

Aid to the Permanently and Totally Disabled

by PHYLLIS HILL*

The amendments to the Social Security Act enacted in August 1950 make four major changes in the public assistance provisions of the Social Security Act. Of these, possibly the most important is the addition to the Federal grant-in-aid programs of the new category of assistance discussed below—aid for needy persons who are permanently and totally disabled.

THE recent amendments to the Social Security Act add a new category—aid to the permanently and totally disabled—to the public assistance programs for which Federal grants-in-aid can be made to the States. The legislation (Public Law 734) adds to the Act title XIV, effective October 1, 1950, under which the Federal Government will participate in payments made by the States to aid needy persons who are at least 18 years of age and who have serious physical or mental handicaps. As a result, financial assistance for such persons, as well as medical and remedial care, will become more generally available throughout the United States in the months immediately ahead.

Like the other three programs—old-age assistance, aid to the blind, and aid to dependent children—the individual programs of aid to the permanently and totally disabled will be State-initiated and State-administered. Federal funds will be available to each State, upon approval of its plan, on the same basis as for the programs of old-age assistance and aid to the blind; that is, the Federal Government will meet the cost of three-fourths of the first \$20 of the State's average monthly payment, plus one-half the remainder within individual maximums of \$50. The Federal Government will also meet one-half the administrative costs. For the operation of the new program during the fiscal year ending June 30, 1951, Congress authorized the appropriation of \$50 million.

Proposals that the Federal Government take some responsibility for fi-

ancial help to disabled persons were discussed at some length and in much detail by the congressional committees before the enactment of the 1950 amendments. Many of the proposals would have expanded the old-age and survivors insurance program so that insurance benefits would be paid to disabled workers. In the version of the bill (H. R. 6000) approved by the House in October 1949, there were provisions for both disability insurance and for grants-in-aid to the States for a program of disability assistance. This proposal would have established for the field of disability protection a complementary relationship similar to that existing between old-age and survivors insurance and old-age assistance.

In proposing grants-in-aid for an assistance program for the disabled the House Ways and Means Committee said:

Some of the most acute economic distress in the Nation is among needy persons under age 65 who have disabilities other than blindness that prevent self-support. These unfortunate individuals should be able to get public assistance with Federal help, just as needy persons who are blind or suffering from the infirmities of old age are provided aid. . . . In many States these individuals are now receiving public assistance at a lower standard than the needy aged and blind. Federal participation in assistance to the permanently and totally disabled should result in more adequate assistance to this group of needy individuals.¹

The bill as adopted by the Senate made no provision for the disabled—

either under insurance or under a grant-in-aid program.

During the legislative sessions, proposals were made that any new grant-in-aid program cover general assistance or, alternatively, embody a broader concept of disability than the term "permanent and total disability" would permit. These proposals, as well as the proposal for disability insurance, were rejected, and the bill as reported by the Conference Committee provided an assistance program for the permanently and totally disabled.

Adequate Program for the Disabled

If it is logical to provide through social insurance some financial security to the American people against the hazards of old age, death, and unemployment, then it is equally sound to provide through social insurance for the risk of disability. The new assistance program is no substitute for a disability insurance program financed in part by the worker's own contributions. To provide some security against the risk of disability for the population as a whole requires an insurance program and an assistance program, as there are for old age. The assistance program would then be a supplementary program, offering financial help to the disabled who had never been in the working force, who had worked too short a time, or who for other reasons could not qualify, and to those whose income, including the insurance benefits, would be too small to permit them to secure the necessities of life. A particular group whose occupation is not classified as gainful employment and who would therefore be outside an insurance program is made up of the housewives. Their regular job is homemaking, and a permanent impairment may prevent them from carrying on the activities necessary to that particular job. An assistance program would be the avenue through which those homemakers who are disabled and needy would get help.

*Office of the Director, Bureau of Public Assistance.

¹House Report No. 1300 to accompany H. R. 6000 (81st Cong., 1st sess.), p. 53.

Nor does the new program provide a substitute for a general assistance program. Federal grants-in-aid will not help the States to finance assistance to needy persons who are unemployed and who are suffering from a disease or loss that is not permanent in nature, or to handicapped persons who are temporarily unemployed. Congress did not intend, however, that the new program should be limited to those who are completely helpless. This was indicated by the statement of the Joint Conference Committee that, "although assistance would be confined to those who are permanently and totally disabled, it is recognized that with proper training, some of the individuals aided possibly could be returned to a condition of self-support."²

This statement of the Committee is important because the concept of permanent and total disability is psychologically laden with unfortunate connotations, both for the individuals who must be so designated and for the public at large. The term can and does signify to many persons a group who can do nothing for themselves and who are therefore no longer effective members of society; for them, therefore, no service other than provision of mere subsistence needs is considered necessary. To persons who think this way, the new program can appear to be a dead end. Each State must meet a real challenge if this idea of the new program and of the people whom it was created to serve is not to prevail. The kind of legislation that a State enacts, the policies and procedures that are established by the public assistance agency to carry out the legislative intent, and the quality of services given by the staff will determine the program's success.

Federal Standards

As in the other three State-Federal assistance programs, the States are responsible for initiating their own programs of aid to the permanently and totally disabled. Each State that chooses to administer a program under title XIV will name the State

agency that will be responsible for this program. In most States the welfare department is now responsible for the other three assistance categories; it will probably also have responsibility for aid to the disabled.

For the new program the States will submit plans that, to be approved, must include certain basic provisions similar to those required in the other assistance programs:

(1) The plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them.

(2) The State shall participate financially.

(3) A single State agency shall be established or designated to administer the plan or to supervise its administration.

(4) Any individual whose claim for assistance is denied or is not acted upon with reasonable promptness shall be granted an opportunity for a fair hearing before the State agency.

(5) The program shall be administered according to such methods (including methods relating to the establishment and maintenance of personnel standards on a merit basis) as are found by the Federal Security Administrator to be necessary for proper and efficient operation of the plan.

(6) The State agency shall make reports on the program in such form and containing such information as the Administrator may from time to time require, and it shall comply with the provisions that the Administrator may from time to time find necessary to assure the correctness and verification of such reports.

(7) The State agency shall, in determining need, take into consideration any other income and resources of individuals claiming assistance.

(8) Safeguards shall be developed to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.

(9) No aid shall be furnished to any individual while he is receiving old-age assistance, aid to dependent children, or aid to the blind.

(10) All individuals wishing to make application for assistance shall have an opportunity to do so, and

assistance shall be furnished with reasonable promptness to all eligible individuals.

(11) Assistance shall be provided in the form of money payments to or medical care in behalf of needy individuals; the assistance may also take the form of any type of remedial care recognized under State law.

The States do not have to impose any residence or citizenship requirement as a condition of eligibility. If a State does set up qualifying conditions of this sort, it may not require for residence more than 5 out of the last 9 years, and it may not exclude, in a citizenship requirement, any citizen of the United States.

Definition of Disability

In the other assistance programs, States have already worked with certain eligibility requirements, such as age and residence, with the result that definitions have been made, policies established, and procedures developed. These requirements, when applied to the new category, will be handled with considerable ease and facility. The eligibility requirement of permanent and total disability, however, is a new factor in assistance administration. It is one for which definition is not easy, for which determination is complex, and for which professional skills in addition to those of social workers are necessary. Medical findings will be a necessity in and basic to any determination of permanent and total disability. As a result, State welfare agencies administering the new category will have to have the services of medical personnel.

The new eligibility factor of permanent and total disability is complex, especially if the program is not to be restricted to the completely helpless. Congress did not require this limitation. Accordingly, the Social Security Administration has developed for the guidance of the States an interpretation of the Federal law that does not require a State program to be so limited. The Administration has said that "permanently and totally disabled" means that the individual has some physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within

² House Report No. 2771 to accompany H. R. 6000 (81st Cong., 2d sess.), p. 119.

his competence, such as holding a job or homemaking. It has suggested that the disability factor be considered as consisting of two parts—one dependent on medical findings and one on a social study of the individual and his ability to carry out his responsibilities as, for example, wage earner or homemaker.

The word "permanently" has been interpreted to refer to the nature of the physiological or anatomical impairment that is present and verifiable by medical findings. An impairment may exist from birth; it may result from an accident; it may be acquired during the lifetime of the individual. It may be static or progressive; it may exist singly, or there can be more than one; it can be hidden or obvious. Some impairments are temporary, others are permanent. To be "permanent" the impairment must be a condition likely to continue throughout the remaining lifetime of the individual and not likely to improve or disappear spontaneously. Any condition that the medical profession thinks is not likely to respond to known treatment may be considered "permanent"; furthermore, any condition likely to remain static or to become worse unless certain therapeutic measures are carried out may be deemed to be permanent so long as treatment is unavailable or inadvisable.

"Permanence" does not rule out the possibility of vocational rehabilitation or even of recovery from the impairment. Doctors know that individuals will sometimes respond favorably to treatment after an unfavorable prognosis or after the disabling condition becomes arrested. The advances in medical treatment that will come with new methods and new medication may change a "permanent" condition, but pending the actual physical improvement the condition is "permanent" as far as eligibility for assistance is concerned. To define the term as "everlasting" or "unchangeable" would be to restrict unduly the number of persons who can qualify for help. The medical profession will have responsibility for providing the agency with information from which a decision can be made about the presence of the impairment and its permanent nature.

The use of the term "totally" involves consideration of certain evidence in addition to that drawn from medical findings. The time factor that is attached to "permanently" does not enter into the definition of "totally." The latter relates to the question of what the disabled person can do in the light of his impairment and his training.

On the social worker will rest responsibility for securing information that, together with the medical reports, will give a basis for a decision about the totality of the disability. Such data as the individual's age, his education, his training, his work history, the essential activities required in the home or on the job, his living and working conditions, his capacities and skills, his interests, and the extent to which he has adjusted to his impairment—all become important if a fair decision is to be made.

Society expects adults to take care of themselves and of their families. For most people, this means working in gainful employment and/or taking care of a home and children. To function in any capacity, an individual must be able to carry out certain activities. In the physical sense, an individual is expected to walk, stand, lift, see, smell, hear, touch, talk, adjust to heat and cold, and so on; mentally, he is expected, among other things, to learn, to remember, and to act purposefully and with reasonably good judgment; emotionally, he is expected to adjust to strains, tensions, and the various vicissitudes of life. It is therefore important to determine not only the kind of activities that are necessary to his role as an employable person or as a homemaker but also to what extent he can engage in essential activities in the light of the disability.

The test of total disability for any work must include a consideration of the individual's competency to perform. For example, two individuals become badly crippled below the waist as a result of poliomyelitis. Before this illness, one with little education had always worked as a laborer; the other, with a business school education, had been a teller in a bank. In both instances the medical evidence indicates permanent disability, with only sedentary work possible.

There are no sedentary jobs in the community within the competency of the laborer to perform, and a determination of permanent and total disability is made. The social information also indicates that he wishes to learn a new line of work that he can do in spite of his handicap. He would be referred to the Vocational Rehabilitation Agency, which would work with him to develop his capacity for employment. The second man, on the other hand, although he no longer can stand to carry on his work as a teller, has competency as a bookkeeper, and work of this kind exists in his community. If he is unable to secure a bookkeeping job because there is no job available to him, the problem would be one of unemployment rather than total disability. He would not be eligible for aid to the permanently and totally disabled. If his resources were inadequate for his needs, he could qualify for assistance under a general assistance program offering help to the needy unemployed if the State or locality had such a program.

Recommendations for State Standards

Within the limits of the provisions of the Social Security Act, each State will have to make its own definition of permanent and total disability. As has already been pointed out, the most restrictive definition would cover only those individuals who are completely helpless, as determined by medical evidence alone. The Social Security Administration does not require or recommend that the States use such a restrictive definition. Whatever the definition is, the Social Security Administration recommends that the law should give the State agency the authority to work out the details concerning the scope of the eligibility factor of permanent and total disability rather than write the details of a definition into the law. If this procedure is followed, the State agency can work out the boundaries of the program within its known resources of funds and skilled staff.

As regards acceptance of medical treatment the Social Security Administration believes that under public assistance, as under workmen's com-

pensation and insurance contracts, no individual should be required to take treatment unless the treatment can be demonstrated to be such that a "reasonably prudent man" would accept it. This principle has been established in many legal precedents in workmen's compensation and other fields. Under this principle, certain factors come into consideration: whether the individual is unreasonable in his attitude toward treatment and if so, how unreasonable; whether his refusal endangers the lives of others; whether religious scruples enter into the picture; whether there is a chance that he would lose through treatment—for example, the near blind person who may actually lose what remaining vision he has through operative procedures; and whether real fear exists. It is not possible to establish genuine patient-physician relationships when disabled people reject treatment that has been recommended. For that reason, doctors are loath to undertake treatment in such cases. In many instances, the successful outcome of treatment is known to depend in large measure on the patient's participation in his own recovery.

If the States do impose the acceptance of medical treatment as an eligibility requirement, the responsibility for deciding about any individual case should rest with the agency's medical staff. Any decision about this aspect of eligibility would, like others, be subject to the fair hearing process, and the agency must consider all evidence, including that of doctors brought in by the individual, as to whether an objective criterion, such as the test of a "reasonably prudent man," has been satisfied. Full opportunities to secure treatment and to use all help the agency can command for retraining should be offered to all persons receiving aid.

Role of Assistance Programs

In public assistance, the primary task of the agency is to provide assistance. This does not mean that the agency will not do whatever it can to encourage an individual to better his condition through his own efforts and to help him secure services necessary to achieve this end through whatever

resources there are, both within and outside the agency. The extent of service—apart from that which is given in helping a person to establish initial and continuing eligibility, to understand his rights and obligations under a program, and to know about other services within the agency—varies from agency to agency both within a State and between States.

With the increased old-age and survivors insurance benefits and extended coverage provided by the 1950 amendments, it is expected that the insurance program will more and more take its proper role as the major defense against loss of income resulting from retirement or death. At the same time, barring unforeseen economic changes, the assistance programs should begin to stabilize, and the steadily increasing loads and mounting expenditures that have been characteristic of the programs since the war should level off. As assistance administration is relieved of the strain of dealing with ever-growing case loads and expenditures, it can turn its attention to expanding the welfare services and improving their quality. The assistance programs should help persons meet their particular exigencies in such a way that they will be able to resume making their own way without aid. The programs should also be able to help people use the resources available in the community and State so that they can carry out the plans for their own rehabilitation and increase their ability to meet and deal with their own social and personal problems. If the agencies can give this kind of service they will come closer to a realization of their potentialities and goals.

This potential development is emphasized in the new program. It appears evident that Congress expects that public assistance agencies will work toward and for additional services for the permanently and totally disabled. The House Ways and Means Committee said:

With the authorization for an assistance program to cover this group it is believed that the State public assistance agencies will work even more closely than before with State rehabilitation agencies in developing policies which will assure that every individual for whom vocational re-

habilitation is feasible will have an opportunity to be rehabilitated. To the extent that such efforts are successful the assistance rolls will be lowered.³

The report of the Senate Committee on Finance also makes this point.

... The problem is not limited to the feasibility of providing income or pensions merely to maintain disabled workers. At least of equal significance is the need for assuring fullest use of rehabilitation facilities so that disabled persons may be returned to gainful work, whenever this is possible.⁴

Staff Development

If assistance agencies are to meet the responsibility placed upon them to offer services to the disabled, action on two fronts seems essential—the agency must equip itself to better provide the services that are appropriate to it, and it must coordinate its services with those of other agencies and utilize the services of those other agencies. Basic to any attempt to equip itself will be the employment of technical staff, especially medical staff and trained social workers. Increased expenditures for administration will therefore be necessary. To attract and retain well-qualified personnel in these jobs, salary schedules may have to be revised; staff development programs may have to be stepped up and strengthened to develop more fully the skills of the regular workers; agencies may have to expand their programs covering educational leave so that they will have a larger proportion of staff with professional training. Steps to increase the competency of staff—administrators, supervisors, specialists, and practitioners—are now more important than ever.

Cooperation With Other Agencies

Any assistance agency that has as its goal the restoration of a disabled person to the fullest physical, mental, social, vocational, and economic usefulness of which he is capable will

³ House Report No. 2771, p. 119.

⁴ Senate Report No. 1669 to accompany H. R. 6000 (81st Cong., 2d sess.), p. 3.

need to develop cooperative relationships with many other agencies. Particularly important to the rehabilitation of the permanently and totally disabled are the services of State and local health agencies, employment offices, and all agencies that have facilities for the education and training of adults. So often successful treatment depends not only on medical care but on the availability of other services, many of which are not ordinarily included with medical care.

The State welfare and assistance agencies will be establishing new and closer relationships with these other agencies to secure advice about the ways individuals can be served by their programs. Health agencies, for example, can help in securing facilities for examinations, in obtaining staff to review the medical findings, in recommending medical and surgical treatment, and in evaluating the services needed by a particular individual in his rehabilitation.

The vocational rehabilitation agencies offer services of wide scope, directed toward the return to and placement in jobs of those who are physically and mentally disabled. Here again there will need to be the closest of cooperative relationships to better serve the individuals in whom the two agencies have a common interest and for whom they share a common concern. There can be a joint selection of individuals for rehabilitation services, joint evaluation of the individual's capacities and the medical findings, and joint planning for the necessary financial assistance and medical care.

Employment service offices can help assistance agencies to know more about the kind of work handicapped people can do and the possibilities for their placement in their own community.

In every State there will be other agencies—private as well as public—whose interests will include the rehabilitation of the disabled and whose cooperation can be sought to the end that facilities already established are used to the maximum in the attainment of common objectives.

State Action

It is too early to know which States will request Federal funds to put programs in the new category into operation during the present fiscal year. Unofficial estimates indicate that 44 States hope to establish such programs within this period—the majority before January 1, 1951. Some States believe they must secure authorization and funds for the program through new legislation. State legislatures at their approaching sessions will probably consider necessary action. Other States that have a broad general assistance law expect to use this law as a legal basis for the new category, with payments authorized and made as aid to the permanently and totally disabled even though the State funds come from a general assistance appropriation.

Federal funds cannot be granted for expenditures made before October 1, 1950, the effective date of the legislation, or before a State's plan is officially approved. Federal financial participation is possible, however, for expenditures made under the plan, as

approved, in the quarter in which the State submits the plan; Federal funds are also available for administrative expenses incurred during the quarter in preparing and putting the plan into operation.

It is thought that some States, in order to get the program going as soon as possible, will make payments under the program before their plans receive official approval. Many of the individuals receiving general assistance are known to be disabled, and some are completely helpless. By using medical information already available and criteria that create strong presumptions of permanent and total disability, some agencies believe they can move to segregate a group for disability assistance payments, with the final determination of the disability requirement made within the following weeks. If such payments are to be matched by Federal funds, all the eligibility requirements applied in each case will have to be within the scope of the approved plan; the existence of the disability will have to be substantiated by the medical and social data, with the determination made by the specialized staff serving the agency for this specific purpose.

As of November 28, six complete plans and parts of several others were under review in the Bureau of Public Assistance. Alabama's plan has been approved; it was the first State to receive Federal funds to help finance its program of aid to the permanently and totally disabled. The State agencies and the Federal agency are moving ahead quickly to meet the needs of the people for whom Congress established this new category.