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Beyond the benefit trap. Disability pensions and incentives for work

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Introduction	3
Organisation of the study	5
Findings	6
Sweden	7
Denmark	10
Ireland	14
Norway	18
Finland	19
UK	19
Other countries	20
Comparative analysis	21
A closer look at Belgium	23
Why changes ?	26
Which changes ?	27

Beyond the benefit trap. Disability pensions and incentives for work

Introduction

This study is about benefits¹ which are meant to compensate for the loss of income for people who cannot work because of a disability. We call those income-replacement disability pensions. It does not concern benefits which are meant to cover additional costs which disabled people incur because of their disability. Income-replacement disability pensions which are not carefully designed tend to create benefit traps, meaning that it's not in the interest of a person to go back to work because there will be little additional income and maybe more expenses (such as for travel, child care, medical care, etc.). The problem is not unique for disability related benefits and there have been many attempts to resolve this question. Some are aimed at the 'work'-side, such as raising the (minimum-) wages to enlarge the gap between the benefit and the wages and make it therefore more worthwhile to work, or compensating for the additional expenses which come with going to work. Others deal with the benefit-side. We found three types of benefit-side interventions :

- (1) allowing for a combination of the pension and income from work;
- (2) guarantee that people who no longer have a disability pension do not lose all secondary benefits (e.g. medical coverage);
- (3) allow for a smooth re-entrance into the disability pension system for people who failed in their attempt to go back to work.

The first type of benefit-side intervention may take different forms. In some countries there are partial disability pensions. It's normal that people are allowed to top up such pensions with income from work. We will not analyse partial disability systems but only full pensions. Most full pensions allow for some residual working capacity (e.g. 1/3, 20 % or less), the question is if this working capacity may be used for profitable activities. In many countries this is allowed, up to a certain level. What differs is how high the level is and how it is determined (a fixed sum, a percentage of the pension or of the earnings, a number

of hours, etc.). The aim of the present study, which was commissioned by Gisèle Mandaila, Belgian State Secretary for Families and Disabled Persons, is to find good examples in other European countries for benefit-side interventions which provide an incentive for beneficiaries to go to work. As the income-replacement pension for the disabled is the only one which directly belongs to the competencies of the State Secretary, the examples from abroad should be applicable to this type of pension. It is therefore useful to give a brief presentation of the Belgian pension schemes.

The benefit is called 'Income-replacement pension' (IRP)² and is just one of four schemes (there is a separate scheme for work-injuries, another one for occupational diseases and the largest - the invalidity pension - is meant for people who became disabled while in work for reasons which are not work-injuries or occupational diseases). The IRP is a sort of last resort disability pension for whoever is not (or only in part) eligible for a pension in the other schemes. It is awarded as a full pension only. People who are eligible for an IRP are assessed as being incapacitated for work to a degree which in the Belgian legislation equals total incapacity, but a person may have some residual working capacity (the law states that the earning capacity should be reduced to 1/3 or less). People on an IRP are allowed to use their residual capacity to a limited extent. The general principle is that all income from work, except 10%, will be deducted from the pension. However, when in a given year the beneficiary works for no more than three months all that earned income may be kept on top of the pension (the working days which add up to three months may be spread out over the whole year). This is an incentive for people who try to enter the labour market and leave the pension system. It is in principle not meant as an opportunity to top up one's pension over the years with income from three months work, although it might be (mis?)-used in this way. There are other rules for the other types of disability benefit. Benefits to compensate work-injuries or occupational diseases may be combined with income from work without any limitation. The invalidity pension (which is called primary sickness compensation during the first year) may be combined with income from work with the consent of the doctor of the insurance-agency but only up to a certain limit (for employees the earnings are (re-)calculated on a daily basis, from the part of up to €10 a day nothing is deducted from the pension, for all the earnings which are higher a digressive rule is applied : 25% of the earnings between €10 and €20 is deducted from the pension, 50% of earnings between €20 and €30, and 75% of the earnings from €30 onwards).

Organisation of the study

Based on some preliminary knowledge about the subject it was decided to look at four Scandinavian Countries (Sweden, Denmark, Finland and Norway) and Ireland. Additional information from other European countries could also be used. Although the problem of benefit traps in disability benefits is often mentioned we have not found any comparative international study which deals with this subject in detail. The first step in the research was a literature and internet-search, and in all the countries we contacted people at the Ministries and also at some research-institutes and universities. We sent out several e-mails with the following questions, after a short presentation of the Belgian benefit.

"It's possible that in your country there is no benefit or pension that matches exactly the IRP-type but that is not important, we are interested in the possibility to cumulate income from work with any disability pension which provides a person with a basic income for long periods of time (we do not look at the cumulation with benefits that provide aid for additional costs because of the disability). We also have to keep in mind that we are looking for the combination of earned income and a full pension, not the cumulation with a partial pension.

The questions we have, if there is such a system in your country, are the following :

- a. When was the system introduced in its current form.
- b. Who decides, and in which administration, whether a person is entitled to work while being on pension ? Are medical doctors involved in this ?
- c. How is the system as concerns the amount of earned income that may be kept and/or the amount of time (days, months a year ?) one is entitled to work. Is it a fixed amount or time-period or a percentage, and is it steady or is there a progressive (gradual) system.
- d. When an amount of earned income is used in the calculations, which is it (net, gross, as mentioned on the tax declaration ?).
- e. Is the amount calculated in another way when a person does not have an employment contract but works as an independent labourer. Are there other elements which change in case of self-employment ?
- f. Is there any change over time in the system, is it limited to a 'trial' period after which the person is supposed to go off pension or can it be used for as long as the person wants. Is the amount of earned money which is not deducted from the pension a stable sum (or percentage) or does it change over time ?
- g. Is there any differentiation in the system according to the household situation of the person (living alone, in a family, with or without children, living in the same household as another disabled person with this benefit, etc.). The question is not whether this affects the level of the pension, but whether it affects the cumulation rules for earned income and pension.
- h. How does the taxation system interfere with the system, does it hinder or promote the cumulation or is it neutral ?
- i. Are there statistics on the number of persons who receive a disability pension and have income from work ?

- j. The following question concerns no longer a person who cumulates a pension and earned income, but is about someone who had been a pensioner, started to work to such an extent that a cumulation was not or no longer possible (e.g. full-time), but then had to stop working (for whatever reason). Is there some sort of return guarantee to re-enter into the disability pension system (the same or another one ?) or is the person treated as a first-time applicant ?
- k. Is there any special action undertaken to draw the attention of the public, the people on benefit, the unions and the employers, to the opportunities which these regulations offer ?

Findings

First we present the findings for each country. We have tried as much as possible to keep the same level of detail for each country, but sometimes this was not possible because the information was not available. We then make a comparison between the countries and finally see how relevant this is for the Belgian scheme.

Sweden³

In January 2003 a new disability pension scheme came into effect. The old disability pension and the temporary disability pension were replaced with two new benefits : *activity compensation* for people aged 19-29 (Aktivitetsersättning) and *sickness compensation* for people aged 30-64 (Sjukersättning). Both benefits are part of the sickness insurance system and may be granted to persons whose working capacity is reduced for medical reasons by at least 1/4 either permanently or for a long period (at least one year). Compensation is payable at 100%, 75%, 50% or 25% of the full rate, according to the level of assessed reduction in working capacity. Activity compensation can be granted for at the most three years at a time, after which a new assessment of the person's continued right to compensation is made. Sickness compensation can either be granted for a limited period or indefinitely.

Both the activity compensation and the sickness compensation are divided into two parts : one income-related and one residence-based. The Swedish government finances the residence-based part, the income-related part is financed by the employers. The income-related part is meant to be a compensation for the loss of income and the residence-based part is a basic benefit for those who have no or little income-related benefit.

There is a guaranteed compensation, payable to those without or with a low income-related compensation, either in full or as a top-up to reach the minimum guaranteed level. The level of the guaranteed compensation depends on the number of years of residence (a minimum of three years is required). The guaranteed level is the same for married and unmarried individuals and is age-related (a base level for those under 21, increasing every year till age 29 and remaining the same for those 30 and over). In 2003 the maximum guaranteed compensation was about €10 150 a year, whereas the maximum income-related compensation was €20 300. These amounts are before taxation because both benefits are taxed as other income. The guaranteed compensation is similar to the Belgian Income Replacement Pension for the disabled whereas the income-related part (equal to or above the guaranteed level) refers more to the Belgian invalidity pension in the Health Insurance. As the Belgian Income Replacement Pension is not a partial benefit, but only a full benefit, we will look into the situation of people who receive a full benefit at guaranteed level.

The formal requirement for being entitled to full sickness or activity compensation is that the capacity for work is completely or almost completely reduced. The expression 'almost completely' provides an opportunity to use the small remaining capacity for work in - for instance - non-profit or political work without the formal requirement for full compensation being questioned.

When determining whether someone who is using a small remaining capacity for work should be entitled to full benefit, the Social Insurance Agency (in practice the Local Insurance Office) must take the following into consideration.

An estimation of the hours that a person is allowed to work should always be based on full-time work in the occupation, commission or gainful employment which the person can perform. The hours of work should not exceed 1/8 of such full work (maximum 5 hours a week). The income from work not exceeding 1/8 of the normal full-time income of such an occupation, commission or gainful employment does not affect the entitlement to a full benefit. This means that there is a double limit, in terms of hours worked and in terms of income, but according to the level of pay in the occupation one person can have more additional income than another. There is no time-limit for the opportunity to use such a small remaining capacity for work.

The taxation system is neutral towards the additional income from work, it is simply added to the compensation and is taxed in the same way as any other income. It is also of no importance if a person is living alone or in a family because the minimum guaranteed level is the same irrespective of one's civil status.

The opportunity to use a small remaining capacity for work is not applicable for people with three-quarters, half or one-quarter sickness, temporary sickness or activity compensation.

There are no statistics on the number of people who use this opportunity to earn some additional income, and no special action has been undertaken to draw attention to this opportunity.

The new pension system is designed to stimulate the labour force participation of people who became disabled. This is most apparent in the activity compensation which provides for a regular re-assessment of the situation and in individualized planning by the social insurance offices to make sure that people take part in activities which enhance their health situation and their working capacities. However, a report has shown that it concerns more social participation activities than actual work.⁴

Trial period and Dormant sickness and activity compensation

People receiving sickness or activity compensation have some possibilities to re-enter the labour force (and work more than 1/8) without losing the entitlement to compensation. Someone who receives sickness or activity compensation for already at least a year and wants to go back to work can apply for a trial period (maximum three months) during which one receives compensation and pay at the same time. If the attempt is successful the compensation may be made dormant, which means that when the person cannot keep on working, a return to being on benefit is allowed without re-assessment. The trial period and the period of dormant compensation may together last for up to two years (or for the remaining period for which compensation has been granted if that was less than two years).

In December 2002 there were 2 328 persons having their compensation dormant. Some 30% of the people who make use of this opportunity return to being on benefit.

Table 1 : Number of people on activity or sickness compensation (December 2003)

compensation	incapacity for work					Total
	1/1	3/4	2/3	1/2	1/4	
income related	327 469	12 010	543	84 378	24 865	449 265
<i>guaranteed compensation</i>	262 345	7 308	750	69 653	19 772	359 828
only guaranteed compensation	54 666	264	286	2 339	469	58 024
Total	382 135	12 274	829	86 717	25 334	507 289

There were 5 474 people with *activity compensation* (4 724 with guaranteed compensation, 3 883 with only guaranteed compensation, and 1 591 with income-related compensation).

There were 501 815 people with *sickness compensation* (355 104 with guaranteed compensation, 54 141 with only guaranteed compensation and 447 674 with income related compensation)

The people with "only guaranteed compensation" have no income related compensation at all and those with "guaranteed compensation" have a small amount of income related compensation but below the guaranteed level of compensation and those with "income related compensation" have so much income related compensation that they are above the guaranteed level.

Denmark⁵

The current regulations about disability pensions are set out in the Consolidation Act on Social Pensions of the 28th of January 2004. The official term is not disability pension but anticipatory pension (førtidspension).

The award of such anticipatory pension is subject to :

- (1) the applicant's working capacity being permanently reduced, and
- (2) the reduction being so severe that the applicant, notwithstanding the possibilities of support under the social security and other legislation, including employment in a flexible working arrangement, will be unable to provide for him or herself by means of a remunerated job. (art. 16)

The first condition implies that the local councils (municipalities) must be able to document that it is unlikely that medical treatment or other measures such as vocational rehabilitation will improve the applicant's working capacity. The second condition means in practice that the applicant is unable to work in a so-called flex-job.

Although the Consolidation Act does not stipulate a required percentage of reduction in working capacity the condition concerning the 'flex-job' allows to say that the working capacity must be reduced with at least 67%. Flex-jobs are subsidized jobs for people with a permanently reduced working capacity (meaning it cannot be improved by medical treatment or vocational rehabilitation). The amount of the wage subsidy is 50 or 67 percent of the minimum wage in the relevant collective labour agreement, corresponding to a reduction in working capacity of 50% or 67%. Consequently the eligibility criteria for a disability pension, stipulating that the applicant must be unable to work in an ordinary job or in a flex-job, means that the working capacity must be reduced with at least 67%.

Art. 19 of the law stipulates that a decision to award an anticipatory pension should (amongst other criteria) also provide an indication of one or more specific job functions that the applicant is considered to be able to perform with his/her reduced working capacity. This implies that such activities are allowed and even stimulated, but within certain limits (cf. *infra*)

There is only a full disability pension, no partial pensions, but the level is different for single persons (equal to the maximum unemployment benefit, in 2004 this is DKK 166 740 or €22397 a year) and for cohabiting persons (85% of the benefit for single persons, DKK 141 700 or €19 036). On top of the disability pension and also for disabled people who do not receive a disability pension there are supplementary benefits covering e.g. aids,

adaptations to homes, reimbursement of additional expenses, but these are administered separately from the disability pension scheme.

Combining a disability pension and income from work

A beneficiary of an anticipatory pension is allowed to have a certain income on top of the pension. This income may be from work or self-employment, but also capital income or income from private pension plans, etc. The calculations regarding additional income are the same whatever the origin. The figures hereafter are all income before taxation. The principle is that 30% of the income in excess of DKK 56 700 (€7619) is deducted from the pension. For example : a single person with a pension (before reduction) of DKK 166 700 who has DKK 175 000 other income, will end up with a benefit of DKK 131 250 = $((166\,740 - 30/100 (175\,000 - 56\,700))$ and DKK 306 250 total income (175 000 + 131 250). In this situation the benefit will be reduced to half when the other income reaches DKK 334 600 and will be zero at the level of DKK 612 500. As the table below shows, the first 56 700 DKK (€7619) have no effect on the pension and above this, the person is always better off when there is more other income.

Table 2 : Pension and Total income for a single person (DKK per year in 2004)

Other income	Pension	Total income
0 - 56 700	166 740	166 740 - 223 440
100 000	153 750	253 750
200 000	123 750	323 750
300 000	93 750	393 750
400 000	63 750	463 750
500 000	33 750	533 750
600 000	3 750	603 750
612 500	0	612 500

In a situation of cohabiting persons, the income from the cohabiter (not also a beneficiary) is included in the calculations (up to maximum 326 320 DKK), in such a way that the reduction of the pension can never be more than 28 380 DKK. The 30% reduction rule becomes 15% when the spouse or cohabiting person is also a beneficiary of a pension.

When a person on anticipatory pension wants to do some work, there is no obligation to report this to the municipality as long as it is not expected to lead to changes in the level of the benefit (e.g. below the 56 700 level for a single person). Of course, when a person on pension is earning a lot of money from work, proving that there is substantial working

capacity, the pension may be withdrawn. No specific limit of earnings has been set, it's up to the municipality to decide in each case whether a person might be capable of working in a flex-job or other employment.

Return to pension after work

An anticipatory pension may be made 'dormant' by the municipality. This implies that the beneficiary who took up a job but was unable to keep it, may go back on pension without re-assessment. No time-limit is set in the law for such 'dormant pensions', but the municipality may set a limit.

The assessment of eligibility for secondary benefits is performed (e.g. under the social assistance act) independently of the assessment of eligibility for disability benefits (under the social pension act). Consequently, a person who is working with a "dormant" disability benefit will not lose entitlement to the secondary benefits (unless the person's conditions that in the first place made he/she eligible for the secondary benefits has changed).

Statistics -Monitoring

Denmark's National Action Plan for Employment (2004) states the following :

"The Act on anticipatory pension – which came into operation on 1 January 2003 – means that active measures will in all fields have a preference over passive support. The objective is that persons with a degree of reduced working capacity, which makes it possible to obtain a labour market attachment are actually given the possibility of using their resources in a job. The effects of the anticipatory pension reform and the development in the flexjob system are closely monitored. As an element of the "Agreement on an inclusive labour market and an anticipatory pension reform" of 8 December 2000, it was decided that a report is to be presented during the parliamentary session 2006/2007 to the Folketing concerning the development on an inclusive labour market and in the field of anticipatory pension." (page. 46)

In January 2005 there were about 225 000 people with a disability pension. However, only persons who got a pension after January 2003 have received a pension under the new regulations, the others keep their pension under the old rules. There are no recent statistics on the number of people who combine a pension with income from work. In 1998, under the previous pension regulation, about 14% of the disability beneficiaries had some wage income (on average DKK 29 100, which is about four hours of work per week for an 'average' production worker).

A Note on Assessment

From 2003 on the assessment of disability in Denmark underwent some profound changes.⁶ Disability pensions are a part of the social protection system, which is aimed at participation in the labour-market and is decentralised to the level of the local government. The preference for active measures is visible in the financing and in the way the assessment is organized. Municipalities have to finance a substantial part of the benefits themselves, for which they levy taxes. The national government refunds more for active measures (e.g. 65% of a flex job) than for passive measures (35% of a disability pension).

The assessments are carried out as follows. The case manager from the municipality who deals with the disability pension applicants has to draw a 'human resource profile' which becomes the basic instrument in making decisions on vocational rehabilitation, flex-jobs or a disability pension. Three aspects have to be clarified : (1) What are the claimant's actual resources (2) What are potential resources that can be developed (3) Is it proven that the claimant does not have enough resources to even fulfil the requirements of a flex-job. The resources profile is compiled after an assessment on twelve elements : level of education, work experience, interests (potential abilities), social competences, abilities to adjust to a new situation, abilities to learn, wishes for the future and own expectations on future performance, importance of work for the person, housing conditions and economic conditions, social network for support and motivation, health. The case manager has to coordinate the collection of information, drawing on contributions from specialists such as medical consultants, rehabilitation consultants, psychologists, job consultants, etc. The practical organisation of the assessment process is entirely the responsibility of the municipality and may involve setting up assessment teams, or special case managers, etc. Although the emphasis is certainly not on medical issues, a medical statement is important in awarding a disability benefit at the final stage when it has been proven that vocational rehabilitation does not succeed and that work in an ordinary or subsidised job is not possible.

Ireland

Introduction

The structure of Income Maintenance Disability benefits in Ireland is quite similar to the Belgian system. There is a separate scheme for Occupational Injuries (including Occupational Diseases), two schemes (Disability Benefit and Invalidity Pension) for those who become disabled while at work, and a residual means-tested scheme (Disability Allowance).⁷ From 1999 to 2003 the Irish Government undertook an extensive Review of the Illness and Disability Payments Schemes (further referred to as 'The Review').⁸ One of the purposes of the review was to examine the extent to which the objectives of the illness and disability payment schemes are being met as regards 'facilitating return to work or participation in training or further education'. The Review covers all the disability schemes but we will only look at the Disability Allowance.

The Disability Allowance (DA)

According to the Social Welfare (Consolidation) Act of 1993 the objective of the Disability Allowance scheme, which has its origins in the nineteenth century Poor Law system, is to ensure that people who, by reason of a specified disability, are substantially handicapped in undertaking suitable employment and whose means are insufficient to meet their needs are provided with assistance towards their own needs and those of their dependants. A further objective of the Disability Allowance scheme, which has become increasingly more important in recent years, is to encourage and assist claimants to identify and take up available employment, training, educational and other self-development opportunities, where appropriate (Review, page 29).

To qualify for Disability Allowance one must:

- have an injury, disease or illness, or have a physical or mental disability that has continued or is expected to continue for at least one year and causes you to be 'substantially handicapped' in doing work that would otherwise be suitable for a person of your age, experience and qualifications,
- be aged between 16 and 65, and
- satisfy a means test.

Giving proof of substantial disablement in undertaking employment is normally done through the submission of medical reports from the claimant's doctor, with supporting consultant's reports, where necessary. The claimant may also be required to attend for a

medical examination by a Medical Assessor of the Department of Social & Family Affairs. The Medical Assessor is a registered doctor who will give the Deciding Officer a report on the claimant's medical condition based on the medical certificate which is part of the application form.

An individual, living alone and with no sources of income at all is entitled to about €600 a month. Most other sources of income are deducted from the allowance and when these other sources reach (in this case) the level of €600, the person is no longer entitled to a Disability Allowance. The level of the allowance varies according to the family size.

Rehabilitative employment

DA recipients are allowed to perform rehabilitative employment. There is no general definition of what constitutes rehabilitative employment. In contributory disability pension schemes (Disability Benefit, Invalidity Pension) employment is generally regarded as being rehabilitative if it aims to achieve a specific outcome within a defined period of time. However, in the case of the Disability Allowance no time limit is applied to rehabilitative employment, nor is there a requirement for any specific outcome to be achieved (Review, page. 77). There are income disregards for rehabilitative employment in the DA scheme. The first €120 of weekly earnings from work are disregarded (= €480 a month). Earnings above this limit will be regarded as means and deducted from the allowance. If DA recipients wish to take up this disregard, they should forward medical evidence from their doctor, stating that the work is rehabilitative.

In 2002 the disregard was applied for about 8 000 DA recipients in sheltered employment⁹, for 1 489 recipients in Community Employment¹⁰ and for 156 recipients in mainstream employment. Those 156 represent 0.2% of all DA recipients (64 878). In addition there were 1072 recipients in regular employment training and 171 in specialist training (Review, page 74)

The Review considers that where a person is working part-time in the open labour market or in analogous situations and the employment is classified as being rehabilitative in nature, the operation of the income disregard can act as a disincentive to increasing the hours worked or the earnings received, as any income above the weekly €120 limit will be deducted on a euro for euro basis. A solution would be to withdraw the payment on a graduated basis once the income exceeds the relevant income limit, e.g. by 50 cent for each €1 above the limit (Review, page 77 and 89).

Back to Work Allowance (BTWA)

The Back to Work Allowance Scheme encourages people on all kinds of benefits (unemployment, disability benefits, etc.) to take up employment. It also provides a stepping stone to the labour market for recipients of the DA.

People who had a Disability Allowance for at least 15 months (12 months if aged 50 or over) and return to the workforce, may transfer to the Back to Work Allowance which means that while they are at work they keep 75% of their Disability Allowance for the first year, 50% for the second year and 25% for the third year.

One should apply for BTWA before starting employment. An employee's Back to Work Allowance is not subject to Pay Related Social Insurance Contributions (PRSI) or income tax. However, employers should deduct income tax and PRSI from their pay in the normal way. Only employers who can provide suitable jobs are eligible to participate. The work being offered must be likely to develop into a lasting job, not displace existing employment, be of a minimum of 20 hours per week, be for at least 12 months and employees must be paid at least the minimum wage. Short-term, seasonal or commissioned / contractual work is not acceptable under the Scheme.

In 2002 there were 645 recipients of a DA who entered into the BTWA scheme, which represents 1% of the 62 783 eligible recipients. Those people were mostly physically handicapped, few are intellectually disabled or people with mental health disabilities. The scheme is rather new, so it's early to evaluate (many users are not even in their third year), but the first results as to remaining in employment are positive (Review, page 74-75).

Back to Work Enterprise Allowance (BTWEA)

People getting Disability Allowance for at least 12 months who wish to become self-employed, may be able to transfer to the Back To Work Enterprise Allowance. They will be paid an allowance equal to 100% of their Disability Allowance for the first year, 75% for the second year, 50% for the third year and 25% for the fourth year. The application must be filed before starting self-employment. We haven't been able to find statistics on the take up of this scheme by people on DA.

People on the Back to Work Allowance or Back To Work Enterprise Allowance keep any **secondary benefits** they already had, such as Free Travel, Electricity Allowance and Telephone Allowance. They also keep any Fuel Allowance they were already getting as long as the household income from employment or self-employment is less than €317.43 per week. Any Rent or Mortgage Interest Supplement may be withdrawn gradually over four years. They will keep their medical card while on BTWA or BTWEA, regardless of the income.

Return guarantee

If someone is unable to continue to work while on the Back to Work Allowance or the Back To Work Enterprise Allowance, they will automatically start getting Disability Allowance again.

Recent statistics

At the end of 2003, 67 720 people were receiving a Disability Allowance. There are 60% men and 40% woman, 15% are under 25 years of age, 60% are between 25 and 54 and 25% are 55 to 65.

Also at the end of 2003, there were 17 069 people in the Back to Work Allowance scheme (7197 as employee, 9872 as self-employed). However, this includes all the people on all the benefits which allow for this scheme (e.g. unemployment, invalidity, etc.) It is not know how many were receiving Disability Allowance, but if the situation is about the same as in 2002 there should be between 500 and 1000.

Proposals

The Working Group looked into several options to overcome some of the limitations of the current schemes, such as a partial capacity (or incapacity) benefit, a rehabilitation benefit and an 'in work' wage supplement. Until now, none of these has been applied, probably because they all have certain drawbacks (an extensive discussion is to be found in the 'Review' page 85-97).

It was considered that a partial benefit, e.g. a partial DA, in combination with reduced earnings would not be sufficient to provide an incentive to remain or re-enter the workforce. In addition, for those who cannot obtain employment, partial unemployment payments would also be required. A rehabilitation benefit would by nature be time-limited, which does not fit all cases. An 'in-work' supplement would have many advantages, but would only be of benefit in situations where the person achieves a reasonable level of earnings from employment and one would have to consider the relationship with 'wage-subsidies' which are also existent for disabled people.

Norway¹¹

The current disablement benefit system was introduced in 1997, with some legal adjustments in 2004. Entitlement to a disability pension depends on a reduction in working capacity by at least 50%, due to illness, injury or defect. The scheme covers both employees and self-employed persons and pensions/benefits are taxed as all other income. For a full pension the working capacity must be reduced by 100%, in the case of partial disability (between 50% and 100%) the pension is reduced proportionally. There is a permanent disability pension (Uførepensjon) but in 2004 a time-limited disability benefit (Tidsbegrenset uførestønad) was introduced when there is a possibility of improvement of the working capacity (renewable).

Starting from one year after the granting of the pension/benefit a basic amount of earnings from work which is currently 60 699 NOK a year (€7639, before taxation) will be disregarded in the calculation and will not lead to re-assessment of the capacity for work. It does not matter if the earnings are wages, salaries or earnings from self-employment. However, the sum of these earnings and the pension/benefit may not exceed the income preceding the pension/benefit. No permission of a medical doctor is required to engage in this level of work and there is no time-limit to it. There is also no differentiation in the system according to the household situation of the beneficiary, as regards the cumulation rules for earned income and pension/benefit. The basic amount which is disregarded is set each year by the Parliament.

In 2001 there were 225 628 persons receiving a full disability pension and 55 656 persons had an income corresponding to the basic amount or less.

When a beneficiary goes back to work and earns more than the disregarded basic amount, then the beneficiary can be given a 'frozen rights' period of three years, which means that when the attempt to work fails, he/she will get the previous pension/benefit back without a full claims procedure.

Several experimental innovation programs encourage beneficiaries to increase income from work. Most concern the beneficiaries of the time-limited benefit for whom individual plans are drawn to return-to-work or increase their labour market participation. The target group of the time-limited benefit was enlarged to include persons with only 30 or 40% incapacity for work. Also, the benefit may be granted to the employer (as a kind of wage-subsidy) in exchange for the person being employed with a regular salary.

Finland¹²

In Finland, disability pensions are paid both under the national pension and the employment pension schemes. The national pension is a residual scheme, meant for people whose other pensions and compensations do not exceed the maximum allowed. A disability pension may be awarded for a specific period as a pension-like rehabilitation subsidy to cover the period the recipient is in treatment or rehabilitation but an ordinary disability pension is granted for an indefinite period.

Recipients of a disability pension are allowed to have small earnings on top of their pension but no specific limits for these earnings have been set (there are such limits for earnings on top of a retirement or unemployment pension but it is not clear whether these are also applied for disability pensions). When the recipient's earnings are judged to be sufficient to provide an adequate living the disability pension will be stopped, but at what level of earnings this occurs is not clear.

Persons on a full national disability pension who find employment can have their pension suspended but not discontinued altogether (a 'dormant' pension) for a period of 6 months to 5 years. This requires that the person earns at least 588.66 € a month.

UK

The UK-benefit which is relevant for our comparison is the incapacity benefit. Until early 2002, there was a 'Therapeutic Work' provision which allowed people on incapacity benefit to work up to an earnings limit, if a doctor advised it would help to improve a condition or prevent or delay deterioration. Surveys suggested that between four and six per cent made use of this.¹³ In April 2002 new 'Permitted Work' rules were introduced. These rules should make it easier for incapacity benefits recipients to try some paid work as a stepping-stone towards leaving benefit for full-time employment. No prior approval from a doctor is needed but the office which pays the benefit must be informed.

The current rules are that an incapacity benefit beneficiary can work¹⁴

- for earnings of up to and including £20.00 a week (€30) for an unlimited period;
- for less than 16 hours a week, on average, with earnings up to and including £78.00 a week (€117) for a 26 week period. The period can be extended for another 26 weeks if a New Deal for Disabled people Job Broker, Personal Advisor at the Jobcentre or Disability Employment Advisor agrees that it will help the person

towards work of 16 or more hours a week. There is no limit to the number of times one can do permitted work in this category while getting incapacity benefit, but after 52 weeks work there must be a gap of at least 52 weeks before another 52 weeks work is permitted;

- in supported permitted work for earnings of up to and including £ 78.00 a week (€117) for an unlimited period. Supported permitted work is work done with the ongoing support or supervision from a professional caseworker (employed or engaged by a public body or voluntary organisation). This could be work done in the community or in a sheltered workshop. It also includes work done under medical supervision as part of a hospital treatment programme.

The fear of not being able to return to incapacity benefit if employment does not work out is a widely reported disincentive. A 52-week linking-rule, in place since 1988, allows a person to return to the same level of benefit if they become incapable of work within a year leaving their benefit for work or training.¹⁵

Other countries

Combining a disability pension and income from work is not unique for European countries. In **Australia** for example a similar system exists. The earnable amount under which the Disability Support Pension is not adjusted is 244 Australian dollars a month (€154), but for every dollar above this amount \$ 0.40 is deducted from the pension (which for a single adult is currently \$ 952.60 or €601.5 a month; \$ 2654.6 or €1.676 per month must be earned before a person receives no longer a pension).¹⁶

Comparative analysis

Combination rules

In all the countries earnings up to a certain level are completely disregarded in the calculation of the pension (Denmark : €7619 a year; Norway : €7639 a year; Ireland : €120 a week; UK : £ 20.00 a week). In a way the Swedish system is based on the same principle (1/8 of a full-time income is disregarded, but how high that is depends on the kind of job which is referred to). It is difficult to compare the level of this disregard because in some countries the pensions and earnings are subjected to taxation whereas in other they are exempted. Also the cost of living is certainly not the same everywhere.

What is earned above that level is treated in different ways. In Sweden and Norway everything is deducted from the pension, in Denmark only 30% of everything above is deducted, and in the UK up to £78.00 a week may be disregarded under certain conditions. In Ireland everything above the limit is deducted unless the person enters a 'Back to Work' scheme, in which case a substantial part of the benefit may be kept, whatever the earnings.

In Sweden and the UK the number of hours worked is also a criterion. In Sweden this refers to the first level of complete disregard and its is expressed as 1/8 of full work (5 hours a week) but is the equivalent of a disregarded level of earnings. In the UK it applies to the earnings above the first level of complete disregard and the limit here is 16 hours per week, in certain circumstances.

There are no time-limits set for the combination of a benefit and earnings from work, except in the UK where in some cases a 'pause' must be observed and in Ireland where the 'Back to Work' scheme is time-limited.

The UK is very explicit on the conditions of support and supervision that should be met to have the (secondary level) of disregard and in Denmark it's built in the assessment procedure by the municipalities. In Sweden the support structure is part of the benefit administration. The Irish Review of the system found that the supports are underdeveloped.

Income disregards can have two functions : as a stepping stone towards leaving benefit for (full-time) employment, or as permanent way of topping up the pension with a small amount of earnings from work. Which role the regulation fulfils for a particular person may not be known a priori because a person may earn a little on top for a while or indeed even for quite a long period and when an opportunity occurs move on to regular

employment. The topping up function is also used in programmes of labour market participation for disabled people, such as sheltered employment (Ireland) or supported employment (Ireland, UK). Moving on to regular work may happen naturally, but may also be stimulated by the support structure and by specific regulations which go further than the basic combination rules. The Irish 'Back to Work' scheme is a good example of this. Also, in Sweden there is a three month trial period during which one can receive work-pay and the pension at the same time. In the UK there are extended combination opportunities when there is supervision or participation in supported permitted work. Norway has several experimental programs to stimulate progression into work for people on the time-limited disability benefit, which can even be used as a wage-subsidy for the employer.

Secondary benefits

There is not much specific information on the status of the secondary benefits, but it is clear that people in the Irish Back to Work schemes, keep all those benefits. In most countries secondary benefits are not directly tied to the status of disability pensioner as such and are administered separately. Therefore, when people go off pension they do not automatically lose all the secondary benefits, but when the assessment for those benefits is based on the same type of criteria as for the pension, then they may risk losing them anyhow.

Dormant or frozen pensions

When an attempt to go off pension and (re-)join the labour market fails it is in all the countries possible to obtain the same pension one had before without a re-assessment. But there is a time-limit to this. In Norway it is 3 years, in Sweden 2 years, in the UK one year, in Finland it can be set between 6 months and 5 years. In Ireland the automatic return which is tied to the Back to Work scheme can last for three years and in Denmark the opportunity exists but it is up to each municipality to set the time-limit.

A closer look at Belgium

Before we decide if the different solutions in the countries provide good examples for Belgium, it is useful to have a closer look at the Belgian disability pension system and also at the wage-subsidies which are related to this.

Many countries give wage-subsidies to employers to convince them to hire disabled people, but in most cases these subsidies are limited in time (often they last not more than one year). However, there are countries such as Belgium, where wage subsidies may become permanent if the assessment shows that there are enduring problems due to the disability. In Belgium there are several wage-subsidy schemes, according to the Region, but the one we will discuss here is with some modifications applicable all over the country. This scheme is known as 'Collective Wage Agreement 26' (CWA-26) and allows for a wage subsidy of up to 50% of the labour cost. The percentage is a measure of the loss of productivity (e.g. 30% loss of productivity equals 30% wage-subsidy). From a theoretical point of view 'productivity', 'capacity for work' or 'earning capacity' refer to the same concept of 'ability to do the job according to standards'. There is therefore a relationship between a benefit system based on incapacity for work (or loss of earning capacity) and a system of wage-subsidies to compensate for loss of productivity. To state things simply : total incapacity for work means no productivity at all and full capacity for work means no loss of productivity.

We have tried to show this relationship in Table 1. The percentages in the table are percentages of 'incapacity' or of 'loss of productivity', the fractions refer to earning capacity. To understand the table some explanation of the peculiarities of the Belgian disability pension system may be needed. An invalidity pension under the health insurance is awarded when the 'earning capacity of a person' is reduced to 1/3 or less of what a non-disabled person could earn in the same kind job as the applicant usually does or in a set of similar jobs. However, in practice this is often expressed as a requirement for the person to have at least 66% incapacity. And the 50% which we will be talking about later does not refer to earning capacity, but is supposed to be some absolute 'medical' measurement of disability. In the IRP scheme, the concept of a reduction of earning capacity to 1/3 or less is also stated in the law, but in practice percentages (66%) are also used. The concept of 'productivity (loss)' is not used in the pension legislation, but is the basis of the CWA-26 wage subsidy.

When the table is read from the top to the bottom, we move from people who are completely incapacitated for work (100% to 66% or an earning capacity of less than 1/3) and are therefore very little productive to people who have zero incapacity for work and are therefore fully productive. People in the top part of the table can have a disability pension such as an invalidity pension or the IRP. We remind the reader that the difference between an invalidity pension and the IRP depends on the circumstances in which a person became disabled. If the person was in work (or officially unemployed) and had paid enough social security contribution he/she will get an invalidity pension, the IRP is a means-tested last resort 'pension'. In the health insurance people may combine their invalidity pension with some income from work as long as their incapacity for work remains above 50%. In the IRP-scheme people may also have some additional income from work, but they should keep at least 66% incapacity for work (or in terms of the law have a reduced earning capacity of 1/3 or less) because if it is less they are no longer entitled to a pension.

The lower part of the table shows people who have less than 50% incapacity for work. For labour market purposes they are considered as a special group by the placement agencies and the employer who hires such a person may get a wage subsidy according to the level of productivity loss.

The area in this table which is the most problematic is the area between 50% and 66% incapacity. When people who had an invalidity pension are rehabilitated to the extent that their loss of productivity is less than 50%, then there shouldn't be a problem because there are wage-subsidies to compensate remaining loss of productivity, if there is any. However when the productivity-loss is more than 50% there are no wage subsidies that are high enough to cover that (with the exception of a measure that applies only for inhabitants of Brussels and allows for a 65% wage subsidy !). But there may not be a need for such high wage subsidies when people can keep their pension and earn on top of it. Both solutions are functionally equivalent. The health insurance provides such a solution within the invalidity benefit scheme, because there is a period of 'return to work' (which may last rather long !) in which the incapacity for work remains above 50% but may be less than 66% and during which a combination is possible of the pension and earnings from 'permitted work'. In the IRP-scheme there is no such solution. The combination rules which exist in the IRP-system apply only as long as people are at least 66% incapacitated for work. To state things in yet another way one can say that for a combination of income from work and a pension to be allowed, in the invalidity scheme the incapacity for work must be somewhere between 50% and 100% (indeed the only legal requirement is that at least 50% incapacity should remain, but it may just as well be 67% or 80% or 90% that remains),

whereas in the IRP the incapacity for work must be 66% or more. As the systems are based on the same principles (loss of earning capacity) one would expect the same opportunities to exist in both systems.

Table 1 : An overview of compensation and support schemes (Belgium)

<i>Health Insurance Invalidity pension</i>	<i>Income-replacement pension for disabled (IRP)</i>	<i>the person is .../has ...</i>	<i>%</i>		<i>incapacity/for/work</i>
			100	0	
Invalidity pension + income from work	IRP (+ income from work)	incapacitated for work (health insurance and IRP)			
			66	1/3	
Invalidity pension + income from work	income from work ???	incapacitated for work (health insurance) capable for work (IRP)			
			50	1/2	
income from work + wage-subsidy (CWA-26)		very limited work capacity (placement agencies)			<i>productivity</i>
			33	2/3	
income from work + wage-subsidy (CWA-26)		limited work capacity (placement agencies)			
full capacity for work (employment agencies)			0	1	

The current combination rules for the invalidity pension are fairly new, they have been introduced in April 2002, and those for the IRP date from roughly the same period. Looking at the picture of the two pension systems one is inclined to ask why the rules are so different. What is more, for people on IRP who in general had less chances in the labour market it is made more difficult to (re-)enter. The combination rules allow for more income from work in the invalidity scheme and whereas the health insurance system has a support structure for re-entry into the labour market (the medical advisor and social workers at the insurance company), there is no such structure in the IRP-scheme.

Why changes ?

Before presenting solutions we have to ask why it is at all necessary to change the rules in the IRP-scheme. For people who are capable and willing to go off the scheme altogether, the current rules may be sufficient. After all they are allowed to work during a three month period (in the course of a year) and whatever earnings they have in this period will have no effect on the pension. This compares favourable with the rules in other European countries although in schemes such as the Irish Back to Work, people may be better off financially and the transition phase is regulated for three years. The main drawback to the Belgian three month rule is that it is only adapted to a specific kind of person who has the capability and is given an opportunity to leave the benefit system completely. But most people on the IRP-scheme probably do not have the working capacity to take such a large step (at once). This does not mean that they cannot work at all, there are hundreds of IRP-beneficiaries for whom it is proven every day that they do have working capacity, although limited (e.g. in Flanders : in supported employment organized by day-centres and in 'arbeidszorg' which is connected to social firms). One might argue that those people should get a job with a wage-subsidy. Some might be able to do that, but the wage subsidies cover never more than 50% loss of productivity and the people we are talking about are often above that level. For the moment the only sensible way for them to take part in the labour process is to engage in unpaid work and volunteering. The current IRP rule which allows to keep only 10% of earnings on top of the pension certainly discourages to get a labour contract which would anyhow be very limited in hours worked and wages. Therefore the main need for change is in the 10% rule for disregarded earnings. The question is how to do that.

Given that invalidity pensions and IRP are based on the same principles about incapacity for work (or earning capacity) why not simply adopt the same combination rules ? Some people argue that invalidity benefit is part of social security whereas the IRP is a residual means-tested scheme. This distinction does indeed provide a rationale for the fact that the level of the IRP-pensions is lower or at best equal to the invalidity pensions. But it does not justify why attempts to return to work should be less encouraged in the IRP scheme, especially because those people have often had less chances before they were disabled or because they have always been disabled. However, the existence of invalidity benefit and its combination rules somehow sets an upper level for new IRP-rules. It would in fact be hard to defend that people on IRP could have more disregarded earnings than people on invalidity benefit. If we accept this line of reasoning the question is no longer if we should keep the 10% IRP-rule (clearly not, also because no other country has such a strict rule !) but if the invalidity benefit rules are good enough to be applied to the IRP, when compared to other European models or should they also be changed ?

Which changes ?

In the Belgian invalidity pension scheme the earnings from work which may be combined with the pension are (re-)calculated on a daily basis; from the part of up to €10 a day nothing is deducted from the pension, for all the earnings which are higher a digressive rule is applied : 25% of the earnings between €10 and €20 is deducted from the pension, 50% of earnings between €20 and €30, and 75% of the earnings from €30 onwards.

The first level of completely disregarded earnings (€10 a day or €200 a month based on five working days a week) is lower than in Ireland (€480 a month) but higher than the basic amount in the UK (€120 a month). It is very hard to compare this amount to what is disregarded in Scandinavian countries because that is taxable income, on top of a taxable pension. Besides, in the Scandinavian countries, except Denmark, everything that is earned above this first level will be deducted from the pension. The Belgian rule for earnings above €10 appears to be quite generous up to a certain level. A rough calculation¹⁷ shows that when someone has a pension of €600 a month, works 20 days a month at €40 a day (earning €800 a month), €15 a day or €300 a month will be deducted from the pension which will thereby be halved and the person will end up with $(600 - 300) + 800 = €1\ 100$. Under the current IRP-rules, and after a possible three month period in which pension and earnings could be combined completely, the person would only keep 10% of the earnings, which is €80 and the rest $(800 - 80) = €720$ would be deducted from the €600-pension meaning that no pension would be left ! However, this situation is probably not at all typical for IRP-pensioners, because most people might not work every day of the month and have low earnings in which case relatively more will be kept (e.g. when the income of a few days work is re-calculated on a daily basis, then people might even stay below the €10 a day or €200 a month line and nothing would be deducted under the invalidity benefit rules, whereas only €20 of €200 could be kept under the IRP rules).

One should also look at other social benefits in Belgium to see how this compares. In Belgium, a person on unemployment benefit is allowed to top up the unemployment benefit with earnings from work in a special employment scheme (PWA) for maximum 45 hours a month at a netto wage of €4.10, which adds up to maximum €184.5 a month. This is nearly the level of €200 in the invalidity benefit scheme.

Does that mean that when the invalidity pension rules were to be applied to the IRP, all the benefit trap problems will be solved ? There would certainly be an improvement in the combination rules which would be of profit to many people who may not be able to take up a full time job, but can still perform some work. But a problem may rise about how to

reconcile this with the existing three month period of complete disregard. As we have said there is some confusion about this rule, as we do not know for sure if and how it can be used in consecutive years. First of all, as in Sweden which has a similar three month rule, there should be an obligation to declare such earnings to the pension administration (that is not the case now). The earnings from such a three month period could be disregarded completely if it turns out that a person is no longer a pensioner, for example in the 12 months following the three months because he/she is at work. If the person remains a pensioner then basic rules (copied from the invalidity pension) might be applied to the income made in those three months, or indeed over all the year.

There are other benefit-side interventions to combat benefit traps and stimulate return to work which could be applied to the IRP-scheme. We have no evidence that going off the Belgian IRP-scheme makes one lose important secondary benefits, but if there are this problem should be looked into. Given the current regulations, the entitlement to another important benefit, the integration allowance, should not be affected (unless the income from work is above the limit that applies to this benefit). Currently there is no guaranteed period of return to then pension system if the attempt to work fails. Such a guarantee exists in all the countries we researched, and it is therefore probably a good idea to install a system of 'dormant or frozen' pension, not only in the IRP but also in the Belgian invalidity scheme.

Return-to-work for pensioners is in many countries supported either by the pension administration itself or by other agencies (e.g. in Sweden, Denmark, the UK, Norway, Ireland). Invalidity pensioners in Belgium are supported by the medical advisor and social workers of the insurance company (mutualiteit - mutualité). There is no such support in the IRP-administration, but people may get support from other agencies (in fact also from the health insurance companies, or from regional organisations such as employment placement agencies or supported work organisations). However, there is no official link between all those external agencies and the IRP-benefit administration and they do not have to report to one another. This may not be necessary as long as the earnings are very low, but up from a certain level (e.g. above the completely disregarded € 10 a day) one might request that the benefit administration is informed by the person himself and by the support agency about the efforts for (re-) integration. This would also allow to see if, at a certain level of activity, it is possible to move on to work with (or without !) a wage-subsidy, rather than staying on pension.

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- 1 We will use the term benefit in a general sense, the disability pension is one specific type of benefit.
 - 2 Inkomensvervangende tegemoetkoming (IKV) / Allocation de remplacement de revenus (ARR).
 - 3 this section is largely based on
 - Svärd, Catarina (2003) Sickness compensation and activity compensation. The reformed disability pension system. In : Gould, R. and Laitinen-Kuikka, *Current Trends in Disability Pensions in Europe. Proceedings from a seminar held in Helsinki on 8th April 2003.*
 - Additional information received from Karin Wolski, Försäkringskassan - Sickness benefit department - Head Office.
 - 4 Bäckbro, K. et.al. (2004) "*Aktiveteter inom aktivitetsersättningen*", Riksförsäkringsverket, Stockholm.
 - 5 Most of the information was provided by Jan Høgelund, Senior Researcher, MSc, PhD, the National Institute of Social Research, Copenhagen.
 - 6 The description of the assessment is taken from : W.E.L. de Boer, V. Brenninkmeyer, W. Zuidam (2004) *Long-term disability arrangements. A comparative study of assessment and quality control.* TNO Work and Employment, Hoofddorp.
 - 7 The Belgian equivalents are : (1) De verzekering Arbeidsongevallen en Beroepsziekten (2) Primaire Arbeidsongeschiktheid en Invaliditeit (3) Inkomensvervangende tegemoetkoming.
 - 8 *Report of the Working Group on the Review of the Illness and Disability Payment Schemes.* Department of Social & Family Affairs, September 2003.
 - 9 There is no (minimum) wage for people in sheltered employment, as we have in Belgium. They keep their DA and generally receive small weekly top-ups ranging up to about €25.
 - 10 The objective of Community Employment is to give long-term unemployed persons and other disadvantaged persons an opportunity to acquire training and work experience through part-time employment on community projects. A year is the norm for CE but this can be extended.
 - 11 With thanks to Prof. Bjørn Hvinden (NTNU-Trondheim), H.D. Stubberud (Senior executive officer with the Rikstrygdeverket, Oslo) and to Oystein Spjelkavik (Senior researcher at the Oslo Work Research Institute)
 - 12 Information taken from the web-site of Kela (The Social Insurance Institution of Finland)
 - 13 Thornton, P. (2003) *What Works and Looking Ahead. UK Policies and Practices Facilitating Employment of Disabled persons.* Social Policy Research Unit, York, UK. page. 9
 - 14 <http://www.jobcentreplus.gov.uk/documents/PW1V2.pdf>
 - 15 Thornton, P., op.cit., pag.10.
 - 16 Macfarlane, R. (2005) Australia's Supported Wage System - an Affirmative Action Industrial Relations Initiative for Workers with Disabilities. in : *Congress Book of the 7th EUSE Conference 'Supported employment : naturally the right choice.* Barcelona 15-17 June.
 - 17 The figures are 'gross-income'. In fact the calculation would even turn out better for the person as the earnings would first be reduced with the social security contributions which the person has to pay.