



Canada Pension Plan Disability **Helpful Tips**

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<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Initial Application

If you have the opportunity to meet with a client prior to the submission of their application for CPP Disability you should focus on two areas of the Application:

- i. First, focus on assisting them in completing the Questionnaire for Disability Benefits. This is an applicant's opportunity to provide detailed information about how their disabling condition(s) affects their daily lives, as well as information about their most recent employment amongst other things.
- ii. Second, if a medical report has not already been drafted, this is a good time to draft a specifically-worded medical report request that will drive home to the doctor the information you're looking for. This report is usually prepared by the applicant's family doctor, but can be prepared by a specialist.

Reconsideration

Reconsideration should be seen as a free 'second kick at the can'. It provides a second chance to submit any further objective medical information that was either not submitted with the initial application or has been obtained post application, such as: Reports from specialists, MRI results, physiotherapy assessments, etc.

The initial denial letter should be used as a guide as to what further medical evidence is required. However, in 99.9% of cases you will be trying to prove that the applicant had a severe and prolonged disabling condition no later than the expiry of their MQP.

If you anticipate receiving further objective medical evidence that will be helpful to your client do not hesitate to indicate that to the person conducting the reconsideration, and ask them to wait to make their decision until you've submitted that information.

Remember as this stage is only on paper the best evidence is **objective** as opposed to subjective as there is no way for the person conducting the reconsideration to assess the credibility of subjective evidence. You may wish to obtain a report from any specialist's your client has seen regarding their disabling condition(s).

Social Security Tribunal

This level is the first chance your client will have to hopefully appear before a live decision maker. This level is the chance for you to submit **subjective** evidence as to the nature of your client's disability.

As there is no longer a guarantee of a hearing (let alone an in person hearing) you should submit all of your remaining evidence, both **objective** and **subjective**, within the allotted 365 days.

Examples of subjective evidence includes: evidence from the appellant themselves, from partners, adult children or former co-workers. The focus of this evidence should be on the affect the disabling condition has on the appellant, and the date of its onset.

Due to the non-guarantee of an oral hearing subjective evidence should be submitted in the form of sworn statements in advance of the hearing. If an oral hearing is granted any witnesses who submitted a sworn statement should be present at the hearing.

Always keep in mind your client's MQP when considering what evidence is relevant to include.

If you find cases that you think could be helpful to your client's case you may submit them to the SST along with a brief explanation of their application to your client's case.

First Meeting

Ask a potential CPP Disability client to bring the following to their first meeting with you:

- i. List and dosage of medications;
- ii. List and contact information of past and present doctors;
- iii. Copy of their CPP Disability Application (if applicable);
- iv. Any correspondence in response to their Application (if applicable); and
- v. Any correspondence from the SST (if applicable).

During the first meeting you should obtain the following from your client:

- i. Consent forms allowing you to speak to all of their doctors (*insert hyperlink to sample medical consent form*);
- ii. A Consent to Communicate form to allow you to speak to CPP:
<http://www.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=prfl&frm=isp1603cpp&ln=eng>
- iii. If applicable an Authorization to Disclose allowing you to speak to the SST can be found in the following link:
<http://gc.ca/sst-tss/hta-cij/cppgendiv-divgenrpc-eng.html>
- iv. Request for photocopy of a Worker's Compensation file, if any:
http://www.wcb.ns.ca/wcbns/index_e.aspx?DetailID=761

The first meeting is also when you should advise your client of the following:

- If they are in receipt of income assistance they will have to repay any income assistance received for any period of time they are also in receipt of CPP Disability, and their CPP Disability will be deducted dollar for dollar from their income assistance entitlement on an ongoing basis; and
- If they have a private long term disability plan that it may contain a provision deducting CPP Disability benefits.

If Your Client is Successful

Congratulations! However you should ensure your client is reminded of the following:

- All applicants will receive a retroactive amount of CPP Disability calculated from 11 months prior to the date of their application (the earliest a CPP disability applicant can be considered disabled is 15 months prior to their application, and there is a 4 month waiting period). This amount can

be substantial. You should ensure your client does not spend that money upon receipt as they may owe a portion, or all of it, to the Province if they were also in receipt of income assistance pending receipt of their CPP Disability;

- If your client returns to work they **must** advise CPP. A CPP Disability recipient can earn up to the Year's Basic Exemption on an annual basis. However if they earn more their benefits will be discontinued, and they may face an overpayment.
- CPP Disability benefits are taxable. It may be to your client's advantage to apply for the Disability Tax Credit. You should contact the Canada Revenue Agency for more information on this program.
- Finally there is also a monthly benefit available to the dependent children (under the age of 18, or aged 18-25 if a full-time student) of CPP Disability recipients. Further information, and application forms, about the Disabled Contributor's Child Benefit can be found here: <http://www.servicecanada.gc.ca/eng/services/pensions/cpp/child.shtml>

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Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

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