

Social Insurance for Permanently Disabled Workers

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MUCH PROGRESS has been made in recent years in removing from the shoulders of families the burden of caring for aged persons after their working days are over. The Federal old-age insurance program has opened a way to employees in industry and commerce whereby they, with the help of their employers, can provide an income for themselves after they have retired from gainful work. But no similar protection is available to the worker forced to leave gainful employment because of disability. If chronic disability cuts short the usefulness of the breadwinner, it is still primarily the responsibility of the family to provide for him. Since the disabled may need medical and nursing care in addition to maintenance, the burden of disability is generally heavier than that created by old age.

The social insurance method is applicable to the risk of disability as well as old age. Through social insurance, cash benefits can be provided for the disabled worker; the resources of families which often must be used for the support of the disabled can be set free to meet the more important needs of children, upon whom the future of society rests.

Disability insurance is not unknown in this country. Most retirement systems established on the basis of law provide benefits in case of disability, in addition to old-age retirement allowances. One of the best known examples of a retirement law which combines old-age and disability allowances is the Railroad Retirement Act established by Congress in 1935. The primary purpose of that act is to provide retirement allowances for aged railroad workers; but the law also gives benefits to workers who are totally and permanently disabled for regular employment for hire, if they have reached age 60 or have rendered 30 years' service on the railroads. By the inclusion of such disability allowances, the retirement age becomes somewhat flexible and is adjusted to the state of health and the working capacity of the individual worker.

The arbitrariness of a retirement age fixed uniformly for all insured individuals is also avoided

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in most retirement laws for Federal, State, and local employees. Nearly all systems for various groups of Federal employees grant disability benefits in addition to old-age benefits. Eight of the eleven retirement laws for State employees in effect at the beginning of 1938 contain disability as well as old-age retirement provisions. All retirement systems for employees of the larger cities also provide disability allowances, and of the employees covered by the smaller municipal retirement systems about 70 percent are insured against disability. Disability benefits are included in all but very few teacher retirement systems, and they are found in most pension systems for policemen and firemen. Altogether, nearly 80 percent of the public employees who are covered by a retirement law enjoy protection against disability as well as old age. Many private retirement plans also provide protection against disability.

The Federal old-age and survivors insurance program for workers in industry and commerce is the only major retirement system in this country which fails to provide benefits for insured workers who are forced to retire from gainful work because of disability. Under this law an insured worker can receive a benefit only after he has reached age 65; should his health fail before that age, the Federal insurance system affords him no protection at that time.

Experience under the older retirement laws of this country indicates that it is sound to keep the retirement age flexible and that it is feasible to combine an old-age retirement system with a system of insurance against chronic disability. The purpose of both systems is to enable workers with reduced earning capacity to retire from gainful work, and to fill the vacancies created by their retirement with workers of unimpaired efficiency. The retirement from the labor market of workers disabled before age 65 is a necessary step in efforts to increase the productive capacity of the Nation. The following discussion on ways and means for extending the scope of old-age and survivors insurance to include disability benefits has

drawn extensively on long years of experience of public retirement systems in our own country. The results obtained abroad under systems of disability insurance have also been utilized.

The Federal old-age and survivors insurance provisions insure workers in industry and commerce against two risks—old age and death. As soon as a person enters an employment covered by the law, he and his employer are subject to the payment of contributions. Before benefits are payable, a worker must have earned at least a minimum amount of wages from covered employment extending over a specified period of time. Old-age benefits are paid to the insured worker after retirement at age 65 or thereafter and to his wife if she is also at least 65 years of age. If an insured worker dies, survivors benefits are paid to his widow if she has dependent children in her care or has attained age 65, and to his dependent children until age 16—or age 18 if they continue to attend school. If the insured worker leaves no widow or unmarried child under the age of 18, benefits are payable to his aged dependent parents. Old-age and survivors benefits vary in amount from \$10 to \$85 a month, depending on the wages received by the worker from covered employment, the number of years during which he worked in covered employment, and the number of persons in the family who are eligible for benefits.

To what extent are the benefit provisions of old-age and survivors insurance applicable to a system of disability insurance, what new provisions would need to be added, and in what respects would the present law need to be changed so that the combined insurance system against the risks of old age, disability, and death could be soundly and effectively integrated?

Definition of Disability

The most important and also the most difficult question to be answered concerns the types of disability which should come within the purview of a new law. The purpose of a disability insurance system is to grant a benefit to workers who are forced to leave gainful employment for long periods of time or permanently because of loss of, or substantial reduction in, earning capacity due to illness, loss of limb, or other impairment of body or mind. This purpose is similar to that of old-age insurance, which pays benefits to in-

sured workers from the time of retirement to the date of death. Because disability insurance requires the payment of benefits over long periods of time, it can be, and often has been, fitted into old-age retirement systems.

Some of the questions which must be answered in deciding how disability should be defined may be illustrated by reference to existing retirement laws which furnish protection against disability. Under the retirement law for the civil-service employees of the Government, for example, an employee meets the test of disability if, by reason of disease or injury, he is totally disabled for useful and efficient service in the position occupied by him. The Railroad Retirement Act requires that a railroad worker be "totally and permanently disabled for regular employment for hire" before he is granted a disability benefit. Under United States Life Insurance, purchasable by persons who served in the military or naval forces of the United States during the World War, total permanent disability is any "impairment of mind or body which continuously renders it impossible for the disabled person to follow any substantially gainful occupation, and which is founded upon conditions which render it reasonably certain that the total disability will continue throughout the life of the disabled person."

The three definitions cited differ in several respects. The most liberal is that incorporated in the civil-service retirement law, not only because it contains no requirement that the disability must be permanent but also because it makes no stipulation concerning earning capacity in other occupations. The other two definitions make permanency of the disability, or reasonable certainty that it will be permanent, a prerequisite for the receipt of benefits. The Railroad Retirement Act grants disability benefits only if the disability is so severe that the insured worker cannot be regularly employed for hire in any occupation. The United States Life Insurance considers an insured person disabled if he cannot follow any substantially gainful occupation, and leaves to the discretion of the Veterans Administration the determination of the conditions under which an occupation is to be considered substantially gainful. In practice, the Veterans Administration interprets these provisions with regard to the circumstances surrounding each individual case, instead of applying a uniform test to all claimants.

The definition of disability under United States Life Insurance rests on a concept which might well be incorporated in a disability insurance law of wide scope. Disability is measured in terms of reduction in earning capacity; if the reduction is such that the worker can no longer engage in "substantially gainful work," he is considered disabled. If that concept were adopted, the term disability might be interpreted with regard to the past-earnings history of the insured worker. "Substantial earnings" would be a greater amount for the worker whose earnings' level was fairly high prior to disability than for the lower-paid worker. Such variation in the interpretation of what constitutes "substantial earnings" would be in line with the principle already embodied in old-age and survivors insurance that benefits should be graduated according to the wage loss of the worker.

Both the Railroad Retirement Act and United States Life Insurance require a finding of permanence of disability before an insured person may be certified as disabled. Experience confirms what common sense indicates, that it is difficult in many cases to predict with certainty that a disability will continue without improvement throughout the remainder of a person's life. One test of the chronic character of a disease or disablement—but by no means an infallible one—is its elapsed duration. Commercial insurance companies utilize this test in interpreting the permanent disability clauses incorporated in life insurance contracts. Commonly, an insured person is adjudged disabled if the disability has lasted 4 to 6 months, and the continuance of the disability may be tested by reexaminations at periodic intervals. Such an interpretation of the term permanence has many administrative advantages, because it requires merely an investigation of a past, and a periodic checkup on a current, condition rather than a prophecy regarding the future development of a disease.

A 6-month waiting period would exclude most disabilities of a temporary character, although some last more than 6 months. If disability benefits are to be restricted to persons who suffer a chronic disability or one presumably long-continued or permanent, a prognosis of the disability must be made after expiration of the 6-month waiting period. If the prognosis is doubtful, the findings of the examining physician may be supplemented by the results of the examinations by

specialists or of laboratory or clinic tests, or the claimant may be hospitalized for diagnostic or prognostic purposes. Certifying officers could base their decision on the results of several examinations conducted with a view toward resolving all reasonable doubts as to the probable duration of the disability.

Relationship of Disability Insurance to State Workmen's Compensation Laws

The State workmen's compensation laws provide compensation for workers whose earning capacity has been impaired by injuries sustained in the course of employment. Some laws also provide benefits for workers suffering from occupational disease. If duplication of benefits is to be avoided, the general disability insurance system must include a provision which draws a clear division line between these two systems, both of which serve the common purpose of replacing at least a portion of the wages lost because of disability.

An analysis of 54 workmen's compensation laws of the United States and its Territories, which was made by the Department of Labor at the beginning of 1940, shows considerable variation among the provisions. All 54 laws provide protection against permanent total disability of industrial origin. Only 16, however, pay benefits throughout the injured worker's life; 38 laws limit permanent disability benefits with respect to either the number of weeks during which they may be drawn or the total amount which may be paid in benefits or with respect to both duration and total amount. Nearly one-half of all the laws are confined to the compensation of accidental injuries, although a number afford protection against some or all occupational diseases.

Coverage is by no means uniform. Some laws apply only to employees engaged in hazardous employments. Many exempt employers of less than a certain number of workers. Employees engaged in agriculture, domestic service, and casual work are usually excluded from protection, and in some of the States certain other occupations are likewise excluded.

The term disability is not defined uniformly. In some States, it means inability to earn wages at the work in which the employee was engaged at the time of the injury; in other States it means the inability to perform any kind of work which

might be obtained; and some courts have decided that an injured worker is to receive compensation if he is unable to obtain work.

Finally, there is still one State with no workmen's compensation system.

The lack of uniformity in workmen's compensation provisions makes it difficult to establish a uniform division line between workmen's compensation and disability insurance. There are, however, various alternative ways in which the two systems may be related to each other.

One possibility would be to exclude from the Federal disability insurance system all disabilities arising out of or in the course of employment. The compensation of such disabilities would be left to the States. While this solution would preclude Federal duplication of benefits actually or potentially payable under workmen's compensation, it has a number of drawbacks. In the first place, except in the States with the most liberal workmen's compensation laws, a no-man's land would remain between disability insurance and workmen's compensation coverage or protection. A disabled worker might be disqualified under the Federal law because the origin of his disability was found by the Federal officers to have been connected with his work. Yet under a number of circumstances he might fail to qualify for workmen's compensation under State law, either because his employment was excluded from the State system or because his right to workmen's compensation was exhausted. Or the State might have determined that the disability was not due to his employment. Or he may live in the one State with as yet no workmen's compensation law.

It is evident that the exclusion of work-connected disabilities would complicate the administration of a general disability insurance system. In each case, the certifying board would have to investigate the origin of the disability. The task of determining whether a given disability arose out of or in the course of employment would often be difficult and complex, as is well known from experience under workmen's compensation. Moreover, even after all necessary care had been exercised, a worker might be denied benefits under both systems because the Federal Government had decided that his disability was work-connected, while the State found to the contrary. Or duplicate benefits might be paid if the Federal Government should determine that the disability

was of nonindustrial origin, while the State found that it did arise out of or in the course of employment.

All these difficulties could, however, be eliminated by providing that benefits under the Federal law would be payable in those cases in which the State authorities held that the disability was not covered by the State law. Such a provision would, of course, make the application of the Federal law dependent on the action of State legislatures and administrative agencies in determining the extent to which State workmen's compensation laws would cover industrial disabilities.

Another way to avoid these difficulties would be for disability insurance to follow the precedent of the Federal old-age and survivors insurance program, under which the survivors of deceased insured workers receive benefits without regard to the cause of death. Likewise, disability insurance might pay benefits to all eligible workers who were disabled within the meaning of the law even if the disability was of industrial origin; the physical or mental condition of the claimant would be the sole criterion for the certification of disability. The connection between the disability and the employment of the worker would not need to be investigated.

This solution has obvious administrative advantages. If it is adopted, however, a worker entitled to workmen's compensation under the law of his State may receive two benefits, one from the Federal Government, the other from the State or other carrier of workmen's compensation insurance. The combined benefits may exceed the limits usually incorporated in social insurance laws to keep benefits below the wages which the worker earned from gainful employment.

Having in mind the limitation of social insurance funds, the Social Security Board has advised against the piling up of benefits under parallel State and Federal legislation. The Board believes that duplicate benefits should be paid only insofar as they may be needed for the maintenance of the worker and his family. If the general disability insurance system grants benefits for disabilities which entitle the worker to workmen's compensation under State law, some arrangement should ensure that the combined benefits do not exceed the wages earned by the worker before he became

disabled. This result may be achieved by adjusting the Federal benefits, if the worker is eligible for workmen's compensation and if the combined benefits exceed a specified limit.

Amount of Disability Benefit

Some of the retirement laws for public employees compute the disability benefit in the same way as the old-age benefit. Would it be feasible to use in the disability insurance law the benefit formula used to determine the amount of the old-age benefit under the present Federal program? This formula combines various elements which are desirable in a social insurance system. The benefit is graduated according to the wages received by the worker. The lower-paid worker receives a higher proportion of his wage than the higher-paid worker. The benefit is increased in proportion to the number of years during which the worker was covered by insurance. And finally, allowances are granted to the dependent children and the aged dependent wife of the beneficiary. Should these elements be incorporated in the disability benefit formula?

The principle that the benefit should increase with the wage of the worker is included in nearly all social insurance laws of the United States and has found general approval. That the lower-paid worker should receive a higher proportion of his wage than the higher-paid worker has also been generally accepted as socially sound. Without doubt, these two principles should be incorporated in the disability benefit formula.

Basic old-age and survivors benefits are increased by 1 percent for every year the worker spent in covered employment. Valid reasons may be advanced for elimination of this increment from the disability benefits. Except for congenital defects, permanent disability is relatively infrequent in youth and early adult life. The incidence of permanent disability rises with age and increases sharply from about 50 years on. At the higher ages, it shades over gradually into the disability of senescence. Withdrawal from gainful employment, prior to the statutory retirement age, on grounds of disability, should be discouraged unless the disability is so severe that continuance in gainful work is impossible. Hence, it may be desirable to offer some inducement to workers to defer retirement as long as possible. If the disability benefit is less than the old-age benefit, the worker ap-

proaching age 65 will have an interest in postponing his retirement so as to receive the higher benefit at age 65. Such a result may be achieved, particularly for future years, by eliminating the increment from the calculation of the disability benefit.

Whether such a differentiation in the amount of the disability and the old-age benefits would be effective in persuading workers not totally or substantially disabled to defer retirement is open to some question. The brief experience under old-age insurance indicates that the benefits are not large enough to persuade workers to retire from gainful work so long as they are able to hold a job paying substantial salaries or wages. If this limited experience is an indication of what would happen under disability insurance, workers would apply for disability benefits only if they had lost their jobs and were unable to find new ones or were so disabled that they could not earn amounts substantially as large as, or larger than, the potential benefits. In that case they would claim a disability benefit immediately rather than wait a few years to get the larger old-age benefit. Accordingly it may be argued that the same formula should be used for both the disability and the old-age benefit.

Supplementary Allowances for Dependents

Whether the wife of the disability beneficiary should receive an allowance is another difficult question. Under old-age insurance, the wife of a beneficiary receives a wife's insurance benefit only if she herself has reached age 65. Similarly, under the provisions for survivors, a widow's insurance benefit is deferred to that age unless the widow has in her care dependent children of the insured worker. If the age requirement for a wife's allowance under disability insurance were placed at age 65, such allowances would be paid in rare instances only, for the disability benefit itself would cease at age 65, when it would be replaced by an old-age benefit; if the wife's allowance were confined to wives who had attained age 65, only wives older than their disabled husbands would receive an allowance.

The age requirement of 65 for the receipt of wife's and widow's allowances is presumably based on a tacit assumption that prior to that age women can earn their living. However, the invalid husband may need such constant care that

the wife is not free to leave the home to work. From this point of view it would be desirable to grant an allowance to the wife of a disabled beneficiary without regard to her age.

On the other hand, elimination of the age requirement for wife's allowances in disability insurance would not be in harmony with the retention of the age requirement in old-age and survivors insurance. It would be illogical to make the wife of a disabled worker eligible to an allowance irrespective of her age, and demand that the wife of an old-age beneficiary wait until she has reached age 65 before she can receive an allowance. Moreover, it would be somewhat inconsistent to grant an allowance to the wife of a disabled worker while her husband is alive, even though she is under 65, and to discontinue the allowance after his death until she becomes 65. On logical grounds it would seem that the age requirement must be eliminated from the wife's and widow's allowances in old-age and survivors insurance if the wife of the disabled worker receives an allowance regardless of her age. Finally, if the wives and widows of insured workers were to receive benefits regardless of age, it would seem difficult to justify the retention of an age requirement of 65 for gainfully occupied women who are insured in their own right.

These difficulties may be overcome by limiting the allowance to cases involving disabled workers who are in constant need of care and attention by another person. Such attendants' allowances might be granted to all beneficiaries regardless of their marital status. If the beneficiary's wife performed the functions of an attendant, the allowance would go to her; in other cases, the allowance might be used by the beneficiary to hire an attendant.

Attendants' allowances, though socially desirable, may be difficult to administer. The examining physician must make a separate finding as to the severity of the disability and the need for attendance, and the administrative agency must supervise the expenditure of the allowance to assure that it serves the purpose for which it is granted. From the administrative point of view it may be desirable to defer the introduction of attendants' allowances until the machinery for certifying disability and for the payment of disability benefits is operating smoothly.

While it does not appear feasible to grant wife's

allowances in all cases, a benefit may be paid to the wife if she has in her care one or more minor children of the beneficiary. Such a provision would be in harmony with the provision of survivors insurance under which widows of any age are eligible for benefits while they care for the minor children of the insured worker.

There can be little doubt as to the desirability of increasing the benefit on behalf of dependent children of the disabled beneficiary. Benefit amounts at present provided for individual workers under old-age and survivors insurance may be sufficient for persons without dependents; for families they may be seriously inadequate. As under old-age insurance, the basic benefits should be supplemented when the beneficiary is responsible for the maintenance of minor children.

Eligibility

To be eligible for old-age benefits, a worker must have been insured for roughly one-half of the time during which he could have been covered by the insurance system. After he has acquired 40 quarters of coverage, with \$50 of wages from covered employment in each of these quarters, he retains his insurance rights permanently even if he should cease to work. If, for example, a worker acquires 40 quarters of coverage by steady employment in covered occupations between ages 20 and 30, his right to an old-age benefit will be maintained to age 65. The question whether or not he is still attached to covered employment at the time of retirement is irrelevant provided he worked in such employment for a sufficiently long time in his earlier working life.

For disability insurance it would seem desirable to require proof that some of the covered employment was recent. Disability is more difficult to determine than the attainment of age 65, and, since the purpose of disability benefits is to replace wages lost because of chronic illness or impairment, a recent work history is of great importance, particularly in a system offering limited coverage. Consequently, the eligibility requirements for disability insurance should be so designed as to exclude from benefits persons who have been out of covered employment for a long time or have left it permanently. In addition to the half-coverage requirement of old-age insurance, the worker should be required to show his normal attachment to covered occupation by some recent employment

in such occupations. It should not be required, however, that he actually have such employment at the time he applies for disability benefits or immediately preceding his application. Insurance rights should be maintained during a considerable period after the worker leaves employment, because many chronic illnesses and permanent disablements are gradual in their onset, and the eligibility requirements should be so designed as to keep the insurance of the worker in force for at least a reasonable length of time during a period of gradually waning earning capacity.

Maintenance of Rights to Old-Age and Survivors Benefits

Through the introduction of disability insurance, a serious shortcoming could be removed from the present old-age and survivors insurance. As has been pointed out, the receipt of old-age and survivors benefits is conditional upon the worker's having been in covered employment for a certain length of time and his having earned at least a minimum amount of wages from such employment. Insurance rights may be lost if illness prevents the worker from following his occupation, particularly if the illness is of extended duration. If the present law were amended to preserve insurance rights during periods of disability, a mechanism would have to be established to determine disability in order that such periods could be recorded on the worker's wage record, maintained by the Social Security Board for the purpose of determining insurance rights. However, after the introduction of disability insurance, periods of certified disability during which the worker is in receipt of disability benefits can be readily entered on the wage record of the worker, and his eligibility for old-age and survivors benefits can be determined by omission of these periods. Thus, in effect, the insurance rights of the worker would be maintained during periods of certified disability. The provision of disability insurance would therefore operate to enhance greatly the protection afforded by old-age and survivors insurance.

Certification of Disability

As used in a social insurance law, the term disability is not purely a medical concept. Unless the disability results in economic loss, it is not compensable under the insurance system. In the

certification of disability, a medical examination determines the physical and mental condition of the claimant for benefits. The economic loss resulting from disability must be measured by an administrative officer familiar with the conditions of the labor market and conversant with the practices of employers in hiring, or refusing to hire, persons with physical or mental impairments. To determine disability, the physician and the labor-market expert must combine judgment. The development of certifying procedures will be facilitated if advantage is taken of experience accumulated under retirement systems for public employees and railroad workers, under pension legislation for veterans, and workmen's compensation systems. Valuable guidance in planning for effective administration may also be derived from study of the practices evolved abroad as a result of many years of experience in operating disability insurance systems of wide coverage.

Rehabilitation

The provision of a small cash income for the worker who has lost his earning capacity would assure him basic security. For the worker whose invalidity is incurable there is no other solution. But the problem of chronic disease should be attacked simultaneously from another front. Not only are prevention of invalidity and restoration of working capacity more valuable than cash benefits from the point of view of the worker and of society, but they may result also in considerable savings for the insurance system through the removal of persons from benefit rolls.

A large majority of all chronic disablements are caused by a few groups of diseases. Nervous, mental, and cardiovascular-renal diseases are commonly the most important causes of chronic disability. Next in importance are accidents, tuberculosis and rheumatism, arthritis and allied diseases. Medical science still seeks cures for many of the chronic ailments which befall men and women as they approach old age. For persons afflicted with diseases which cannot yet be cured, the only solution is the provision of a cash benefit for the remainder of their lives. But there are others who suffer from conditions which can be arrested or remedied, in part or in whole, if proper care and treatment are furnished. Indeed, the payment of cash benefits from a social insurance fund can scarcely be justified if working

capacity can be restored through an operation or treatment or through rest in an appropriate home or institution. In the interest of the insurance system, of the insured worker, and of society, funds should be available for necessary treatment and care if there is a reasonable likelihood that the worker may once more become capable of earning his living.

The value of rehabilitation programs for disabled persons is attested by the results obtained in foreign countries which have had considerable experience. In the United States within recent years the Department of Public Assistance of West Virginia has conducted a physical rehabilitation program with considerable success. Funds are available for surgical or medical treatment and hospitalization of adults in receipt of assistance or relief, if they are, or may be expected to be, incapacitated for gainful occupations by reason of a physical defect or infirmity. These services cost little in comparison with the cost of relief for a permanent invalid and his dependents. Under the West Virginia program, a relief client is eligible for health services when he is merely in danger of becoming an invalid. Incapacity need not have developed fully—the program aims at prevention as well as cure; it recognizes the importance of early diagnosis and care. Physical rehabilitation services should be rendered before the worker has become a permanent invalid. Those should be selected who have the best chance of being rehabilitated.

Retraining for a new occupation, or occupational rehabilitation, may restore earning capacity for persons who are prevented from following their ordinary occupation by a chronic disablement. The retraining programs which are in effect in most States are subsidized by the Federal Government. These facilities should undoubtedly be available to incapacitated workers insured under the Federal social insurance program, and the cost of such training should be met by the insurance fund.

Physical rehabilitation prolongs and restores the earning capacity of insured workers. Vocational rehabilitation utilizes the remaining earning capacity of a person who can no longer pursue his ordinary occupation. For those who cannot be rehabilitated, cash benefits should be provided.

A program of social insurance against disability should, therefore, have a threefold purpose: medical and hospital care to prevent and cure chronic disease; occupational retraining for persons with chronic impairments; cash benefits for the chronic invalid. If public efforts to alleviate the effects of chronic disease are organized around a system of disability insurance, the resources of the insurance system may be used to attack the problem of chronic disease on a broad front. Until medical science has found solutions for the problem of the chronic diseases, the emphasis of disability insurance must of necessity be placed upon social security through the provision of a cash income for victims of chronic disease