Revista Española de Medicina Legal 50 (2024) 1–2

ASOCIACIÓN NACIONAL DE MÉDICOS FORENSES

Spanish Journal of Legal Medicine
Revista Española de Medicina Legal

www.elsevier.es/mlegal

EDITORIAL

The main novelties of the R.D. 888/2022, procedure for the recognition, declaration and qualification of the disability degree☆

Las principales novedades del R.D. 888/2022, procedimiento para el reconocimiento, declaración y calificación del grado de discapacidad

Andrés S. Santiago-Sáez*

Universidad Complutense de Madrid, Spain

After more than 20 years of using the handicap scale, the legislator has promoted the implementation of Royal Decree 888/2022, of October 18, which establishes the procedure for the recognition, declaration and qualification of the degree of disability. The decree came into force in April 2023. Although Order DSA/934/2023, of July 19 (BOE no. 185, of August 4, 2023) modifies the scales that appear as Annexes I, II, III, IV, V and VI of the decree.

The scale has as a reference the biopsychosocial model proposed by the International Classification of Functioning, Disability and Health (ICF) (WHO-2001), which describes and evaluates functioning and disability based on the following components: Functions and body structures, activity, capacity, activity limitations, performance, participation and delay. In turn, these components interact with environmental and personal factors, which constitute the "context" of an individual's life, and determine the level and extent of their functioning.

According to the ICF, "disability" includes impairments, activity limitations, and participation restrictions. It indicates the negative aspects of an individual's interaction (with a "health condition") and its contextual factors (environmental and personal factors).

The decree consists of about 500 pages which do not make light reading, although I will try to simplify its methodology and what it truly contributes in relation to the previous decree.

The first challenge is to become familiar with the more than 25 acronyms that we will have to incorporate into our work methodology, for example, the four main annexes (BDGP annex III) Scale for evaluating body functions and structures/Global Impairment of the Person, (BLA annex IV) Scale for Evaluation of Capacities/Limitations in the Activity, (BRP annex V) Scale for Evaluation of Performance/Restrictions on Participation or (BFCA annex VI) Scale for Evaluation of Contextual Factors/Environmental Barriers. This task is resolved with its application to real cases.

Operationally, "disability" is understood as the result of the interaction between the evaluation of the impairments of body functions and structures (which would correspond to the medical scale, limitations in undertaking activities and the restrictions in social participation as a consequence of the contextual barriers, which is obtained by following the methodology proposed in the procedure that is regulated, by grading the "impairments" and "activity limitations" evaluated in accordance with the criteria of the scales in Annex

☆ Please cite this article as: Santiago-Sáez AS. The main novelties of the R.D. 888/2022, procedure for the recognition, declaration and qualification of the disability degree. Revista Española de Medicina Legal. 2024. https://doi.org/10.1016/j.remle.2024.02.001.

* Corresponding author.
E-mail address: ansantia@ucm.es

III and IV, and the restriction on social participation once the performance in its real context and the "environmental contextual factors" have been evaluated in accordance with the criteria set forth in the scales of Annex V and VI.

To grade functioning and disability, we use the severity levels of the ICF generic problem quantification scale with the following hierarchy:

0. No problem (none, absent, insignificant...)0–4%.
1. MILD problem (little, scarce...)5–24%.
2. MODERATE problem (medium, standard…)25–49%.
3. SERIOUS problem (a lot, extreme…)50–95%.
4. COMPLETE problem (total…)96–100%.

Furthermore, the central core of the hierarchical relationships, within the proposed methodology, is made up of the so-called "classes of disability" with a range between Class 0 (zero disability) to class 4 (total disability).

The last important parameter to take into account is the management of the so-called main criterion or secondary criteria.

As a general rule, we would begin by applying Annex III Scale of global deficiency of the person (medical scale) as the main criterion. This first scale is structured by organs and systems and determines a score for each clinical diagnosis (ICD). Annexes IV, V and VI would be applied sequentially, obtaining a class of disability with its corresponding final percentage of disability. Annexes IV and V would correspond to the secondary criteria, which allow adjustments to be made downward or upward within the same class of disability in relation to the percentage. But the rule allows, in certain situations with significant activity limitations, for scales IV and V to become the main criteria and therefore for the medical scale to become secondary. This issue represents a great advance methodologically for the evaluator, since in my experience it is of interest to address the scale of Annex IV first and if the necessary conditions are met, it allows us to use it as the first criterion and therefore quickly establish a specific class of disability.

The new scale provides a more detailed list of descriptions of pathologies than the previous one from 1999, it incorporates a balance between what is objective in the physical examination, the complementary tests, the tests or application scales and what is referenced by the informed person themselves, taking as a basis the documentation provided. It is enriched with self-administered or semi-structured tests applied by the evaluator and actually measures the functioning of the person both in the theoretical environment and in the real environment, being able to assess a whole battery of constructs in multiple areas of family, work, academic and social life. In this regard, it is worth highlighting the delay in acquiring functionalities by minors for whom the scale dedicates a complete section.

The application of 4 sequential scales better limits the possible classification ranges, adjusting the disability percentages. Moreover, the versatility of the exchange of the main and secondary criteria facilitates and speeds up the evaluation, introducing shortcuts that also take into account the degree of functionality of the person in relation to their real environment, considering all the restrictions and barriers present when assessment is made.

It goes without saying that the administration must provide the professional with tools that allow automating some of the evaluation processes, since there are complex cases with multiple pathologies and impairments that require evaluations with a large consumption of resources.

Any legislative change in our area of work implies a process of training and adaptation by the professional. We will have to reassess after some time how the jurisprudence has been adjusted and the impact that the new proposal has had on society.