



## Summary and recommendations

### Background

Like the number of people on sick leave, the number of people who are granted sickness and activity compensation (SA), previously called disability pension, has varied considerably over time. One reason for the variations is changes in conditions governing entitlement to SA, which have been tightened over time, making it more difficult to be granted compensation. Another reason is the Social Insurance Agency's assessments and application of the regulations, not least in the associated sickness benefit system, since sick leave often precedes an application for SA.

A previous audit by the Swedish NAO (RiR 2016:31) found that the Social Insurance Agency's assessments of the right to sickness benefit 2009–2012 were on average too generous, in so far as many who were granted compensation would have worked instead if their application had been refused. The findings also showed that more refusals would have had on average neither a positive nor a negative impact on the health of those insured.

This audit studies the extent to which the Swedish Social Insurance Agency makes correct assessments in reviewing the right to SA, i.e. the more permanent forms of compensation in the sickness insurance system. Sickness compensation is payable if the working capacity can be regarded as permanently impaired by at least one quarter due to illness or other impairment of physical or mental capacity. Activity compensation is payable if the impairment of working capacity may continue for at least one year, and the person is aged between 19 and 29.

The audit analyses the effects of refusal of SA on the individual's income, health and use of the sickness insurance system. To ensure comparability between persons granted or refused SA respectively, the audit uses variations in decisions in equivalent cases arising as a consequence of the case officer's having a margin of discretion in the individual case. The audit refers to borderline cases, i.e. cases that can be regarded as particularly difficult to assess for the case officers and where both a positive or a negative decision would have been possible.

## Audit questions

The questions answered within the framework of the audit are:

- What impact does a refusal of the right to SA have on individuals' subsequent income, health and use of the sickness insurance system? Are there indications that the benefits are either overused or underused?
- Is an approach that aims to enable more people to receive sickness compensation justified on the basis of the effects of being refused compensation?
- Does the Swedish Social Insurance Agency take sufficient initiatives to investigate whether the conditions for receiving SA are fulfilled among people on sick leave?
- Can rules and application of sickness insurance be changed to improve the individual's opportunities in the labour market after a refusal?

## Audit findings

### Effects of refusal of SA

The findings show that refusal of SA on average has negative consequences for the individual. Those on the borderline for being granted compensation lost on average about SEK 125 000 per year in income in the subsequent three years. Since those refused SA had a weak position in the labour market, the loss of compensation could not be offset either through earned income or income from other transfer systems.

Moreover, the findings indicate that refusal of compensation may have negative health consequences. Compared with people granted compensation, those refused spent more days on average as inpatients (34 days) seen over a three-year period. The negative effects can be traced to a relative increase in care admissions for serious mental illnesses, specifically schizophrenia, schizoid disorders and delusional syndrome. People with these diseases are particularly vulnerable in the event of a refusal of compensation.

The negative effects on incomes and health apply to both men and women, people with high or low educational levels as well as people born in or outside Sweden. No effects were noted concerning receipt of social assistance.

There is nothing to indicate that the reason for the negative effects is mainly that the Swedish Social Insurance Agency applies the regulations too strictly. It is true that the Social Insurance Agency's own quality assurance shows that there are considerable deficiencies in both supporting documentation and decisions concerning SA, but the deficiencies are mainly in cases when compensation is granted and not refused. Hence it would seem that there is a considerable discrepancy between the requirements for granting SA prescribed in the regulations, and the ability of persons insured to support themselves in the labour market.

## Abolition of the maximum time limit for sickness benefit

Since the abolition of the maximum time limit for entitlement to sickness benefit on 1 February 2016, the number of people on sick leave for at least two years has more than doubled, from 18 000 to 39 000. Despite the fact that sickness absence as a whole has started to fall again, more than four out of ten people on sick leave have been so for at least one year. The audit findings show that abolition of the maximum time limit has probably had a negative effect on the Social Insurance Agency's inclination to investigate the right of the person on sick leave to SA.

The Social Insurance Agency's own guidelines on sickness benefit cases state that a special inquiry must be carried out some time between day 366 and 450 in the sickness case, for the purpose of investigating possibilities of replacing sickness benefit with SA. The audit shows that this investigation is only carried out to a limited extent. A comparison also shows that considerably fewer people on sick leave now transfer from sickness benefit to SA compared with previously. The difference is particularly apparent at the time of the former maximum time limit of 2.5 years.

Failure to review the right of a person on sick leave to SA may have negative consequences for the individual. The results show a clear pattern in so far as people with a relatively close relation to the labour market are not negatively impacted, either in terms of income or health, by a refusal. People who, at the time of refusal, had been on

sick leave for less than 2.5 years, which corresponds to the abolished maximum time limit, reported better earned income than those who had been on sick leave for more than 2.5 years. Correspondingly, people who were on sick leave at the time of refusal had both higher incomes and better health than those who were not on sick leave. In other words, the weaker the position in the labour market, the greater the risk of negative effects in the event of refusal of compensation.

## Recommendations

The Government is currently reviewing whether the rules for granting sickness compensation are appropriately formulated. The Swedish Social Insurance Agency has proposed that the term labour market is given a clearer definition that corresponds better with the rules applicable for the right to sickness benefit for longer than 180 days. In addition, it is proposed to allow age considerations to be adduced in special cases. The proposals aim to limit the risk of individuals remaining in long-term cases of sickness, where the conditions for entitlement to sickness benefit are met, but not for entitlement to sickness compensation.

The findings of this audit show that relatively few of the people refused SA subsequently increase their earned income. Only in exceptional cases are incomes so high that they provide a living. Compared with being granted compensation, total incomes are negatively impacted. In view of the income and health consequences of a refusal, relaxations of the regulatory framework may be regarded as well justified.

## Introduce a statutory time limit for review of the right to SA

A clear finding of the audit is that the relation to the labour market is central to the effects of a refusal of SA: the weaker the relation, the greater the risk of a relatively worse outcome in terms of both income and health.

With a maximum time-limit for sickness and rehabilitation benefit, there is also a natural maximum time limit for review of the right to SA. Without a maximum time-limit, the right of a person on sick leave to SA is not reviewed to the same extent. This is indicated by experiences both from before and after the introduction of the maximum time limit.

Under the current regulations the Swedish Social Insurance Agency must regularly investigate the right of a person on sick leave to sickness benefit and thus, indirectly, the possibilities of replacing sickness benefit with SA. Apart from this, under its own guidelines the Social Insurance Agency must carry out a *special investigation*, for the purpose of investigating the ability of the individual to receive SA instead. The Swedish NAO considers that this investigation should be governed by law. At present the

investigation must be carried out at the latest by day 450 of the sickness case. A decision on a time limit could thus be set at day 450 of the sickness case at the latest.

## Consider introducing a separate process for decisions on the right to SA

At present decisions on the right to SA in cases where the person insured is on sick leave are *not* preceded by a process that can be regarded as entirely separated from the sick leave process. For example, the decision is based on existing medical documentation and on the assessments and recommendations of the sickness benefit case officer.

This may have negative consequences for two reasons. In the first place, as noted in ISF (2011), this may pose problems for the sickness benefit case officer, whose task partly to give support and assess the need for rehabilitation, and partly to act as a control function in the sickness insurance system. Since the case officer not only decides on the right to sickness benefit, but also can influence a decision on the right to SA, there are incentives for insured persons with weak incentives to return to work to signal poor working capacity to the case officer in order to achieve a permanent living from the sickness insurance system. In other words, the case officer's work of separating the individual's capacity and motivation to work is made more difficult.

With mixed processes for sickness benefit and SA there is also a risk that old assessments and decisions will have far-reaching consequences. For example, this audit is based on a natural experiment in the review process for SA, in which fully comparable documentation was assessed differently depending on which case officer made the decision. Since new information in review cases is only taken into consideration if new information has been added, or alternatively if important information is missing, previous documentation and assessments are of great significance for the review decision as well. In about 95 per cent of the reviews the decision was also the same as in the initial decision. Moreover, it is noted in ISF (2014) that the differences in decisions in the review units remained even after review in the courts. In practice this means that people born late in the month had a greater chance of being granted compensation than people born early in the month, after both review by the Swedish Social Insurance Agency and appeals to the Administrative Court and possibly the Administrative Court of Appeal and the Supreme Administrative Court.

Though production of entirely new decision-making data in each part of the decision-making and appeals process would be costly, the Government should consider instructing the Swedish Social Insurance Agency to formulate a more free-standing process in the transition between sickness benefit and SA. This could contain for example an entirely new medical opinion where insurance medicine expertise was included.