

Benefits Canada Magazine
Frontlines Your Say
Diane A. Urquhart

Court Decisions Cause Need to Restructure Health and Welfare Trusts or Purchase Disability Insurance

On January 7, 2011, the Court of Appeal of Ontario denied the Leave to Appeal of the Dissenting Nortel Disabled Employees on their Health and Welfare Trust (HWT) Distribution. The Dissenting Nortel Disabled Employees have 60 days to decide whether to file an application for Leave to the Supreme Court of Canada.

There are 1.1 million Canadians covered by self-insured disability income benefit plans at work. The security offered by these self-insured plans is now compromised if this court decision stands. When deficient HWT assets are used to pay both vested future pensioners life insurance benefits and disability income on an HWT termination, the disabled income gets deeply compromised. This is because the actuarial liabilities for disability income are always a small proportion of the total actuarial liabilities for vested pensioners life insurance benefits and disability income due to only 0.90% of the workforce being disabled.

Canadians need to go out and buy personal long term disability insurance and opt out of their self-insured disability income benefit plans at work, even if it costs them more money. Sponsors should set up a separate HWT if they wish to provide safe disability benefits on a self-insured basis to their employees. Canada Revenue Agency needs to address the conflict of this decision with its HWT rules.

Diane A. Urquhart is an independent financial analyst working as a financial expert in class actions, bankruptcy proceedings and governments hearings on legislative reform and regulatory enforcement of securities, pension plans and health and welfare trusts.