



CANADA PENSION PLAN

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Disability Benefits

The Appeals Process



*Human Resources
Development Canada*

*Développement des
ressources humaines Canada*

Canada

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Disability Benefits

The Appeals Process

This brochure provides an overview of the appeals process for the Canada Pension Plan Disability Program. It is impossible, in the limited space available, to provide all the details of the appeals process and the legislation governing it. When questions arise, the reader is urged to consult the relevant acts and regulations or to call Human Resources Development Canada free of charge:

1 800 277-9914 English

1 800 277-9915 French



If you have a hearing or speech impairment and you use a TDD/TTY device, please call **1 800 255-4786**.

Our lines are busiest at the beginning and end of each month, so if your business can wait, it's best to call at other times. Please have your social insurance number ready.

Internet: www.hrhc-drhc.gc.ca/isp

BACKGROUND

Who is this brochure for?

Human Resources Development Canada (HRDC) administers the Canada Pension Plan (CPP) and is committed to informing people about CPP disability benefits. This involves working with others serving similar client groups. We have prepared this brochure as a resource for those who want to know more about, or who are helping others learn more about, the appeals process. In addition to describing the process, the brochure clarifies who is responsible for what.

What is CPP Disability?

The CPP Disability Program provides benefits to CPP contributors and their dependent children against loss of earnings due to disability. It is one of several public and private income replacement programs that provide benefits to persons with disabilities and their families. These include workers' compensation, provincial and territorial social assistance, automobile accident insurance, and private long-term disability plans.

Who is eligible?

Every year, our staff process thousands of applications for CPP disability benefits. It is our responsibility to carefully review each situation to decide if a client is, or continues to be, eligible for a benefit.

To be eligible for CPP disability benefits, clients must:

- 1 have contributed to the CPP for a minimum number of years;
- 1 be considered disabled according to CPP legislation; and
- 1 be under the age of 65.

Generally, those who are able to work or are doing some type of work, on a regular basis, are **not** eligible for benefits.



Recent statistics indicate that about one in three CPP disability benefit applications is approved.

The decision making process is complex. Trained health professionals review each application carefully. Some decisions can take longer than others, depending on the facts and the need to get additional medical or other information. Clients can help speed up the process by providing needed information as promptly as possible. Once HRDC staff reach a decision about an application for CPP disability benefits, a letter is sent to the individual.

HRDC staff deny applications that fail to meet the requirements of the legislation. Applicants who are ineligible for CPP disability benefits may be eligible for other government programs and services for people with disabilities. Our staff can provide more information on these.

THE APPEALS PROCESS

The appeals process involves a review of clients' files. Clients can appeal if their application for a benefit is denied. Examples of other decisions that clients might appeal are:

- 1 the amount of a benefit;
- 1 the date when a disability benefit begins; or
- 1 the cancellation of a benefit.

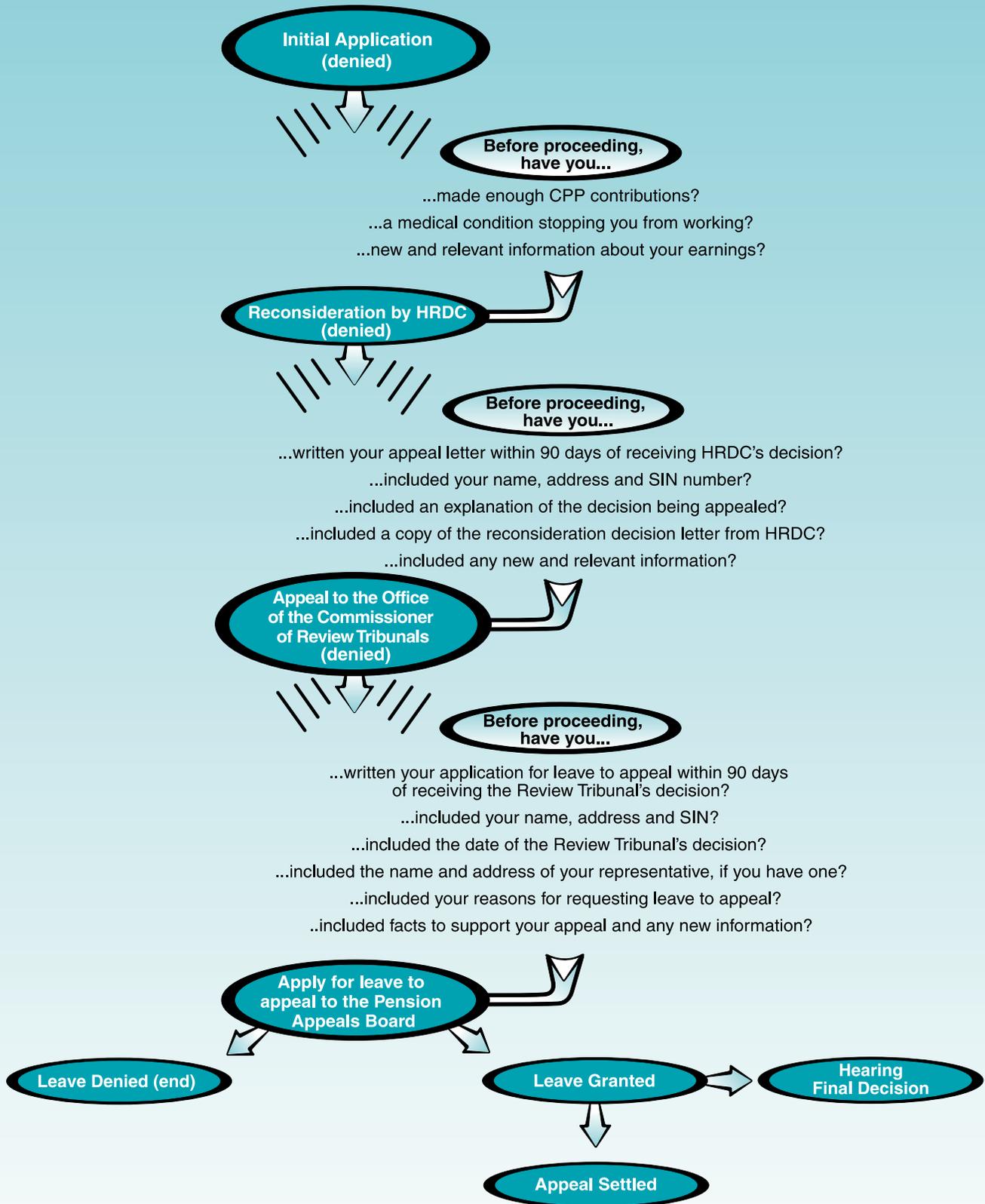
The three decision review levels

There are three decision review levels in the appeals process. These are, in order of sequence:

- (1) a request to HRDC for a reconsideration of the initial decision;
- (2) an appeal to the Commissioner of Review Tribunals; and
- (3) an appeal to the Pension Appeals Board.



THE APPEALS PROCESS



Should clients ask for a reconsideration?

Clients should understand the reasons for HRDC's decision before deciding whether or not to appeal. First, they should ask themselves the following questions:

1. Did I make enough contributions to the CPP?
2. Does my medical condition:
 - a) stop me from working regularly at any job, or
 - b) prevent me from being able to return to any work or to work on a regular basis over the long term?
3. Do I have new medical information or information about my earnings that I did not provide to the CPP before?

To find out where to send new information, or if clients still do not understand the reasons for a decision, they should call us at the 1-800 number listed in the box below for an explanation.

HOW TO GET MORE INFORMATION — Human Resources Development Canada

For answers to specific questions, clients can call free of charge at:

1 800 277-9914 English

1 800 277-9915 French



Clients with a hearing or speech impairment who use a TDD/TTY device by calling: **1 800 255-4786**

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Reconsideration by Human Resources Development Canada

A reconsideration is the first level in the appeals process. After receiving a letter from HRDC explaining the decision and after talking to one of our staff, clients might believe the decision is incorrect. If so, they can request a reconsideration. They **must** make this request by **writing** to HRDC **within 90 days** after receiving the decision letter. Clients need to know which HRDC office in Canada will be handling their request. To find out where to address a request for reconsideration, clients can call the 1-800 number listed in the box below, HOW TO GET MORE INFORMATION ON RECONSIDERATION.

Every written request for reconsideration should include the following:

- 1 the client's name, address and social insurance number;
- 1 a detailed explanation of why the client wants a reconsideration; and
- 1 any *new* medical or other information that could affect the decision.*

*** Clients are responsible for providing all information required to support the appeal. Clients can provide this information after requesting a reconsideration.**

Requests for reconsideration are reviewed by staff who were not involved with the original decision. The reconsideration phase can take several months to complete, depending on how complex the case is or how long it takes to get additional medical or other information. Our staff will take into account all information submitted or obtained when the original decision was made, as well as any new information supplied by clients or on their behalf. The Minister of Human Resources Development is required by law to prepare written reasons for the Department's decisions. We will inform clients of the reconsideration decision by letter.

HOW TO GET MORE INFORMATION ON RECONSIDERATION

For information on reconsideration, clients can call free of charge at:

1 800 277-9914 English

1 800 277-9915 French



Clients with a hearing or speech impairment who use a TDD/TTY device by calling: **1 800 255-4786**

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Appeal to the Office of the Commissioner of Review Tribunals

The next decision review level is an appeal to the Office of the Commissioner of Review Tribunals (Review Tribunal). A Review Tribunal is an **independent body and operates outside HRDC**. To appeal a reconsideration decision, clients **must write** to the Review Tribunal **within 90 days** after receiving the HRDC reconsideration decision letter. Every appeal letter should include the following:

- 1 the client's name, address and social insurance number;
- 1 a detailed explanation of why the client is requesting an appeal;
- 1 the date when the client received the reconsideration decision; and,
- 1 any *new* medical or other information that could affect the appeal.*

*** Clients are responsible for providing all information required to support the appeal.**

Review Tribunal staff will contact clients about a date, time, and location for a hearing.

All hearings are private and confidential. Each Review Tribunal consists of a panel of three appointed members who have no connection with HRDC. A lawyer chairs the hearing and, for disability appeals, one of the panel members is always a health professional. There are no specific professional requirements for the third member of the panel. At the hearing, clients will have the chance to explain why they disagree with HRDC's decision. They may also bring witnesses and someone to help them explain their case. An HRDC representative will be present.

The Review Tribunal tries to hold hearings as close to where clients live as possible. If clients have to travel to attend the hearing, the Review Tribunal may reimburse them for reasonable travel costs. The Review Tribunal cannot pay for the costs of representatives for clients or witnesses to attend the hearing, or for additional evidence gathered to support the appeal.

If clients obtain **new** relevant information related to their appeal **at any time before** the hearing, they should **send it immediately to the Office of the Commissioner of Review Tribunals**. If they get this information less than 30 days before the hearing date, they should submit it to the Office of the Commissioner of Review Tribunals and bring **four** copies to the hearing.



The Review Tribunal is required by law to prepare written reasons for its decisions. After the hearing, the Commissioner will inform HRDC and clients of the Review Tribunal's decisions and the reasons for these decisions by letter.

HOW TO GET MORE INFORMATION ON REVIEW TRIBUNALS

For information on a specific appeal, a hearing date, or a decision, clients can call the **Office of the Commissioner of Review Tribunals** free of charge at:

1 800 363-0076

or write, **P.O. Box 8250**
 Station "T"
 Ottawa ON K1G 5S5

Appeal to the Pension Appeals Board (PAB)

The Pension Appeals Board (PAB) is the final opportunity for appeal under the Canada Pension Plan. **It is important to note that the Minister of Human Resources Development can appeal a Review Tribunal decision to the PAB, as can clients.** Like the Review Tribunal, the PAB is independent from HRDC.

The PAB is composed of federal or superior court judges. Unlike the first two levels in the appeals process, PAB hearings are not automatic. The PAB will decide whether to hear an appeal. Clients **must** request "leave to appeal" (permission to appeal) by **writing** to the Pension Appeals Board **within 90 days** after receiving the Review Tribunal decision letter. Every request should include the following:

- 1 the client's name, address and social insurance number;
- 1 a detailed explanation of why the client is requesting leave to appeal;
- 1 the facts which support the appeal;
- 1 the name and address of the client's representative, if he or she has one;
- 1 the date of the Review Tribunal decision and the location of the hearing;
- 1 the date the client received the Review Tribunal's decision; and,
- 1 any *new* medical or other information that could affect the appeal.*

*** Clients are responsible for providing all information required to**



support the appeal.

HOW TO GET MORE INFORMATION ON THE PENSION APPEALS BOARD

For information on a specific appeal, appellants and other clients can call the **Pension Appeals Board** free of charge at:

1 888 640-8001

or write, **P.O. Box 8567**
 Station “T”
 Ottawa ON K1G 3H9



FOR MORE INFORMATION

Legal counsel and appropriate expert witnesses always represent HRDC at these hearings. Clients can also have legal counsel assist them.

The PAB will write to clients and HRDC to advise them on whether or not leave to appeal is granted. If the PAB decides not to hear an appeal, the Review Tribunal's decision is final and binding. If the PAB decides to hear an appeal, it will schedule a hearing. Hearings are held in major cities across Canada and are open to the public. Clients and HRDC will have an opportunity at the hearing to present their cases.

Clients should send any **new** information to the **PAB** at least **two weeks before** their hearing. Clients who wish to submit new information at their hearing should bring **five** copies with them.

In certain circumstances, HRDC will pay some costs for clients appealing to the PAB. Clients should call their local HRDC office for additional information on what costs they can claim and when.

The length of time it takes to go through this level of appeal will vary. Clients should provide new information as soon as it becomes available.

FOR FURTHER REFERENCE – Canada Pension Plan Disability Benefits

Human Resources Development Canada provides additional information on CPP Disability Benefits, as follows:

- 1 **CANADA PENSION PLAN, Disability Benefits** – January 1998 Brochure – available in print, electronic and alternate (e.g. audio cassette) formats
- 1 **CANADA PENSION PLAN, Disability Benefits, Facts about Reassessing Eligibility** – January 1998 Fact sheet – available in print, electronic and alternate (e.g. audio cassette) formats
- 1 **CANADA PENSION PLAN, Disability Vocational Rehabilitation Program: Client Information; and General Information** – November 1998 Brochures – available in print, electronic and alternate (e.g. audio cassette) formats

Internet: www.hrdc-drhc.gc.ca/isp



IMPORTANT NUMBERS AND ADDRESSES

The PAB is required by law to prepare written reasons for its decisions. These are sent to the parties to the appeal.

Decisions from the PAB are final and binding, but are subject to judicial review by the Federal Court. The test for judicial review is different and more stringent than the test for an appeal to the PAB.



Other Programs and Services of Interest to People With Disabilities

We are committed to helping all Canadians participate fully in the workplace and the community. The publication ***Bridging the Gap: Government of Canada Programs and Services of Interest to Canadians with Disabilities*** describes a wide variety of programs and services of federal government departments. This directory can be obtained by writing to:

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

In addition, there are many provincial and other programs available to assist persons with disabilities. Information may be obtained by consulting the Integrated Network of Disability Information and Education (INDIE) website at www.indie.ca