

ISF Report 2012:13

# Mandatory review of the entitlement to Assistance Benefit

Swedish Social Insurance Inspectorate

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# Summary

The Swedish Social Insurance Inspectorate (Inspektionen för socialförsäkringen, ISF) is an independent supervisory agency for the Swedish social insurance system. The objectives of the agency are to strengthen compliance with legislation and other statutes, and to improve the efficiency of the social insurance system through system supervision and efficiency reviews and evaluations.

The ISF's work is mainly conducted on a project basis and is commissioned by the Government or initiated by the Agency. This report has been initiated by the Agency.

## *Background*

The disability policy in Sweden is based upon the principle that each person is of equal value and has equal rights. In 1994, LSS—the act Concerning Support and Service for Persons with Certain Functional Impairments (1993:387)—was implemented to ensure the rights of persons with major functional impairments to self-determination, independence, full participation and equality in living conditions.

Persons with major functional impairments and an extensive need for support in their daily lives may be entitled to personally-tailored benefits, one of which is Assistance Benefit (Assistansersättning). Such assistance is provided by a limited number of individuals, placing constraints on the scale and amount of benefits any given individual can expect to receive. Certain conditions of need for help with specific, basic needs must be met in order to be eligible for Assistance Benefit. Examples of these needs include help with: eating, dressing and undressing, personal hygiene, communicating with others and a range of other activities potentially requiring detailed knowledge of the person's specific functional impairment.

If a person is entitled to more than 20 hours a week of assistance to meet these fundamental needs, the person is also entitled, by the Social Insurance Code, to other forms of personal support in their daily life.

The entitlement to assistance benefits is scheduled to be reviewed two years after the benefits were initially approved.

### *Objectives*

This report examines whether the review of entitlements conducted by the Swedish Social Insurance Agency (Försäkringskassan) are carried out in a uniform manner and according to the rule of law. The following issues are analysed here: Is the Social Insurance Agency living up to the statutory requirement that it reviews the entitlement to assistance benefits after two years? How is the Social Insurance Agency conducting the reviews? What factors contribute to the Social Insurance Agency being more inclined to review an individual entitlement to benefits?

### *Method*

This report is based on an analysis of records, case file reviews, semi-structured interviews and a review of the legal and guiding documents relevant to the implementation and workings of the Assistance Benefit. The period analysed runs from January 2008 up to and including October 2011.

Considering the length of time that has passed since the issue of entitlements was most recently considered, the analysts decided to focus further analysis on four local social insurance agencies (lokala försäkringscenter—LFC). This group of agencies consists of the two LFC's with the lowest probability and the two with the highest probability of reviewing entitlements to benefits two years after they were most recently considered. From these agencies, 188 case files have been selected for review and analysis by the Swedish Social Insurance Inspectorate. Semi-structured interviews with administrators, specialists and division chiefs at the respective LFC's were carried out, as well.

### *Findings and conclusions*

During the period spanning January 2008 to January 2011, an increasing proportion of cases have not been reviewed within the prescribed two-year window. Among the 188 case files reviewed as part of this research, the median time elapsed between the previous review and the current review was just over 3 years. In other words, the Swedish Social Insurance Agency has not lived up to its statutory requirement to review entitlements to assistance on a timely basis.

The report shows large variations in how up-to-date the medical documents included in the case files were at the time of review. This holds true both between different types of impairment and between the LFC's considered as part of this research. When it comes to how the review was conducted, whereas there had previously been a range of approaches at the different LFCs, a shift towards a meeting with the individual receiving benefits as a general rule can be observed to have occurred during the examined period.

Case law has changed during the relevant period, following a clarifying ruling by the Supreme Administrative Court defining what is to be considered a fundamental or basic need. The ruling has resulted in higher demands being placed upon the time and approach of those assessing basic needs of a personal nature. As a result, the assessments made by the Social Insurance Agency have become more uniform; however, adjustment to current case law has not yet been fully instituted at one of the included LFCs. The precedent-setting ruling also seems to have affected the number of assistance hours granted following a review.

The Social Insurance Agency has limited resources. In the choice between expediting an application for a not-yet-granted assistance benefit and reviewing an individual's entitlement to a benefit already granted, the reasonable priority is often to expedite the initial application. Care must be taken, however, to ensure that such an approach does not lead to a systematic low prioritisation of reviews two years after the initial issuance of benefits. The Social Insurance Agency has recently taken several steps to ensure that reviews be conducted closer to the two-year limit than has been the case. In addition, several measures have been introduced to increase uniformity when expediting an application for assistance benefits; these measures also apply to reassessments of benefit entitlements.