

Welfare law update

(October 1, 2019 to October 12, 2020)

Alison Ward, lawyer, Community Advocate Support Line (“CASL”)

Community Legal Assistance Society

October 13, 2020



Welfare and Covid-19 related changes

Exemption of Indigenous Emergency Assistance

As of June 18, 2020, any amount provided as assistance in relation to the COVID-19 emergency by

- an Indigenous nation, or
- an Indigenous organization that provides services to Indigenous individuals

is exempt as income and as an asset for people receiving income assistance, hardship assistance or disability assistance.

- See Employment and Assistance Regulation, section 2.3
- See Employment and Assistance for Persons with Disabilities Regulation section 2.03

Exemption of federal one time payment for some seniors

This is the federal payment of:

- \$300 for seniors who were eligible for Old Age Security in June 2020; and
- an additional \$200 for seniors who were eligible for the Guaranteed Income Supplement from OAS in June 2020.

Effective June 18, 2020, this payment is exempt as income and as an asset for people receiving income assistance, hardship assistance or disability assistance benefits. All funds for this payment had been disbursed by September 30/20.

- See Employment and Assistance Regulation, section 2.4
- See Employment and Assistance for Persons with Disabilities Regulation section 2.04

Exemption of federal one time payment for some people with disabilities

- This is the federal payment of up to \$600 to people who were:
 - on CPP or Quebec disability benefits as of July 1/20
 - receiving a disability support through Veterans Affairs Canada as of July 1st; or
 - eligible for and applied for the Disability Tax Credit by September 25/20.

Effective September 20, 2020, this payment is exempt as income and as an asset for people receiving income assistance, hardship assistance or disability assistance benefits. Payments are expected starting in October 2020.

- See Employment and Assistance Regulation, section 2.6
- See Employment and Assistance for Persons with Disabilities Regulation section 2.06

Exemption of Canada Emergency Student Benefit

The Canada Emergency Student Benefit (CESB) provided financial support to post-secondary students, and recent post-secondary and high school graduates who were unable to find work due to COVID-19. It was paid between May 10 and August 29, 2020 and is no longer available.

Effective June 18, 2020, the Ministry exempted CESB as income and as an asset for people who were eligible for income assistance, hardship assistance or disability assistance on May 1, 2020;

- See Employment and Assistance Regulation, section 2.2
- See Employment and Assistance for Persons with Disabilities Regulation section 2.02

Exemption of EI and CERB for some clients receiving welfare benefits

- Effective May 11, 2020, the Ministry temporarily exempted EI (regular and sickness benefits) and CERB benefits as income and as an asset for people who were eligible for income assistance, hardship assistance or disability assistance on April 2, 2020;
- EI and CERB were initially exempted as income and as an asset for 3 months, but that was extended on July 23, 2020;
- The exemption of EI and CERB is now expires on March 1, 2021
 - See Employment and Assistance Regulation, section 2.1
 - See Employment and Assistance for Persons with Disabilities Regulation section 2.01

Exemption of Canada Recovery Benefits for some clients receiving welfare

With the end of CERB on September 26, 2020, the federal government has introduced three new Canada Recovery Benefits (the Canada Recovery Benefit; Canada Recovery Caregiving Benefit, and the Canada Recovery Sickness benefit).

On October 8, 2020, the Ministry announced that all three Canada Recovery benefits will be exempt as income and assets for people who:

- Received income assistance on April 2, 2020
- Received disability assistance on April 2, 2020; or
- Had the PWD designation on April 2, 2020

The legislation and policy to support this exemption is not yet available.

Covid-19 supplement of \$300

This is an automatic supplement of \$300 per adult, added to welfare cheques each month from April to December (for the January 2021 benefit month). It is paid out as part of the Ministry's Emergency/Disaster supplement.

Eligibility: People on welfare who receive federal or EI or CERB or one of the three new Canada Recovery benefits are not eligible for this supplement.

The supplement is payable to all other recipients of

- Income Assistance
 - Disability Assistance
 - Comforts Allowance (e.g. people in special care); and
 - BC Senior's Supplement
- See: This supplement is not found in the welfare legislation. It is available by declaration of an Assistant Deputy Minister, under emergency response powers.

Emergency/Disaster Crisis Supplement (1)

Clients may be eligible for an emergency/disaster crisis supplement from the Ministry if they have additional costs related to the Covid-19 pandemic that they cannot meet (either with the \$300 Covid supplement, or otherwise)

- no dollar cap on amount available
- eligible if on income or disability assistance, medical services only, CIHR or hardship assistance
- administered by the Ministry, but provided under emergency response powers. Decisions not subject to reconsideration or appeal.

Emergency/Disaster Crisis Supplement (2)

Eligibility criteria – Ministry policy:

- the person has an unexpected expense or unexpected need for an item due to the identified emergency/disaster;
- the person has no other resources available to meet the expense or obtain the item;
- failure to meet the expense or obtain the item will result in imminent financial loss or danger to the physical health of the person due to the identified emergency/disaster; and
- if eligible, the least costly way to meet the need will be authorized.

See: Ministry policy at <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/general-supplements-and-programs/crisis-supplement>

Minimizing the need for in person contact (1)

- Ministerial Order 133, made April 28, 2020, provided that any requirement in the welfare legislation to provide information, or to sign a record or agreement can be done verbally.
- The provision is scheduled to be in effect until 90 days after the current State of Emergency expires or is cancelled (*see Covid-19 Related Measures Act, section 3(5)*)

Examples:

Completion of monthly reports by phone

Completion of Consent to Disclosure or Release of Information over the phone with a Ministry worker, with client to sign and return form sent by mail in following 30 days

Applications for assistance or signing up for direct deposit by phone

Minimizing the need for in person contact (2)

- PPMB and PWD designation application forms temporarily available online:
 - PWD application: <https://tinyurl.com/ycjgq5sm>
 - PPMB application: <https://tinyurl.com/y7b7y7fg>
- Three-week work search currently waived (but Work BC centres open)
- Employment plan compliance currently waived

Reconsideration Branch and Covid-19 related changes

- As a matter of administrative fairness, the Reconsideration Branch can waive, extended or suspend deadlines where someone has been unable to meet a deadline because of factors related to Covid-19 or the State of Emergency;
 - Where deadlines are changed, the date a Reconsideration Decision takes effect may also change.
 - If a Reconsideration Decision
 - awards a supplement or finds someone eligible for income or disability assistance; and
 - is made after the usual deadline (10 or 20 business days after the deadline for submitting a reconsideration request); then
 - the Reconsideration Decision takes effect 30 business days after the person is notified of the decision
- See: Employment and Assistance Regulation, section 2.5
 - Employment and Assistance for Persons with Disabilities Regulation, section 2.05

Employment and Assistance Appeal Tribunal (“EAAT”) and Covid-19 related changes

- In-person hearings are currently not being held. For now, all hearings are by phone or in writing.
- Under Ministerial Order 98, made April 22, 2020, during the State of Emergency, the EAAT can waive, suspend or extend a deadline related to an appeal
 - The EAAT is trying to accommodate situations where Covid-19 has caused someone to miss a deadline with the Tribunal. Call or email the Tribunal or appeal coordinator assigned to the file to discuss.

Welfare and Non-Covid 19
related changes

Indian Day School and Sixties Scoop settlements exempted

- Effective November 4, 2019, money from the Federal Indian Day School settlement and the Sixties Scoop Settlement are exempt as income, and as an asset, for all forms of welfare (including hardship).
 - *See Employment and Assistance Regulation, section 11(1)(v.1)*
 - *Schedule B, section 1(a)(xvii.1)*
 - *Schedule D, section 6 (o.1)*
 - *See Employment and Assistance for Persons with Disabilities Regulation, section 10(1)(v.1)*
 - *Schedule B, section 1(a)(xvii.1)*
 - *Schedule D, section 6 (o.1)*

January 1, 2020 changes to Acts and Regulations

- In its February 2019 budget and March 2019 Poverty Reduction Strategy released in March 2019, the BC government announced about 14 changes it planned to make to welfare law.
- The final six of those changes were made effective January 1, 2020;
- Four or five other changes, not previously expected, were also made January 1, 2020.

More discretion in applying section 10 information and verification sanctions

Before January 1, 2020, if the Ministry decided to apply a sanction under section 10, its only option was to declare a person's family unit ineligible for benefits until the section 10 direction was complied with.

As of January 1, 2020 the Ministry has two other options:

- It may reduce the amount of income assistance or hardship assistance provided to the family unit by \$25 per calendar month until the section 10 direction is complied with; and
- if the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless, it does not have the discretion to declare the family unit ineligible for benefits.
 - See Employment and Assistance Act section 10, EA Regulation section 32
 - Employment and Assistance for Persons with Disabilities Act, section 10, EAPD Regulation section 28

More forms of hardship assistance not repayable

- Effective January 1, 2020, hardship assistance is no longer repayable in two new circumstances:
 1. Hardship assistance paid because a family unit has excess income or excess assets is no longer repayable if forcing use of the income, or sale of the excess asset, would put a person in the family unit at risk of domestic violence;
 2. Hardship assistance paid to someone in a special care facility, either because they require extended care or are in a drug or alcohol treatment centre, is no longer repayable.

See: Employment and Assistance Regulation, section 47.3

Employment and Assistance for Persons with Disabilities Regulation, section 42.2

Repayment of Ministry debts from welfare benefits

Effective January 1, 2020, the legislation setting out the rules for repayment of Ministry debts from ongoing welfare benefits has been overhauled.

There are now 3 categories of debt repayment amounts:

- Overpayments (\$10)
- *Deposit Debt* (\$20) (for repayable security deposits, pet damage deposits and utility security deposits); and
- Offence Overpayments (\$100)

There are only 3 categories of monthly repayment amounts (\$10, \$20, and \$100). Only one type of repayment amount (e.g. \$10) can be collected at one time. The ministry cannot request more than the set repayment amounts, unless requested by the client.

- See: Employment and Assistance Regulation, section 89 to 89.2
- Employment and Assistance for Persons with Disabilities Regulation section 74 to 74.2

Discretion not to deduct Ministry debts from welfare benefits

- As of January 1, 2020, the Ministry has a new discretion not to deduct Ministry debts from ongoing welfare benefits where the Ministry is satisfied that:
 - the family unit is homeless or at risk of becoming homeless; or
 - a deduction for the debt would result in danger to the health of someone in the family unit.

If someone is in a special care facility for extended care, or for alcohol or drug treatment, no deductions shall be made for any of the 3 categories of debt.

- See: Employment and Assistance Regulation, section 89.1
- Employment and Assistance for Persons with Disabilities Regulation, s 74.1

Employment and Assistance Appeal Tribunal – more new evidence can be admitted (part 1)

1. As of January 1, 2020, the Employment and Assistance Appeal Tribunal (“EAAT”) can consider such *“evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.”*

- Previously, the EAAT could only admit as evidence the records that were part of the reconsideration package and oral or written evidence “in support of” those records.
- The EAAT has updated its online guideline for members on considering new evidence: e.g. *“When new evidence is admitted, the appeal is not strictly a review on the record below but rather a review on the basis of all admissible evidence. Accordingly, instead of asking whether the decision under appeal was reasonable at the time it was made, panels should ask themselves whether the decision under appeal was reasonable based on all admissible evidence, including any new evidence admitted under s. 22(4) of the Act.”*

See: Employment and Assistance Regulation, section 22(4)

Employment and Assistance Appeal Tribunal – more new evidence can be admitted (part 2)

Also effective January 1, 2020, section 40 of the *Administrative Tribunals Act* was made applicable to the EAAT

- this supports the broadening of the EAAT’s ability to accept information it considers relevant, necessary and appropriate

See: Employment and Assistance Act, section 19.1(d.1)

Change in definition of “spouse”

1. Effective January 1, 2020, the Ministry cannot consider two people to be spouses before they have lived together for one year.

- Previously, the Ministry could consider two people who lived together for three months to be “spouses”, if the Ministry was satisfied that they were living in a marriage-like relationship, with social, financial and familial dependence or interdependence.
- Now, two people must live together for one year before the Ministry can consider them to be “spouses” (again, if the Ministry is also satisfied that they are living in a marriage-like relationship with social, financial and familial dependence or interdependence).
 - See: *Employment and Assistance Act, section 1.1*
 - *Employment and Assistance for Persons with Disabilities Act, section 1.1*

Related change in definition of “dependent”

- Effective January 1, 2020, the definition of “dependent” no longer includes someone who lives with someone and *“demonstrates a parental responsibility for the other person’s dependent child.”*
- As a result, someone you reside with is only your dependent if they are your ‘spouse’ or your ‘dependent child’ lives with you and is your ‘spouse’ or your ‘dependent child’
 - See: Employment and Assistance Act, section 1; and
 Employment and Assistance for Persons with Disabilities Act, section 1.

Change in shared custody situations

- Effective January 1, 2020, where a child is in a shared custody (50/50) situation:
 - if only one parent receives welfare, the child is now deemed to be that parent's dependent child (i.e. the other parent no longer needs to agree to that in writing); and
 - If both parents receive welfare, the child is the dependent child of the parent that is agreed to in writing (no change here).

See: Employment and Assistance Regulation, sections 1(2) and 1(2.1); and
 Employment and Assistance for Persons with Disabilities Regulation, section 1(2) and 1(2.1)

Two year independence test ended

- Effective January 1, 2020, the two year independence test was eliminated. It is no longer necessary to show any prior employment or educational history in order to qualify for welfare.
- *See: section 8 of the Employment and Assistance Act repealed; and*
- *section 18 of the Employment and Assistance Regulation repealed.*

Requirement to apply for early CPP retirement benefits ended

- As of January 1, 2020, people between the ages of 60 and 64 who receive welfare benefits are no longer required by the Ministry to apply for Canada Pension Plan (or Quebec Pension Plan) early retirement benefits. They will therefore receive their full CPP pension when they turn 65.
- *See: Employment and Assistance Regulation, section 31.1*

Crisis supplements for housing-related costs increased

- As of January 1, 2020, crisis supplements for housing-related costs are no longer limited to a family unit's maximum shelter rate;
- Currently, a crisis supplement for housing –related costs can be issued for up to a family unit's monthly benefit rate (shelter plus support).
 - See Employment and Assistance Regulation, section 59(4)
 - Employment and Assistance for Persons with Disabilities Regulation, section 57(4).

More supplements extended to people receiving hardship assistance (part one)

- Effective January 1, 2020, people receiving hardship assistance are now eligible for the following supplements:
 - Prenatal shelter supplement;
 - Christmas supplement;
 - Clothing supplement for people in special care;
 - Transportation to drug or alcohol treatment; and
 - Reconsideration or appeal supplement

See: Employment and Assistance Regulation, sections 56.2 to 56.6

Employment and Assistance for Persons with Disabilities Regulation, sections 54.3 to 54.7

More supplements extended to people receiving hardship assistance (part two)

Also effective January 1, 2020, the following health supplements have been extended to people receiving hardship assistance:

- Denture supplement;
- Diet supplement;
- Short term nutritional supplement;
- Tube feed nutritional supplement;
- Natal supplement; and
- Alcohol or drug treatment supplement.

Security deposits and pet damage deposits

As of January 1, 2020:

1. A new, repayable pet damage deposit is available to people on all forms of welfare, if a pet damage deposit is required under the Residential Tenancy Act, or required by a housing co-op;
 - See Employment and Assistance Regulation, section 54.2;
 - EAPD Regulation section 56.2
2. There is no limit on the number of repayable security deposits that the Ministry can issue to a family unit receiving welfare benefits (previously, this was generally limited to two outstanding security deposits at any one time).
 - See: Employment and Assistance Regulation, section 58(4) repealed
 - Employment and Assistance for Persons with Disabilities Regulation, section 56(4) repealed

EI CHANGES AND THE NEW RECOVERY BENEFITS

Kevin Love
Community Legal Assistance Society
October 13, 2020



Key Changes

- EI is much easier to get
- “Recovery Benefits” for people who did some work but do not qualify for EI

CERB Is Over

- CERB is done. Sort of.
- Government is still taking applications for August 30-September 26 period
- Unclear what deadline they are applying
- Legislation says December 2, 2020

EI IS BACK! AND BETTER!

- Need 120 hours to qualify everywhere for all EI benefits
- People who did not qualify for pregnancy, parental, or caregiver benefits last spring and summer can now qualify
- Will get at least \$500 per week
- Will get at least 26 weeks of benefits

OTHER EI CHANGES

- Period to collect your hours is extended if you got CERB
- Fishers: Will look at earnings back to 2018
- No medical certificate or waiting period for sickness claims
- Waiting period waived for other EI benefits until October 25

CERB TO EI TRANSITION

- Most people who got CERB through Service Canada will be auto-transferred to EI
- But need RoE from employer(s)!
- People who got CERB through CRA will need to apply for EI if eligible

THE NEW RECOVERY BENEFITS

- Replaces CERB
- September 27, 2020 to September 25, 2021
- Targets workers who are not EI eligible
- Three kinds:
 - Canada Recovery Benefit
 - Canada Recovery Sickness Benefit
 - Canada Recovery Caregiving Benefits

GENERAL INFORMATION

- All pay \$500 per week
- Unlike CERB, tax deducted from each payment
- Apply through CRA My Account
- By phone 1-800-959-2019 or 1-800-959-2041
- Must reapply for each benefit period
- Declare you meet criteria, but could be more front end screening than with CERB

GENERAL REQUIREMENTS

- Resident and present in Canada
- Have a valid SIN
- At least 15 years old
- Earned at least \$5,000 in 2019, 2020, or last 12 months

CANADA RECOVERY BENEFIT

- Earning at least 50% less than previous average weekly earnings
- Must be looking for work
- **Must not** have unreasonably quit your job
- **Must not** have placed undue restrictions on going back to work
- **Must not** have refused a reasonable chance to start working again

CANADA RECOVERY BENEFIT

- Max 26 weeks
- Cannot get while getting EI
- Paid in two week blocks. Must reapply each block

CANADA RECOVERY SICKNESS BENEFIT

- Cannot work at least 50% of usual work week
- Have or might have COVID, isolating, or have underlying condition that puts worker at greater risk
- Max two weeks
- NOT general sickness benefit. Just COVID related
- Cannot get if worker getting paid sick leave, sick benefits, or WCB
- Paid in one week blocks. Must reapply each block

CANADA RECOVERY CAREGIVING BENEFIT

- Cannot work at least 50% of usual work week
- Need to care for kid under 12 or other family member who needs care because
 - School or care not available because of COVID;
 - Have or might have COVID or must isolate; or
 - At risk of serious health complications from COVID

CANADA RECOVERY CAREGIVING BENEFIT

- Max 26 weeks
- Two people in same household can split
- Only one person in household can get each week
- Paid in one week blocks. Must reapply each block

HOW YOU CAN HELP

- Help people apply
- Help people hunt down RoEs
- Help people ask for review, reconsideration, or appeal
- Help people respond to requests for more info

QUESTIONS?



TENANT RESOURCE & ADVISORY CENTRE

TRAC Webinar: COVID-related updates – Useful Links

Rental repayment plan

RTB website summary:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/covid-19#RRP>

Legislation: *COVID-19 Regulation (No.2)* (Residential Tenancy Act and Manufactured Home Park Tenancy Act) (No. 2):

https://www.bclaws.ca/civix/document/id/oic/oic_cur/0475_2020

Repayment Plan Template:

<https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/forms/rtb14.pdf>

(see also attached)

RTB Policy Guideline 52 - COVID-19: Repayment Plans and Related Measures

<https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/policy-guidelines/gl52.pdf>

(see also attached)

No Eviction for non-payment of “Affected Rent”

RTB website summary:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/covid-19#EUP>

Legislation: *COVID-19 Regulation (No.2)* (Residential Tenancy Act and Manufactured Home Park Tenancy Act) (No. 2):

https://www.bclaws.ca/civix/document/id/oic/oic_cur/0475_2020

(same as above link)

Other

Updated RTB Practice Directive 2020 *COVID-19 Pandemic: Extending Time Limits, Adjournments and Settlements*

<https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/temporary/pdcovid19.pdf>

COVID-19 Related Measures Act, SBC 2020, c 8

<https://www.bclaws.ca/civix/document/id/complete/statreg/20008>

(This Act is current to September 30, 2020)

Job Opportunity

Peer Project Coordinator, Community Action Initiative

About Community Action Initiative (CAI)

CAI was created to support community-led projects that focus on mental health and substance use issues in British Columbia (BC). We provide funding and training opportunities for community-based organizations across BC to develop and implement innovative service projects that respond to the needs of individuals and families experiencing mental health and/or substance use challenges in their communities. Our work complements the provincial government's *Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia*, which charts a course to an improved future for health and well-being in B.C.

About BC's Community Action Teams (CATs)

In 2018, CAI, in partnership with the Overdose Emergency Response Centre (OERC), supported the creation of Community Action Teams (CATs) across the province in communities hardest hit by the overdose crisis. As part of a knowledge exchange initiative, CAI will profile CATs with the goal of sharing practices and/or ideas and connecting communities for ongoing knowledge sharing. CATs will be supported to create a unique profile that will be showcased on an interactive webpage. The profiles will cover a range of overdose prevention and response approaches, population groups, and local contexts and will provide replicable examples of promising or essential practices.

What you will be doing

Your primary role is to coordinate telephone calls with CATs and to conduct semi-structured interviews to gather information from each CAT. You will report to the Manager of Policy, Learning and Evaluation and to the Project Manager overseeing CATs. 'Peer' refers to a person with lived or living experience (PWLLE) of substance use who is willing to use their expertise in a professional context.

You will:

- Attend and contribute to project-related meetings by telephone or virtually through Zoom.
- Coordinate and conduct a series of telephone calls with CAT representatives.
- Collect and review information gathered during interviews.
- Provide regular updates to the Project Manager and the Manager of Policy, Learning and Evaluation.
- Perform other duties as required.

About you

You are a person with lived or living experience of substance use, who has a keen interest in exploring the topic of overdose prevention and response. You have a basic computer literacy that include the ability to create Word documents and/or Excel spreadsheets, send and reply to email, and search the internet for information. You have one year, recent and relevant experience of work or an equivalent combination of education, training, and experience. Some familiarity with or knowledge of reconciliation, decolonization, equity and inclusion principles, particularly as they relate to health or social sector work, will be considered an asset.

You are an eager learner of new ideas and skills and you have willingness to think creatively about research and policy work. You will demonstrate the ability to:

- Work independently and in cooperation with others
- Communicate effectively, both verbally and in writing
- Organize and prioritize tasks
- Establish and maintain rapport with research subjects or interviewees
- Have confidence to work in a self-directed manner

Working conditions

- This position is located in Vancouver. Due to COVID-19, the work can be completed remotely.
- This is a casual part-time position starting in October 2020. The position will be for 8 hours per week over 8 months. The term of this casual temporary assignment will end in May 2021.
- The Peer Project Coordinator is a unionized position under the Community Subsector Association Collective Agreement. It is at Administrative Support 3, Grid Level 5 and the rate of pay is \$19.72 per hour.

How to apply

Please outline how you meet the specific requirements for this position and submit your application to cmha.careers@cmha.bc.ca by 5 p.m. on October 2, 2020. While we sincerely appreciate all applications, only those candidates selected for interview will be contacted.

We are an equity employer and encourage applications from women, persons with disabilities, members of visible minorities, First Nations, Inuit, and Metis people, people of all sexual orientation and genders, and others who may contribute to our further diversification.