dated September 28, 2008, Doctor X said "Due to symptoms of MS, Mrs. Y, is not able to do any type of work."]

This letter was completed with the assistance of [insert name of person and their relationship to you].

Sincerely,

[Your Signature]

[cc to the representative (friend, advocate) named above]

Sample Notice of Appeal Letter to Request a Hearing with the Review Tribunal

Office of the Commissioner of Review Tribunals
P.O. Box 8250 Station T
Ottawa, ON
K1G 5S5

[Insert Date]

Re [Your Name]
[Your Address]
[Your Telephone Number]
[Your Date of Birth]
[Your Social Insurance Number]

Dear Sir or Madame:

I am writing to request a hearing with the Review Tribunal. I am appealing the decision of the Minister of Human Resources and Social Development Canada who denied my application for Canada Pension Plan Disability benefits at the Reconsideration stage. I received the letter of denial on [insert date]. I base this request on the fact that I have a severe and prolonged disability and I am not able to pursue regular, gainful employment. Further information regarding my appeal will be forwarded as soon as it is available.

This letter was completed with the assistance of [insert name of person and their relationship to you].

Sincerely,

[Your Signature]

[cc to the representative (friend, advocate) named above]

CHAPTER 8

Government and Community Organizations Directory

Human Resources and Social Development Canada

Toll Free 1-800-277-9914 (English)

..... 1-800-277- 9915 (French)

TTY..... 1-800-255-4786

Web www.hrsdc.gc.ca

Mailing address for your CPP-D application:

Service Canada

P.O. Box 1177 Federal Building

Victoria, BC V8W 2V2

Office of the Commissioner of Review Tribunals (OCRT)

P.O. Box 8250 Station T

Ottawa, ON K1G 5S5

Toll Free 1-800-363-0076 (have SIN card ready)

Email info@ocrt-bctr.gc.ca

Web www.ocrt-bctr.gc.ca



Do not include your SIN with email, but do include your Appeal number from the top right hand side of all OCRT correspondence

Office of the Privacy Commissioner of Canada

112 Kent Street

Place de Ville

Tower B, 3rd Floor

Ottawa, ON K1A 1H3

Toll Free 1-800-282-1376

TTY 613-992-9190
Email info@privcom.gc.ca
Web www.privcom.gc.ca

Pension Appeals Board (PAB)

P.O. Box 8567 Station T
Ottawa, ON K1G 3H9
Toll Free 1-888-640-8001
Email info@pab-cap.gc.ca
Web www.pab-cap.gc.ca

British Columbia

BC Coalition of People with Disabilities, CPP-D Advocacy Program

204-456 West Broadway
Vancouver, BC V5Y 1R3
Telephone 604-872-1278
Toll Free 1-800-663-1278
TTY..... 604) 875-8835
Email feedback@bccpd.bc.ca
Web www.bccpd.bc.ca

Community Legal Assistance Society (CLAS)

Suite 300 – 1140 West Pender Street
Vancouver, BC V6E 4G1
Telephone 604-685-3425
Toll Free 1-888-685-6222
Web www.clasbc.net

LawLINE, Legal Services Society

Telephone 604-408-2172

Toll Free 1-866-577-2525

Web www.lss.bc.ca/general/LawLINE.asp

Legal Services Society (LSS)

400 – 510 Burrard Street

Vancouver, BC V6C 3A8

For Legal Aid:

Call Centre 604-408-2172

Toll Free: 1-866-577-2525

TTY..... 604-601-6236

TTY Toll Free 1-877-991-2299

Web www.lss.bc.ca

PovNet

300 -1140 West Pender Street

Vancouver, BC V6E 4G1

Telephone 604-876-8638

Email info@povnet.org

Web www.povnet.org

Yukon

Law Line, Yukon Public Legal Education Association

Telephone 867-668-5297

Toll Free 1-866-667-4305

Yukon Legal Services Society (YLSS)

Suite 203 – 2131 Second Avenue

Whitehorse, YT Y1A 1C3

Telephone 867-667-5210

Toll Free 1-800-661-0408 ext. 5210
Email administration@legalaid.yk.ca
Web www.legalaid.yk.ca

Yukon Public Legal Education Association

Yukon College Library
P.O. Box 2799
Whitehorse, YT Y1A 5K4
Telephone 867-668-5297
Toll Free 866-667-4305
Email yplea@yukoncollege.yk.ca
Web www.yplea.com

CHAPTER 9

MS Society of Canada Directory

BC & Yukon Division

1501 – 4330 Kingsway
Burnaby, BC V5H 4G7
Telephone 604-689-3144
Toll Free 1-800-268-7582
Email info.bc@mssociety.ca
Web www.mssociety.ca/bc

National Office

700 – 175 Bloor Street East
Toronto, ON M4W 3R8
Telephone 416-922-6065
Toll Free 1-800-361-2985
Email info@mssociety.ca
Web www.mssociety.ca

Chapter Offices

Please contact your nearest Chapter for their location and address.

Central Island Chapter

Telephone 250-754-6321
Toll Free 1-888-844-2047
Email info.centralisland@mssociety.ca
Web www.mssociety.ca/chapters/centralisland

Fraser Valley Chapter

Telephone 604-393-7122
Toll Free 1-877-303-7122

Email info.fraservalley@mssociety.ca
Web www.mssociety.ca/fraservalley

Kamloops & Area Chapter

Telephone 250-314-0773
Toll Free 1-888-304-6622
Email info.kamloops@mssociety.ca
Web www.mssociety.ca/chapters/kamloops

Lower Mainland Chapter

Telephone 604-689-3144
Toll Free 1-800-268-7582
Email info.bc@mssociety.ca
Web www.mssociety.ca/bc

North Vancouver Island Chapter

Telephone 250-286-0999
Toll Free 1-888-299-2025
Email judy.spencer@mssociety.ca
Web www.mssociety.ca/chapters/northvanisl

Okanagan Chapter

Telephone 250-762-5850
Email info.okanagan@mssociety.ca
Web www.mssociety.ca/chapters/kelowna

Prince George Chapter

Telephone 250-564-7074
Email info.princegeorge@mssociety.ca
Web www.mssociety.ca/chapters/princegeorge

South Okanagan and Similkameen Chapter

Telephone 250-493-6564

Email info.penticton@mssociety.ca

Web www.mssociety.ca/chapters/sos

South Vancouver Island Chapter

Victoria

Telephone 250-388-6496

Email info.victoria@mssociety.ca

Web www.mssociety.ca/chapters/svic

Cowichan Valley

Telephone 250-748-7010

Email anne.muir@mssociety.ca

Web www.mssociety.ca/chapters/cowichan

West Kootenay Region

Telephone 250-229-4994

Toll Free 1-866-352-3997

Email lonnie.facchina@mssociety.ca

Web www.mssociety.ca/chapters/westkootenay

Revised January 2009

The Multiple Sclerosis Society of Canada's Volunteer Legal Advocacy Program provides a range of legal and advocacy support to people living with MS throughout British Columbia and the Yukon by utilizing volunteers who have legal expertise and/or advocacy experience.

