Australia', and the person's dependent child, shall continue to be eligible for payment of family allowance.

This new sub-section not only simplifies but liberalizes the complex rules relating to absent residence formerly included in s.103(1)(d) and (e) and s.104(1)(e) and (2)(now repealed).

The restrictive effect of those provisions, with their use of the phrase 'usual place of residence . . . in Australia' was illustrated by the Federal Court's decision in *Hafza* (1985) 26 *SSR* 321. It seems certain that, once the amended s.96 comes into operation, it will be easier for parents and their children to qualify for family allowance while outside Australia.

Social security amnesty

Part III of the Amendment Bill sets out the legislative basis for the social security amnesty which operated between 12 February and 31 May 1986.

According to s.45 of the Amendment Bill, a person who has failed to notify the DSS of a change in circumstances affecting the person's social security entitlements will not be liable to prosecution or to recovery of any overpayment *if* the person 'voluntarily informed the Department of the . . . change of circumstances' during the amnesty period *and* had not been charged with an offence or notified of recovery proceedings before notifying the DSS.

Section 45(2) of the Amendment Bill extends the amnesty, subject to the same limiting conditions, to persons who have made false statements to the DSS; however, in the case of a false statement, it is essential that 'at the time of making the statement, the person did not know that the statement was false': s.45(2)(c). **P.H.**

Background

SICKNESS BENEFIT AND INVALID PENSION - A CASE FOR MERGER?

This article looks at the possibility of merging sickness benefit and invalid pension into a 2-stage 'unfit for work' progression. In such a scheme the test for transition to the second stage (with access to fringe benefits) would be the length of time an individual had *already* been unfit for work, rather than the severity and permanence of the person's incapacity.

Any SSAT member who has sat on medical appeals must have experienced the immense feeling of helplessness and inadequacy when trying to determine whether the appellant is 85% permanently incapacitated for work; and must also have wondered at the futility of it all. How severe is the pain? How genuine is the appellant's belief in her own invalidity? How permanent is this belief? Has she, as is sometimes implied, merely a desire for a lazy life, close to the poverty line?

What a costly exercise it is, this attempt to draw what is surely a totally irrelevant demarcation line between more than 85% and less than 85%, and between permanent and temporary. A person is either fit for work or not fit for work, at any given time. Whether totally unfit or marginally unfit is as irrelevant as is the probable duration of the unfitness. In either case, a person who cannot work *now*, through sickness, and who has insufficient money for self or family support, qualifies for financial assistance.

The need for amalgamation

My experience is that in only a very small minority of the invalid pension appeals is unemployment benefit or special benefit considered the correct entitlement. The vast majority of cases are concerned with the choice between invalid pension and sickness benefit - and in the vast majority of cases the over-riding reason for claiming invalid pension is its financial advantages, small though these may be.

Alan Jordan notes that, when invalid pension was first introduced in 1910, on the first pay day one officer said: 'I had no idea so much suffering and sickness was to be found in a city like Melbourne . . . we have had visits from the halt, the maimed and the blind, in fact every kind of invalid you can think of'. (*Permanent Incapacity: Invalid Pension in Australia*, Research paper No. 23, Development Division, DSS, 1984)

Proportionately, I am sure there are just as many today. Jordan goes on to say:

> 'Whatever its origins in the particular case, invalidity is a social role sustained co-operatively by the person and those with whom he interacts . . . Invalidity is a social status and incapacity for work is an economic status; neither of them is a medical status although both have some relationship to medical status'.

Automatic progression

Social status, economic status and medical status are all completely entwined in the invalidity of one individual.

Surely there is a way of merging invalid pension and sickness benefit into a single 'unfit to work' entitlement or at least of making the transition from sickness benefit to invalid pension automatic. Anyone who has been sick for a long time needs the eased income test, fringe benefits and other concessions available to an invalid pensioner but not to someone on sickness benefit. This has already been conceded in part by the granting of supplementary rent assistance to people on long term sickness benefit. Why can this concession not be extended so that, after a set period, a person on sickness benefit would automatically become eligible for the additional benefits available to an invalid pensioner?

Overseas comparisons

I have only a superficial knowledge of disability benefits in other countries but I have looked at the relationship between sickness benefit and invalid pension in just a few.

I have grossly over-simplified the comparisons as many systems are complicated by, for example, contributory, earnings-related benefits. Nevertheless, it does appear that several countries have a far smoother integration of sickness benefit and invalid pension than we have.

In Belgium there is a waiting period of one year on sickness benefit before invalid pension is paid (at a lower rate!). In Canada the waiting period is 3 months; while in Finland and the Netherlands the waiting period is one year on sickness benefit. In the United Kingdom the waiting period is 28 weeks; while in Norway it is 2 years. (There is no waiting period in Norway if the disability is congenital or if the applicant was disabled when young.)

The impact of this proposal

To give an idea of what would happen here if persons unfit to work moved from sickness benefit to invalid pension after a set period, I have taken some figures from the DSS *Annual Report 1983-84*.

In 1983-84 the total number of sickness benefits granted was 142 179, an average number on benefit each week of 63 200. Of those on benefit in May 1984, the duration of benefit was:

under 3 months - 33.8%;
3-6 months - 15%;
6-12 months - 18.3%;
12-18 months - 10.4%;
18-24 months - 6.8%;
24-36 months - 8%;
over 36 months - 7.5%.

These figures indicate that, if one year were set as the waiting time to be spent on sickness benefit before being eligible (subject to the usual tests) for fringe benefits and other concessions, approximately one third of persons granted sickness benefit would eventually claim. As sickness benefit is so

tightly means-tested, it is clear that most beneficiaries would qualify for fringe benefits.

This supposition is supported by current invalid pensions statistics: in June 1984, of 240 574 invalid pensions, 219 616 held the PHB card. (This proportion may, of course, fall as the result of the assets test).

Costs and savings

If progression to invalid pension became automatic after a set period on sickness benefit, extra costs would be incurred; but this would be offset by the fact that many sickness benefit recipients already receive supplementary rent allowance. Consider, too, the enormous financial savings if most appeals against rejection of invalid pension claims disappeared as the incentive to appeal (to gain fringe benefits) would disappear.

There would then be 2 simple tests at the medical reviews which would have to be built into the system. First, 'Is this person fit or unfit for work *now*?' Second, 'How long has this person *already* been unfit for work?'

Inequities of present scheme: the need for reform

The present system humiliates the individual: previously hard working men and women, who through sickness have lost their jobs, should not have to prove the degree of their incapacity - or to prove, in the minds of many, that they are not malingering.

Once incapacity for work has been established, a periodic review can determine whether the individual is still incapacitated - and if this incapacity lasts for more than a period to be determined, I do not believe this country cannot afford to pay (those who are eligible) just a little extra in the form of fringe benefits and other pensioner concessions. If these people had not had an accident or had not become sick they would still be in the workforce - which is where the overwhelming majority want to be.

If something like I have suggested could be done, there would only be a fraction of the number of medical appeals there are at present. Savings in administrative cost would be enormous. Many appellants would be saved months of anxiety. Tribunal members would be relieved of the near impossible task of assessing the invisible and of foretelling the future.

I think we, as the SSAT, should accept the Minister's invitation and seek reform of a system which holds men and women (and their children), not only for month after month but often for year after year, with no hope of reprieve, in the necessitous circumstances imposed by the low level of sickness benefits, while denying them even the slightly ameliorating advantages of fringe benefits and pensioner concessions.

Elizabeth Marshall

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Statistics

A year ago we noted the decline in the number of new social security appeals: (1985) 25 *SSR* 308; and suggested that this decline would turn out to be temporary. The figures reproduced below bear this out. In the 6 months to April 1986, 388 new appeals were lodged, compared to 252 in the same period a year ago. The number of oustanding appeals has risen from 690 in April 1985 to 944 in April 1986.

Another distinct trend (probably linked to those outlined above) is the fall in DSS concessions: 39 in the 6 months to April 1986, compared to 123 in the same period a year ago. AAT decisions are also down: from 117 to 65 in the two periods—possibly a reflection of the increasing complexity of social security appeals.

	Nov. 85	Dec. 85	Jan. 86	Feb. 86	Mar. 86	Apr. 86
Applications lodged*	51	68	73	55	80	61
Decided by AAT	12	17	8	8	7	13
Dismissed	1	2	0	0	0	0
Withdrawn	9	8	5	1	4	1
Conceded	8	6	8	5	5	7
No jurisdiction	4	2	4	1	1	3
Lapsed	0	0	0	0	0	0
Awaiting decision at end of month	723	756	804	844	907	944
***Applications lodged: type of appeal**						
Unemployment Benefit	4	8	6	1	5	9
Sickness Benefit	1	1	3	3	5	2
Special Benefit	0	4	0	1	1	2
Age Pension	5	3	3	5	6	2
Invalid Pension	18	19	21	17	36	13
Widows Pension	2	2	3	2	3	4
Supp. Parent's Benefit	1	1	5	2	2	5
Handicapped Child Allow.	4	6	6	5	4	1
Family Allowance	2	1	8	5	1 5	
Freedom of Information	1	2	0	0	1	1
Assets Test	11	18	10	12	14	14
Other	2	3	8	2	2	3
State where application lodged						
ACT	1	0	1	0	0	0
NSW	16	30	12	13	28	22
NT	0	0	0	0	1	0
Qld	4	1	12	3	3	3
SA	5	10	13	11	11	13
Tas.	0	2	3	2	3	1
Vic.	18	11	25	20	23	15
WA	7	14	7	6	11	7