



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **REPORT 6, CANADA PENSION PLAN DISABILITY PROGRAM, OF THE FALL 2015 REPORTS OF THE AUDITOR GENERAL OF CANADA**

## **Report of the Standing Committee on Public Accounts**

**Hon. Kevin Sorenson  
Chair**

**SEPTEMBER 2016**

**42<sup>nd</sup> PARLIAMENT, 1<sup>st</sup> SESSION**

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# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **THIRTEENTH REPORT**

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 6, Canada Pension Plan Disability Program, of the Fall 2015 Reports of the Auditor General of Canada and has agreed to report the following:





# **“REPORT 6—CANADA PENSION PLAN DISABILITY PROGRAM,” 2015 FALL REPORTS OF THE AUDITOR GENERAL OF CANADA**

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## **INTRODUCTION**

“Introduced in 1966, the Canada Pension Plan Disability (CPPD) program is the largest public benefit program for long-term disability in Canada. [...] The CPPD benefit provides partial earnings replacement to someone who has made sufficient contributions to the Canada Pension Plan and who cannot work because of a severe and prolonged disability (mental or physical), as defined in *Canada Pension Plan* legislation.”<sup>1</sup>

Employment and Social Development Canada (ESDC) is responsible for delivering the CPPD program. It reviews applications and determines whether applicants are eligible.<sup>2</sup> The Social Security Tribunal of Canada (the Tribunal), which is independent from ESDC, decides appeals on income security programs such as the CPPD program.<sup>3</sup> “When the Tribunal began operations on 1 April 2013, it replaced four tribunals, including two that had been responsible for deciding CPPD appeals: the Office of the Commissioner of Review Tribunals and the Canada Pension Plan Pension Appeals Board.”<sup>4</sup> The Administrative Tribunals Support Service of Canada (ATSSC), created in November 2014, provides support services and facilities to 11 federal tribunals, including the Social Security Tribunal of Canada.<sup>5</sup>

According to Marie-France Pelletier, Chief Administrator, ATSSC, these support services “include the specialized services required by each tribunal—that is, registry, research and analysis, legal services and other mandate and case-specific work—as well as corporate services, which include human resources, financial services, accommodations and security, and information management and technology.”<sup>6</sup>

Figure 1 summarizes the application process for the CPPD benefit.

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1 Office of the Auditor General of Canada [OAG], “[Report 6 – Canada Pension Plan Disability Program](#),” *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 1.

2 Ibid., p. 2.

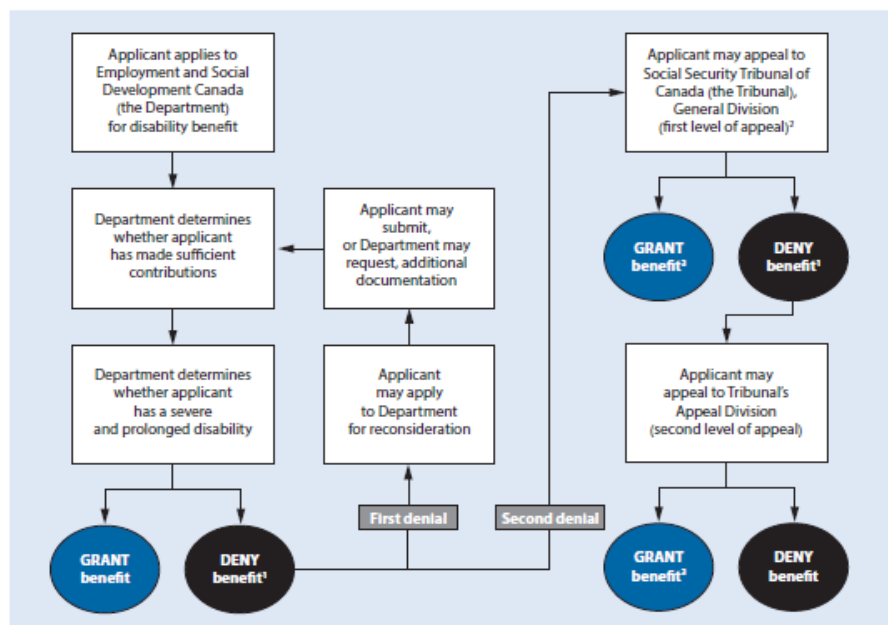
3 Ibid.

4 Ibid.

5 Ibid.

6 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0910.

**Figure 1 – Application Process for the Canada Pension Plan Disability Benefit**



Source: Office of the Auditor General of Canada, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015: Reports of the Auditor General of Canada*, Ottawa, 2015, p. 3.

In its Fall 2015 Report, the Office of the Auditor General of Canada (OAG) released a performance audit that examined whether ESDC assessed applications for the CPPD benefit in a consistent and timely manner. It also examined whether the Tribunal, supported by the ATSSC, decided CPPD appeals in a timely manner.<sup>7</sup>

The House of Commons Standing Committee on Public Accounts (the Committee) held a hearing on this audit on 21 April 2016.<sup>8</sup> From the OAG, the Committee met with Michael Ferguson, Auditor General of Canada, and Glenn Wheeler, Principal. ESDC was represented by Ian Shugart, Deputy Minister, and Benoît Long, Senior Assistant Deputy Minister, Processing and Payment Services Branch, Service Canada. The Tribunal was represented by Murielle Brazeau, Chairperson, and Margot Ballagh, Vice-Chairperson, Appeal Division. Finally, Marie-France Pelletier, Chief Administrator, and Raynald Chartrand, Executive Director, appeared on behalf of the ATSSC.<sup>9</sup>

7 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 3.

8 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#).

9 Ibid.

## APPLICATION PROCESS

The OAG examined the initial application process for the CPPD benefit, specifically the application kit, to assess whether applicants could easily access the program.<sup>10</sup> The application kit contained eight documents totaling 42 pages, including:

- two guides intended to help the applicant complete the required forms;
- up to five forms to be completed by the applicant, including an application form, a consent form, and a questionnaire; and
- a medical report to be completed by the applicant's doctor.<sup>11</sup>

Regarding the medical evidence necessary to assess an individual's work capacity, Ian Shugart, Deputy Minister, ESDC, told the Committee that gathering and evaluating this evidence can be challenging for both the adjudicators and the applicants because it "is not always straightforward, and medical conditions often evolve over time."<sup>12</sup>

According to the OAG, "some of the forms contained the same questions, and each required a signature."<sup>13</sup> The OAG found that ESDC did not formally monitor completion times to identify ways to improve the forms and the efficiency of the process.<sup>14</sup> However, the OAG noted that ESDC made available to terminally ill applicants a single 11-page condensed application form.<sup>15</sup>

The OAG also found that the application process remained largely paper-based, creating an administrative burden for ESDC, and that ESDC had not sought feedback from applicants and beneficiaries regarding their satisfaction with the program's initial application process.<sup>16</sup>

The OAG recommended that ESDC assess ways to streamline and simplify the initial application process for the CPPD program.<sup>17</sup> ESDC responded that it "is developing a Canada Pension Plan Service Improvement Strategy, which will include the CPPD program, as part of a broader agenda to modernize its employment and pensions benefit programs."<sup>18</sup> Through this strategy, ESDC committed to assessing "ways to leverage new

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10 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 5.

11 Ibid.

12 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

13 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 5.

14 Ibid.

15 Ibid., p. 6.

16 Ibid.

17 Ibid.

18 Ibid.

system functionalities to streamline and simplify the application process for the CPPD program, including the potential to offer online access for components of the application process [by June 2016].<sup>19</sup> Furthermore, ESDC wrote in its action plan that it will examine the following options to streamline and simplify the application process for the CPPD pension:

- Leveraging system functionalities of the My CPP Retirement application and the My Service Canada Account, to provide a fillable electronic form that could be submitted online;
- Pre-screening applications for eligibility based on earnings and contributions before requesting medical reports; and
- Allowing applicants and third parties to provide documentation to the Department electronically.<sup>20</sup>

Mr. Shugart told the Committee that ESDC, with the consent of its clients, will “also work with other providers of long-term disability support, such as private insurance companies, to share information and thus reduce the burden on clients, who often have to provide the same or similar medical information multiple times.”<sup>21</sup>

The Committee recommends:

#### **Recommendation 1**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with its Canada Pension Plan Service Improvement Strategy, and explain how the Department will streamline and simplify the initial application process for the Canada Pension Plan Disability program.**

#### **Recommendation 2**

**That *Employment and Social Development Canada* measure and reduce the average total time required for a new applicant to complete an application and receive a decision regarding the Canada Pension Plan Disability benefit, and report its progress to the House of Commons Standing Committee on Public Accounts by 1 April 2017.**

The OAG also recommended that ESDC regularly seek feedback from applicants and beneficiaries to identify ways to improve access to the CPPD program.<sup>22</sup> The

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19 Ibid.

20 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, pp. 1-2.

21 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

22 OAG, [“Report 6 – Canada Pension Plan Disability Program,”](#) *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 6.

Department responded that it “established the CPPD Client Roundtable in 2001,” and “[s]ince its creation, the roundtable has served as a forum for discussion with individuals from the community who have direct experience with the program.”<sup>23</sup> Building on its experiences with the roundtable, ESDC “will reassess the best manner to regularly engage applicants and beneficiaries to identify ways to improve access to the program.”<sup>24</sup> The Department committed to completing this reassessment by March 2016 and implementing enhancements by December 2016.<sup>25</sup>

Mr. Shugart mentioned that ESDC initiated this dialogue with its clients and stakeholders on 17 February 2016 at an event that was attended by senior officials and the Minister of Families, Children and Social Development. During this meeting, ESDC received feedback on its response to the OAG’s report, and concrete suggestions on the implementation of an ongoing process for client and stakeholder engagement.<sup>26</sup>

The Committee recommends:

### **Recommendation 3**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with a report explaining how it will regularly seek feedback from applicants and beneficiaries to identify ways to improve access to the Canada Pension Plan Disability program.**

## **INITIAL, RECONSIDERATION, AND APPEAL DECISIONS**

### **A. Service Standards**

The OAG examined the service standards established by ESDC for the CPPD program and whether it met them.<sup>27</sup>

According to the OAG, ESDC established service standards for initial and reconsideration decisions more than 10 years ago, and it had not reviewed them since then to determine whether they remained appropriate.<sup>28</sup> For example, ESDC currently commits to making 75% of its initial decisions within 120 days of receiving complete applications, and 70% of its reconsideration decisions within 120 days of receiving requests for reconsideration.<sup>29</sup> The OAG found that ESDC met its service standards for

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23 Ibid., p. 7.

24 Ibid.

25 Ibid.

26 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

27 OAG, “[Report 6 – Canada Pension Plan Disability Program](#),” *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 9.

28 Ibid., p. 10.

29 Ibid., p. 9.

initial and reconsideration decisions for the 2012–2013 to 2014–2015 fiscal years. However, the OAG analyzed the decisions made in the 2014–2015 fiscal year and found that 5% of applicants had to wait longer than six months to receive initial decisions, and 5% of applicants had to wait longer than six months for reconsideration decisions.<sup>30</sup>

The OAG assessed the performance over the longer term by analyzing just over 212,000 applicants who were granted the benefit between the 2009–2010 and 2014–2015 fiscal years, and found that 84% of these applicants were granted the benefit at the initial application stage, the majority of them within one year. However, for the remaining applicants who were granted the benefit at reconsideration or appeal, it took longer; for example, the process took longer than one year for about 13,000 applicants.<sup>31</sup>

With regard to the high proportion of decisions that were overturned at the reconsideration and appeal stages, Michael Ferguson, Auditor General of Canada, said that:

In the 2014-15 fiscal year, 35% of initial decisions were overturned by the [Department] at the reconsideration stage, and a further 67% of appeals were overturned by the tribunal or by the [Department] before the tribunal decided the appeals.<sup>32</sup>

When questioned about the high proportion of decisions that were overturned at the reconsideration and appeal stages, Mr. Shugart responded as follows:

With respect to the decisions on appeal—please understand that this is in no way an excuse—there are going to be inevitably some reversals of the decision on appeal, for a variety of reasons. The decision-maker on appeal believes, in good faith, that the initial decision—taken, I would assert, in good faith—is incorrect, that the initial decision-maker just got it wrong, and the decision is overturned. The second thing, which actually happens very often, is that the applicant's situation has changed over the course of the review, and often what would correctly have been an unfavourable decision becomes now, because of new evidence—the evolution of the patient's condition, or for that matter, new medical knowledge—a different decision. That will, to some degree, always be the case. The third category was that when we put together this team of people to go through this backlog as rapidly as possible, we asked them, in cases in which on a balance of probabilities the decision would be reversed, to make that decision quickly and not let it go through the rest of the process. Those are the three kinds of situations that will lead—or did lead, in this case—to an overturned decision.<sup>33</sup>

Moreover, when questioned about the actions taken by ESDC to reduce the backlog, Mr. Shugart responded that ESDC introduced a new way of thinking about the balance of probabilities:

We frankly were just much more aggressive in going through those cases and determining the likelihood of success, either because the situation had changed or it truly

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30 Ibid.

31 Ibid.

32 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0850.

33 Ibid., 0925.

was 50:50 or in that neighbourhood. We were much more decisive and erred on the side of granting the request more than would have normally been the case.<sup>34</sup>

The OAG recommended that ESDC review its CPPD service standards for initial and reconsideration decisions to determine whether they are appropriate.<sup>35</sup> ESDC responded that it will complete the review and develop an implementation plan by March 2016.<sup>36</sup> In its action plan, ESDC committed to complete the review of its pensions related services standards by March 2016.<sup>37</sup> According to ESDC, the implementation of changes that do not require changes to Information Technology (IT) systems will begin in 2016–2017. The implementation of changes to service standards that require changes to IT systems will be aligned to system changes required for CPP Service Improvement Strategy.<sup>38</sup>

Mr. Shugart informed the Committee that ESDC had recently completed its review of CPPD service standards, and that it will introduce them in the near future after consulting with clients and stakeholders.<sup>39</sup> According to Mr. Shugart, ESDC's new standards will be achievable, while at the same time challenging the Department to continually improve its service delivery.<sup>40</sup>

The Committee recommends:

#### **Recommendation 4**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with its plan for the implementation of the new Canada Pension Plan Disability service standards.**

#### **B. Guidelines for Applicants with Terminal Illnesses or Grave Conditions**

The OAG examined whether ESDC met its guidelines for applicants with terminal illnesses or grave conditions.<sup>41</sup>

In 2002, ESDC established guidelines for applicants with terminal illnesses and committed to making decisions for these applicants within 48 hours of receiving a complete application. In 2013, ESDC established guidelines for applicants with grave

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34 Ibid., 0950.

35 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 10.

36 Ibid., p. 11.

37 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, p. 3.

38 Ibid. pp. 3-4.

39 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

40 Ibid.

41 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 9.



conditions and committed to making decisions for these applicants within 30 days of receiving a complete application.<sup>42</sup>

The OAG found that ESDC did not respect its guidelines for applicants with terminal illnesses or grave conditions. For example, in the 2014–2015 fiscal year, only 7% of applicants identified as having terminal illnesses received a decision within 48 hours, and only 59% of applicants identified as having grave conditions received a decision within 30 days.<sup>43</sup> The OAG recommended that ESDC establish specific service standards for processing CPPD applications from applicants with terminal illnesses or grave conditions, and measure and report on its performance in meeting these standards.<sup>44</sup>

In its action plan, ESDC committed to complete the review of its pensions related service standards and develop an implementation plan by March 2016. According to ESDC, this plan will include mechanisms for monitoring and reporting on standards that will be established for applications from individuals with terminal illnesses or grave conditions.<sup>45</sup>

After qualifying ESDC's failure to meet its service guidelines for applicants with terminal illnesses or grave conditions as "one of the most troubling findings in the audit," Mr. Shugart further explained that :

A prototype project was launched in January [2016] to test new ways of processing these specific applications. Early results from that pilot have informed the development of the new service standards for these applications. These standards recognize the urgency of the situations faced by these clients. We believe they will be achievable and will provide more certainty for this particularly vulnerable client group.<sup>46</sup>

Regarding this pilot project, Benoît Long, Senior Assistant Deputy Minister, Processing and Payment Services Branch, Service Canada , added that "so far, the pilot project is showing that we will achieve much higher levels of performance, as well as quality and assurance of service that will make people see, through this process, that we are on their side."<sup>47</sup>

The Committee recommends:

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42 Ibid., p. 11.

43 Ibid., p. 12.

44 Ibid.

45 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, p. 4.

46 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

47 Ibid., 1005.



## Recommendation 5

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with its plan for the implementation of the new Canada Pension Plan Disability service standards for individuals with terminal illnesses or grave conditions.**

### C. Data Quality

The OAG found problems related to data reliability at both ESDC and the Tribunal. For example, both organizations told the OAG that some key dates were not always accurately captured in information systems and that manual corrections were sometimes needed.<sup>48</sup> The OAG recommended that ESDC and the Tribunal, supported by the ATSSC, collect and accurately capture robust data to allow better monitoring of the CPPD program and accurate reporting of results.<sup>49</sup>

ESDC responded that it will identify and analyze data issues, and develop a plan to implement solutions by June 2016.<sup>50</sup> According to ESDC's action plan, this implementation plan "will detail specific measures and system enhancements that will be pursued in order to provide timely, reliable, and comprehensive data to support the CPPD program."<sup>51</sup>

For its part, the Tribunal responded that it "will continue to identify its statistical requirements and improve its case management system to collect better and more robust data that will ensure complete and accurate reporting of the Tribunal's workload and performance."<sup>52</sup> The Tribunal will also "continue to enhance its case management system to ensure effective decision making and monitoring of performance standards."<sup>53</sup> In its action plan, the Tribunal wrote that this work, which has been ongoing since 2013–2014, will continue throughout 2016–2017.<sup>54</sup>

Ms. Pelletier indicated that there have been five updates to the tribunal's case management system since November 2014:

Each update enhances the system's capabilities in reporting and quality assurance functionality. For instance, the case management system is now able to track the receipt of notices of readiness from parties; allow vice chairpersons to assign files to members;

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48 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 12.

49 Ibid., p. 13.

50 Ibid.

51 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, p. 4.

52 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 13.

53 Ibid.

54 Social Security Tribunal of Canada and Administrative Tribunals Support Service of Canada Action Plan, provided to the Committee on 7 April 2016, p. 2.

and reflect the business appeal process in all divisions through automated workflows. Those are but a few of the improvements carried out each new update to the system. Several more updates are planned for the upcoming year, which will continue to address the action plan and will ultimately improve the tracking and reporting of the tribunal's statistical data.<sup>55</sup>

The Committee recommends:

### **Recommendation 6**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with its plan to improve the Canada Pension Plan Disability program's data quality.**

### **D. Quality Assurance Framework**

The OAG examined whether ESDC had a quality assurance framework in place; it also conducted data analyses and reviewed a random sample of 60 application files to assess whether the process used to make decisions was consistent across regional service centres.<sup>56</sup>

The OAG found that ESDC did not analyze appeal decisions made by the Tribunal to determine reasons for which the Tribunal had overturned decisions and to update the medical adjudication framework to reflect the rationales in those appeals.<sup>57</sup> The OAG recommended that ESDC implement a formal quality assurance framework for the CPPD program to review whether its medical adjudications are appropriate and consistent. This framework should include a process to inform medical adjudicators of the reasons why their decisions were overturned, and to support ESDC officials' efforts to improve processing procedures and provide training to adjudicators.<sup>58</sup>

ESDC responded that it "will continue to develop and implement a robust [CPPD] Quality Assurance Framework to support continuous improvement and consistency in decision making."<sup>59</sup> "This framework will guide the integration of quality into all aspects of program delivery and policy development, and will include mechanisms to identify opportunities to enhance business processes and develop clear guidance and training. It will also include an effective feedback mechanism for medical adjudicators to understand why their decisions were overturned or upheld by decision makers at reconsideration or appeal."<sup>60</sup> ESDC also committed to finalizing its CPPD Quality Assurance Framework by

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55 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0915.

56 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 14.

57 Ibid., p. 15.

58 Ibid.

59 Ibid., p. 15.

60 Ibid.

March 2016 and beginning its phased implementation in April 2016.<sup>61</sup> In its action plan, ESDC further explained that improvements will be examined for business processes, training, the systematic use of business intelligence, and quality performance monitoring.<sup>62</sup> Mr. Shugart informed the Committee that ESDC had developed a quality assurance framework, and had begun its phased implementation.<sup>63</sup>

The Committee recommends:

### **Recommendation 7**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with a progress report summarizing the key features of its Canada Pension Plan Disability Quality Assurance Framework. This report should also explain how this framework will allow the Department to assess whether its medical adjudications are appropriate and consistent.**

### **E. Planning the Transition of Appeals to the Tribunal**

The OAG examined whether ESDC developed and implemented a plan to complete the transition of CPPD appeals to the Tribunal, and whether the plan adequately prepared the Tribunal to manage the backlog of appeals being transferred to it on 1 April 2013.<sup>64</sup>

The OAG found that ESDC's plan included unrealistic target dates and planning assumptions. In some cases, risk mitigation actions to facilitate the transition were not taken when initial planning assumptions were found to be unrealistic.<sup>65</sup>

Mr. Shugart acknowledged that ESDC was "too ambitious in the planning assumption about the time" this transition would take.<sup>66</sup> He also declared that he thought "in retrospect that the period of time that was taken to do this and ensure that the [Tribunal] had a complete and a good launch was far too short."<sup>67</sup>

Murielle Brazeau, Chairperson, Tribunal, explained that when the Tribunal opened its doors:

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61 Ibid.

62 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, p. 5.

63 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0855.

64 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 16.

65 Ibid.

66 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0940.

67 Ibid., 0950.

There were no infrastructure, systems, or operational processes to manage the income security caseload, and we were overwhelmed by a huge backlog of 9,000 appeals from the former tribunals. Close to 7,000 of these appeals were the Canada pension plan disability appeals. Basically we needed to put in place a solid foundation for the future while at the same time dealing with both the inherited backlogs and the new incoming cases.<sup>68</sup>

Ms. Brazeau also told the Committee that the Tribunal now had a total of 150 employees compared to 21 employees when it started, and that the Tribunal's case management system was now sufficiently developed to provide it with accurate data to monitor and manage caseloads and member performance.<sup>69</sup> Ms. Brazeau also added that the Tribunal had 90 members who made the appeal decisions.<sup>70</sup> Ms. Pelletier added that some of these new employees were assigned to a call centre to communicate directly with parties to provide timely and relevant information on their cases. Other new employees provide legal, communication or information technology services to the members of the Tribunal.<sup>71</sup>

When questioned about ESDC's failure to properly plan the transition of CPPD appeals to the Tribunal, Mr. Shugart said that he took responsibility for the failed transition that occurred under his tenure as deputy minister.<sup>72</sup>

When questioned about the planned savings associated with the creation of the Tribunal that were announced in Budget 2012 as part of ESDC's Deficit Reduction Action Plan, Mr. Shugart responded that the planned savings were approximately \$25 million, and that ESDC's reference levels were reduced by this amount following the creation of the Tribunal.<sup>73</sup> Mr. Shugart also explained that ESDC "did reallocate internally and provide some supplementary funding to deal with this backlog, because it clearly was not acceptable and [the Department] had to deal with it."<sup>74</sup>

When questioned about the reduction in the number of employees that was associated with the creation of the Tribunal, Mr. Long responded that:

Unfortunately, I do not have the information on the number of employees who were attached to the four existing tribunals and how many we went from and to, but clearly there was a reduction in the number of employees who were attached to and had been supporting those four tribunals. That was part of the intent.<sup>75</sup>

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68 Ibid., 0905.

69 Ibid., 0910.

70 Ibid., 1000.

71 Ibid., 0920.

72 Ibid., 0940.

73 Ibid., 0945.

74 Ibid., 0935.

75 Ibid.

The Committee was very surprised to learn from Mr. Shugart that ESDC did not know about the existence of about 7,000 cases that were inherited by the Tribunal when it was created:

That's another critical piece of information. If you don't know how high the mountain is, you're not going to be preparing adequately to climb it. Partly because of the independent structure of the previous [tribunals], we did not have complete information about what was in the caseload already. That then was inherited unfairly by the new tribunal.<sup>76</sup>

[...]

My earlier reference was to cases that we did not know, which were very substantial—on the order, I believe, of about 7,000. During the process, those were increasing. Those were being adjudicated under one of the earlier tribunals, but we did not know those numbers. If we had, I think our planning assumptions would have been very different.<sup>77</sup>

When asked to explain how ESDC could not have known about the existence of 7,000 cases that were inherited by the Tribunal, Mr. Shugart responded that the previous tribunals did not provide this information to the Department, and further explained that:

These tribunals enjoy a position of independent operation. It was judged, as I understand it, that part of that reality was that the [Department]—which, remember, has its decisions being reviewed by that tribunal—was not privy to the caseload and the rate of resolution of the cases. After the fact, the caseload was growing during that period between the announcement of the new tribunal and when the Social Security Tribunal began.<sup>78</sup>

## **F. Decision-Making Timeframes for Appeals**

The OAG examined whether the Tribunal had established adequate systems and procedures and implemented service standards and performance expectations to help it make timely appeal decisions.<sup>79</sup>

The OAG found that between the 2011–2012 and 2014–2015 fiscal years, the average time an appellant waited for a decision more than doubled from 402 days to 884 days as the Tribunal's backlog of appeals increased.<sup>80</sup> Mr. Ferguson told the Committee that this backlog was partly due to:

Employment and Social Development Canada's poor transition planning before the tribunal was established. Once established, the tribunal was not ready to handle the inherited backlog of 6,585 appeals. It did not have the people, systems, or procedures in

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76 Ibid.

77 Ibid., 1000.

78 Ibid., 1030.

79 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 18.

80 Ibid., p. 20.

place to deal with its workload. For example, the tribunal expected to start operating with 96 employees, but had only 21 in place when it opened.<sup>81</sup>

According to the OAG, the general principle of the *Social Security Tribunal Regulations* is that they must be interpreted so as to secure the just, most expeditious and least expensive determination of appeals and applications. The Regulations also state that the Tribunal must make each decision on the basis of the documents and submissions filed, without delay; or, if it determines that a hearing is required, send a notice of hearing to the parties involved.<sup>82</sup>

The OAG found that when it began its operations, the Tribunal had no service standards for making decisions on CPPD appeals, and had still not put any into effect by the end of the audit period. “The Tribunal publicly reported in April 2015 that 85[%] of appeals would be decided within [five] months of receiving confirmation from both parties that they were ready to proceed. However, it stipulated that the service standard would be in effect only for appeals received after the Tribunal achieved a ‘steady state,’ which the Tribunal expected to achieve in the fall of 2015.”<sup>83</sup>

The OAG recommended that the Tribunal, supported by the ATSSC, review its policies and practices to ensure that they adhere to the intent of the *Social Security Tribunal Regulations*, to ensure the most expeditious appeal decisions.<sup>84</sup> The Tribunal responded that “since its first day of operations, and notwithstanding the numerous challenges resulting from the lack of preparedness it faced at inception, the [Tribunal] has processed and decided CPPD appeals, incoming and those inherited from the Office of the Commissioner of Review Tribunals, as efficiently and expeditiously as the circumstances allowed, while respecting the legislation, the regulations, and the rules of natural justice.”<sup>85</sup> “The Tribunal expects its caseload to reach a steady state later this year,”<sup>86</sup> which will allow it to “implement its service standards of completing [85%] of CPPD appeals within five months of when both parties are ready to proceed.”<sup>87</sup> In its action plan, the Tribunal also wrote that it:

- Developed a Framework of Tribunal instruments—practice directions, directives, guidelines, operational processes, etc.—that guide parties and members in specific situations or at different stages of the Tribunal

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81 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0850.

82 OAG, “[Report 6 – Canada Pension Plan Disability Program](#),” *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 21.

83 Ibid., p. 22.

84 Ibid.

85 Ibid.

86 Ibid.

87 Ibid.

processes to ensure efficient management and to respect the legislation and regulations (ongoing throughout 2016–2017 and beyond).<sup>88</sup>

- Will continue to work with the ATSSC to enhance the case management system to provide additional workflows for the efficient processing of appeals. This will also include a review and analysis of e-sharing of documents with ESDC. In addition, the ATSSC will conduct an operational review to determine if further improvements can be implemented in the Tribunal's Registry (2016–2017).<sup>89</sup>
- Asked the ATSSC to conduct a review of the quality-control practices of other large-volume tribunals and courts to identify efficient quality assurance practices that can be implemented in the Tribunal. The ATSSC will also expand its current quality assurance practices to include a review of randomly selected files to ensure that the Tribunal's procedural directions and processes were followed and that all the information in the file is accurately captured and reported (2016–2017 and ongoing).<sup>90</sup>
- Asked the ATSSC to continue to enhance the Tribunal's case management system by including additional workflows and expanding its capacity for assigning cases (2016–2017).<sup>91</sup>
- Will continue to review and improve the content of its website to provide better and more useful information to parties in simpler form and language (2016–2017 and ongoing).<sup>92</sup>
- Has been engaging with many stakeholders and specialized networks and will continue to maintain these contacts, exchanges and meetings to obtain the important feedback that helps the Tribunal to determine how it is doing and how to improve its services (2016–2017 and beyond).<sup>93</sup>

Ms. Brazeau informed the Committee that the Tribunal's active inventory now stood at 4,507 disability appeals, which is 32% lower than the number of backlogged cases originally inherited by the Tribunal.<sup>94</sup> In addition, Ms. Brazeau noted that the Tribunal's caseload was now at 317 days, and that the Tribunal expected to be able to meet its new service standards with the current rate of incoming files, number of members, and

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88 Social Security Tribunal of Canada and Administrative Tribunals Support Service of Canada Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 7 April 2016, pp. 2-3.

89 Ibid., p. 3.

90 Ibid., pp. 3-4.

91 Ibid., p. 4.

92 Ibid., p. 5.

93 Ibid.

94 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0910.

available resources.<sup>95</sup> According to Ms. Brazeau, “right now the backlog is resolved,” and the Tribunal is “completing cases in a timely manner.”<sup>96</sup>

The Committee recommends:

### **Recommendation 8**

**That, for each fiscal year, beginning with 2015–2016, the *Social Security Tribunal of Canada* report publicly on its performance in meeting its Canada Pension Plan Disability service standards.**

### **G. Productivity of the Tribunal’s Members**

Ms. Brazeau informed the Committee that the monthly average number of cases adjudicated by each member of the Tribunal increased from six cases per month, during the period of the audit, to 11 cases per month in 2014–2015, which is above the Tribunal’s target of 10 cases per month.<sup>97</sup>

When questioned about the reasons for which the monthly average number of cases per member of the Tribunal is currently below ESDC’s original target of 29 cases per month, Ms. Brazeau responded:

As you know, I was not in charge of the planning, so I’m not sure how they came up with the 29. I do know that when we did our estimate and came up with 10 per month per member, we did this based on an objective study. In 2014 we conducted a baseline study that was looking at the members’ capacity, meaning how many decisions they could make and what kinds of resources were required.<sup>98</sup>

When asked if ESDC could review its historical records and provide the Committee with the average monthly number of cases completed by each member of the Tribunal prior to its creation, Mr. Shugart responded:

I will take that as notice, Chair. I would perhaps, in consultation with the chair, want as much of our resources to be devoted to proceeding with our action plan, so I wouldn’t want to lose too much time in that regard, frankly, but we will undertake to provide that as well as we can.<sup>99</sup>

### **H. Analyzing the Results of the Triage Review**

In December 2014, ESDC determined that the size of the backlog of CPPD appeals had grown to an unacceptable level and that the Tribunal’s rate of making decisions would not reduce this backlog within a reasonable period of time. ESDC expanded the triage

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95 Ibid.

96 Ibid., 1000.

97 Ibid., 1025.

98 Ibid., 1035.

99 Ibid., 1045.



review it had started in September 2014 to identify more appeal files for which sufficient evidence existed to overturn its earlier decisions to deny the benefit.<sup>100</sup>

The OAG examined a random sample of 25 appeal files that ESDC triaged. For 14 of these appeal files, ESDC determined that applicants were eligible. The OAG found that nine of these 14 appeals were determined to be eligible without substantial new information.<sup>101</sup> The OAG recommended that ESDC analyze the results of its triage review to identify ways to modify its policies and processes to ensure that the benefit is granted earlier to eligible applicants. According to the OAG, ESDC should also consider the lessons learned in developing a quality assurance framework, to ensure that its decisions are appropriate and consistent.<sup>102</sup> ESDC responded that it had already initiated an analysis of the triage review findings. “Based on the results of this analysis, the Department will develop a strategy to leverage the findings to determine greater efficiencies and enhance policies and processes. In addition, as part of this strategy, the Department will consider the lessons learned from the triage review when developing its Quality Assurance Framework.” In its action plan, the Department committed to complete the analysis of the triage review findings and integrate the lessons learned into its CPPD Quality Assurance Framework.<sup>103</sup>

Mr. Shugart also explained that:

To assist the [Tribunal] with its own efforts to reduce the inventory, the [Department] assembled a specialized multidisciplinary team that was able to review more than 10,000 cases between December 2014 and the end of summer 2015 and to offer settlements where possible. As a result of these joint efforts with the SST, the inventory of CPPD appeals has now been reduced by more than half and remains on a downward trajectory. Our review of over 10,000 case files also provided invaluable insights into our decision-making process. This is informing our work to renew the program, and in particular the improvements to the supports and tools for decision-makers.<sup>104</sup>

The Committee recommends:

### **Recommendation 9**

**That, by 1 December 2016, *Employment and Social Development Canada* provide the House of Commons Standing Committee on Public Accounts with a report explaining how it used the lessons learned from its analysis of the triage review to modify its policies and processes to ensure that the benefit is granted earlier to eligible applicants.**

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100 OAG, “[Report 6 – Canada Pension Plan Disability Program](#),” *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 24.

101 Ibid.

102 Ibid., p. 25.

103 ESDC Management Action Plan, provided to the House of Commons Standing Committee on Public Accounts on 5 April 2016, p. 6.

104 House of Commons Standing Committee on Public Accounts, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 21 April 2016, [Meeting 10](#), 0900.

## I. Governance to Implement ESDC's Action Plan

Mr. Shugart reassured the Committee that he is confident that ESDC has the right governance to deliver on its management action plan:

First, we have established a multi-branch working group that is responsible for implementing the activities set out in the plan and which reports to me on progress—and, if necessary, course corrections—on a regular basis. Second, a supporting committee chaired by my associate deputy minister has been created to monitor the SST inventory, assess progress in implementing the plan, and ensure seamless communication with the [Tribunal].<sup>105</sup>

## CONCLUSION

In its audit, the OAG found that ESDC assessed applications and reconsiderations for the CPPD benefit in a timely manner, as the Department met its service standards, but had not respected its guidelines for making faster decisions for applicants with terminal illnesses or grave conditions.<sup>106</sup> The OAG also found that ESDC did not have a quality assurance framework to ensure that it assessed applications for the CPPD benefit in a consistent manner, and that the Tribunal did not decide CPPD appeals in a timely manner.<sup>107</sup>

Given that, according to ESDC, people with disabilities tend to have lower income,<sup>108</sup> it is likely that the shortcomings identified in this audit could have a negative impact on the ability of eligible applicants to support themselves and their families financially while they are waiting to be granted the CPPD benefit. For this reason, the Committee will closely monitor the implementation of the action plans of ESDC and the Tribunal to ensure that these shortcomings are adequately addressed.

Finally, while implementing their respective action plans, ESDC and the Tribunal should be mindful of the fact that the CPPD program is a mandatory contributory plan entirely financed by the contributions of employees, self-employed workers, and employers.<sup>109</sup> Eligible applicants should not have to wait an unreasonably lengthy period of time to receive the CPPD benefit that they funded.

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105 Ibid.

106 OAG, "[Report 6 – Canada Pension Plan Disability Program](#)," *Fall 2015 Reports of the Auditor General of Canada*, Ottawa, 2015, p. 25.

107 Ibid.

108 Ibid., p. 8.

109 According to the Government of Canada, "with very few exceptions, every person over the age of 18 who works in Canada outside of Quebec and earns more than a minimum amount (\$3,500 per year) must contribute to the Canada Pension Plan (CPP)." "The CPP operates throughout Canada, except in Quebec, where the Quebec Pension Plan (QPP) provides similar pensions and benefits." The contributors to the CPP may be eligible for four types of benefits: retirement pension, post-retirement benefit, disability benefits, and benefits after a death. For more details, see Government of Canada, [Contributions to the Canada Pension Plan](#).

## SUMMARY OF RECOMMENDED ACTIONS AND ASSOCIATED DEADLINES

**Table 1 – Summary of Recommended Actions and Associated Deadlines**

<b>Recommendation</b>	<b>Recommended Action</b>	<b>Deadline</b>
Recommendation 1 (p. 4)	<i>Employment and Social Development Canada</i> needs to provide the Committee with its Canada Pension Plan Service Improvement Strategy, and explain how the Department will streamline and simplify the initial application process for the Canada Pension Plan Disability program.	1 December 2016
Recommendation 2 (p. 4)	<i>Employment and Social Development Canada</i> needs to measure and reduce the average total time required for a new applicant to complete an application and receive a decision regarding the Canada Pension Plan Disability benefit, and report its progress to the Committee.	1 April 2017
Recommendation 3 (p. 5)	<i>Employment and Social Development Canada</i> needs to provide the Committee with a report explaining how it will regularly seek feedback from applicants and beneficiaries to identify ways to improve access to the Canada Pension Plan Disability program.	1 December 2016
Recommendation 4 (p. 7)	<i>Employment and Social Development Canada</i> needs to provide the Committee with its plan for the implementation of the new Canada Pension Plan Disability service standards.	1 December 2016
Recommendation 5 (p. 9)	<i>Employment and Social Development Canada</i> needs to provide the Committee with its plan for the implementation of the new Canada Pension Plan Disability service standards for individuals with terminal illnesses or grave conditions.	1 December 2016

Recommendation 6 (p. 10)	<i>Employment and Social Development Canada</i> needs to provide the Committee with its plan to improve the Canada Pension Plan Disability program's data quality.	1 December 2016
Recommendation 7 (p. 11)	<i>Employment and Social Development Canada</i> needs to provide the Committee with a progress report summarizing the key features of its Canada Pension Plan Disability Quality Assurance Framework. This report should also explain how this framework will allow the Department to assess whether its medical adjudications are appropriate and consistent.	1 December 2016
Recommendation 8 (p. 16)	The <i>Social Security Tribunal of Canada</i> needs to report publicly on its performance in meeting its Canada Pension Plan Disability service standards.	Beginning with the 2015-2016 Fiscal Year
Recommendation 9 (p. 17)	<i>Employment and Social Development Canada</i> needs to provide the Committee with a report explaining how it used the lessons learned from its analysis of the triage review to modify its policies and processes to ensure that the benefit is granted earlier to eligible applicants.	1 December 2016

## APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b>Administrative Tribunals Support Service of Canada</b> Marie-France Pelletier, Chief Administrator Raynald Chartrand, Executive Director	2016-04-21	10
<b>Department of Employment and Social Development</b> Ian Shugart, Deputy Minister Benoît Long, Senior Assistant Deputy Minister, Processing and Payment Services Branch, Service Canada		
<b>Office of the Auditor General of Canada</b> Michael Ferguson, Auditor General of Canada Glenn Wheeler, Principal		
<b>Social Security Tribunal of Canada</b> Murielle Brazeau, Chairperson Margot Ballagh, Vice-Chairperson, Appeal Division		



## **APPENDIX B LIST OF BRIEFS**

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### **Organizations and Individuals**

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**Rabot, Philippe**





## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 10, 14, 16, 23](#)) is tabled.

Respectfully submitted,

Hon. Kevin Sorenson  
Chair

