Social security benefits and disability assessment in the working-age population in South Africa

Authors

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Accommodating persons with disabilities in the workforce increases self-sufficiency and decreases dependence on social security benefits. Increased labour force participation adds to the tax base.

Evaluation of disability in the working-age population is key in accessing benefits in South Africa’s social security framework. A common requirement across specific institutions is medical assessment of impairment and/or disability. Medical assessments are required to obtain social security benefits, namely social assistance (disability grants), mandatory social insurance (Unemployment Insurance Fund, Road Accident Fund, and Workers Compensation), and voluntary social insurance benefits. These benefits help to alleviate the challenges hindering affected individuals from equal participation in society. Limited literature is available on medical assessments for social security benefits in the South African context.

Public- and private-sector secondary information and data were used to discuss the current South African legislative and social security landscape and medical-assessment mechanisms.

A framework for disability assessment is provided. It aligns with the United Nations Convention on the Rights of Persons with Disabilities, and facilitates integration of persons with disabilities into society. Social security reforms, implementation of National Health Insurance and its integration into the social security framework, a multidisciplinary team approach, monitoring and evaluation, training and the development of evidence-based guidelines, and addressing barriers would facilitate successful implementation of the framework. In addition, these recommendations would enhance the quality of medical assessments done for disability benefits.
**Introduction**

A standard requirement for the evaluation of disability in the working-age (15-64 years) population in South Africa is a medical assessment of impairment and/or disability. Although often used interchangeably, impairment and disability assessments are two distinct entities. Impairment relates to a problem in body function or structure, such as a significant deviation or loss. In contrast, disability is an umbrella term for impairments, activity limitations, and participation restrictions. The legal definition of disability is an important component of the medical assessment and its breadth and interpretation guide the outcome of the disability assessment. The legal framework should function to promote independence and integration of persons with disabilities into mainstream society. This has not always been achieved in practice.

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), ratified by South Africa in 2007, recognises disability as “an evolving concept” that results from the interaction between persons with physical, psychosocial, intellectual, neurological and/or sensory impairments, and barriers that hinder their full and effective participation in society on an equal basis with others. Barriers may be social, psychological/attitudinal or structural/environmental. Disability is therefore contextual, and for a disability to exist, an impairment must be present together with barriers to full participation in society.

This chapter explores the medical assessment of disability in the working-age population across the South African social security framework. Disability benefits are provided for and administered by various Acts and Regulations (Table 1).

### Table 1: Legislation governing payment of disability benefits in South Africa, 2020

<table>
<thead>
<tr>
<th>Act</th>
<th>Relevance</th>
<th>Definition of disability</th>
<th>Position on disability inclusion</th>
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<tbody>
<tr>
<td>Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000)</td>
<td>Prohibits unfair discrimination on the grounds of disability and provides for the promotion of equality with regard to disability.</td>
<td>None</td>
<td>Facilitates inclusion by preventing discrimination and advocating for accommodation of the needs of disabled persons.</td>
</tr>
<tr>
<td>Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993)</td>
<td>Provides for compensation for disablement caused by occupational injuries or diseases.</td>
<td>“Disablement” means temporary partial disablement, temporary total disablement, permanent disablement or serious disfigurement, as the case may be.</td>
<td>Lacks focus on rehabilitation and reskilling of occupationally injured or diseased workers to enable a return to functionality and successful reintegration into the workforce.</td>
</tr>
<tr>
<td>South African Social Security Agency Act (No. 9 of 2004)</td>
<td>Provides for establishment of the South African Social Security Agency (SASSA) as an agent for the administration and payment of disability grants.</td>
<td>None</td>
<td>Provides a form of social security to disabled persons, contingent on them not being fit for work in the open labour market. This counteracts the inclusion of persons with disabilities in the workforce.</td>
</tr>
<tr>
<td>Act</td>
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<tr>
<td>Social Assistance Act (No. 13 of 2004)</td>
<td>Regulates the assessment and payment of disability grants.</td>
<td>“Disabled person” means a person contemplated in section 9(b) of the Act.</td>
<td>Complex and lengthy process. The application of a means test results in 35% of those with severe functional limitation not being in receipt of a disability grant.</td>
</tr>
<tr>
<td>Labour Relations Act (No. 66 of 1995)</td>
<td>Provides for fair labour practices and guidance on the management of incapacity due to ill health or injury.</td>
<td>None</td>
<td>Places greater onus on employer accommodation of workers afflicted by occupational injury or disease, allowing for reintegration of disabled workers into the workforce; the Act also allows for termination of employment of incapacitated workers after following due process.</td>
</tr>
<tr>
<td>Employment Equity Act (No. 55 of 1998)</td>
<td>Aims to promote employment equity and eliminate unfair discrimination against persons with disabilities in the workplace.</td>
<td>Disability relates to a long-term or recurring physical or mental impairment that substantially limits prospects of entry to or advancement in employment.</td>
<td>Requires disclosure of disability for workplace accommodation; however, fear of stigma and potential job losses often impede disclosure.</td>
</tr>
<tr>
<td>Unemployment Insurance Act (No. 63 of 2001)</td>
<td>Provides for payment of temporary unemployment benefits due to illness.</td>
<td>None</td>
<td>Allows for payment of benefits to workers who are temporarily or permanently disabled.</td>
</tr>
<tr>
<td>Road Accident Fund Act (No. 56 of 1996)</td>
<td>Pays compensation for personal loss or damage wrongfully caused by driving of a motor vehicle, including loss of income and medical expenses.</td>
<td>None</td>
<td>No imperative for inclusion of disability, rather aims to compensate for impairment and loss of income.</td>
</tr>
<tr>
<td>Income Tax Act (No. 58 of 1962)</td>
<td>Relates to tax and disability.</td>
<td>Disability means a moderate to severe limitation of any person's ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, lasting more than a year, and diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.</td>
<td>Certain tax benefits are applicable to persons who meet the Act's definition of disability. Allows for payment of retirement annuities before the prescribed retirement age if the fund member is found to be totally and permanently disabled.</td>
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</table>
The South African social security framework

The South African social security (SS) system includes social assistance, mandatory social insurance, and voluntary insurance (Figure 1). In each of these cases, access to a disability-related benefit or compensation requires medical assessment of impairment and/or disability.

Social security challenges and reforms

Following recommendations by the Taylor Committee into a Social Security System for South Africa in 2002, there have been numerous discussions on SS reforms for the country. Key challenges and the recommended reforms are outlined in Table 2. Major reforms proposed include the establishment of a National Social Security Fund (NSSF) requiring mandatory contributions to allow disability benefits for the entire workforce, and a single consolidated government department focusing on SS and the alignment of National Health Insurance (NHI) with SS.

Figure 1: South Africa’s current social security system

Source: Department of Social Development, 2017.
<table>
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<tr>
<th>Social security type</th>
<th>Challenges</th>
<th>Reform proposal</th>
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<tr>
<td><strong>Pillar 1 – Social assistance</strong></td>
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<td>Unemployed adults who do not qualify for a disability grant or social/voluntary insurance are excluded.</td>
<td>Support in the form of: phased-in income support, further education and training, and youth employment programmes.</td>
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<td>High unemployment rate.</td>
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<td><strong>Pillar 2 – Social insurance</strong></td>
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<td>Absence of mandatory social insurance that provides disability benefits to the entire workforce. The self-employed, those in the informal sector or not part of a private group scheme must rely on individual cover. An estimated four million workers are without disability cover.</td>
<td>Establish a government-run National Social Security Fund (NSSF) to ensure a minimum level of protection for the entire workforce.</td>
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<tr>
<td>Healthcare</td>
<td>Less than 20% of the population belong to medical schemes.</td>
<td>Establish NHI and align social security with NHI once implemented.</td>
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<td>UIF (Unemployment Insurance Fund)</td>
<td>A large proportion of the workforce are excluded, and benefits are limited to eight months.</td>
<td>Expand current UIF services.</td>
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<tr>
<td>RAF (Road Accident Fund)</td>
<td>Fault-based compensation that often leads to protracted claims settlement. The system is expensive and unfair.</td>
<td>Implement a revised business model and Road Accident Benefit Scheme (RABS).</td>
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<td><strong>Pillar 3 - Voluntary insurance</strong></td>
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<td>High administration costs and charges, early withdrawals and non-preservation, governance structures.</td>
<td>Regulatory reform of pensions and life insurance industry, including more pro-active and comprehensive supervision to ensure that appropriate measures are put in place to safeguard member’s contributions and benefits and alignment with the NSSF.</td>
</tr>
<tr>
<td><strong>Institutional considerations</strong></td>
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<tr>
<td>Fragmented social security policy-making and delivery</td>
<td>Social security policies are spread across several government departments.</td>
<td>Improve policy coordination.</td>
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<td>Potential for high administrative costs and fraudulent claims.</td>
<td>Common interface and shared infrastructure.</td>
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<td>Lack of co-ordination in design and administration of disability benefits.</td>
<td>Align benefits and assessments, standardise disability assessments.</td>
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<td>Lack of coherence among social security arrangements</td>
<td>The different disability benefits have different access points and there is no co-ordination.</td>
<td>Common interface and shared infrastructure.</td>
</tr>
</tbody>
</table>

Source: Department of Social Development 2017, & Inter-departmental Task Team on Social Security and Retirement Reform 2012.
Disability-assessment mechanisms across the social security pillars

These medical assessments form the gateway to accessing the relevant SS benefits.

Social assistance
Disability grant
This is a means-tested grant that requires a medical assessment by a SASSA-approved medical practitioner at a dedicated medical facility within the public health sector. Applicants can either apply for a temporary grant or permanent grant, subject to review every 2-5 years. The decision for grant eligibility is usually made by the assessing medical practitioner using the SASSA Guidelines for the Medical Assessment of Disability for Social Assistance which assigns a percentage incapacity score based on clinical findings and social factors. No specific qualification is required to work as a SASSA-approved medical officer; however, in-house training is provided. Training is administrative and consists of a four-hour initial session and two hours annually, and does not cover the medical assessment. The time allowed for such assessments is insufficient, and as a result, decisions around disability assessment outcomes are sometimes arbitrary. It is suggested that persons with mild or less obvious disabilities are less likely to receive benefits. No quality-control mechanisms exist for these assessments, and finding enough medical officers willing to perform these examinations, particularly in remote areas, has been challenging. The many steps involved in the application and assessment process often act as an obstacle to individuals with profound disabilities and are likely exclude a significant number of eligible applicants from applying for the grant.

Social insurance
Road Accident Fund
Under RAF legislation, a medical evaluation is required to inform payment of general damages (non-pecuniary loss); this is paid as compensation for “loss of amenities of life, pain and suffering, disability and disfigurement to persons who have suffered bodily injury in a motor vehicle accident”. The RAF restricts liability to circumstances where a “serious injury” has been sustained. This is defined as an injury not on the list of non-serious injuries and either resulting in 30% or greater whole-person impairment using the American Medical Association (AMA) Guides or meeting the criteria of the narrative test. The Health Professions Council of South Africa (HPCSA) Appeal Tribunal has published a guideline for the performance, structure, content and criteria of the narrative test. Implementation of this guideline is not legislated.

To lodge a claim for general damages, a “RAF 4 - Serious Injury Assessment Report” form must be completed by a registered medical practitioner. Although the law does not explicitly prescribe practitioner training, it is an implicit requirement that the assessing medical practitioner has successfully completed AMA Guide 6th edition training. The involvement of a multidisciplinary assessment team is not prescribed; however, the medical practitioner may submit supporting medical evidence, such as assessments by specialists and allied health professionals. If the claim is declined, the RAF is required to provide reasons and the claimant has up to 90 days to lodge an objection. The dispute is referred to an appeal tribunal consisting of three suitably qualified independent medical practitioners. Legal input may be obtained based on the opinion of the members of the appeal tribunal. The tribunal forms a majority decision, and its findings are considered binding. The HPCSA 2018|19 Annual Report noted that 4 788 disputes were received by the appeals tribunal for the year under review.

If the claim is approved, then the RAF covers the costs associated with the assessment, otherwise the claimant is responsible for the costs. Due to the specialised nature of these evaluations, individuals seeking medical assessment for the purpose of RAF compensation are mostly limited to private-sector providers. This may involve out-of-pocket expenditure, and individuals with severe disabilities and/or financial constraints may have limited access to assessments. The RAF 4 must be submitted within a five-year timeframe. The RAF is required to provide feedback to the claimant within 90 days.

The following areas of concern have been noted regarding the medical-assessment process:
- Interrater variability in the AMA assessments submitted.
- Incorrect application of the AMA Guides in assessments, leading to incorrect claims decisions.
- Inadequacy of the AMA Guides to accurately assess serious injury as a stand-alone tool due to its failure “to take the circumstances of the third party into account effectively”.
- Sub-par narrative test reports.
- Invalid claims and rejections.

Unemployment Insurance Fund
The UIF provides a temporary sickness benefit of up to one year for eligible employees. Benefits are payable for an illness lasting longer than 14 days. UIF benefits are normally paid out if administrative requirements are met and relevant information is provided by the medical practitioner. Little is known about the assessment procedure of claims received.

Compensation Fund
Eligible workers are entitled to paid sick leave, medical care, and temporary and permanent disability benefits in the event of an occupational injury or diagnosis of an occupational disease. The reporting process requires medical evaluation (public or private) and submission of specific forms to the Compensation Commissioner for adjudication. Claim acceptance results in coverage of
medical expenses, sick leave and medical treatment and rehabilitation. Following maximum medical improvement (MMI), a decision on permanent disablement (PD) is made by the CF based on clinical findings and pre-defined CF impairment criteria. A PD less than 30% qualifies a claimant for a lump sum, while a PD greater than 30% qualifies a claimant for a pension.32,33

There is little uniformity in medical assessments and a huge backlog of unresolved claims. Reasons for this include the poor quality of medical information received, lack of standard processes for evaluating impairment, and limited capacity and lack of expertise to adjudicate such claims.34 An appeals process is allowed for claimants who wish to challenge compensation outcomes. In order to address challenges, the CF is likely to move towards using the AMA Guides for the adjudication of occupational disease and injuries as reflected in the draft Regulations published recently.35 In addition, the Department of Employment and Labour (DEL) has decentralised the functions of the CF and focused on improving claims-processing efficiency and building capacity at provincial level.

Compensation Commissioner for Occupational Diseases
The Compensation Commissioner for Occupational Diseases (CCOD) fund compensates current and ex-mineworkers for lung disease contracted because of occupational exposure to mine dust in terms of the Occupational Diseases in Mines and Works Act (ODMWA).36 Current and former mineworkers are entitled to statutory benefit medical examinations at accredited facilities, biennially. Claims are submitted to the Medical Bureau for Occupational Diseases for medical adjudication. Specific statutory guidelines are used to determine impairment and disability, and a standard lump sum is paid out based on first-degree or second-degree impairment. Little is known about quality-control measures in place to ensure fair and consistent assessment of claims, although the certification panels are comprised of radiologists and doctors trained in occupational health. Financial compensation under the CCOD is far less than under the Compensation Fund.37,38

There is a significant backlog of unprocessed claims, and the lump sum amount awarded to mineworkers is disproportionate to the damage suffered. The poor quality of life linked to such occupational diseases has spearheaded litigation against the mining houses by mineworkers, resulting in a legal settlement of R5 billion, which will be administered by the Tshiamiso Trust. This will improve compensation and widen the net of eligible beneficiaries, as well as augmenting the benefits received under ODMWA.39,40

Voluntary cover
Medical assessments are required for long-term insurance (LTI) industry disability benefits, workplace pension fund disability benefits, and early withdrawal of retirement annuity (RA) funds.39 The medical assessment of disability is governed by legislation and the contractual nature of the benefit being claimed. The definition of disability in the contract is central to the disability assessment.

LTI industry and workplace pension fund schemes
The claims process involves the submission of a claim form and supporting medical documents to the insurer or pension fund scheme. Claims assessors review the evidence against the contract and can either request further information at the claimant’s cost (this cost can be funded under certain circumstances), request an independent medical evaluation at the insurer/scheme’s cost, or decline or admit the claim. The Income Tax Act (No. 58 of 1962) allows for retirement at age 55, or before 55 if a member of a fund becomes permanently incapable of carrying on his or her occupation.36 Challenges include claimant costs of compiling the required medical evidence for the claim submission; claimants may find that they have no disability cover or inadequate financial cover if the correct advice was not provided at the policy application stage. Inaccurate claims decisions may occur. However, the Ombudsman for Long-Term Insurance (OLTI) and Pension Funds Adjudicator (PFA) function to adjudicate disputes raised by insurance clients and ensure that fair processes are followed.

Recommendations

Proposed framework
The Fundamentals of Impairment and Disability Assessment (FIDA) online course proposes a standardised approach which is suggested as the preferred framework for medical assessment of disability across all SS benefits.40 The FIDA course was developed as a collaborative project between the private sector, public sector and academic institutions, with input from a team of multidisciplinary specialists. The framework consists of nine elements and recognises that medical assessment of disability is not a linear process and involves different phases, role-players, and multiple decision points. While not all elements may be applicable to each case due to the dynamic nature of disability evaluations, a thorough assessment must include all elements pertinent to individual cases (Figure 2).

The following framework for disability assessment in the working-age population is proposed (Table 3). Within the current SS structure, it is impractical to prescribe a single assessment tool and guideline to be used uniformly across the different benefit structures. However, this framework allows for a consistent approach to medical assessments.
Table 3: Disability assessment framework elements

<table>
<thead>
<tr>
<th>Element</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diagnosis and prognosis</td>
<td>The correct medical diagnosis is critical as an incorrect diagnosis leads to a flawed assessment process. The prognosis includes predicting whether the clinical condition will improve, deteriorate, or remain stable over time, the likelihood of recovery, and the time periods associated with this. This element includes all aspects related to treatment and rehabilitation.</td>
</tr>
<tr>
<td>Maximal medical improvement</td>
<td>MMI refers to the point of recovery where the clinical condition is stable and further formal medical or surgical intervention is not expected to lead to significant clinical change in the next 12 months. MMI is well described in the AMA Guides. Ideally, a final decision regarding disability is made when permanency is reached. However, many medical conditions are dynamic and therefore never reach permanency. For these conditions, the term MMI is preferred.</td>
</tr>
<tr>
<td>Impairment assessment</td>
<td>An impairment assessment usually involves assessment of the medical condition and translation of the findings into a percentage score. The most common impairment methodology used in South Africa is the AMA Guides. This allows quantification of the medical condition but should not be the only factor determining the disability outcome.</td>
</tr>
<tr>
<td>Functional capacity evaluation</td>
<td>FCE has been defined as “an evaluation of capacity of activities that is used to make recommendations for participation in work while considering the person’s body functions and structures, environmental factors, personal factors and health status”. Expertise in this area falls within the domain of occupational therapists in South Africa.</td>
</tr>
<tr>
<td>Return-to-work (RTW) programme</td>
<td>A RTW programme is a planned process to facilitate a return to productivity and manage the impact of disability in the workplace. It includes processes of alternate and reasonable accommodation within the workplace. An effective RTW programme allows the affected individual to integrate back into the work environment in the same or an alternative position, in a manner coordinated with the recovery process.</td>
</tr>
<tr>
<td>Vocational rehabilitation</td>
<td>VR is a “multi-professional evidence-based approach that is provided in different settings, services, and activities to working age individuals with health-related impairments, limitations, or restrictions with work functioning, and whose primary aim is to optimize work participation”.</td>
</tr>
</tbody>
</table>
**Case management**
The purpose of case management in the medical assessment of disability is to facilitate the process, allowing co-ordination between the various elements involved and communication between all role-players. It is a collaborative process that takes into account what is required to meet an individual’s health, social care, educational and employment needs.47

**Legislation and ethical principles**
The medical-assessment process is guided by legislation and ethical principles. Knowledge in this area is essential to protect all role-players and ensure fair and equitable treatment of the individual being assessed.

**Decision regarding disability**
The decision regarding disability should consider the interaction between the health condition, activity limitations, participation restrictions, and interaction with environmental and personal contextual factors, as identified during the medical-assessment process.42,48-50

Source: FIDA online course.40

### Discussion

#### Social security reforms
The planned SS reforms, including the alignment of SS structures, would facilitate the adoption of more streamlined assessment tools and guidelines. The alignment of NHI with SS structures would facilitate information sharing between therapeutic, rehabilitative and disability-assessment services which is required for an accurate assessment process.57 Irrespective of changes to the SS structure, the overarching framework for the medical assessment of disability must be uniform across benefits, as outlined in this chapter.

#### Multidisciplinary teams
Multidisciplinary teams are essential to successful implementation of the framework. It has also been suggested that reassigning tasks from doctors to a broader network of health professionals could decrease costs.52 Strengthening of public-sector rehabilitation services and successful implementation of the National Department of Health Framework and Strategy for Disability and Rehabilitation Services is required to create more capacity for multidisciplinary teams within the public sector.53-55

#### Training
Competency has been recognised as a key component in a successful disability-assessment process.53 The process requires specialised knowledge and skills.56,57 The importance of education and training has been highlighted in studies.58,59

There is negligible focus on training in impairment and disability assessment in most medical curricula at South African universities. At intern level, some universities provide a single formal lecture during the Family Medicine rotation. At medical officer and postgraduate level, there has historically been no formal training.

Successful adoption of the outlined framework requires standardised education and training for all involved role-players, including competency assessments and accreditation. To this end, the Insurance Sector Education and Training Authority has supported the development of a multidisciplinary online FIDA course to strengthen the knowledge base among involved professionals and provide more formal multidisciplinary training in South Africa.40

#### Evaluation and feedback
Annual reports published under the different benefit structures provide sparse analysis of the medical assessments done. Review of assessment quality is important to protect the claimant from the effects of poor-quality assessments, which could include incorrect claims decisions, distrust in the system, direct and indirect costs, and decreased probability of integration back into the workforce.

Poor inter-rater agreement has been identified in disability assessments.60-62 Feedback from the RA Fund Appeals Tribunal support these findings in the South African context.26 More data are needed on the submissions, process, findings, outcomes and quality of assessments in the country. Identification of suitable measurement indicators and establishment of monitoring and evaluation systems is recommended as part of quality control, oversight, and governance of the disability-assessment process.

#### Assessment guidelines
The use of up-to-date and evidence-based guidelines is linked to improved assessment quality and decreased interrater variability.60-63 While there have been attempts to develop suitable guidelines for the local context, these are limited, and they have not been uniformly adopted or updated as new evidence emerges.

#### Barriers to equitable medical assessment of disability
Despite South Africa’s progressive labour legislation, notably the Employment Equity Act, enforcement is inadequate and the country lags in accommodation of PWD in the workplace.4 A high unemployment rate, low skills base and poor enforcement of protective labour legislation facilitates the easy termination of workers’ employment, even in those with mild disability.
Fitness-to-work does not equate to job availability and employment. In a move toward work integration, it is important to ensure that the process does not leave PWD worse off, with an inability to qualify for SS benefits and unemployment. Assessments should take the broader social context and environment into account to mitigate this risk. Other options could be to allow further incentives and support from government for employment of PWD. This should be accessible to small businesses and the informal sector.

The outcome of the assessment process should promote inclusion, equality, and full and effective participation in society, which is consistent with the UN CRPD. In addition, there is strong evidence for economic societal benefits when taking an inclusionary approach to disability.

Equitable access to health care for PWD involves access to disability assessment and compensation mechanisms across all pillars of SS that align with the principles outlined in the UN CRDP. The presented framework would facilitate an impairment/disability assessment process that promotes integration and is aligned with current international recommendations.

**Inclusion of persons with disabilities**

The authors consulted an occupational therapist, Ms Ayesha Noordien, who is a person with a disability and also the Head of the Work Assessment Unit at Groote Schuur Hospital, Cape Town.

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**Conclusion**

There has been an international shift in understanding disability, from a medical model to a biopsychosocial/International Classification of Functioning, Disability and Health (ICF) model, and a move toward work integration and compensation as an outcome of disability evaluation. Accommodating persons with disabilities in the workforce increases self-sufficiency and decreases dependence on SS benefits. Increased labour force participation adds to the tax base. It is also important that the disability-assessment process and its governing legislation should align with the UN CRDP and promote an inclusive approach where integration into society and enablement is a goal of the assessment. This paradigm shift is currently not systematically reflected in how South Africa’s SS benefits are assessed.
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