



# Canada Pension Plan Disability Introduction

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

## What is Canada Pension Plan Disability?

CPP Disability is a monthly pension paid to CPP contributors who are unable to work as a result of a **severe** and **prolonged** mental or physical disability.

The disability does not have to be work related.

CPP disability is governed by the *Canada Pension Plan*:

<http://laws-lois.justice.gc.ca/eng/acts/C-8/>

There are also *Canada Pension Plan Regulations*:

[http://laws-lois.justice.gc.ca/eng/regulations C.R.C., c. 385/](http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._385/)

## Who is Eligible for CPPD?

The basic eligibility criteria for CPP disability are as follows:

1. An applicant must be under the age of 65 at the time of their application. If an applicant is over the age of 65 they should apply for a CPP retirement pension;
2. An applicant must be suffering from a disability (or disabilities) that is both **severe** and **prolonged**; and
3. An applicant must have made sufficiently recent valid CPP contributions.

## How is Disability Defined?

For the purposes of the *Canada Pension Plan* disability is defined in section 42(2). That section contains the following definition:

- (a) a person shall be considered to be disabled only if he is determined in prescribed manner to have a severe and prolonged mental or physical disability, and for the purposes of this paragraph,
- (i) a disability is **severe** only if by reason thereof the person in respect of whom the determination is made is incapable of regularly of pursuing any substantially gainful occupation, and
- (ii) a disability is **prolonged** only if it is determined in prescribed manner that the disability is likely to be long continued and of indefinite duration or is likely to result in death;

### What is a 'severe' disability?

Advocates and their clients must understand that severe has a very specific meaning in the context of CPP Disability.

In a nutshell a severe disability is a mental or physical disability (or a combination thereof) that renders someone unable to perform **any** job on a regular basis (either full time or part time).

Someone is **not** suffering from a severe disability only if they are unable to do their former job. For example, if someone had a job that required heavy lifting that they can no longer do they are not necessarily suffering from a severe disability.

The case law surrounding what a severe disability is has added some nuance to the definition described in the previous slide. Specifically the case law has determined that the issue of whether a disability is severe must be considered in a 'real world context'.

This means that when determining whether someone is suffering from a 'severe' disability factors such as age, education, language proficiency and past work and life experience must be considered when assessing hypothetical occupations that an applicant could engage in. For example, the scope of hypothetical occupations a middle aged person with an elementary school education and limited English or French language skills would not include a doctor or an engineer.

### What is a 'prolonged' disability?

The definition of 'prolonged' is much more simple than that of 'severe' in the CPP Disability context.

A 'prolonged' disability is one for which the long term prognosis is that it will not improve or will worsen over time.

CPP Disability is **not** designed to provide benefits for people suffering from 'closed periods' of disability. For example, if an applicant for CPP Disability is given a prognosis that treatment will resolve their disability in 10 months from the date of their application (and that proves to be the case) their disability will not be considered 'prolonged'.

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