

AGENDA

Provincial Advocates Conference



TUESDAY, OCTOBER 16, 2018 – DAY 1

| Times | Room | Workshop | Resource persons |
|------------------|----------------|---|---|
| 8:00 – 8:30 am | | <i>Registration and materials pickup</i> | |
| 8:30 – 9:00 am | | <i>Opening, welcome and announcements - Wayne Robertson QC, Law Foundation; Heidi Mason, Legal Services Society; Debra Sparrow, Musqueam Nation</i> | |
| 9:00 – 10:30 am | Ballroom A,B,C | Systemic poverty law update | Alison Ward - CASL lawyer and Kevin Love - staff lawyer, CLAS Zuzana Modrovic - advocate, TRAC Trish Garner - community organizer, BC Poverty Reduction Coalition Annette Murray - advocate, DABC |
| 10:30 – 10:45 am | | <i>Coffee Break</i> | |
| 10:45 – 12:15 am | Ballroom A,B | Welfare law for senior advocates | Daniel Jackson - advocate, TAPS Joyce Percey - advocate, PRCSA Jen Matthews - advocate, TAPS Annette Murray - advocate, DABC Amy Taylor - advocate, Nelson CARES Alison Ward - CASL lawyer, CLAS |
| | Ballroom C | BC Supreme Court forms in family matters | Andrea Glen - lawyer, Hamilton Fabbro Law Corporation |
| | Cambie | Mental health, substance use, and poverty | Kendra Milne - senior director, Canadian Mental Health Association BC |
| 12:15 – 1:15 pm | | <i>Lunch</i> | |
| 1:15 – 1:45 pm | Ballroom A,B,C | New resources and services | Mark Gervin - ED, Indigenous Community Legal Clinic Andrea Bryson - case manager, Rise Women's Legal Centre Danielle Sabelli - staff lawyer, CLAS |
| 1:45 – 3:30 pm | Cambie | CPP-D update | Ashley Silcock - senior CPP-D advocate, DABC |
| | Ballroom A,B | Family case law update | Agnes Huang - lawyer, Saltwater Law |
| | Ballroom C | Effective advocacy for RTB hearings | Danielle Sabelli and Holly Popenia-lawyers, CLAS |
| 3:30 – 3:45 pm | | <i>Coffee Break</i> | |
| 3:45 – 5:00 pm | Ballroom C | Update on housing issues | Zuzana Modrovic - advocate, TRAC Danielle Sabelli - lawyer, CLAS |
| | Bridgeport | Consultation on a new resource for doctors filling out PWD forms | Karla Rymer-Keil - advocate, Wachiyai Robin Loxton – retired advocate |
| | Ballroom A,B | Property division basics for family law advocates | Agnes Huang - lawyer, Saltwater Law |
| | Cambie | Statutory interpretation | Kendra Milne – lawyer |
| 5:30 pm | | <i>Dinner and talent show hosted by Legal Services Society and Law Foundation (Cash bar)</i> | |

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|---|---|
| Systemic poverty law update | Updates on issues such as the BC poverty reduction strategy, changes in welfare legislation, dental benefits, judicial review cases, and key recent changes to the RTA. |
| Welfare law for senior advocates | It's like the PovNet welfare list gone live! Join us for case studies of interesting and tricky welfare issues that advocates have worked on this year. The session highlights advocacy lessons learned from particular cases, shares submissions and decisions, and always involves a lively discussion. Cases this year include medical equipment issues, dental coverage, overpayment allegations, and the wait time for PPMB earnings exemptions. |
| BC Supreme Court Forms in family matters | Practical tips on how to complete BCSC family law forms. This session will review: (1) Notice of Family Claim; (2) Response to Family Claim; (3) Counterclaim; (4) Notice of Application; and (5) Application Response. |
| Mental health, substance use, and poverty | An overview, with consultation based on advocates' first-hand practice experiences. |
| New resources and services | Updates from key organizations in the province about their initiatives to improve access to justice in BC. Get useful information about the ICLC travelling clinic, Rise remote services, and the Rental Housing Task Force. |
| CPP-D update | An update on changes to CPP-D application form and what they could mean for your clients. |
| Family case law update | An update on changes in Family Law in BC over the past year. |
| Effective advocacy for RTB Hearings | A workshop that will review procedural fairness, settlement agreements, and strategies for effective advocacy. |
| Update on housing issues | An important update on current issues in residential tenancy law and what they could mean for your clients. |
| Consultation on a new resource for doctors filling out PWD forms | The creators of a new resource designed to help doctors fill out their portion of the PWD form effectively would like your feedback about how to make this resource the best it can be. |
| Property division basics for family law advocates | A session that will look at issues such as debt, excluded property, and emergency asset restraint remedies – important topics for any family law advocate to understand. |
| Statutory interpretation | A workshop that will provide hands-on experience interpreting legislation. Review the tools and approaches that will help you effectively analyze legislation, regulation, and policy. |

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Provincial Advocates Conference



WEDNESDAY, OCTOBER 17, 2018 – DAY 2

| Times | Room | Workshop | Resource persons |
|------------------|---------------------|---|---|
| 8:30 – 10:00 am | Ballroom A,B | Accessibility issues with MSDPR | Dana Jensen, Melissa Bauer, Cary Chiu - MSDPR Erin Pritchard - lawyer, Access Pro Bono Sam Turcott - ED, DABC Alison Ward - Lawyer, CLAS |
| | Ballroom C | Protection orders | Vicky Law - lawyer, Equitas Law |
| | Cambie | Wills and estates on reserve | Sonali Sharma – lawyer, Athena Law |
| 10:00 – 10:15 am | <i>Coffee Break</i> | | |
| 10:15 – 11:45 am | Bridgeport | Ethical and practical issues in complex poverty law cases | Kevin Love - staff lawyer, CLAS |
| | Ballroom A,B | Child and spousal support | Sonali Sharma - lawyer, Athena Law |
| | Ballroom C | Common legal issues affecting seniors | Sarah Khan - staff lawyer and Nighat Afsar - advocate, Seniors First BC |
| | Cambie | Working with Indigenous survivors of violence | Salima Samnani - supervising lawyer, Indigenous Community Legal Clinic |
| 11:45 - 12:45 pm | <i>Lunch</i> | | |
| 12:45 - 1:45 pm | Ballroom A, B, C | NEW initiatives - Updates from the Law Foundation and Legal Services Society | Wayne Robertson QC - ED, Law Foundation Susanna Hughes - coordinator, Family Law Services and Patricia Lim - publications development coordinator, LSS |
| 1:45 - 3:15 pm | Ballroom A, B | Prevention loss management services | Jen Matthews - advocate, TAPS Sam Turcott - ED, DABC Dana Jensen, Melissa Bauer, Jody Mogenson, MSDPR |
| | Ballroom C | Evidence - Best practices in family law | Vandana Sood - supervising lawyer and Kim Hawkins - ED, Rise Women's Legal Centre |
| | Cambie | Indigenous women's rights on and off reserve | Crystal Reeves - lawyer, Mandell Pinder LLP |
| 3:15 – 3:30 pm | <i>Coffee Break</i> | | |
| 3:30 – 5:00 pm | Ballroom A, B | Exempt RTA cases | Danielle Sabelli - staff lawyer, CLAS Didi Dufresne - advocacy manager, First United Church Kate Campbell - tribunal member, CRT |
| | Cambie | Legal advocacy and social change | Stephen Portman, advocate, TAPS Denise Moffatt, director, BC Federation of Labour Anna Cooper - staff lawyer, Pivot |
| | Ballroom C | s.211 Reports: A consultation | Kim Hawkins - ED and Andrea Bryson - case manager, Rise Women's Legal Centre |
| | Bridgeport | Nuts and bolts of the human rights complaint process | Laura Track, lawyer - director of education, BC Human Rights Clinic; staff lawyer, CLAS |
| 5:00/5:30 pm | <i>Povnet AGM</i> | | |

Provincial Advocates Conference

CONFERENCE SESSION DESCRIPTIONS – WEDNESDAY, OCTOBER 17, 2018 – DAY 2



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|---|---|
| Accessibility issues with MSDPR | This workshop examines MSDPR's efforts to promote better access to Ministry services for marginalized populations such as people living with mental health and other disabilities, communication barriers, and literacy issues. Topics will include access to designated workers, interpreters, and staff-supported intakes. Advocates will have the opportunity to share questions or concerns about these initiatives with the Ministry. A panel including advocates, lawyers, and Ministry representatives will provide brief remarks and discuss with workshop participants the Ministry's duty to accommodate its clients, and practical and legal solutions where appropriate accommodations prove difficult to access. |
| Protection orders | An overview of protection orders – best practices for when and how to apply for them. |
| Wills and estates on reserve | An overview of key issues regarding wills and estates on reserve. |
| Ethical and practical issues in complex poverty law cases | The session will present information on issues arising with multiple clients, when advocates are asked to handle money for clients, or when clients use your address -- as well as issues raised by participants. |
| Child and spousal support | Strategies for gathering the best evidence when dealing with child and spousal support. |
| Common legal issues affecting seniors | An overview of common legal issues affecting low-income seniors. |
| Working with Indigenous survivors of violence | A session that will provide important information and resources about helping Indigenous survivors of violence. |
| NEW initiatives - Updates from the Law Foundation and Legal Services Society | Both the Law Foundation of BC and Legal Services Society have many new initiatives designed to provide better access to a variety of services to people throughout BC. |
| Prevention loss management services | A discussion with experienced advocates and Ministry staff about issues connected with prevention loss management services. |
| Evidence - Best practices in family law | The presenters will explain broad principles of evidence applicable to working with clients to help them prepare for court, and will include tips on drafting affidavits and avoiding common pitfalls. |
| Indigenous women's rights on and off reserve | This presentation will cover Indigenous child protection, matrimonial property on reserve, Indigenous status, and other topics. |
| Exempt RTA cases | An overview of what situations qualify as exempt from the RTA, what to do when you are unsure, and an opportunity to hear from the Civil Resolution Tribunal about how their system can be used in these situations. |
| Legal advocacy and social change | Using case-study examples, the panel will discuss the ethical and other considerations at play when the work of advocates, lawyers, and activists intersect. |
| s.211 Reports: A consultation | A consultation with advocates about the work they are doing on s.211 reports. |
| Nuts and bolts of the human rights complaint process | Practical advice about filing a human rights complaint. Bring your challenging issues for discussion. |

AGENDA

Provincial Advocates Conference

THURSDAY, OCTOBER 18, 2018 – DAY 3



| Times | Room | Workshop | Resource persons |
|------------------|--|--|---|
| 8:30 – 9:00 am | Ballroom A,B | EAAT: Checking in with the new chair | Emily Drown - chair, Employment and Assistance Appeal Tribunal |
| 9:00 – 10:30 am | Bridgeport | Access to justice for transgender clients | Frances Mahon - lawyer, Frances Mahon Law |
| | Ballroom C | Making effective service complaints | Amber Prince - lawyer, Atira Kate Feeney - lawyer |
| | Ballroom A,B | Accessing kids' benefits and family supports: Scenario-based group problem solving | Jessie Caryl - lawyer and Christina Campbell - social worker, Parent Support Services Society of BC |
| | Cambie | Working with LSS Intake: Legal aid applications, exception reviews, eligibility reviews | Branka Matijasic - manager, Intake and Referral Services and Wendy Kupchuk, provincial supervisor, Legal Aid Applications, Legal Services Society |
| 10:30 – 10:45 am | <i>Coffee Break</i> | | |
| 10:45 – 12:15 am | Ballroom C | Making complaints against the police in BC | Celia Pinette - policy and law reform specialist, Pivot Legal Society Dylan Mazur - community lawyer, BCCLA |
| | Ballroom A,B | Fee waivers in family and civil claims in Small Claims Court, BCSC and BCCA | Amber Prince - lawyer, Atira Priyan Samarakoon - program manager, Access Pro Bono |
| | Cambie | Ideas for solving client problems with utilities | Kevin Love - staff Lawyer, CLAS Sarah Khan - lawyer |
| | Bridgeport | PLEI resources | Drew Jackson, People's Law School Patricia Lim - publications development coordinator, Legal Services Society Megan Vis-Dunbar - liaison lawyer, Courthouse Libraries BC Nora Bergh, Justice Education Society |
| 12:15 – 1:45 pm | <p><i>Lunch</i></p> <ul style="list-style-type: none"> - Law Foundation advocates will have a separate working lunch with Law Foundation staff (Ballroom AB) - Legal Services Society advocates can participate in a focus group on legal information needs about matrimonial property on reserve (Ballroom C) | | |
| 1:45 – 3:00 pm | Ballroom A,B | Group consultation on helping clients deal with police | Dylan Mazur - community lawyer, BCCLA Anna Cooper - staff lawyer, Pivot Legal Society |
| | Cambie | Child protection: Effective advocacy | Chandan Sabharwal - lawyer, Sabharwal Law |
| | Bridgeport | Advocating for clients with pets | Kate Feeney - lawyer Amber Prince - staff lawyer, Atira |
| | Ballroom C | Demystifying FMEP | Sandra Wolfe - deputy director and Lori Louth - program analyst, FMEP |

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| | |
|--|---|
| EAAT: Checking in with the new chair | An opportunity to hear from the Chair of the Employment and Assistance Appeal Tribunal as she enters her new position. |
| Access to justice for transgender clients | An awareness-raising workshop on the challenges facing transgender and gender non-conforming people. How can advocates work to end discrimination and support our trans clients? This introductory talk includes an overview of appropriate words to use, existing legal protections, and what advocates and activists can do to make services as inclusive as possible to transgender, non-binary, and gender non-conforming folk. |
| Working with LSS Intake: Legal aid applications, exception reviews, eligibility reviews | Up-to-date information about applying for legal aid, exception reviews and eligibility reviews. |
| Accessing kids' benefits and family supports: Scenario-based group problem solving | An overview of government child benefit programs including eligibility criteria and barriers to accessing family supports plus a problem-solving brainstorming session drawing on workshop participants' expertise. |
| Applying for Legal Aid | A workshop on Legal Aid services and how to help your client prepare applications for Legal Aid. |
| Making complaints against the police in BC | An overview of the police complaints process for municipal police and RCMP. The session covers relevant oversight bodies, complaint procedures, and strategies for making complaints. It is tailored to the work of frontline advocates and includes practical skills, case studies, template letters, and safety considerations. |
| Fee waivers in family and civil claims in Small Claims Court, BCSC, and BCCA | Learn the practical steps in applying for fee waivers in both family and civil claims in all levels of court in BC – useful information for all advocates working with low-income clients. |
| Ideas for solving client problems with utilities | The session will provide information about how to help clients facing problems accessing natural gas, electricity, phone, or Internet services. |
| PLEI resources | An opportunity to hear from PLEI groups about their new resources and services for advocates and their clients. |
| Group consultation on helping clients deal with police | A consultation with PIVOT and BCCLA about their work with people in rural communities, and those who are homeless or relying on public space. The session focuses on practical strategies for assisting clients, and includes a primer on rights-based education. |
| Child protection: Effective advocacy | An overview of how best to support parents and communicate with the Ministry. |
| Advocating for clients with pets | A discussion of issues such as support animals and helping people with pets in housing. |
| Demystifying FMEP | A session that will provide guidance about how to help both recipients and payors. |

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Provincial Training Conference for Legal Advocates

October 16, 17,18 2018

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Participants List

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- Family case law update (Day 1)
- Property division basics for family law (Day 1)
- Protection orders (Day 2)
- Child and spousal support (Day 2)
- Evidence – Best practices in family law (Day 2)
- S.211 Reports – A consultation (Day 2)
- Accessing kids' benefits and family supports (Day 3)
- Child protection: effective advocacy (Day 3)
- Demystifying FMEP (Day 3)

2. Housing

- Effective advocacy for RTB hearings (Day 1)
- Update on housing issues (Day 1)
- Exempt RTA cases (Day 2)
- Helping clients with utilities issues (Day 3)

3. Indigenous Issues

- Wills and estates on reserve (Day 2)
- Working with Indigenous survivors of violence (Day 2)
- Indigenous women's rights on and off reserve (Day 2)

4. Resources and Services

- New resources and services (Day 1)
- Consultation on a new resource for doctors completing PWD (Day 1)
- New initiatives: updates from LSS and the Law Foundation (Day 2)
- Applying for legal aid (Day 3)
- PLEI resources (Day 3)

5. Skills and Procedure

- Statutory interpretation (Day 1)
- Ethical and practical issues in complex poverty law cases (Day 2)
- Making effective service complaints (Day 3)
- Fee waivers in family and civil claims in Small Claims Court, BCSC and BCCA (Day 3)

6. Welfare and Disability Benefits

- Systemic Poverty Law Update (Day 1)
- Welfare law for senior advocates (Day 1)
- CPP-D update (Day 1)
- Accessibility issues with MSDPR (Day 2)
- Prevention loss management services (Day 2)
- EAAT – Checking in the the new chair (Day 3)

7. Other

- Mental health, substance use and poverty (Day 1)
- Common legal issues affecting seniors (Day 2)
- Legal advocacy and social change (Day 2)
- Nuts and bolts in the human rights complaint process (Day 2)
- Access to justice for transgender clients (Day 3)
- Making complaints against the police in BC (Day 3)
- Group consultation on helping clients deal with police (Day 3)
- Advocating for client with pets (Day 3)

Provincial Training Conference
Sponsored by the Law Foundation and Legal Services Society
October 16th to October 18th, 2018

Radisson Hotel Vancouver Airport
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Anna is a staff lawyer with the Pivot Legal Society. Pivot works in partnership with marginalized communities to develop solutions to complex human rights issues in four key policy areas: police accountability, health and drug policy, homelessness, and sex workers' rights. Anna is currently managing Pivot's Homeless Rights campaign, which includes representing the residents of the Anita Place tent city in Maple Ridge.

Emily Drown

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Emily obtained her Bachelor of Arts from Malaspina University-College (now Vancouver Island University) in 2000 and her Bachelor of Laws from the University of Victoria in 2004. Emily was appointed Chair of the Employment and Assistance Appeal Tribunal on June 1, 2018. Prior to this appointment, Emily served as Chair of the Safety Standards Appeal Board (Emily is presently still Chair; however, a replacement should be selected soon). In addition to her previous duties with the Safety Standards Appeal Board, Emily maintained a professional law practice in Victoria, BC with a focus on civil litigation and family law since being called to the Bar of British Columbia in 2005. She has served numerous times as a guest judge for the Law Society of British Columbia's Professional Legal Training Course and has taught Contract Law and Dispute Resolution for Construction Specifications Canada. Emily is presently President of the British Columbia Counsel of Administrative Tribunals and a director of the Canadian Council of Administrative Tribunals.

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Didi has been an advocate in the downtown eastside neighbourhood of Vancouver for almost 10 years. They graduated from law school at the University of Victoria in 2008. Outside of advocacy, they play a lot rugby and enjoy running on the trails of North Vancouver.

Kate Feeney

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Kate is a sole practitioner who works out of an office at Atira Women's Resource Centre. Kate's practice is about half family law and half human rights and poverty law. Kate provides summary legal advice to Atira clients during two weekly clinics, as well as full representation to Atira clients through a grant generously provided by the Law Foundation. Prior to opening her own practice, she was a staff lawyer at the BC Public Interest Advocacy Centre, where she specialized in constitutional, administrative, and human rights law. Kate graduated from the University of Victoria Law School in 2013.

Trish Garner

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Trish is a passionate advocate for social justice. Having gained her experience working with Raise the Rates, an anti-poverty group based in the Downtown Eastside of Vancouver, she is now the Community Organizer of the BC Poverty Reduction Coalition, a broad-based network of over 400 organizations throughout BC. She is the co-author of A Poverty Reduction Plan for BC and a regular media contributor and commentator. In 2008, she co-founded the Poverty Olympics, a community festival that highlighted the disparity between public spending on the Olympics and people living in poverty, and in 2010, she coordinated the Poverty Olympics Torch Relay around the province ending with a 100 km walk from Langley to Vancouver. Trish graduated from SFU with a PhD from the Department of Gender, Sexuality and Women's Studies in 2011. Originally from England, she now lives in Vancouver with her partner and their 3 children.

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Andrea obtained her undergraduate degree from the University of Western Ontario in 2004 and her law degree from Harvard Law School in 2007, where she graduated magna cum laude. She was called to the New York State Bar in 2008 and the British Columbia Bar in 2011.

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Kim is the Executive Director at Rise Women's Legal Centre in Vancouver, BC. Rise is a community legal clinic offering free and low cost legal services to low income women with family law problems. Most services are provided by upper year Law Students. Kim came to Rise via Whitehorse, Yukon Territory where she worked for many years as a full time staff lawyer at a busy legal aid clinic, practising mainly in the areas of family, criminal law and child protection law and acted as President of the Board for the Yukon Women's Transition Home Society. Kim also spent a year and a half at the Legal Resources Centre in Grahamstown South Africa working on strategic constitutional litigation, and two years as a judicial clerk in Yukon Territory. Kim holds a J.D. in Law from the University of Victoria, and a Masters in International Human Rights Law from the University of Oxford.

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Agnes practices family law and as parent's counsel in child protection cases at Saltwater Law in Vancouver. Agnes is a member of the family law committee of the Trial Lawyers Association of BC and an executive member of the family law section of the Canadian Bar Association – BC Branch. Agnes still has dreams of venturing into the practice of immigration and refugee law. Next year!

Susanna Hughes

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Susanna received her law degree from UBC in 1989 and was called to the BC Bar in 1990. From 1990 to 2010, she practiced in small firms and later as a sole practitioner, primarily in the area of family law. Susanna was contracted as the Lead Family Duty Counsel at the New Westminster courthouse from October 2010 until August 2015, when she joined the Legal Services Society. Susanna is the Legal Services Society's Coordinator of Family Law Services.

Drew Jackson

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Drew is a lawyer and librarian. He has worked for 20+ years in providing education and information on the law. As Legal Content Developer with People's Law School, he creates information for the public on everyday legal problems. He is keenly interested in making legal information easier to understand, and in applying technology to help people learn

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Dana began her public service career as an Employment and Assistance Worker in 1996. Since then Dana has worked in both the Policy and Service Delivery Divisions and is currently the Director of Engagement, Partnerships and Strategic Initiatives. Over the years Dana has gained a broad knowledge about SDPR programs and she is passionate about supporting the work of our staff in providing support to low income citizens. Dana and her husband live in Victoria with their three children.

Sarah Khan

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Sarah provides legal advice and representation to older adults through the Elder Law Clinic program at Seniors First BC. Prior to joining Seniors First BC, Sarah worked at a public interest law firm where she developed and litigated constitutional, administrative law and human rights cases primarily on issues involving income assistance, disability benefits, access to legal aid, and access to affordable residential electricity. Sarah has sat on the boards of several community service, disability rights and environmental justice organizations. Sarah received her law degree from the University of Victoria.

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Wendy has been with Legal Services for 27 years. Her entire career has been spent at the intake level. Wendy's current role is to provide support and supervisory assistance to all of the legal aid offices in B.C. Wendy oversees all aspects of intake including exception reviews and coverage and eligibility reviews.

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For several years, Vicky has worked in the fields of immigration law and family law for women impacted by violence. As a legal advocate and a lawyer, she has supported many women and families in navigating their immigration status in Canada, and the complexity of the family law system. Vicky understands the unique circumstances of gendered-based violence and works toward ending violence against women. Vicky is also the Program Lawyer at Rise Women's Legal Centre, delivering legal services to communities all across BC through Rise's Virtual Legal Clinic.

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Patricia is the Publications Development Coordinator for the Legal Services Society of BC, which provides legal aid in BC. She consults with intermediaries and end users to develop and evaluate Public Legal Education and Information (PLEI) materials and resources.

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Lori currently holds the program analyst position at Maintenance Enforcement and Locate Services (MELS). Lori has extensive experience at MELS in a variety of positions including client relations, manager of the Interjurisdictional Support Services Program as well as a previous career at the Family Maintenance Enforcement Program.

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Kevin is a lawyer in CLAS' Community Law Program, working primarily in the areas of mental health and workers' rights. Kevin has represented clients at all levels of court, both federally and provincially, including the Supreme Court of Canada. Prior to joining the Community Law Program, Kevin worked in CLAS' Mental Health Law Program representing clients who were detained in psychiatric facilities under the Criminal Code. Kevin represents CLAS on a number of committees, including Worksafe BC's policy and practice consultative committee. Kevin chairs the Workers' Compensation Advocacy Group, which is an independent network of worker advocates throughout British Columbia. Kevin acts as the supervising lawyer for the First United Church's legal advocacy program in Vancouver's downtown eastside.

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Robin is a former Disability Alliance BC advocate. For many years, Robin assisted people in obtaining the PWD designation. Robin is currently an advisor to the Wachiay Friendship Centre on their new PWD application guide for doctor's

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Frances is committed to protecting human rights and civil liberties. She provides criminal defence, refugee, immigration and human rights litigation services in Vancouver, British Columbia. Frances also represents applicants and interveners in constitutional and public interest litigation. Frances is particularly committed to serving the LGBTQQ2SIA+ community. She takes pride in responding with sensitivity and lived experience to the challenges our community faces when dealing with government, police and corrections, and seeking access to health care. Frances is frequently recognized as a leader among her peers. In 2016, she received the Emerging Leader Award from Out On Bay Street (now Start Proud), in recognition of her leadership on issues involving fundamental human rights and constitutional principles. In 2018, she was nominated for the Top 25 Lawyers in Canada awards. Frances is often invited to speak on constitutional and human rights issues, and she has appeared as a witness before both the Senate and the House of Commons.

Branka Matijasic

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Branka joined the Legal Services Society in 2005. While at LSS, she has worked in a number of capacities but always within the Intake department. She is currently managing Intake and Referral services department which administers legal aid applications in more than 50 locations throughout BC.

Jennifer Matthews

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Jen has worked as a Legal Advocate in the Income Assistance Advocacy Project at Together Against Poverty Society for the past four years. Matthews is an active member of the Minister's Advisory Forum on Poverty Reduction and has been a leader in the Victoria based Community Action Plan on Discrimination, a group that has brought a human rights based lens to community consultation and public forums held in the provincial capital. Mathews has completed a Bachelor of Arts in Political Science and has recently completed a Masters Degree from the University of Victoria School of Social Work.

Dylan Mazur

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Dylan joined the BC Civil Liberties Association ("BCCLA") in 2017, where his work has focused on policing and police accountability in Metro Vancouver and rural and remote communities in British Columbia. Prior to joining the BCCLA, Dylan worked at Community Legal Assistance Society, where he worked in the areas of human rights and mental health law. In addition to his work in the legal field, Dylan has over 15 years of experience in senior management in the non-governmental sector in Canada and Latin America, including as Executive Director of the Vancouver Association for Survivors of Torture and as a project coordinator on United Nations and Global Affairs-funded projects in the areas of human rights and mental health in Latin America. Dylan holds degrees in law and social work from the University of British Columbia.

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Kendra is a lawyer who works to use the law to create positive social change, particularly to support people who have traditionally been marginalized or disempowered in their communities. For eight years she ran a busy poverty law practice focused on housing, income supports and human rights, where she worked directly with hundreds of clients and with advocates throughout BC. She currently leads the mental health and substance use-related policy work at a large provincial non-profit organization, and has previously worked to reform law and policy to better support intersectional gender equality, economic security and housing security in BC. In her down time, Kendra dances with an amazing integrated dance company - her lack of skill is made up for by a lot of enthusiasm.

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Zuzana is a practicing lawyer in TRAC's direct representation program, focusing on assisting groups of tenants through dispute resolution proceedings. She graduated from UVic law in 2012, worked as a poverty law advocate at the Kamloops and District Elizabeth Fry Society, and completed her articles with the Community Legal Assistance Society.

Denise Moffatt

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Denise lives and works in the unceded territory of the Musqueam, Tsleil-Waututh and Squamish First Nations, known as East Vancouver. Denise is the Director of Campaigns and Young Workers at the BC Federation of Labour. She was the campaign lead for the successful Fight for \$15 campaign that won a \$15/hr minimum wage in BC. She is currently working on a new campaign called level the playing field that includes a call for paid sick leave. Denise is also responsible for the BCFED's young workers' committee and their annual young workers' school. Denise is the past president of the Surrey Teachers' Association. She has worked on a number of political campaigns for progressive candidates at the municipal, provincial and federal level. Outside of work she enjoys playing tennis, seeing live music, working in her garden and camping.

Jody Mogenson

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Jody started in the Public Service in 1993 as an Employment and Assistance Worker and has been with SDPR since then. He was a Supervisor with Prevention and Loss Management Services for most of his career and became an Operations Manager eight years ago. Jody is passionate about what he calls "the people part of our work". He enjoys a number of outdoor activities including camping and hiking. Jody lives with his family in Kelowna.

Annette Murray

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Annette has worked as an advocate at DABC since 2004 primarily in the area of provincial disability benefits. She has lived experienced of disability and was on disability benefits many years ago. Her favourite part of advocacy, aside from helping clients get benefits, is promoting self-advocacy skills when appropriate: a fish and a fishing line.

Joyce Percy

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This is Joyce's 5th year as the Advocate for PRCSA. She can honestly say that it took three years to see the full scope of issues that this office assists people with! As an advocate who works alone in a rural community, Joyce finds the networking with other advocates and other LF and LSS networks, Povnet, etc. extremely supportive! Her background in Conflict Negotiation/Resolution equipped her well with the ability to hear people and support them through the maze of government rules and regulations.

Celia Pinette

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Celia graduated from the Faculty of Law at the University of Victoria in 2017, and is currently studying her Master of Laws. Her studies focus on police accountability as it relates to the disconnect between the law and justice as it affects citizens who are vulnerable in their relationship with law enforcement. She works on Pivot's police accountability campaign to reform laws, policies and practices leading to discriminatory or harmful policing practices in Canada.

Holly Popenia

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Holly is a lawyer in the Community Law Program at CLAS and practices in the areas of housing security, income security, human rights, mental health rights, and workers' rights. Holly has represented clients at provincial and federal courts and various administrative tribunals. Prior to joining CLAS, Holly worked as a litigator with the federal government.

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Stephen has spent nearly a decade as a legal advocate, working on the frontlines of law based anti-poverty reform in British Columbia. As Advocacy Lead of Together Against Poverty Society (TAPS), Portman has worked to highlight legislative inequality with a focus on achieving lasting systems change through community building, the courts, and in the political realm. Through his work, he aims to advance a rights-based analysis to the challenges posed by needless poverty. When not at work you can find him at a rally, in the forest, on the sea, or in the kitchen. Portman is the recipient of the 2017-18 Maytree Human Rights and Poverty Fellowship.

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Amber started at Atira as a Law Foundation-funded advocate in 2006. With the support of Atira and the Law Foundation, Amber was able to convert her advocacy position into an articling position. Amber was called to the bar in 2015 and has stayed on at Atira as a staff lawyer. With the support of volunteers, and contract lawyer Kate Feeney, they provide summary advice, summary (unbundled) service and representation (in a limited capacity). Areas of practice include: tenancy, income assistance, family law, CFCSA, fee waivers, legal aid appeals, judicial reviews, human rights, assistance to complainants of crime, FOI requests, some Aboriginal law issues, and animal law. Hobbies include horses and cats.

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Erin is currently the Interim Program Manager for the Administrative Tribunals Program at Access Pro Bono in Vancouver. Prior to joining Access Pro Bono, Erin was a staff lawyer at BC Public Interest Advocacy Centre and a legal advocate with Together Against Poverty Society. She is currently volunteers with TRAC, and is a board member of PovNet.

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Crystal has devoted her scholarship and legal practice to advancing the interests of Indigenous peoples in Canada and internationally. She joined Mandell Pinder LLP in 2010 and focuses her litigation and advocacy on Aboriginal title and rights and environmental matters for Indigenous clients. She has appeared at all levels of court in British Columbia as well as the Federal Court and Federal Court of Appeal. Most recently, Crystal was co-counsel representing one of the Indigenous Applicants on the Trans Mountain Pipeline Expansion Project at the Federal Court of Appeal. She also appears in provincial court on criminal, child protection, and family matters for Aboriginal clients. Crystal has also been involved in research projects involving the application of Indigenous laws in child protection matters, marine use planning, and governance. She is also an Adjunct Professor in the Indigenous Community Planning stream at the School of Community and Regional Planning at the University of British Columbia. Prior to joining Mandell Pinder LLP, Crystal received a Public Interest Articling Fellowship from the Law Foundation of British Columbia to article at the Upper Skeena Counselling and Legal Assistance Society, a community legal aid clinic located on Gitxsan territory (Hazelton, British Columbia). Crystal completed her LL.M. in Law and Society at the University of Victoria and completed her law degree at Osgoode Hall Law School.

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Karla moved to Vancouver Island in 2016 from Regina, Saskatchewan where she worked as Crown Counsel for the Ministry of Justice. Karla has been the legal advocate at Wachiay since May 2017 and recently transitioned to the family law advocate position. Karla enjoys providing advocacy for clients and working with other community organizations to bring awareness to larger issues.

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Danielle is a lawyer in the Community Law Program at CLAS and works primarily in the areas of residential tenancies and income assistance. Danielle has provided representation to clients at various administrative tribunals and the BC Supreme Court. Prior to joining CLAS, Danielle worked as a Legal Advocate at First United Church, providing legal assistance, advice and

representation to low-income and vulnerable people in the Downtown Eastside of Vancouver. Danielle holds a Masters degree in social justice and communications from the University of Windsor and was a founding member of the interdisciplinary art collective, Broken City Lab.

Chandan Sabharwal

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Chandan obtained her B.A. from the University of British Columbia as a History Major. She obtained her LL.B. from the University of British Columbia Law School. Change was called to the Bar of British Columbia in January, 2008. She articled in Port Coquitlam and then practiced in Surrey. She was born in Vancouver, Canada but has lived in India during her childhood and attended school in India. She is fluent in 3 languages: English, Punjabi and Hindi. She has been providing services to her clients in all three languages. In her spare time she spends time with her family, and loves to travel.

Priyan Samarakoone

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Priyan completed his BSc at the University of British Columbia in 2006 and went on to complete his LLB at Nottingham Law School (2008) in the UK. He was called to the British Columbia Bar in 2013. Priyan is a Program Manager with Access Pro Bono and is responsible for the Civil Chambers Program and the Wills Clinic. He has been involved in public interest litigation and access to justice projects in Sri Lanka and he is a member of the Clicklaw Editorial Committee.

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Salima runs her own firm where she practices in the areas of family, employment and wills and estates. She utilizes a social justice lens in all her files and focuses on working with marginalized people. Salima is the supervising lawyer for Disability Alliance BC and Pro Bono BC.

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Originally a small town girl and a coal miner's daughter, Sonali is not your typical lawyer. Passionate about social justice issues but pragmatic in nature. Sonali completed her articles in Northern B.C., with a full-service firm and the Ministry of Justice. She has a unique mix of professional work experience ranging from positions at RBC Global Asset Management, Vancouver Coastal Health's EFAP (Employee and Family Assistance Program) to working as a Family Lawyer with a mid-sized firm in Richmond, B.C. She started Athena Law because she saw a need for affordable "unbundled" legal services, particularly in the areas of Family (out-of-court) and Wills and Estates practice. Sonali's core strengths lie in her ability to connect with others. She works with her clients and referral networks to help provide tailored services that meet each client's individual needs. Above all, Sonali believes in collaboration. She understands that family and estate issues require a lot more than just legal support. Her partnerships with Vancouver Coastal Health's EFAP program and Financial Literacy Counsel have provided many individuals with free financial and legal literacy. Sonali understands that most legal issues have an emotional and financial component. Her mission is to empower her clients with knowledge which she hopes will ultimately transform their relationships with finances, family and death. Outside of work, Sonali is actively involved with the Access Pro Bono Wills Clinic, sits on the Unbundling Legal Services sub-section for CBA as well as the board for Collaborative Divorce Vancouver .Oh and she likes to run...for fun.

Ashley Silcock

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Ashley has now been working with DABC for over 10 years. While she has had many different hats over the years her passion has always been Canada Pension Plan Disability benefits. If you attend Ashley's session or if you just have random CPP D questions please come up to her and ask away. You won't be a bother. You won't annoy her.

Vandana Sood

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Vandana has been the Supervising Lawyer at the Rise Women's Legal Centre and an Adjunct Professor at the Peter A. Allard School of Law at the University of British Columbia since Rise opened its doors in May of 2016. Vandana has focused her legal career on working to achieve gender equality and empowerment for women. Prior to joining Rise, Vandana practised in the areas of family law, child protection law (as parent's counsel) and immigration & refugee law, with a focus on assisting women who had experienced intimate partner violence.

Laura Track

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Laura is a human rights lawyer and the Director of Education in CLAS's Human Rights Clinic. She advocates on behalf of people who have experienced discrimination and assists complainants to navigate BC's human rights process. Laura also has a strong interest in making legal knowledge accessible. She delivers workshops and presentations to a wide variety of audiences to help people understand their human rights and comply with their legal obligations. Laura earned her law degree from UBC in 2006, and holds a Masters in International Human Rights Law from Oxford University

Sam Turcott

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Sam and his team work to promote the dignity and integrity of people with disabilities in BC through a combination of direct advocacy, education, resource development, consultation, and systemic work. Sam holds a law degree from the University of British Columbia with a specialization in social justice issues.

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Megan is a liaison lawyer with the Courthouse Libraries and coordinates the Library's training and outreach program with lawyers and legal advocates. Megan also works with lawyers in the community to ensure that the Library has the resources and legal information they need.

Alison Ward

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Alison is a lawyer at the Community Legal Assistance Society (CLAS) in Vancouver, where she runs the Community Advocate Support Line (CASL). Through CASL, Alison collaborates with and advises advocates throughout BC on poverty law and family law issues and cases. She is also a PovNet board member, and supervises the poverty law caseload of the legal advocacy program at MOSAIC. Before working at CLAS, Alison spent 16 years as a staff lawyer at the Legal Services Society in Vancouver, working primarily in poverty law, as well as some family and child protection law. She started working on CASL in 2006, when it was first funded by the Law Foundation at LSS. In 2010, both CASL and Alison moved to CLAS. Alison is grateful to be able work with so many wonderful advocates!

Sandra Wolfe

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Maintenance Enforcement and Locate Services

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Sandra is currently the acting Deputy Director for Maintenance Enforcement and Locate Services (MELS). MELS is responsible for the Family Maintenance Enforcement Program, Interjurisdictional Support Services, Locate Services and the Recalculation Program. Prior to working for MELS (3 years) Sandra was a mediator with the Family Justice Services Division (18 Years), assisting families experiencing separation and divorce. Prior to her government positions, Sandra was a children's advocate and a counsellor for women in a transition house.

1. Family and child protection

- **BC Supreme Court forms in family matters (Day1)**
 - BC Supreme Court Family Law Forms
 - Notice of Family Claim
 - Response to Family Claim
 - Notice of Application (annotated)
- **Family case law update (Day 1)**
 - Family Law Update
- **Property division basics for family law (Day 1)**
 - Mastering the Art of Property and Debt Division
- **Protection orders (Day 2)**
 - Protection Orders
 - BC Provincial Court and Supreme Court Protection Order Picklist
 - Request for Service of Family Protection Order Form
 - Notice of Motion Without Notice
- **Child and spousal support (Day 2)**
 - No Materials/Materials at session
- **Evidence – Best practices in family law (Day 2)**
 - Evidence – Best Practices in Family Law
- **S.211 Reports – A consultation (Day 2)**
 - Improving Legal System Responses to Violence
- **Accessing kids' benefits and family supports (Day 3)**
 - Accessing Kids' Benefits
 - Federal benefits
 - Provincial benefits
- **Child protection: effective advocacy (Day 3)**
 - No Materials/Materials at session
- **Demystifying FMEP (Day 3)**
 - Demystifying FMEP

BC Supreme Court Family Law Forms

Andrea A. Glen



Provincial Training Conference for Legal Advocates

October 16, 2018

Introduction

- ▶ **Forms to be Reviewed**
 - Notice of Family Claim (Form F3)
 - Response to Family Claim (Form F4)
 - Counterclaim (Form F5)
 - Response to Counterclaim (Form F6)
 - Notice of Application (Form F31)
 - Application Response (Form F32)

Introduction

- ▶ Forms that will NOT be Reviewed
 - Notice of Joint Family Claim
 - See *Supreme Court Family Rule* (“SCFR”) 2–2
 - Petition
 - Must be used to start certain types of family law actions as set out in SCFR 3–1(2.2). These include:
 - Adoption
 - Hague Convention
 - Certain claims by non-spouses

Resources

- ▶ Supreme Court Family Rules
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/169_2009_00
- ▶ BC Supreme Court Order Picklist:
https://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/family_law_orders/picklist_family_orders.pdf
(word version also available)
- ▶ Legal Services Society webpage re: court forms:
https://familylaw.lss.bc.ca/resources/court_forms.php
 - Has annotated versions of forms with instructions on how to complete

Key Differences Between Supreme Court and Provincial Court Forms

- ▶ Different names
- ▶ More detailed
- ▶ Filing fees – Supreme Court Family Rules, Appendix C
 - Notice of Family Claim and Counterclaim – \$200
 - Exception if mediator certifies that party has already attended mediation and/or that the matter is not fit for mediation
 - Response to Family Claim or Response to Counterclaim – \$25
 - Notice of Application – \$80
 - Can apply to have fees waived if your client cannot afford them
- ▶ Costs are available in Supreme Court – don't forget to ask for them!

Overview of Forms

- ▶ Notice of Family Claim (NOFC) – Form F3
 - Initiates most types of family law actions
 - Similar to Prov Court “Application to Obtain an Order”
- ▶ Response to Family Claim – Form F4
 - Responds to a Notice of Family Claim
 - Due within 30 days after service of NOFC
 - Similar to Prov Court “Reply”
- ▶ Counterclaim – Form F5
 - Filed by Respondent to initiate claims of their own
 - Generally filed with Response to Family Claim
 - In Prov Court, counterclaims are part of the “Reply”

Overview of Forms

- ▶ **Response to Counterclaim – Form F6**
 - Essentially the same as Response to Family Claim
- ▶ **Notice of Application – Form F31**
 - To bring an interim application before trial
 - Examples: application for interim child or spousal support, interim parenting schedule, exclusive occupancy of home, etc.
 - Similar to Provincial Court “Notice of Motion”
- ▶ **Application Response – Form 32**
 - To respond to a Notice of Application
 - No Provincial Court equivalent

Important Tips for All Forms

- ▶ Accuracy is important– avoid inflammatory, misleading or exaggerated statements
- ▶ If filing a form in an action that has been started already, names in the style of cause must match the originating pleading exactly (even if there are errors)
 - Errors can be corrected later by filing an application

Important Tips for All Forms

- ▶ Be careful with dates. If your client is uncertain about a specific date, use vague language as needed
 - Examples: from most to least specific
 - “Sept. 5, 2012” (use if you’re *certain* of the date)
 - “on or about September 5, 2012” (generally best)
 - “in early September 2012” or “in September 2012”
 - “between August and October 2012” or “late summer or early fall of 2012”
 - “approximately 2012”
 - “in 2011 or 2012”

Important Tips for All Forms

- ▶ Be careful not to unduly limit your client's options going forward. Broad language is often best.
 - Facts often change and/or become known after pleadings are filed.
 - Easier to provide more specificity later (e.g. through correspondence, offers) than to amend pleadings
- ▶ Beware of restrictions on non-lawyers giving "legal advice" to clients!

Notice of Family Claim

Form F3

- ▶ Initiates most types of family law actions in BC Supreme Court
- ▶ For annotated version with instructions on how to complete, see:
https://familylaw.lss.bc.ca/assets/forms/pdf/noticeOfFamilyClaim_i.pdf

Notice of Family Claim

- ▶ 2 page form, plus 5 available Schedules
 - Schedule 1 – Divorce
 - Schedule 2 – Children
 - Schedule 3 – Spousal Support
 - Schedule 4 – Property
 - Schedule 5 – Other Orders (includes costs)
- ▶ Complete some or all of the Schedules depending on what relief your client is seeking
 - Always complete Schedule 5 to seek costs!

Notice of Family Claim

Tips re: Completion of Page 2

- ▶ Section 2 – Spousal Relationship History
 - Began living together in a “marriage-like” relationship
 - “Marriage-like relationship” is defined in case law and requires consideration of many factors
 - *J.J.G. v. K.M.A.*, 2009 BCSC 1056
 - *Weber v. LeClerc*, 2015 BCSC 650, appeal dismissed 2015 BCCA 492, leave to appeal refused 2016 CanLII 21781 (SCC);

Notice of Family Claim

Tips re: Completion of Page 2

► Section 2 – Spousal Relationship History

- Separation Date
 - *Family Law Act*, Part 1, s. 3(4)

“For the purposes of this Act,

- (a) spouses may be separated despite continuing to live in the same residence, and
- (b) the court may consider, as evidence of separation,
 - (i) communication, by one spouse to the other spouse, of an intention to separate permanently, and
 - (ii) an action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.”

Notice of Family Claim

Tips re: Completion of Page 2

- ▶ Section 2 – Spousal Relationship History
 - Separation Date
 - Often difficult to determine with certainty
 - If more than one potential separation date, consider which date will result in best outcomes for your client (may require legal advice)
 - Can provide a short explanation in lieu of specifying a single date
 - Example: “The claimant and respondent separated on July 1, 2017, then made various attempts at reconciliation and did in fact reconcile for certain time periods, before separating again for good on January 15, 2018”.

Notice of Family Claim

Tips re: Completion of Page 2

- ▶ Section 3 – Prior Court Proceedings and Agreements
 - Asks your client to identify whether there are any prior agreements, court orders, or court proceedings that relate to this claim
 - Agreements – must be *in writing*
 - If there were *oral* agreements, check the box “no prior agreements, court order, or court proceeding”
 - If there was a written agreement but your client may want to challenge its enforceability (e.g. they signed a document without legal advice, without fully understanding it ,or without understanding what their rights were and what they were giving up), acknowledge the existence of a signed document but note that the enforceability is in dispute
 - Example: “a written agreement dated October 1, 2018, whose enforceability is disputed by the claimant”

Notice of Family Claim

Tips re Completion of Page 2

- ▶ Prior Court Proceedings and Agreements
 - Prior court orders or proceedings
 - Include both Supreme Court and Provincial Court proceedings
 - Include orders/proceedings in other jurisdictions (e.g. other provinces or countries)
 - If prior court orders have nothing to do with the family law issues, no need to list

Notice of Family Claim

Schedule 1 – Divorce

- ▶ Section 2 – Grounds for Divorce
 - Almost always pick (i) – separate and apart for 1 yr
 - Other grounds (e.g. cruelty or adultery)
 - Should be very rarely used, *even if there has been cruelty, adultery, or family violence*
 - Must be proven at trial
 - adds cost and complexity
 - By the time of trial, parties will usually have been separated for 1 year so other grounds are redundant
 - Courts dislike granting divorce on this basis

Notice of Family Claim

Schedule 2 – Children

- ▶ Section 2 – Orders Sought
 - Identify whether your client is seeking orders relating to parenting arrangements, child support, or both
 - If your client currently has or is seeking at least 40% of the parenting time, include a claim for child support *even if your client has a higher income than the other party*
 - In a shared parenting situation (e.g. both parents have at least 40% of the parenting time), *both* parents have an obligation to pay child support

Notice of Family Claim

Schedule 2 – Children

- ▶ Section 3 – Current Parenting Arrangements
 - Answers to questions about current parenting arrangements should be concise but specific
 - Usually, 2 paragraphs is sufficient
 - One para. re: parenting time
 - One para. re: decision-making about the child
 - Not an essay question!

Notice of Family Claim

Schedule 2 – Children

- ▶ Example: “The current parenting arrangements are as follows:

Model Answer 1:

“The children are currently living primarily with the claimant and are seeing the respondent every other weekend, plus on Wednesday afternoons after school. Holidays and special occasions are being shared between the claimant and the respondent on an ad hoc basis.”

“The claimant makes most decisions about the children after consulting the respondent for his opinion.”

Notice of Family Claim

Schedule 2 – Children

Model Answer 2:

“The children are currently living with the respondent. The claimant has been requesting parenting time with the children since the separation, but the respondent has refused to allow the children to see the claimant without reasonable justification. The claimant has not seen the children since September 2017.”

“The respondent has not been keeping the claimant informed of important matters relating to the children, and has been making all decisions about the children unilaterally despite the claimant’s repeated attempts to be involved in decision-making.”

Notice of Family Claim

Schedule 2– Children

▶ Section 4 – Proposed Parenting Arrangements

- 2 short paragraphs is sufficient
 - Para. 1: your client’s proposed parenting arrangements (parenting time & schedule)
 - Para. 2: your client’s proposed decision-making arrangements for the children
 - When parents must consult one another
 - Who or what process decides in the event of a conflict?
- Can provide more detail if you like
 - E.g. more detailed draft orders taken from picklist

Notice of Family Claim

Schedule 2 – Children

- ▶ Section 5 – Current Support Arrangements
 - One short paragraph is generally sufficient
 - Describe current financial arrangements accurately and fairly
 - Ignoring or omitting reference to the other party's financial contributions can damage your client's credibility *and* increase conflict between the parties

Notice of Family Claim

Schedule 2 – Children

► Example: Current Support Arrangements

Scenario:

- Other spouse has left the home and has not given your client any money since then or paid for the children's expenses
- Other spouse is still paying the mortgage, car insurance, and family cell phone plan

Bad (but common) answer:

“The respondent has not paid any child support to the claimant or contributed to the children’s expenses since he left the home on September 1, 2017.”

Notice of Family Claim

Schedule 2 – Children

- ▶ Example: Current Support Arrangements

Better answer:

“The respondent has not paid any child support to the claimant or contributed to the children’s expenses since he left the home on September 1, 2017; however, he is still paying for various expenses relating to the family home and for other family expenses such as car insurance and the family cell phone plan.”

Notice of Family Claim

Part 2 – Children

- ▶ Section 6 – Income of person being asked to pay child support
 - Provide an estimated income rather than choosing “the claimant does not know what the respondent spouse’s income is”
 - Explanation of basis for estimate should be concise but specific – not an essay question
 - Can provide a range if your client is not certain enough to provide a specific number
 - Example: “between \$25,000 and \$40,000 per year”
“at least \$25,000 per year”

Notice of Family Claim

Part 2 – Children

- ▶ Section 6 – Income of person being asked to pay child support

Model Answers: “The claimant believes that the income of the person being asked to pay child support is approximately \$30,000 per year, based on these facts:

... the claimant has previously seen copies of the respondent's tax return/notice of assessment/paystub/employment contract (*identify any relevant documents*)

... the parties' pattern of spending while they were together

... the claimant's recollection of the amount of money that was formerly deposited into the joint bank account each month

... in 2015, the respondent told the claimant they earned \$25,000 per year and the claimant believes the respondent has received a salary increase since then

Notice of Family Claim

Schedule 2 – Children

Section 7 – Proposed Child Support Arrangements

- ▶ Almost always check the first two boxes, namely:
 - Table amount of child support
 - Special or extraordinary expenses in accordance with s. 7 of the Child Support Guidelines for each child (*list their names*)
- ▶ Almost every child has some s. 7 expenses!
 - If they don't have any s. 7 expenses now, they may have them in the future (e.g. unreimbursed medical expenses) so important to obtain an order that deals with s. 7 expenses
- ▶ In a shared parenting situation, claim child support and s. 7 expenses *even if acting for the higher income earner*
 - Both parents obligated to pay child support and s. 7 expenses

Notice of Family Claim

Schedule 2 – Children

Section 7 – Proposed Child Support Arrangements

- ▶ When asked to identify whether claims are being brought under the *Divorce Act* or the *Family Law Act*:
 - If parties are married, check both boxes to cover your bases. Can decide which statute to use later
 - In most cases, doesn't make a difference in the end
 - If parties are unmarried, check *Family Law Act* only
- ▶ Same goes for any other instances on the NOFC (or Counterclaim) where you are asked to identify whether claims are being brought under the *Divorce Act* or the *Family Law Act*

Notice of Family Claim

Schedule 3 – Spousal Support

- ▶ Many of the same tips from Schedule 2 apply to Schedule 3
 - Describe current support arrangements accurately and fairly
 - Always provide an estimate income for the person against whom spousal support is being sought

Notice of Family Claim

Schedule 3 – Spousal Support

Section 2 – Proposed Spousal Support Arrangements

- ▶ Use broad language to avoid limiting your client's options going forward.
- ▶ Example: “The claimant is asking for an order for spousal support as follows:”

Good answer: “Interim and ongoing spousal support in accordance with the Spousal Support Advisory Guidelines, whether periodic or lump sum, including retroactive spousal support if appropriate.”

Bad answer: “\$500 per month in spousal support for 10 years”

- You may think this is the right amount of support at the time you file the NOFC, but once financial disclosure is exchanged you may realize the payor's income is higher than expected and that a higher amount of support is payable.

Response to Family Claim (Form F4)

- ▶ Similar to “Reply” in Provincial Court
- ▶ Key difference from Prov Ct “Reply”: no place for your client to make claims of their own.
 - If your client has claims of their own to make, they must file a Counterclaim
- ▶ Must be filed within 30 days after service of Notice of Family Claim

Response to Family Claim

- ▶ Section 1 – Identify which information in the Notice of Family Claim is correct/incorrect and why
 - At each checkbox, revise the section numbers to make the box accurate
 - Example:
 - First checkbox on form reads: “The information set out in sections 1, 2 and 3 of the notice of family claim is correct.”
 - If section 1 is the *only* section of the notice of family claim that is correct, revise the wording of this checkbox to say: “The information set out in section 1 of the notice of family claim is correct.”
 - Then revise the second checkbox to say: “The information set out in sections 2 and 3 of the notice of family claim is not correct in the following respects:
[then specify ways in which the information is not correct]

Response to Family Claim

- ▶ Provide a numbered list of incorrect information
 - When describing what is incorrect, keep descriptions of each error brief and to the point (e.g. usually 1–3 sentences)
 - Not an essay question!
 - Try to be factual rather than argumentative

Response to Family Claim

- ▶ Section 2 – Agree or Disagree with each claim
 - Many lawyers choose “disagree” for all claims except divorce
 - Even if your client agrees to pay child or spousal support, risk of choosing “agree” is that they may be deemed to agree with the amount and duration of support claimed by the other party, which could be too high.

Counterclaim (Form F5)

- ▶ Form is basically identical to the Notice of Family Claim, but used by the Respondent to make claims of their own
- ▶ Most respondents should file a Counterclaim if they can afford it
 - Ask yourself: if the claimant abandoned their claims, would the respondent still want the Court to make orders? If so, respondent has counterclaims
- ▶ All tips re: completion of Notice of Family Claim apply

Response to Counterclaim (Form F6)

- ▶ Must be filed by *claimant* if the respondent files a Counterclaim
- ▶ Essentially identical to Response to Family Claim – same instructions apply
- ▶ Must be filed within 30 days after service of Counterclaim
- ▶ Often gets forgotten!

Notice of Application (Form F31)

- ▶ Similar to Provincial Court “Notice of Motion”
- ▶ Four Main Parts
 1. Orders Sought
 2. Factual Basis
 3. Legal Basis
 4. Documents to be Relied Upon
- ▶ Party that files an application is called the “applicant”. The other side is the “application respondent”

Notice of Application

Part 1: Orders Sought

- ▶ Provide a numbered list
- ▶ *If possible*, specify exact wording of Orders your client is seeking
 - BUT be careful not to unduly limit client's options
 - Example: if seeking interim child/spousal support, you may not yet know enough to specify the amount they're seeking

Notice of Application

Part 1: Orders Sought

- ▶ Consult BCSC Picklist for Guidance
- ▶ If seeking a large number of orders, can say “See Exhibit” or “See Schedule” and attach a draft Order as an Exhibit/Schedule

Notice of Application

Part 2: Factual Basis

- ▶ Sets out facts on which application is based in a numbered list
- ▶ Each numbered Section should be no longer than a short paragraph
- ▶ Objective: to tell a persuasive, yet accurate (not misleading/exaggerated) story about what has happened that explains why your client is seeking the orders they've applied for

Notice of Application

Part 2: Factual Basis

- ▶ Present facts in an clear, organized manner
 - Can be thematic or chronological
 - Use headings and subheadings!
 - Often best to divide facts under headings that correspond to each order being sought
- ▶ Every fact asserted in this section must be stated in a supporting affidavit
 - Useful to cite specific affidavit paragraph(s) to support each paragraph (but not required)

Notice of Application

Part 2: Factual Basis

- ▶ Present facts in an clear, organized manner
 - Can be thematic or chronological
 - Use headings and subheadings!
 - Often best to divide facts under headings that correspond to each order being sought
- ▶ Every fact asserted in this section must be stated in a supporting affidavit
 - Useful to cite specific affidavit paragraph(s) to support each paragraph (but not required)

Notice of Application

Part 2: Factual Basis

- ▶ At the hearing, you can *only* rely on facts that are set out in the affidavits

- ▶ Often best to draft this section *after* completing the Legal Basis section
 - Ensures you cover all the facts needed to satisfy the legal requirements for the order(s) being sought

 - If you draft the “Factual Basis” section first, be sure to go back to it after drafting the “Legal Basis” section to ensure it covers everything

Notice of Application

Part 3: Legal Basis

- ▶ Outlines the legal basis for your client's application
- ▶ Ideally completed with the assistance of a lawyer or duty counsel
 - Advocates must be careful not to give “legal advice”
- ▶ Barebones listing of “*Family Law Act*” or “*Divorce Act*” is generally insufficient
 - Self-reps get some leeway, but at minimum should identify the section(s) of the *FLA* being relied upon

Notice of Application:

Part 3: Legal Basis

- ▶ Identify what gives the Court the jurisdiction to make the Orders sought
 - Cite specific sections of statute (usually *Family Law Act or Divorce Act*) and/or specific Supreme Court Family Rule
- ▶ Identify the legal “test” for obtaining the order sought
 - ▶ Often found directly in the relevant section of the *FLA* and/or the *SCFR*
 - ▶ If not, the test is usually developed in case law

Notice of Application:

Part 3: Legal Basis

- ▶ Cite any relevant case law that your client intends to rely on at the hearing
 - Case law interpreting the legal test
 - Cases with similar facts to your client's
- ▶ Explain why the Court should grant the orders sought by applying your client's facts to the legal test
 - ▶ Remember: all facts referenced in this section must be supported in the affidavits!
- ▶ See the Annotated Notice of Application on the LSS website for a list of sections of the FLA that support the most common orders your client may be seeking:
https://familylaw.lss.bc.ca/assets/forms/pdf/noticeOfApplication_i.pdf

Notice of Application

Part 3: Legal Basis

Example: legal basis section for order seeking exclusive occupancy of family home

1. Section 90(2) of the *FLA* authorizes the Court to make orders for exclusive occupancy of the family home, as follows:

90(2) The Supreme Court may make an order granting a spouse, for a specified period of time,
(a) exclusive occupation of a family residence . . .

2. In order to obtain exclusive occupancy under s. 90(2), the applicant must show two things:
 - (1) that shared use of the home is a practical impossibility; and
 - (2) on a balance of convenience, the applicant should be the preferred occupant.

Longo v. Longo, 2013 BCSC 1578 (Master); Ferguson v. Ferguson, 2014 BCSC 216

Notice of Application

Part 3: Legal Basis

3. In this case, shared use of the home is a practical impossibility because the respondent has been physically violent with the applicant and the children lately, continues to behave in an aggressive manner towards the applicant which causes her to fear for her safety and the safety of the children.
4. On the balance of convenience, the applicant is the preferred occupant for the following reasons:
 - a. The children are expected to continue to live primarily with the applicant. It would be less disruptive for the children to remain in the home in which they have always lived, which is just across from their school, than to relocate to temporary accommodation while the parties' financial issues are being resolved.
 - b. The applicant has historically handled the maintenance, upkeep and payment of all bills and utilities relating to the family residence.
 - b. The respondent travels extensively for work, and therefore is not home for approximately half of each month. If either party is to relocate, it makes more sense that it be the respondent.

Notice of Application

Pt 4: Material to be relied upon

- ▶ List all affidavits and/or Financial Statements your client intends to rely on
 - Can include affidavits filed on previous interim applications
- ▶ Do not have to separately list the pleadings that have already been filed (e.g. NOFC, Response to Family Claim, Counterclaim)

Notice of Application: Master's Jurisdiction

- ▶ At end of Part 4, you must identify whether the application is within the jurisdiction of a master or not
- ▶ Consult BCSC Practice Direction 50 for a description of masters' jurisdiction:
https://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/practice_directions/civil/PD-50-Masters'_Jurisdiction.pdf

Filing and Service of Notice of Application

- ▶ Supreme Court Family Rule 10–6
 - Contains rules and deadlines re: filing and service of Notice of Application
 - Review carefully *before* starting to draft a Notice of Application

Filing and Service of Notice of Application

- ▶ For most applications, must be served *at least* 8 business days before the hearing date
 - Exceptions: applications to change/vary/suspend a final order and/or for summary judgment require longer notice periods
 - When counting the 8 days, do NOT count the day the application is served or the hearing date
 - Example:
 - Application served on Monday, October 15, 2018 at 2pm.
 - Day 1 is Tues, Oct 16, 2018
 - Day 8 is Thurs, Oct 25, 2018
 - Earliest possible hearing date is Friday, Oct 26, 2018

Filing and Service of Notice of Application

- ▶ For smaller registries, consult registry for information about available hearing dates
 - ▶ If your client is the applicant, remember they must file a binder called the “Application Record”
 - See Supreme Court Family Rule 10-6(14)
 - Must be filed “on the business day that is at least one full business day before the date set for the hearing”
- Example:
- Hearing on Friday, Oct 26, 2018
 - Application record due on Wednesday, Oct 24, 2018 by 4:00pm

Application Response (Form F32)

- ▶ If your client is served with a Notice of Application, they must file an Application Response setting out their response to the Application
- ▶ Consult SCFR Rule 10-6(8) and 10-6(8.1) for rules and deadlines for filing Application Response
 - For most applications, Application Response must be filed *at least* 5 business days before the hearing date
 - Do not count the hearing date or the date of the hearing when counting the 5 days
 - Exceptions: applications to change/vary/suspend a final order and/or for summary judgment have different time limits

Application Response

- ▶ Most of the same tips re: completion of Notice of Application apply to the Application Response
- ▶ Parts 1, 2 and 3 – identify the orders that fall into each of the following categories:
 - Orders consented to (Part 1)
 - Orders opposed (Part 2)
 - Orders on which no position it taken (Part 3)

Application Response

▶ Part 4- Factual Basis

- Set out your client's version of the relevant facts
- All facts stated in Application Response must be supported in an affidavit
- Avoid repeated cross-referencing of facts stated in Notice of Application
 - The Application Response should be comprehensible to a judge as a standalone document, without having to cross-reference the Notice of Application at every paragraph
- Factual, accurate and persuasive, but not argumentative

Application Response

▶ Part 5 – Legal Basis

- Why the law supports your client’s position that the orders sought should not be granted
- Should be as comprehensive as the legal basis section of an application
- See Annotated Application Response on LSS website for a list of sections of the *FLA* that apply to the most common types of orders sought:
https://familylaw.lss.bc.ca/assets/forms/pdf/applicationResponse_i.pdf

Application Response

- ▶ Part 6 – Material to be relied upon and time estimate
 - List all affidavits and financial statements the application respondent intends to rely on
 - Time estimate must be provided
 - Court will adopt the *longer* of the parties' time estimates when deciding how much time is needed for a hearing

Reply Affidavit

- ▶ If your client filed a Notice of Application, they can file a reply affidavit which responds to the other side's affidavit(s)
- ▶ Supreme Court Family Rule 10-6(12)
 - Reply affidavit must be filed and served no later than 4pm on the business day that is at least one full business day before the date set for the hearing
- ▶ Supreme Court Family Rule 10-6(13)
 - Unless all parties consent or the Court otherwise orders, no more affidavits after applicant files their Reply affidavit
 - In practice, this rule is often disregarded in family law files.
 - Courts do not like this, but it is not uncommon in family law files to see several rounds of affidavits back and forth on contested applications

Questions?

Thank You!

Andrea A. Glen

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Office: 604-687-1133



Instructions

Notice of Family Claim (Form F3)

This form is for those who want to apply in Supreme Court for a divorce, most orders under the *Divorce Act* and the *Family Law Act* (including parenting orders, support orders, and orders about property and debt), and name changes, protection orders, and orders for costs. It gives the court details about you and your spouse, your relationship and separation, and what you're asking the court for. **Undefended (uncontested) divorces** (i.e., you don't expect the respondent to oppose any of the orders you're asking for): Everything on this form and the schedules should be the same as what's in any written agreement or court order you may already have.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly, and that if, for example, you fill in your name, it automatically appears elsewhere in the form.

If you print a blank form to fill in by hand and there isn't enough space:

- Open the Word form to add more space on-screen. Put the cursor in a grey box and press **enter/return** to create a new blank line, and print the form again.
- Or write "See attached" on the form and attach a page with the additional text. Clearly label the attachment; e.g., "Attachment to Schedule 2—Children."

Form F3 (Rule 4-1(I))

Court File No: 
Court Registry: 

In the Supreme Court of British Columbia

You are the **claimant**; your spouse is the **respondent**. Full legal name—see your marriage certificate, or your birth certificate if you weren't married. If you usually go by another name, add "also known as." The [divorce self-help guide](#) has more information, including what to do if you legally changed your name after marrying.

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Claimant," "Respondent by counterclaim"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

Claimant: 
Respondent: 

NOTICE OF FAMILY CLAIM

This family law case has been started by the claimant(s) for the relief set out in section 4 below.

If you intend to respond to this family law case, you or your lawyer must

- file a response to family claim in Form F4 in the above-named registry of this court within 30 days after the date on which this copy of the filed notice of family claim was served on you, and
- serve a copy of the filed response to family claim on the claimant.

If you intend to make a counterclaim, you or your lawyer must

- file a response to family claim in Form F4 and a counterclaim in Form F5 in the above-named registry of this court within 30 days after the date on which this copy of the filed notice of family claim was served on you, and
- serve a copy of the filed response to family claim and counterclaim on the claimant and on any new parties named in the counterclaim.

Orders, including orders granting the relief claimed, may be made against you if you fail to file the response to family claim within the 30 day period referred to above.

Court File No.: When you file your first documents, registry staff will give your case a number. Leave this number blank until then. Once you get a number, use it for all your documents.

Court Registry: e.g., Vancouver. Click [here](#) to find the Supreme Court Registry nearest you.

Instructions for the respondent (your spouse) once they get this form from you. The self-help guide [How to respond to an application to start a family law case](#) has more information.

Insert your name again; don't include "also known as" here. Hit **tab** after filling in your name so it shows up elsewhere in the form.

Repeat for the respondent.

(If there is more than one claimant/respondent, hit **enter/return** at the end of the line to start a new one.)

You may have to check off more than one box. Leave this section blank if you didn't marry and never lived together.

- The names of the claimant and respondent will come up automatically when you print the form.
- Either use the date format **dd/Mmm/yyyy** (**01/Jan/2000**) or hit Tab after filling in the date to autoformat.

Do you have a previous written agreement, court order, or legal proceeding that relates to what you're asking for in this family law case? E.g., you want a child support order, and you have a past court order about child support.

What do you want? Make sure you check off the right box(es). For each box, fill out a schedule—they're at the end of the form. For an undefended (uncontested) divorce, the assumption is that both spouses agree on what the order will say about all these issues.

An order for divorce: Only if you've been legally married. Fill out Schedule 1.

An order respecting child(ren): About parenting and child support. Fill out Schedule 2.

1. Information about the parties

The claimant, [REDACTED], is [REDACTED]

The respondent, [REDACTED], is [REDACTED]

Describe your relationship to the respondent:

- If you got legally married: "The claimant, [name], is married to the respondent."
- If you lived together but never legally married (i.e., in a religious or legal ceremony): "The claimant, [name], is no longer living in a marriage-like relationship with the respondent."

Repeat for the respondent.

2. Spousal relationship history

The claimant [REDACTED] and the respondent [REDACTED]

- began to live together in a marriage-like relationship on [REDACTED]
- were married on [REDACTED]
- separated on [REDACTED]
- were divorced from each other by order made on [REDACTED]

Marriage-like relationship = lived together but never married (i.e., in a religious or legal ceremony). Estimate if you don't know the exact date.

3. Prior court proceedings and agreements

- There is no prior agreement, court order or court proceeding relating to any of the claims made in this notice of family claim.
- One or more of the following relates to claims made in this notice of family claim:
 - a written agreement dated [REDACTED]
 - a court order dated [REDACTED]
 - a prior court proceeding: [REDACTED]

Fill in the court file number and court registry.

4. The claimant's claims

The claimant is asking for the following:

- An order for divorce
- An order respecting child(ren)
- An order for spousal support
- An order relating to family property and family debt
- Another order
- An order for costs

An order for spousal support: For payments to support *you*, not the children. Fill out Schedule 3.

An order relating to family property and family debt: Fill out Schedule 4.

Another order: Includes a name change or a protection order. Fill out Schedule 5.

An order for costs: To get the other party to pay your legal expenses after you've won a case. Fill out Schedule 5.

The place of trial will appear automatically when you print the form if you filled out the court registry on the first page.

Addresses of Supreme Court registries

A mailing address that's not a PO box where you can regularly receive mail so that the other party can send court documents to you. It can be your lawyer's office if you have a lawyer.

The respondent may send you court documents by fax or email instead if you add this optional information.

Date of signature: Use the date format dd/Mmm/yyyy (01/Jan/2000), or hit Tab after filling it in to autoformat.

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

5. Place of trial will be: [REDACTED]

6. The address of the registry is: [REDACTED]

7. The claimant's address for service is

Address for Service: [REDACTED]

Fax (optional): [REDACTED]

E-mail (optional): [REDACTED]

If you don't live within 30 km of the court registry, you must provide a fax number or email address. If your main address is a PO box, you can list this instead of the fax or email, but you must also list an address that's not a PO box.

Date: [REDACTED]

Signature of [REDACTED] claimant lawyer for claimant(s)

[REDACTED]

[Type or print name]

LAWYER'S CERTIFICATE
(FAMILY LAW ACT, s. 8(2))

I, [REDACTED], lawyer for [REDACTED], certify that, in accordance with section 8(2) of the *Family Law Act*, I have

- (a) discussed with the party the advisability of using various types of family dispute resolution to resolve the matter, and
- (b) informed the party of the facilities and other resources, known to me, that may be available to assist in resolving the dispute

Date: [REDACTED]

Signature of lawyer [REDACTED]

[REDACTED]

[Type or print name]

Schedule 1

Attach this schedule if you're applying for a divorce.

| Form F3 (Rule 4-1(1)) | | |
|---|------------|------------|
| SCHEDULE 1—DIVORCE THIS IS SCHEDULE 1 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM. | | |
| 1. Personal Information | | |
| Birthdate: | Claimant | Respondent |
| Ordinarily resident in British Columbia since: | [REDACTED] | [REDACTED] |
| Surname at birth: | [REDACTED] | [REDACTED] |
| Surname immediately before marriage: | [REDACTED] | [REDACTED] |
| Marital status immediately before marriage: | [REDACTED] | [REDACTED] |
| Place of marriage: | [REDACTED] | [REDACTED] |
| Date of marriage: | [REDACTED] | [REDACTED] |
| 2. Grounds for the claimant's claim for divorce | | |
| <input type="checkbox"/> The claimant asks for an order for divorce on these grounds: | | |
| (i) <input type="checkbox"/> The claimant and his or her spouse have lived separate and apart since [REDACTED] AND <input type="checkbox"/> the claimant and his or her spouse have not lived together since then. <input type="checkbox"/> the claimant and his or her spouse have lived together again during the following period(s), in an unsuccessful attempt to reconcile: [REDACTED] | | |
| (ii) <input type="checkbox"/> Other grounds , under section 8(2)(b) of the <i>Divorce Act</i> (Canada): [REDACTED] AND <input type="checkbox"/> The claimant has not condoned any act relied on under section 8(2)(b) of the <i>Divorce Act</i> (Canada) as a ground for divorce. | | |

This means "Living in BC since . . ." If you don't know the exact date you started living in BC, estimate.

Either use the date format dd/Mmm/yyyy (01/Jan/2000) or hit Tab after filling in the date to autoformat.

Usually the grounds for divorce are you've been living separate and apart for a year. If this is the case, check off the relevant boxes under (i).

Choose either *never married*, *divorced*, or *widowed*.

City, province or state, and country.

You can also apply for a divorce on the grounds of adultery or physical or mental cruelty (ii). You don't have to live apart for a year for a divorce on these grounds. (However, you must present evidence of the adultery or cruelty. Our [online self-help guides](#) don't cover this. Please seek legal advice.)

Format the date ranges as "From 1/Jan/2012 to 1/May/2012."

You must check both boxes:

- First box: It's not possible you'll get back together with your spouse.
- Second box: You and your spouse haven't lied or tried to deceive the court in any way, e.g., saying that you've been separated for longer than you have been.

3. The claimant confirms that:

- There is no possibility of reconciliation.
 There has been no collusion, as defined in section 11(4) of the *Divorce Act* (Canada), in relation to this claim for divorce.

4. Proof of marriage

- A certificate of marriage or of registration of marriage [REDACTED] has been filed
 A certificate of marriage or of registration of marriage is not being filed with this notice of family claim because [REDACTED], and the certificate will be filed before this claim is set down for trial or an application is made for an order of divorce
 It is impossible to obtain a certificate of marriage or of registration of marriage because: [REDACTED]

See [How to get a copy of your marriage certificate](#).

- First box: You plan to file the marriage certificate with this form. If you're filing a translation from a foreign language, select "and translation" from the drop-down list or add it by hand.
- Second box: You plan to file the marriage certificate in the future. E.g., "we are waiting for the certificate to come from another country." You'll also have to provide a good reason why you're filing this claim without a marriage certificate.

5. Children

Children of the marriage
= under 19, or 19 or over but you're still supporting because they're in school or they have an illness or disability that prevents them from becoming independent.

- If the children live part-time with each parent, mention this.
- If you have more than five children, place the cursor at the end of the line in the fifth row and hit **enter/return** to start a new line. After typing in the name, hit **ctrl-Tab** (Mac: **control-tab** or **option-tab**) to move the cursor to the birth date column.

- There are no children of the marriage as defined by the *Divorce Act* (Canada)
 The children of the marriage are:

| Full name | Birth date | Resides with |
|------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |

LAWYER'S CERTIFICATE
(DIVORCE ACT (CANADA), s. 9)

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

I, [REDACTED], lawyer for [REDACTED], certify that I have complied with section 9 of the *Divorce Act* (Canada), which says:

- 9 (1) It is the duty of every barrister, solicitor, lawyer or advocate who undertakes to act on behalf of a spouse in a divorce proceeding
- (a) to draw to the attention of the spouse the provisions of this Act that have as their object the reconciliation of spouses, and
 - (b) to discuss with the spouse the possibility of the reconciliation of the spouses and to inform the spouse of the marriage counselling or guidance facilities known to him or her that might be able to assist the spouses to achieve a reconciliation,
- unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so.
- (2) It is the duty of every barrister, solicitor, lawyer or advocate who undertakes to act on behalf of a spouse in a divorce proceeding to discuss with the spouse the advisability of negotiating the matters that may be the subject of a support order or a custody order and to inform the spouse of the mediation facilities known to him or her that might be able to assist the spouses in negotiating those matters.

Date: [REDACTED] _____

Signature of lawyer
[REDACTED]

[Type or print name]

Schedule 2

Attach this schedule if you're asking the court for any order related to children. See Parenting apart and Child support.

| Form F3 (Rule 4-1(1)) | | | | | |
|--|-------------------|--------------------------------------|--|---------------------------------------|-----------------------|
| SCHEDULE 2—CHILDREN THIS IS SCHEDULE 2 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM. | | | | | |
| 1. Identification of child(ren) | | | | | |
| The claimant is asking for an order in respect of the following child or children: | | | | | |
| Child's full legal name | Child's birthdate | Child's relationship to the claimant | Child's relationship to the respondent | Child habitually resident in BC since | Child now living with |
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| | | | | | |

Either use the date format dd/Mmm/yyyy (01/Jan/2000) or hit Tab after filling in the date to autoformat.

To add more rows to the table, put your cursor in the last cell in the bottom row and press Tab.

Child's relationship to the claimant/respondent: e.g., daughter, son, stepdaughter, stepson.

Child habitually resident in BC since = has been living in BC since.

Child now living with: e.g., claimant; claimant and respondent; respondent.

2. Orders sought

The claimant is asking for the following order(s):

- an order respecting arrangements for parenting for a child or children
 an order for child support

This should include:

- who the children live with and when
- who makes decisions about the children

Parenting apart will help you with the words to use and the concepts behind them. Describe how children spend time with people who aren't parents or guardians, if necessary.

Describe what you're asking the court, and be as descriptive as for #3 above.

3. Current arrangements for parenting

Current arrangements for parenting are:



E.g., "The claimant and the respondent share parenting time of the children, [name(s)], equally. The children spend one week with the claimant and then one week with the respondent. We each make day-to-day decisions about the children when they're with us. We share all major decision-making."

4. Proposed arrangements for parenting

The claimant proposes the following arrangements for parenting:



The claimant is asking for this order under

- the *Divorce Act* (Canada) the *Family Law Act*

If you or the respondent currently pays child support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

Even though there's a check box to indicate that you don't know the person's income, you should, at least, make an estimate. This is especially important if you think your spouse won't respond to this notice and you end up going through an undefended/uncontested divorce. The judge will need an amount to make the court order. State the gross income (total income before taxes and deductions).

If unsure, make your best estimate and say what you based your estimate on—e.g., "The respondent earned \$500 a week when we lived together and is still working at the same job."

List the full names of children you want child support for. See Child support, which explains how much would be paid under the Federal Child Support Guidelines, and what special or extraordinary expenses are.

Decide which act you're asking for your order for parenting arrangements under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. Which laws apply to your case? and Parenting apart explain the difference between the two acts.

5. Current child support arrangements

Current child support arrangements are:



6. Income of person being asked to pay child support

- The claimant does not know the income of the person being asked to pay child support
- The claimant believes that the income of the person being asked to pay child support is \$REDACTED, based on these facts:



7. Proposed child support arrangements

The claimant is asking for:

- support in the amount set out in the child support guidelines table for the following child(ren): REDACTED
- special or extraordinary expenses in accordance with section 7 of the child support guidelines for the following child(ren): REDACTED
- by consent, an order for support in an amount different than the amount set out in the child support guidelines table for the following child(ren): REDACTED

The claimant is asking for an order for child support under

- the *Divorce Act* (Canada) the *Family Law Act*

Decide which act you're asking for your order for child support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. Which laws apply to your case? and Parenting apart explain the difference between the two acts.

The box explains whether you have to file a Financial Statement. If you're requesting child support, you file financial information only under certain circumstances. Step 3 of How to start a family law case has a version of this box that's easier to understand.

If you have to fill out a Financial Statement, see How to deal with a Supreme Court Financial Statement (Form F8).

Note to Claimant AND Respondent

You must file **financial information** (Form F8) if

- there is a claim against you for support of a child, OR
- you are claiming child support **unless all** of the following conditions apply:
 - (a) you are making no claim for any other kind of support;
 - (b) the child support is for children who are not stepchildren;
 - (c) none of the children for whom child support is claimed is 19 years of age or older;
 - (d) the income of the party being asked to pay child support is under \$150,000 per year;
 - (e) you are not applying for special expenses under section 7 of the child support guidelines;
 - (f) you are not applying for an order under section 8 of the child support guidelines;
 - (g) you are not applying for an order under section 9 of the child support guidelines;
 - (h) you are not making a claim based on undue hardship under section 10 of the child support guidelines.

If you do not file the financial information that is required, the court may attribute an amount of income to you, and make a support award against you, based on that amount.

Schedule 3

Attach this schedule if you're asking the court to make an order for spousal support—payments to support *you*, not the children. (See Spousal support for more information.)

Form F3 (Rule 4-1(1))

SCHEDULE 3—SPOUSAL SUPPORT

THIS IS SCHEDULE 3 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

If you or the respondent currently pays spousal support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

Spousal support orders are often made according to the federal Spousal Support Advisory Guidelines. For more information, see Spousal support.

Decide which act you're asking for your order for spousal support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. Which laws apply to your case? explains the difference between the two acts.

Fill in your gross income (your total income before taxes and deductions).

1. Current arrangements for spousal support

Current spousal support arrangements are:



2. Proposed spousal support arrangements

The claimant is asking for an order for spousal support as follows:



The claimant is asking for an order for spousal support under

the *Divorce Act* (Canada) the *Family Law Act*

3. Income of claimant and respondent

The claimant's gross annual income is \$

The claimant does not know what the claimant's spouse's income is

The claimant believes that the claimant's spouse's gross annual income is \$, based on these facts:



Even though there's a check box to indicate that you don't know your spouse's income, you should, at least, make an estimate. This is especially important if you think your spouse won't respond to this notice and you end up going through an undefended/uncontested divorce. The judge will need an amount to make the court order.

If unsure, make your best estimate and say what you based your estimate on—e.g., "The respondent earned \$500 a week when we lived together and is still working at the same job."

If you're asking for spousal support or the respondent is asking you to pay spousal support, you may be required to file a Financial Statement. See [How to deal with a Supreme Court Financial Statement \(F8\)](#).

Note to Claimant AND Respondent

You may be required to file **financial information** (Form F8) if there is a claim by you or against you for spousal support.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

Schedule 4

Attach this schedule if you're asking the court for any order that has to do with property and debts. The BC *Family Law Act* says that all **family property** and **family debt** must be divided equally between you and your spouse after you separate unless you have an agreement that says otherwise. See How to divide property and debts and Dealing with debts after separation.

Form F3 (Rule 4-1(1))

SCHEDULE 4—PROPERTY

THIS IS SCHEDULE 4 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

1. The claimant's claims

A. Property and debt claims under the *Family Law Act*

The claimant is asking for an order for:

- equal division of family property and family debt
 unequal division of family property and family debt as follows and on the following grounds:



The address and legal description of any real property in which the claimant claims an interest as a family property is:



Check either box.
Remember, the court will only order an *unequal* division when an *equal* division is **significantly unfair**.

Real property = land and buildings. A **legal description** is used in legal documents to describe a piece of land—and it isn't a street address. You can get the legal description from your tax assessment or your certificate of title.

This section is for property claims not covered by the *Family Law Act*—property that is *not* family property. This includes:

- *excluded property*, such as gifts or inheritances the other party received while you were together and property owned by the other party at the time you moved in together
- property owned by a third party
- property you're claiming on the basis of *unjust enrichment* (a legal concept used to get a share of property that you're not entitled to under the *Family Law Act*)

B. Other property claims

The claimant claims:

- an interest in the following property:



- an order for compensation instead of an interest in the property described as



on the following grounds:



The court will need a lot of information if you're filing for an undefended (uncontested) divorce; it's a good idea to attach a detailed separation agreement to the Affidavit—Desks Order Divorce (Form F38) (step 5). If the other party disagrees with what you're asking for, you'll have to convince the judge to make the orders you want through evidence later on.

You can ask for an **interest in the property** (part ownership) or **compensation** (money). If the property is real estate, provide the legal description.

If you think your spouse might sell or borrow against property that you think you should have a share of, you can take steps to prevent that from happening—by registering a **Certificate of Pending Litigation** against the property. This tells anyone interested in buying or loaning money against the property that who owns it is being decided by a lawsuit.

2. Certificate of Pending Litigation

- The claimant is applying for a Certificate of Pending Litigation to be registered against the following real property:



Schedule 5

Attach Schedule 5 if you're asking the court for any other orders, including name changes, protection orders, annulments, and an order for costs. You don't need to ask for a legal change of name if you're just going back to the name you used before marriage.

Form F3 (Rule 4-1(1))

SCHEDEULE 5—OTHER ORDERS

THIS IS SCHEDULE 5 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

The claimant is asking for the following orders:

an order under the *Name Act* that the claimant's name be changed from → [REDACTED] to [REDACTED]

the following orders under the *Family Law Act*

1. [REDACTED]

other orders

→ 1. [REDACTED]

List orders under the *Family Law Act* that you're requesting (orders that weren't listed in any of the preceding schedules). Use numbered paragraphs. Include the sections of the act. E.g., "a protection order under s. 183."

List any other orders you're requesting. Use numbered paragraphs. Say what the **legal authority for the order is—usually the name of the law. E.g., "an order for [describe] under s. [section number] of the *Divorce Act*." If you want costs, just write "an order that I have my costs in this proceeding."**

Instructions

Response to Family Claim (Form F4)

Use this form to respond to the other party's Notice of Family Claim (Form F3). The self-help guide [How to respond to an application to start a family law case](#) has more information.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly.

If you print a blank form to fill in by hand and there isn't enough space:

- Open the Word form to add more space on-screen. Put the cursor in a grey box and press **enter/return** to create a new blank line, and print the form again.
- Or write "See attached" on the form and attach a page with the additional text. Clearly label the attachment; e.g., "Attachment to #1 - 'Schedule 1'."

Form F4 (Rule 4-3(1))

Court File No.: [REDACTED]

Court Registry: [REDACTED]

Fill in the same court file number and court registry as what's on the Notice of Family Claim (Form F3).

In the Supreme Court of British Columbia

As stated on the Notice of Family Claim (Form F3), you are the **respondent** and your spouse is the **claimant**. Insert your full legal names as stated on that form. Your spouse should have inserted your full legal names as listed on your marriage certificate, or your birth certificates if you weren't married, along with any other names you usually go by ("also known as").

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Respondent"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

Claimant: [REDACTED]

Respondent: [REDACTED]

RESPONSE TO FAMILY CLAIM

Filed by: [REDACTED] (the "respondent") ←

1. Response to information in notice of family claim:

My position regarding the information set out in the notice of family claim is as follows:

- The information set out in sections 1, 2 and 3 of the notice of family claim is correct.
- The information set out in sections 1, 2 and 3 of the notice of family claim is not correct in the following respects:

[REDACTED]

Schedule 1:

- The information set out in sections 1, 2, 3, 4 and 5 of Schedule 1 to the notice of family claim is correct.
- The information set out in sections 1, 2, 3, 4 and 5 of Schedule 1 to the notice of family claim is not correct in the following respects:

[REDACTED]

Read how your spouse filled out numbers 1, 2, and 3 on the first two pages carefully. If there's something that isn't correct, describe how so.

If your spouse filled out schedules 1, 2, and/or 3, read them carefully. If there's something that isn't correct, describe how so.

E.g., Schedule 1—"My surname before marriage was Smith. I did not change it after my first marriage."

Schedule 2:

- The information set out in sections 1, 3, 5 and 6 of Schedule 2 to the notice of family claim is correct.
- The information set out in sections 1, 3, 5 and 6 of Schedule 2 to the notice of family claim is not correct in the following respects:
[REDACTED]

Schedule 3:

- The information set out in sections 1 and 3 of Schedule 3 to the notice of family claim is correct.
- The information set out in sections 1 and 3 of Schedule 3 to the notice of family claim is not correct in the following respects:
[REDACTED]

E.g., "The claimant's income is presently about \$15,000 because he was laid off and his income presently comes from EI. However, he is a trained bricklayer and is capable of earning about \$55,000 to \$65,000 a year."

2. Response to claims in notice of family claim:

This is my response to claims made against me in the Schedules to the notice of family claim:

If your spouse attached any of the schedules mentioned in this table, say whether you agree or disagree with what's in the schedule (what your spouse is asking the court for). You may agree with some parts of the notice of family claim but disagree with others.

| | | |
|---|--------------------------------|-----------------------------------|
| Claim for divorce (Schedule 1, section 2) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| Parenting arrangements (Schedule 2, section 4) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| Child support (Schedule 2, section 7) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| Spousal support (Schedule 3, section 2) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| Division of family property and family debt (Schedule 4, section 1) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| Other property claim(s) (Schedule 4, section 1) | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |

Other orders (Schedule 5)

| | | |
|------------|--------------------------------|-----------------------------------|
| [REDACTED] | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| [REDACTED] | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |
| [REDACTED] | <input type="checkbox"/> Agree | <input type="checkbox"/> Disagree |

If you spouse attached Schedule 5, describe each claim on the schedule and say whether you agree or disagree.

A mailing address that's not a PO box where you can regularly receive mail so that the other party can send court documents to you. It can be your lawyer's office if you have a lawyer.

The claimant may send you court documents by fax or email instead if you add this optional information.

3. My address for service is

Address for Service: [REDACTED]

Fax (optional): [REDACTED]

E-mail (optional): [REDACTED]

If you don't live within 30 km of the court registry, you must provide a fax number or email address. If your main address is a PO box, you can list this instead of the fax or email, but you must also list an address that's not a PO box.

Date of signature: Use the date format dd/Mmm/yyyy (01/Jan/2000), or hit Tab after filling it in to autoformat.

Date: [REDACTED]

Signature of

filing party lawyer for filing party(ies)



[Type or print name]

See [Step 4 of How to respond to an application to start a family law case](#). It links to a separate guide for filling out the Financial Statement (Form F8).

If you have a lawyer, usually he or she will sign the document. Check off "filing party" if you sign this. The signature can't be separate from the rest of the form, so lines from the preceding paragraph will automatically move to this page.

Note to Claimant AND Respondent

You may be required to file **financial information** (Form F8) if there is a claim by you or against you for support of a child or spouse. See the note at the end of Schedule 2 of the notice of family claim for details.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

LAWYER'S CERTIFICATE

(*FAMILY LAW ACT*, S. 8(2))

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

I, [REDACTED], lawyer for [REDACTED], certify that, in accordance with section 8(2) of the *Family Law Act*, I have

- (a) discussed with the party the advisability of using varying types of family dispute resolution to resolve the matter, and
- (b) informed the party of the facilities and other resources, known to me, that may be available to assist in resolving the dispute.

Date: [REDACTED]

Signature of lawyer



[Type or print name]

Instructions

Notice of Application (Form F31)

Use this form if you've filed a Notice of Family Claim (Form F3) and are applying for an interim order or to change an order. You can also use this to enforce a parenting order or agreement or to set aside an agreement. It sets out what type of order you want, what evidence you'll use, what the legal basis is for the order, and how long you think the hearing will take.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly.

Form F31 (Rule 10-6(3))

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

Claimant:
Respondent:

NOTICE OF APPLICATION

Name(s) of applicant(s):

To:

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at address on dd/Mmm/yyyy at time (hh:mm AM/PM) for the order(s) set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1.

You are the **applicant**; it doesn't matter whether you're the claimant or the respondent on the Notice of Family Claim (Form F3) or Requisition (Form 17.1). You're the one filing this notice of application. Fill in your full legal name as stated above.

Fill in the full legal name of the person you're bringing the application against. If you're using one of our self-help guides, this would usually be the other party of the Notice of Family Claim or Requisition (your spouse or ex-spouse).

In numbered paragraphs, clearly set out the orders you want the court to make. Keep them simple and brief. Make sure the orders you ask for here relate to what you asked for in the Notice of Family Claim. For example, if you didn't ask for child support in your Notice of Family Claim, you can't ask for an interim order for child support here.

This top section (court file no., court registry, and names) should be the same as what's on the form that started your family law case (e.g., Notice of Family Claim (Form F3), Requisition (Form 17.1)).

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Respondent"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

Addresses of Supreme Court registries

You'll have to ask the court registry for a hearing date. Insert the date and time they give you.

See the Continuing Legal Education Society of BC's book *Supreme Court Chambers Orders* to find examples of court orders. You can find this book in the courthouse library.

To insert a tab space after typing "2.": hit **Ctrl-Tab** (Mac: **control-tab** or **option-tab**).

In numbered paragraphs, set out a brief summary of the facts that support what you're asking the court to order. Be as concise as possible, and only include information that's directly relevant. All the facts you state here must also be included in your sworn affidavits if you want the court to consider them as part of the evidence supporting your case. Your affidavit can contain more details.

In numbered paragraphs, set out the section of the act or court rule you're relying on. You could also provide a brief summary of any other legal arguments that you're relying on (e.g., case law).

Here is a list of sections of the Family Law Act that support the most common types of orders.

Part 2: FACTUAL BASIS

1. [REDACTED]

Part 3: LEGAL BASIS

1. [REDACTED]

Interim parenting order—Family Law Act, s. 45 (Parenting) and s. 216 (Interim Order)

Interim child support order—Family Law Act, s. 149 and s. 216 (Interim Order)

Interim spousal support order—Family Law Act, s. 165 and s. 216 (Interim Order)

Interim contact order—Family Law Act, s. 59 and s. 216 (Interim Order)

Order for disclosure—Family Law Act, s. 212

Order restraining someone from removing the children from an area—Family Law Act, s. 64

A financial restraining order (e.g., an order preventing one party from disposing)—Family Law Act, s. 91

Order to change a final parenting order—Family Law Act, s. 47

Order to enforce a parenting order—Family Law Act, s. 61

Order to change a final contact order—Family Law Act, s. 60

Order about relocation—Family Law Act, s. 69

Order to change a final child support order—Family Law Act, s. 152

Order to change a final spousal support order—Family Law Act, s. 167

Order to set aside an agreement re child support, Family Law Act s. 148, re spousal support, Family Law Act s. 163, re parenting, Family Law Act s. 44

Part 4: MATERIAL TO BE RELIED ON

1. [REDACTED]

In numbered paragraphs, list the affidavits you'll be relying on to persuade the court to make the orders you're asking for. Any evidence you want the judge to consider must be included in sworn affidavits. Some affidavits may have already been filed before this application, but some you'd file with this one. List all of them.

List affidavits as follows:
"Affidavit #1 [number in the top right-hand corner of the affidavit] of [name], made [dd/Mmm/yyyy]."

See the Checklist of information to include in an affidavit or present in court.

"Application" refers to the hearing at the courthouse. Make your best estimate. If you think it will be longer than two hours, you must tell the registry when you ask for a hearing date.

Masters can make most interim family orders. Only a *judge*, however, can make an order to change a final order.

Orders a master can make:

- Interim orders under the Family Law Act, including those concerning guardianship, parenting arrangements, contact, and child and spousal support. Also interim protection orders, restraining orders, and orders for exclusive occupation of a family residence.
- Interim orders under the Divorce Act for custody, access, and support.
- An order to change any of the interim orders described above.
- Final orders by consent, and under Supreme Court Family Rule 21-5 dealing with failure to comply with the court rules.

The applicant(s) estimate(s) that the application will take length of time.

- This matter is within the jurisdiction of a master.
 This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within the time for response to application described below,

- (a) file an application response in Form F32,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the family law case, and
- (c) serve the applicant 2 copies of the following, and on every other party one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 11-3, any notice that you are required to give under Rule 11-3(9).

Instructions to the party receiving your notice of application. The self-help guides have more information.

Time for response to application

The documents referred to in paragraph (c) above must be served in accordance with that paragraph,

- (a) unless one of the following paragraphs applies, within 5 business days after service of this notice of application,
- (b) if this application is brought under Rule 11-3, within 8 business days after service of this notice of application, and
- (c) if this application is brought to change, suspend or terminate a final order or
to set aside or replace the whole or any part of an agreement filed under Rule 2-1(2), within 14 business days after service of this notice of application.

Date of signature: Use the date format dd/Mmm/yyyy (01/Jan/2000), or hit Tab after filling it in to autoformat.

This will be filled out by the judge or master if they approve the orders that you want.

Date: _____

Signature of
 applicant lawyer for applicant(s)

[Type or print name]

If you have a lawyer, usually he or she will sign the document. Check off applicant if you sign this. The signature can't be separate from the rest of the form, so lines from the preceding paragraph will automatically move to this page.

To be completed by the court only:

Order made

- [] in the terms requested in paragraphs _____ of Part 1 of this notice of application
- [] with the following variations and additional terms:

Date: _____

Signature of
 Judge Master

Appendix

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- interim order
- change order
- adjournments

- proceedings at trial
- appointment of additional expert(s): financial matters
- other matters concerning experts

Provincial Advocates Conference

**Family Law Update
October 16, 2018**

Agnes Huang
Saltwater Law

AGM v. R.S.M aka E.K.M
2018 BCSC 1670
Madam Justice Donegan

Parties (A and E) lived in Edmonton before they separated (in May 2018. Married for 8 years.

One child (T) – almost 3 years old.

A asked to take T to Kelowna for a summer holiday. E agreed. A was to return with T to Alberta on August 30.

Instead.... A commenced a proceeding in B.C. (Kelowna) a few weeks before A was to return to Alberta with T.

In January 2017, E, who was born male, began wondering if she were transgender, and began her transitioning.

In 2018, E was presenting herself as female in public and began a hormone treatment program.

A did not accept E, and said many hurtful things and alleged that she and T were terrorized by E:

- Narcissistic to a fault
- Extremely out of whack (due to hormone replacement)
- Like a 16 year old girl experiencing puberty
- A “fake woman”

A's allegations of Family Violence: emotional and psychological abuse

MJ Donegan finds that neither A nor T were victims of family violence at the hands of E.

A's affidavits contained inflammatory and defamatory language, unfounded and uniformed opinions.

E is concerned that if A allowed to stay in Kelowna, T and E will become estranged.

MJ Donegan:

There is no evidence to suggest that T is somehow unsafe in either of her parents' care or that, **all of a sudden**, E is no longer able to parent in T's best interest.

E's transition to the female gender is a journey that T should not be shielded from. E will always be her parent, so will A. T should have the benefit of continuing to have two parents that love her and care for her. Their gender is immaterial.

To T, her parents' gender should, and will be, immaterial if all of those in her life that love and care for her take care to **respect and support the change**.

MJ Donegan declined to take jurisdiction of the issues. T was habitually resident in BC when A filed her application, and there is no serious harm if T were to return to Alberta.

MJ Donegan found that A wrongfully removed T from Alberta, and that T be returned forthwith to her home in Edmonton and to the care of E.

Guardianship

Doyle v. Handley, 2018 BCSC 293 (Mr. Justice Armstrong)

What constitutes “regular care” under s. 39(3)(c) of the FLA?

Judge cited Court of Decision in A.A.A.M. (an adoption case): intention of the Legislature was to refer to a parent who has demonstrated a continuing willingness to provide for the child’s ongoing needs and a record of “usually” or “normally” doing so in fact. It connotes something more than simply “visiting” the child at regular intervals.

Judge found the Mother's behaviour of moving without court order approval of her relocation to be entirely inappropriate and disrespectful of the child's right to have a fulsome relationship with his Father and with the Father's right to share parenting responsibilities with the respondent.

Judge did not order the Mother to move back (she was in Master's program), but did require her to bring the child to Fort St. John once a month, and also to facilitate contact in the Lower Mainland once a month.

Judge order the Mother to pay special costs.

Guardian - Aunt

S.M.K. v. C.L., 2018 BCPC 64 (Judge Frame)

Aunt (SMK) applied to be a guardian of the child T. Child had been in care of DA per a 2016 agreement. DA passed away.

Mother CL not an option – child protection concerns, mental health issues, addiction, criminal activities, homelessness.

Order: SMK appointed a guardian. Not clear whether CL had been removed as a guardian. If CL still a guardian, she will remain a guardian. If not, SMK will the sole guardian.+

Guardian – Grandma v. Mom

N.A.H. v. T.D.H. and D.M., 2018 BCPC 36 (Judge Frame)

Maternal Grandma N applies to be a guardian of her grand daughter L. Mom is T and Dad is D; he did not participate.

N completed police and MCFD checks. Both came back clean. Bit surprising: MCFD had prior interactions with N re her own children. Her husband, who she still lives with, was alleged to have met the social workers with a shotgun.

L is 12 years old; her consent is required but not provided.

Views of the Child report: L wants to live with maternal grandparents; refers to them sometimes as mom and dad; enjoys spending time with mom.

Report was done before T had lengthier time with L.

Guardian – Grandma v. Mom

N raised L essentially from the time L was born as T was having a difficult time.

T wanted to take L into her care, but N ignored T's overtures in that regard. (N had previously withheld another grandchild from the bio parent.)

N told doctors, teachers and social workers not to speak with T because T was not a guardian of L. Not true!

Guardian – Grandma v. Mom

Judge:

- N's attitude and behaviour towards T leaves suggests that N has left L with the impression that her mother abandoned her.
- Concerns about living conditions at N's: water access problems, rodents
- L appears to have no friends and is relatively isolated
- Concerns about L feeling need to write a letter each time she wants to stay with T. Emotionally unhealthy for L.

There are also other insidious actions of N that have made it difficult for T to give proper care to L. Example: evasiveness around school login and health care number.

Guardian – Grandma v. Mom

T raising her two other kids; sought to get L back from her mother. She has obtained counselling to be able to confront her mother about the return of L.

Judge finds that T is capable of providing a safe, stable and appropriate home for L. No need to add another guardian at L's life at this stage. L to be returned to T's care.

Judge also finds that N is not capable of exercising guardianship responsibilities, protecting L from domestic violence, or properly socializing and educating L. N's application dismissed. N's contact with L is set out. (T lives in Bonnyville, AB. N lives in Kamloops.)

Guardian – Grandparent v. Grandparent

***C.N. and D.N. v. J.I. and S.I.*, 2018 BCPC 34 (Judge Gove)**

Child is M

Mother is JI and Father is RN

Maternal Grandma is SI

Paternal Grandparents are CN and DN

MI was born premature, with complications related to us of opiates and alcohol by JI. JI wanted to put MI up for adoption.

MCFD removed and placed M with SI. Later MCFD removed M from SI because she was leaving M in the unsupervised care of JI.

Guardian – Grandparent v. Grandparent

CN and DN live in Lions Bay and have a business. CN educated herself about M's needs

SI appears to be in unstable housing. SI also exhibited behaviour in court that raised concerns about her mental health.

CN and SI both want to raise M. But they cannot agree on virtually anything. They do agree that they cannot both be guardians.

Judge – not in best interest of M to remove him from his stable home with the Ns. Allowing SI and JI to be guardians will not work.

Order: CN and DN be sole guardians of M. All previous orders dealing with guardianship and access are set aside. SI and JI will have supervised access with M.

Family Violence

B.G.M.S. v. J.E.B., 2018 BCSC 1628 (Madam Justice Fleming)

MJ Fleming reviews a number of acts:

- Abusive text messages
- Financial abuse (threatening to pay less support)
- Physical violence
- Break and enter
- Physical harm to child
- Criminal history
- Dangerous driving
- Drug trafficking
- Substance Misuse

MJ Fleming also assesses the Mother remaining in an abusive relationship: Mother's evidence of why she stayed in compelling – caught in his web of lies; internalized his verbal and emotional abuse; blamed herself; was embarrassed. Over time, she began feeling better about herself.

Family Violence

Judge finds that it is not in the child's best interest to have any unsupervised parenting time with his dad.

Parenting schedule (under supervision):

- Wednesday to Thursday
- Every other weekend
- Christmas, Spring Break, Father's Day; Summer

Father is also to do further drug testing

Fine for breaching Protection Order: No fine but ordered to pay \$2,000 forthwith.

Parenting Impairment

***Maher v. Maher*, 2018 BCSC 275 (Master Muir)**

Family violence - Evidence indicates that the Father has simmering anger that has erupted in serious abuse of dogs on several occasions, the most recent being just prior to separation.

Concerning that a parent (the Dad) who alleges such a strong connection with a child would not do whatever is necessary, including agreeing to supervision on a without prejudice basis, in order to maintain the connection and relationship with the child. It instead appears that if the respondent (Dad) does not get his own way, he is, at best, not interested and at worst, take matters into his own hands – such as his vanishing with the child at the aquarium.

Master concludes that the Dad's ability to exercise his parental responsibilities is impaired: He is at best careless and distracted; he minimizes the potential impact on the child.

Dad's parenting time is to be supervised.

Conduct Orders

N.W. v. C.R., 2018 BCPC 194 (Judge Merrick)

Child P is 10 years old.

Order re parenting schedule: primary with Mom and alternating weekends with Dad + alternating Wednesday/Thursday.

Conduct Orders:

- Communicate via email and text
- Respectful
- Respond in timely manner (text) and within 3 days (email)
- Response to be clear and thorough and address all issues presented

Conduct Orders

- Not use P directly or indirectly to gather info about other parent
- Not schedule parenting time through P
- Not suggest attractive alternatives to P rather than parenting time
- Not blame, criticize or belittle the other parent to P
- Not schedule activities on other parent's time
- Encourage P to contact other parent
- If travelling overnight with P, let other parent know
- Do everything reasonably possible to obtain a passport for P
- Copy other parent if communicating with counsellor

Protection Order

C.M. v. K.W., 2018 BCPC 42 (Judge Harris)

Dad (CM) applied to set aside the Protection Order

Mom (KW) obtained an ex-parte Protection Order; allegations include:

- CM choked KW on several occasions; threw her against a wall; held her on the bed with his knew on her back.
- CM grabbed child's arm
- Mental Health: CM told KW he was going to jump off the Lion's Gate Bridge
- Environment: KW saw people injecting drugs, smoking crack and fighting at CM's residence
- CM got angry and yelled when KW when he went to school early to pick up the child

Protection Order

Judge believes the majority of KW's evidence. Finds CM not to be a credible witness:

Judge round that portions of CM's evidence were illogical, he was evasive and his anger and animosity towards KW was displayed throughout his evidence. Examples:

- CM said that moisture on the screen of his phone prevent him from texting KW (during a snowstorm in December)
- CM would not respond to simple questions

Protection Order

Judge finds CM violent towards KW, but not to the child. Since separation, no physical violence but with the change in the parenting schedule, CM has become frustrated, angry and hostile.

CM's emotions have manifested in threats to KW, aggressive comments and deliberate acts of manipulation.

Judge also notes KW's perception that CM will kill her.

Judge denies CM's application to set aside the Protection Order.

Getting children heard/represented

K.M. v. P.S.W., 2018 BCSC 1318 (Mr. Justice Skolrood)

Ongoing estrangement of 14-year old (CW) from her Father.

2017 Order required parties to enrol in a family reunification program, plus a parenting coordinator

Little progress, so Judge decided it would be useful to hear from CW directly. CW is strongly opposed to any further reunification counselling and will not participate.

Mother had sought to add CW as a party or, alternatively, to have a lawyer appointed for her. The Judge declined to do so.

Getting children heard/represented

Why? Dispute already causing CW and her sister significant anxiety. Not in CW's best interest to involve her more and would be detrimental to her well-being.

Judicial interview: allows court to hear from the child directly. BUT, the child's views are not determinative, but provide useful context for considering the evidence as a whole.

The weight given to a child's views depends largely on the age and maturity of the child. Judge found CW to be thoughtful, mature and well-spoken but too young to be permitted to dictate solely the terms on which she will or will not see her Father.

Getting children heard/represented

Judge: two things need to happen for there to be progress and improvement in CW's relationship with her father:

- CW has to come to terms with the issues she has with her father, and
- The parties have to resolve their ongoing acrimony and mistrust and learn to co-exist and co-parent their children

Judge ordered that

- a counsellor be retained to work with CW to address family issues,
- the parties open a family support file with MCFD (as recommended by the psychiatrist), and
- the parties jointly retain a counsellor to assist them in resolving the distrust and conflict between them (under s. 224)

Marriage-like Relationship

Ovchinnikova v. Stevens, 2018 BCSC 951 (Madam Justice Russell)

Parties were working in Dubai when the child was conceived. Had a relationship for four to six months. Child born on April 29, 2016 in Moscow

Mother filed a NOFC in BC on January 27, 2016. Respondent served by email. Mother obtained an interim Order for spousal support.

Father did not apply to set aside the Order until May 31, 2018. At that time, FMEP had placed a lien on his BC property and flagged his passport.

Marriage-like Relationship

MJ Russell ordered that FMEP cease and desist from enforcement measures until further order of the court (under Rule 18-2(4)(d)).

Why? There is no *prima facie* right to spousal support until such time as the necessary elements of the status of spouse has been proved.

Evidence: very short relationship; no financial integration; did not represent themselves as a couple; no evidence that friends recognized them as a couple; maintained separate living quarters; no plans to marry

Judge found that the Mom did not qualify as a spouse.

Christmas

C.C.F. v. C.L.P., 2017 BCPC 434 (Judge Woods)

So what has the court been occupied with today? A full morning after yet another opportunity to work out something that is practical and consensual concerning how Child L's time shall be spent during the Christmas holiday season.

Christmas is a time of rejoicing in Canadian culture, a time of warm family reuniting, a time of gift giving...

... But Christmas in this case and in many others is yet another battlefield upon which warring parents can come at each other with weapons drawn, aiming to vanquish each other on the issue of how the child's time is spent.

Christmas

Counsel for the Mom asked the Judge to make a “qualitative assessment” as to the benefits of celebrating Christmas in Mom’s household as compared to Dad’s household. (How many people present in each household.)

Judge Woods declined to do so. One cannot measure the qualitatively the meaningfulness of a child’s experience in households as their traditions unfold.

Judge Woods ordered a schedule on alternating years: 3:00 pm on last day of school to Christmas Day at noon, and Christmas Day at noon to December 31.

Mastering the Art of Property and Debt Division

RELEVANT TOPICS

- Who can make a claim?
- Defining: Family Property, Excluded Property, Family Debt
- Division: equal / unequal
- Valuation

APPLICABLE LEGISLATION

The *Family Law Act (FLA)*

- Became law on March 18, 2013 - replaced the *Family Relations Act*
- **Objective:** reduce litigation and encourage out of court settlement
- Changes – numerous and significant
 - Application to common law and married spouses alike
 - Redefines what is family property
 - Redefines property division & includes division of family debt
 - **Judicial interpretation** – difficulties – family law pilot project

Who can make a claim?

Only a spouse can make a claim to property and debt division under the *FLA*.

A spouse is defined as (Section 3 of the *FLA*)

- Married individuals; or
- those that have lived together in a marriage-like relationship for a continuous period of at least 2 years
 - “**living together**” not necessary – other indicia of “marriage like relationship”
- or have had a child together – only for the purpose of support (**exception** – not spouses for the purpose of property and pensions division)
- A spouse includes a former spouse

ENTITLEMENT & RESPONSIBILITY

EQUAL ENTITLEMENT & EQUAL RESPONSIBILITY

FLA Section 81:

- equal entitlement to family property and equal responsibility for family
 - debt, regardless of use or contribution
 - on separation, each spouse has a right to an undivided half interest in all family property as a tenant in common, and is equally responsible for family debt.
-
- **Exception**:- “significantly unfair”
 - **FLA Section 95** - a court may order unequal division of family property and/or family debt if it would be significantly unfair to equally divide these between the spouses.
 - **Applies to married and common law spouses alike**

DATE OF SEPARATION

FLA – Section 3(4)

- (a) spouses may be separated despite continuing to live in the same residence, and
- (b) the court may consider, as evidence of separation,
 - (i) **communication, by one spouse to the other spouse, of an intention to separate permanently, and**
 - (ii) an action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.
- **Note** – living separately may not be sufficient to indicate intention to separate

Importance of Date of Separation

- **Acts as a triggering event** – the point in time when the joint financial unit of the spouses is divided into two individual financial units
- **Exception:** assets bought with family property/debts incurred for family purpose
- **Advice to clients** - deliver written notice of intention to separate
- **Reconciliation – impact on date of separation**
 - **FLA Section 83 (1)** - spouses are not considered to have separated if, within one year after separation,
 - (a) they begin to live together again and the primary purpose for doing so is to reconcile, and
 - (b) they continue to live together for one or more periods, totalling at least **90 days**.

FAMILY PROPERTY

FLA Section 84:

- includes all real and personal property, unless it is **excluded property** then **increase in the value** of the asset during the relationship is family property.
- includes any property that:
 - at the date of separation, is owned by at least one spouse, or in which at least one spouse has a beneficial interest; and/or
 - after separation, was acquired by at least one spouse, or in which at least one spouse acquires a beneficial interest, that is derived from the family property
 - **Ownership not necessary**

FAMILY PROPERTY

Family property may include:

- Real estate/land
- a share or an interest in a corporation
- money of a spouse in an account with a financial institution
- a spouse's entitlement under an annuity, a pension, a retirement savings plan or an income plan
- that part of trust property contributed to by a spouse in which:
 - the spouse is a beneficiary, and has a vested interest in that part of the trust property that is not subject to divestment,
 - the spouse has a power to transfer to himself or herself that part of the trust property, or
 - the spouse has a power to terminate the trust and, on termination, that part of the trust property reverts to the spouse.

FAMILY DEBT

FLA section 86:

- All financial obligations incurred by either spouse during the course of the relationship (date of cohabitation/marriage to date of separation) are family debts subject to equal division
- Debts incurred post separation are excluded, unless incurred for the purposes of maintaining family property
- Pre-relationship debts are excluded

EXCLUDED PROPERTY

Excluded Property - FLA Section 85 - Includes:

- property that existed prior to relationship
- gifts or inheritances to a spouse
- a settlement or an award of damages to a spouse as compensation for injury or loss (unless ... income etc)
- money paid or payable under an insurance policy (unless ... income etc)
- property held in a discretionary trust
 - to which the spouse did not contribute,
 - of which the spouse is a beneficiary, and
 - that is settled by a person other than the spouse;
- property derived from excluded property or the disposition of excluded property

Exception: the amount by which the value of excluded property has increased in value since the later of the date

- the relationship between the spouses began, or
- the excluded property was acquired.
- the increase in value is family property

Unequal division

FLA - 95 (1) The Supreme Court may order an unequal division of family property or family debt, or both, if it would be significantly unfair to

- (a) equally divide family property or family debt, or both, or
- (b) divide family property as required under Part 6 [*Pension Division*].

Unequal division: Factors to Consider

- (2) For the purposes of subsection (1), the Supreme Court may consider one or more of the following:
- (a) the duration of the relationship between the spouses;
 - (b) the terms of any agreement between the spouses, other than an agreement described in section 93 (1) [*setting aside agreements respecting property division*];
 - (c) a spouse's contribution to the career or career potential of the other spouse;
 - (d) whether family debt was incurred in the normal course of the relationship between the spouses;
 - (e) if the amount of family debt exceeds the value of family property, the ability of each spouse to pay a share of the family debt;
 - (f) whether a spouse, after the date of separation, caused a significant decrease or increase in the value of family property or family debt beyond market trends;

Unequal division: Factors to Consider

- (g) the fact that a spouse, other than a spouse acting in good faith,
 - (i) substantially reduced the value of family property, or
 - (ii) disposed of, transferred or converted property that is or would have been family property, or exchanged property that is or would have been family property into another form, causing the other spouse's interest in the property or family property to be defeated or adversely affected;
 - (h) a tax liability that may be incurred by a spouse as a result of a transfer or sale of property or as a result of an order;
 - (i) any other factor, other than the consideration referred to in subsection (3), that may lead to significant unfairness.
- (3) The Supreme Court may consider also the extent to which the financial means and earning capacity of a spouse have been affected by the responsibilities and other circumstances of the relationship between the spouses if, on making a determination respecting spousal support, the objectives of spousal support under section 161 [*objectives of spousal support*] have not been met.

VALUATION

FLA Section 87

Unless an agreement or order provides otherwise and except in relation to a division of family property under Part 6 (Pensions),

- the value of family property must be based on its **fair market value**, and
- the value of family property and family debt **must be determined as of the date**
 - (i) an **agreement** dividing the family property and family debt is made, or
 - (ii) of the **hearing** before the court respecting the division of property and family debt.

BEFORE AGREEMENT OR FINAL ORDER IS MADE

Orders for interim distribution of property (*FLA* Section 89)

If satisfied that it **would not be harmful** to the interests of a spouse and is **necessary for a purpose listed below**, the Supreme Court may make an order for an interim distribution of family property that is at issue under this Part to provide money to fund

- (a) family dispute resolution,
- (b) all or part of a proceeding under this Act, or
- (c) the obtaining of information or evidence in support of family dispute resolution or an application to a court

BEFORE AGREEMENT OR FINAL ORDER IS MADE

Temporary orders respecting family residence (*FLA Section 90*)

The Court may make an order granting a spouse, for a specified period of time,

- (a) exclusive occupation of a family residence, or
- (b) possession or use of specified personal property stored at the family residence, including to the exclusion of the other spouse.

(3) An order under this section does not

- (a) Authorize a spouse to materially alter the substance of the family residence or personal property,
- (b) grant to a spouse a proprietary interest in the family residence or personal property, or
- (c) subject to subsection (4), grant to a spouse any right that continues after the rights of the other spouse, or of both spouses, as owner or lessee are terminated.

BEFORE AGREEMENT OR FINAL ORDER IS MADE

Temporary orders respecting protection of property (FLA Section 91)

(1) On application by a spouse, the Supreme Court must make an **order restraining the other spouse from disposing of any property at issue under this Part or Part 6 [Pension Division]** until or unless the other spouse establishes that a claim made under this Part or Part 6 will not be defeated or adversely affected by the disposal of the property.

The Court may make one or more of the following orders:

- (a) for the possession, delivery, safekeeping and preservation of property;
- (b) for the purpose of protecting the applicant's interest in property from being defeated or adversely affected,
 - (i) prohibiting the other spouse from disposing of, transferring, converting, or exchanging into another form, property in which the applicant may have an interest, or
 - (ii) vesting all or a portion of property in, or in trust for, the applicant.
- (3) The Supreme Court may make an order under this section before notice of the application is served on the other spouse, or may order that notice of the application be served on the other spouse.
- (4) Despite section 215 (2) [*changing, suspending or terminating orders generally*], the Supreme Court may change, suspend or terminate an order made under this section.

Part 6 — Pension Division

- Pensions are family property
- Part 6 of the *FLA* deals with the division of pensions
- There are numerous provisions detailing how to effect the division of pensions

Protection Orders

Under the *Family Law Act*

Outline

1. Who can the protection order protect?
2. Who can apply for the protection order?
3. What documents are required?
 - a. BCSC
 - b. BCPC
4. What can the Court order?
5. What does the court need to consider for family violence?
6. Expiry of protection order

Outline

7. List of relevant documents
8. Caselaw
9. Drafting the Order
10. Service of Protection Order & Court Documents
11. Example: Notice of Motion for protection order in BC Provincial Court

Who can it protect?

S. 182 of FLA: “**at-risk family member**” means a person whose safety and security is or is likely at risk from *family violence* carried out by a *family member*

Family violence is defined under s. 1 to include physical, sexual, psychological or emotional, financial abuse, and in the case of a child, direct or indirect exposure to family violence

Who can it protect?

Family member is defined under s. 1 is

- a spouse or former spouse;
- someone with whom the person is living or lived in a marriage-like relationship;
- parent or guardian of child,
- person who lives and is related to the person, and
- the person's child, and
- includes a child who is living with, or whose parent or guardian is, a person referred to above
- does not include someone who is not living with or not married to their partner

Who can apply?

S. 183(1) of FLA allows:

- any family member to make an application or
- can be made by a person on behalf of an at-risk family member, or
- on the court's own initiative.

Under s. 183(2), an application for a protection order does not need to be made with any other proceeding or claim for relief under this Act.

What documents are required?

Under British Columbia Supreme Court:

1. Notice of Application - Form 31
2. Affidavit - Form 30
3. Application Record needs to be submitted 2 days before the hearing

Under British Columbia Provincial Court:

1. Notice of Motion - Form 16
2. Affidavit - Form 17

What can the Court order?

S. 183(3) outlines what the court can order.

No Contact and Children

Under s. 183(3)(a) of the Family Law Act, name 1 shall not have contact or communicate directly or indirectly with name 2 or the child(ren), child(ren)'s name(s).

No Contact Except

Under s. 183(3)(b) of the Family Law Act, name 1 shall not have contact or communicate directly or indirectly with name 2 except for the *purposes of arranging parenting time and communication shall only be through email.*

What can the Court order?

No Go and Children

Under s. 183(3)(a) of the Family Law Act, name 1 shall not attend at, enter or be found within distance of the residence, place of employment or school of or any other place that is regularly attended by name 2 or the child(ren), child(ren)'s name(s), even if he or she is an owner or has a right to possess or enter such a place.

What can the Court order?

No Stalking (*not on picklist but can be ordered*)

Under s. 183(3)(a) of the Family Law Act, name 1 shall not follow name 2 and/or children.

What can the Court order?

- Weapons Prohibition
- Firearms Prohibition
- Surrender Firearms
- Remove Weapons (by any police officer)
- Remove from Residence
- Remove belongings (have officer accompany client to remove their belongings)

See Protection Order Picklist

Expiry of Protection Orders

S. 183(4) states that unless the court provides otherwise, an order under this section expires one year after the date it is made.

No Expiry Date

This Order shall not expire and shall remain in place until further order of the court.

BUT....

Expiry of Protection Orders

Courts don't like to order protection orders without an expiry date when application is done without notice. They usually set a returnable date, usually within 2 weeks.

So...

Liberty to Set Aside

name 1 may apply to vary or set aside this Order on 5 clear business days notice to name 2, *through their counsel (optional)*.

That is the Question!

Notice of Application / Notice of Motion: **With** or **Without** Notice?

- Get legal advice, ask duty counsel

If you're doing it without notice, remember to put that on the document!

- **Underline** and **bold** the words "**Without Notice**"
- This allows the clerk, registry and judge/master to know that this application has not been served

What the Court needs to consider?

Under s. 184(1), the court **must** consider at least the following risk factors:

- (a) any history of family violence by the family member against whom the order is to be made;
- (b) whether any family violence is repetitive or escalating;
- (c) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at the at-risk family member;

What the Court needs to consider?

- (d) the current status of the relationship between the family member against whom the order is to be made and the at-risk family member, including any recent separation or intention to separate;
- (e) any circumstance of the family member against whom the order is to be made that may increase the risk of family violence by that family member, including substance abuse, employment or financial problems, mental health problems associated with a risk of violence, access to weapons, or a history of violence;

What the Court needs to consider?

- (f) the at-risk family member's perception of risks to his or her own safety and security;
- (g) any circumstance that may increase the at-risk family member's vulnerability, including pregnancy, age, family circumstances, health or economic dependence.

Order can be made even if...

S. 184(4) allows the court to make an order for protection regardless of the following circumstances:

- A protection order has been previously made
- The family member is temporarily absent from residence
- At risk-family member is temporarily residing in shelter or safe place
- Criminal charges have been or may be laid
- At-risk family member has a history of returning to residence and live with abuser
- Conduct order restricting communication has been made

Affidavit should include...

- History of relationship, dates of marriage/cohabitation, date of birth and ages of children (if any)
- History of violence in chronological order
- Use client's words to describe their sense of safety, fear, and concern:
 - “I was frightened....”
 - “I did not feel safe...”
- What is the client concerned/worried/fearful of?
- Don't use words such as “fighting” or “arguing”

Exhibits to include

- Doctor's notes
- Photos of injuries
- Criminal documents if charges have been laid or pending
- Bail conditions or existing criminal restraining orders
- Police records
- Letters from counsellors or support workers from anti-VAW organizations
- Letters or notes from doctors
- Letters from MCFD if it demonstrates their concerns re: abuser's behaviours

Exhibits to include

- Affidavits of witnesses (i.e. friends/family members)
- Text messages / emails of threatening language
- Audio / Video Recordings are not usually used but see *S.B. v. D.D.*, 2015 BCSC 2589 (next slide)

S.B. v. D.D., 2015 BCSC 2589

[30] While I agree with the authorities cited by [the Respondent's counsel] that, in general, covert recording of interactions between parties in family law cases is a very unsavoury practice that should be discouraged, where a child is involved I cannot turn my back on what may be the most reliable evidence with regards to the child's safety.

- Have the recording transcribed into an affidavit and have the recording available for court so that it can be played into the record

M. (S.) v. M. (R.), 2015 BCSC 1344

- [23] As Justice Schultes noted in *Morgadinho v. Morgadinho*, 2014 BCSC 192:
- ... The broad and inclusive definition of "family violence" recognizes that the kinds of harm that can be inflicted in this situation extend beyond the infliction of physical violence.
- [25] Having said this, the Legislature has made clear that judges hearing applications of this kind must approach the issue from a **broad and contextual perspective**, taking into account a variety of factors that frame the risk analysis in determining whether family violence is likely to occur. The inquiry is **future oriented, but it takes its shape from past conduct and present circumstances** that inform the assessment of risk. [emphasis added]

B. (C.A.) v. B. (M.S.), 2015 BCPC 12

[24] It is true that the CFCSA focuses on protecting children whereas the FLA has broader application. This, however, does not create a conflict. There is nothing in either the CFCSA or the FLA which precludes the court from exercising its jurisdiction under the FLA to protect children who are the subject of a CFCSA proceeding.

Dawson v. Dawson, 2014 BCSC 44

[44] The fact that there has been an act of physical family violence, even a single act of physical family violence, may provide a sufficient basis to conclude that family violence is likely to occur in the future. Although the passage of time may serve to reduce the probative force of such evidence, to the extent the circumstances giving rise to the earlier act of violence remain at large, the predictive quality of that earlier act may not be diminished with the passage of time. Moreover, it seems to me that when assessing the “likely” threshold set out in s. 183(2)(a) regard should be had to the gravity of the harm that might follow from an act of physical family violence.

Drafting the Court Order

- If the client is unrepresented, the court registry will draft the Protection Order on the client's behalf
- If the client is represented, the lawyer will draft the Protection Order and it will have to be vetted by the Court Registry (this depends)

Service of Protection Order and Documents

- Clients can complete the Request for Service of Family Protection Order
- Blank template is included in materials (also available online:<https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/courthouse-services/court-files-records/court-forms/family/pfa916.pdf>)
- Complete the description of the Respondent to the best of your ability to ensure successful service

Example: Notice of Motion in BCPC

Questions?

Vicky Law

#826 - 510 West Hastings
Street

Vancouver B.C. V6B 1L8

T: 778-807-6160

vicky@equitaslaw.ca

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British Columbia Provincial Court and Supreme Court

Protection Order Picklist

PROTECTION ORDERS s. 183

(MUST GO ON A SEPARATE ORDER: s. 183(5))

No Contact

Under s. 183(3)(a) of the Family Law Act, name 1 shall not have contact or communicate directly or indirectly with name 2.

No Contact and Children

Under s. 183(3)(a) of the Family Law Act, name 1 shall not have contact or communicate directly or indirectly with name 2 or the child(ren), child(ren)'s name(s).

No Go

Under s. 183(3)(a) of the Family Law Act, name 1 shall not attend at, enter or be found within distance of the residence, place of employment or school of or any other place that is regularly attended by name 2, even if he or she is an owner or has a right to possess or enter such a place.

No Go and Children

Under s. 183(3)(a) of the Family Law Act, name 1 shall not attend at, enter or be found within distance of the residence, place of employment or school of or any other place that is regularly attended by name 2 or the child(ren), child(ren)'s name(s), even if he or she is an owner or has a right to possess or enter such a place.

***No Stalking* (not on picklist but can be ordered)**

Under s. 183(3)(a) of the Family Law Act, name 1 shall not follow name 2 and/or children.

No Contact Except

Under s. 183(3)(b) of the Family Law Act, name 1 shall not have contact or communicate directly or indirectly with name 2 except for the following: permitted means or circumstances of contact or communication.

Weapons Prohibition

Under s.183(3)(a) of the Family Law Act, name shall not own, possess or carry any weapons as defined by s. 2 of the Criminal Code of Canada, or any knives except while preparing and consuming food.

Firearms Prohibition

Under s.183(3)(a) of the Family Law Act, name shall not own, possess or carry any firearm, cross-bow, prohibited weapon, restricted weapon, imitation weapon, prohibited device, ammunition, prohibited ammunition, explosive substance, or all such things, and any related authorizations, licenses and registration certificates.

Surrender Firearms

Under s.183(3)(e) of the Family Law Act, name shall immediately attend a police station or detachment and accompany a police officer, including any RCMP officer having jurisdiction in the Province of British Columbia, to the location of any firearm, prohibited weapon, restricted weapon, imitation weapon, prohibited device, ammunition, prohibited ammunition, explosive substance or all such things and to the location of any related authorizations, licenses and registration certificates he or she possesses and surrender the said items to the police officer until further order of the Court.

Remove Weapons

Under s. 183(3)(c)(iii) of the Family Law Act, any police officer, including any RCMP officer having jurisdiction in the Province of British Columbia, who is provided with a copy of this Order is directed to seize from name any weapons as that term is defined in s. 2 of the Criminal Code of Canada and related documents, and hold such items seized until further order of the Court.

Remove from Residence

Under s. 183(3)(c)(i) of the Family Law Act, any police officer, including any RCMP officer having jurisdiction in the Province of British Columbia, who is provided with a copy of this Order is directed to remove name and DOB from the residence located at address and city, British Columbia.

Remove Belongings

Under s. 183(3)(c)(ii) of the Family Law Act, any police officer, including any RCMP officer having jurisdiction in the Province of British Columbia, who is provided with a copy of this Order is directed to accompany name to attend the residence located at address and city , British Columbia on one occasion, to supervise the removal of his or her personal belongings.

Remove Belongings Children

Under s. 183(3)(c)(ii) of the Family Law Act, any police officer, including any RCMP officer having jurisdiction in the Province of British Columbia, who is provided with a copy of this Order is directed to accompany name to attend the residence located at address and city, British Columbia on one occasion, to supervise the removal of his or her personal belongings and personal belongings of the child(ren).

Carry a Copy

Under s.183(3)(e) of the Family Law Act, name shall carry a copy of this Order on his or her person at all times when outside his or her place of residence and produce it upon the demand of a peace officer.

Expiry Date

Under s. 183(4) of the Family Law Act, this Order will expire on date at time.

No Expiry Date

This Order shall not expire and shall remain in place until further order of the court.

Liberty to Set Aside

name 1 may apply to vary or set aside this Order on 5 clear business days notice to name 2, *through their counsel (optional)*.

REQUEST FOR SERVICE OF FAMILY PROTECTION ORDER

- In the Provincial Court of British Columbia
- In the Supreme Court of British Columbia

| |
|-----------------|
| Court File No.: |
| Court Location: |
| FMEP Case No.: |

INSTRUCTIONS: If service of a *Family Law Act* Protection Order is required, the party making an application must submit a completed Request for Service of Family Protection Order form along with the document(s) to be served. The information provided in this form will be used to assist the process server in locating and identifying the party to be served. Please complete the form with as much detail as possible to assist in service. If available, please attach a clear photograph of the person to be served to assist in identification.

NOTICE OF SUCCESSFUL SERVICE: If you wish to receive confirmation of successful service, please provide your email: _____ or telephone (if email is not available): _____ This email/telephone number will be used solely for the purpose of confirming successful service. Any other contact regarding the status of service or requests for additional information will be made to the contact number provided on your court file during regular registry hours.

DOCUMENTS TO BE SERVED ON (Details of party to be served – fill out as much as known. ****PLEASE TYPE OR PRINT CLEARLY****)

| | | | |
|---|---------------|-----------------------------|---|
| Last Name | Given Name(s) | | Gender <input type="checkbox"/> Male <input type="checkbox"/> Female |
| Alias(es) | | | Date of Birth (Month, Day, Year) |
| Current or last known address (Street address, City, Province, Postal Code) | | | Home Phone |
| If an apartment: | Buzzer Code | Building Manager Name/Phone | Cell Phone |
| Employer | | Days/Hours of work | |
| Employer Address (Street address, City, Province) | | | Work Phone |

Description:

| | | | | |
|--|------------|---------------|--------------------------------------|------|
| Height | Weight | Eyes | Glasses | Hair |
| Build | Complexion | Ethnic Origin | Social Insurance Number | |
| Identifying Marks (Tattoos/Scars/Piercings) and Location | | | Drivers' License Number and Province | |
| Vehicle (Make/Model/Colour/License Plate Number) | | | | |
| Vehicle (Make/Model/Colour/License Plate Number) | | | | |

Additional Information which may assist in locating the party to be served:

(i.e. best possible time for service, social activities and locations)

FOR REGISTRY USE ONLY

DOCUMENTS TO BE SERVED (Check all boxes that apply)

| | | |
|---|---|--|
| <input type="checkbox"/> Protection Order | <input type="checkbox"/> Order | <input type="checkbox"/> Affidavit |
| <input type="checkbox"/> Application to Obtain an Order | <input type="checkbox"/> Reply Package | <input type="checkbox"/> Rule 5 Package |
| <input type="checkbox"/> Application Respecting Existing Orders | <input type="checkbox"/> Notice of Motion | <input type="checkbox"/> Financial Statement |
| <input type="checkbox"/> Other _____ | | |

Registry Contact (Name)

(Phone Number)

Process Server:

- Confirm Successful Service by email/telephone to: _____
- Provide copy of proof of service to Protection Order Registry via ETRAY.™
- Forward the Affidavit of Personal Service (of Protection Order) to the Court Registry at:

Address

NOTICE OF MOTION

WITHOUT NOTICE

Court File No. ######
Court Location: Robson Square
F.M.E.P. No.

In the Provincial Court of British Columbia

In the case between:

Jane Doe

(Applicant)

and

Donald Trump

(Respondent)

Filed by:

Name Jane Doe

(Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.)

Address for service _____ Mailing Address / Address for Service of Lawyer

City Vancouver _____ Province British Columbia _____ Postal Code 1A1 1B1

Phone ***-**** _____ Fax _____ E-mail *****

Without Notice to:

Name Donald Trump

Address for service 123 Abuser Avenue

City Patriarchy _____ Province British Columbia _____ Postal Code *** ***

Phone ***** _____ Fax _____ E-mail _____

I, Jane Doe, will apply to this court at Vancouver Robson Square, 800 Hornby Street, Vancouver, B.C. on January 2, 2019 at 9:30 a.m. for:

- An order shortening or extending a time limit set out in the Provincial Court (Family) Rules - **Urgent Without Notice Hearing**
- An interim order under section 216 or 217 of the *Family Law Act*
- An order changing, suspending or terminating the attached order made in my absence
- An order settling the terms of an order made [mmm/dd/yyyy]
- An order that a person not remove, or that a person be allowed to remove, a child from a geographical area

- An order to prohibit the relocation of a child
- An order for blood or tissue samples, for parentage tests, to be taken from [name(s)]
- An order for service of [identify documents] by [method of service]
- An order for access to information under section 242 of the *Family Law Act*
- An order for information to be disclosed by [name]
- An order transferring this file to the court registry at:
- Directions on a procedural matter
- An order changing or setting aside the determination of a parenting coordinator dated [mmm/dd/yyyy]
- An order to enforce
 - the order made [mmm/dd/yyyy]
 - the agreement dated [mmm/dd/yyyy]
 - compliance with the determination of a parenting coordinator dated [mmm/dd/yyyy]
- A review of a filed agreement or order respecting spousal support or maintenance under the *Family Law Act* or the *Family Relations Act*
- An order determining whether there are arrears owing under a support order made under the *Family Law Act* or under a support or maintenance order made under the *Family Relations Act* and, if so, the amount of those arrears
- Other order (*specify*)

Details of order(s) requested:

Without Notice Orders:

1. Under s. 183(3)(a) of the *Family Law Act*, the Respondent, Donald Trump, shall not have contact or communicate directly or indirectly with Jane Doe or the children, Anna Doe (DOB 3 January 2016) and Bob Doe (DOB 3 April 2018).
2. Under s. 183(3)(a) of the *Family Law Act*, the Respondent, Donald Trump, shall not attend at, enter or be found within 5 block radius of the residence, place of employment or school of or any other place that is regularly attended by Jane Doe or the children, Anna Doe (DOB 3 January 2016) and Bob Doe (DOB 3 April 2018), even if he is an owner or has a right to possess or enter such a place.
3. Under s. 183(3)(a) of the *Family Law Act*, the Respondent, Donald Trump, shall not follow Jane Doe or the children, Anna Doe (DOB 3 January 2016) and Bob Doe (DOB 3 April 2018).
4. Under s. 183(4) of the *Family Law Act*, the protection orders made in this family law matter shall not expire and shall remain in place until further order of the Court.

NOTICE: If you do not appear, the Court may make an order in your absence.

[X] Any affidavits in support of this notice of motion are attached.

Dated October 10, 2018

Signature _____

Jane Doe

Name of party bringing the motion



WEDNESDAY, OCTOBER 17, 2018 – DAY 2

No Materials/Materials at session

Child and spousal support: Sonali Sharma - lawyer, Athena Law

Strategies for gathering the best evidence when dealing with child and spousal support.

Evidence - Best Practices in Family Law



Kim Hawkins and
Vandana Sood

Provincial Advocates
Conference
October 17, 2018

Outline

1. We will start by talking to you about some basic principles of evidence which are critical in giving your client the best chance to win her case.
2. We will then chat about some general tips on drafting affidavits.



Basic Principles of Evidence – What do you need to know?

- Your focus is this: how will your client's evidence be viewed by the judge/court?
- This means a few things:
 - DON'T put everything into the affidavit.
 - Your client's weakest piece of evidence can undermine everything else in her affidavit.



Basic Principles of Evidence

- What are the issues to be decided in your client's case?
 - Eg. Parenting time, child support, family violence.
- Does the evidence or fact relate to (is it material to) one of the issues in the case?
 - Eg. Description of violent incidents, who cared for the child.
- Evidence must be relevant: does it help prove a fact in issue?
 - Eg. Don't include every single fact about parenting, but just the most relevant ones.



Basic Principles of Evidence

- What this means is that you are helping the client write a “narrative” of what happened during and after her relationship with her ex-partner: major incidents bridged by general descriptions to fill time gaps.
- You should only include facts: what she directly experienced herself (what she saw, heard, touched, tasted, and in some cases, her emotions).
- In some cases you are writing about what someone else told her (hearsay) which Kim will talk about.
- Describe incidents in enough detail that the court can picture and understand what happened – anticipate and answer any lingering questions.



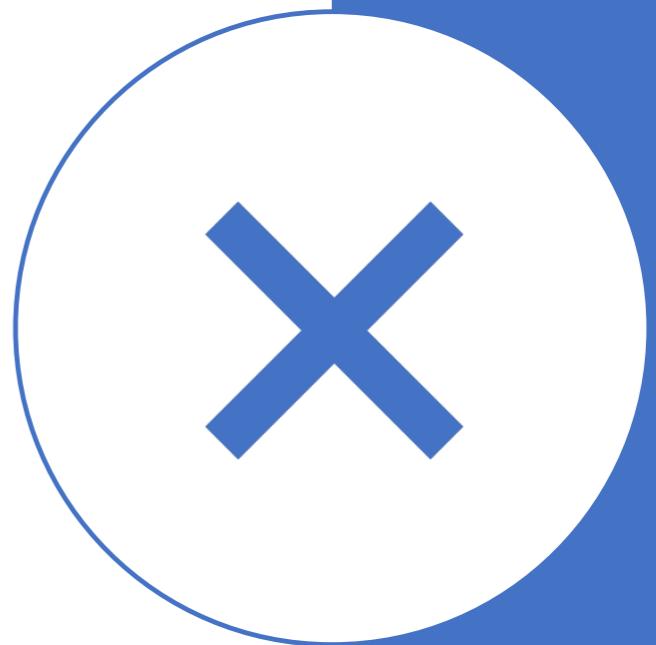
Basic Principles: When is Evidence Excluded?

- **1. The Probative Value-Prejudicial Effect Balance**
- The evidence must help to prove a fact in the case (it has “probative value”).
 - Eg. Mom was the primary caregiver and Dad did little to help and just played with the kids on weekends.
- Is there some reason to exclude it (does it have a “prejudicial effect”)? Eg. Is it confusing? Is it “bad character” evidence?
 - Eg. Dad had an affair with his secretary.
- Should the evidence of Dad’s affair be admitted? – evidence will only be excluded when its prejudicial effect far outweighs its probative value.
 - In this case, the affair has little probative value as it does not prove much about Dad’s parenting ability, beyond the fact that Dad may not be the most responsible or mature person, and is prejudicial as it just makes Dad look like a “bad person” but is likely unrelated to his parenting ability.



Basic Principles: When is Evidence Excluded?

- **2. Exclusionary Rules**
- Hearsay
- Opinion Evidence
- Character Evidence
- Argument
- => Kim will talk about these when she talks about Affidavits!



Affidavits in Family Law

- In Supreme Courts, affidavits are used for many of the most common court appearances, including in interim applications, summary trials, and undefended divorce applications.
- In Provincial Court it is good practice for an affidavit to accompany a Notice of Motion, but remember that there is a good chance that the judge will not read it, and there is also a good chance that *viva voce* evidence will be required anyway.
- In cases where your client is making an *ex parte* application she should definitely include an affidavit, which should be thorough and include all relevant information, including information which harms her case.
- **BUT REMEMBER:** Affidavits cannot be used at Provincial Court hearings without prior permission from the court.

Formal Requirements

- Section 10-4 of the Supreme Court Family Rules sets out the formal requirements for affidavits:
- The affidavit must be in the first person and show the name, address and occupation of the person swearing or affirming the affidavit.
- The body of the affidavit must be divided into paragraphs numbered consecutively
- The person swearing or affirming the affidavit must place her name, the sequential number of the affidavit, and the date the affidavit was sworn in the top right hand corner of the first page.

Formal Requirements (continued)

- Once an affidavit has been sworn it cannot be changed.
- If you want to make a change to an affidavit before it is sworn, both the client and the person endorsing the affidavit (i.e. lawyer or registry clerk) should initial the change.
- If the client does not understand English, an interpreter must interpret the affidavit to the client, and then add an endorsement below the signature block at the end of the affidavit.
- If the client understands English but is unable to read the document herself, the person endorsing the affidavit should read the affidavit out loud to the client, and then include information in the signature that the document was read to the client who understood and agreed with the information.
- There should also be some part of the affidavit on the page with the signature block.

Content

- Once the formal requirements are met, there are few rules about how any affidavit should be structured. Information should be organized in a logical and concise way. It is ok to contain descriptions where relevant, but don't include unnecessary detail.
- Affidavits are used to provide evidence to the court, which generally means things that the person signing the document has seen or heard.
- Evidence in the affidavit should relate to the orders that are being requested in the notice of motion or notice of applications (for example, if your client is only seeking an order for child support, she should not include evidence about the value of the joint property).
- An affidavit does not have to respond to every single fact or statement made by the other party.

Hearsay

- Hearsay is an unsworn statement, made outside of court, which is being introduced into evidence “for the truth of its contents”.
- Hearsay is generally allowed in interim applications, but not in applications dealing with final orders (including Divorce).
- Where an affidavit includes hearsay, the source must be identified. It is not ok to say “someone told me” or “a friend told me” or “everyone knows that”.
- Unsworn documents (for example letters from friends) which are attached to affidavits are hearsay and are generally not seen by courts as very helpful.
- Emails may also contain hearsay! Writing something down in an email does not stop it from being hearsay. If there is a fact contained in an email, make sure it is also included in the body of the affidavit.

Hearsay (continued)

- Hearsay is allowed for minor children, but the hearsay should be necessary and it should reliable.
- Conversely, double hearsay is never allowed. (For example, “Theresa told me that Chris said he wanted to reduce child support.”)
- Finally, just because you are allowed to put hearsay in an affidavit, it doesn’t mean that it will be given the same “weight as other evidence”. If your client wants to rely on something her friend saw or heard, it is better to have the friend swear or affirm their own affidavit, if possible.

Opinion

- The client can attest to her own opinion or belief in her affidavit, but should identify these statements using phrases like “I think” or “I believe”.
- Be careful of statements that contain hidden opinions like “Susan hates talking to her dad.”
- Certain opinions, which require technical knowledge beyond what is held by the public, can only be given by experts. Clients should not, for example, give their opinion on medical or psychological issues (I.e. “boys who have fathers in their lives do better in science” or “my ex has a personality disorder”).
- Again, just because this type of evidence may be allowable, doesn’t mean that it is helpful. However, it may be important and necessary for applications like protection orders where the client is giving evidence of fear.

Character

- Do not use affidavits to attack the other person's character. This often reflects badly on the person swearing the affidavit. (For example, "my ex is a jerk who doesn't care about our children and never takes them to the dentist.")
- Do provide facts about incidents or events that may have had negative impacts, where relevant. (For example, my ex did not take our daughter to the dentist on October 17, 2018 to get her cavity pulled. We cannot get another appointment until December 2018.)

Argument

- Affidavits should be limited to providing evidence of facts. They should not contain legal arguments, which should be made during closing submissions. (For example, “According to section x of the Family Law Act, my ex is not a guardian of my child.”)

Exhibits

- Exhibits are usually documents attached to affidavits (but can also be things like recordings which are entered in court).
- Exhibits should be chosen carefully to verify statements in an affidavit.
- Letters from friends and neighbours are generally not helpful as exhibits.
- Some official documents like tax returns, property evaluations, receipts, medical records or reports and reports cards are considered “business records” and are admissible.
- The pages of an affidavit should be numbered, and the numbering should be continued to the end of the exhibits.
- Exhibits must be signed by the person endorsing the affidavit and so must be available when the client signs the affidavit - they cannot be added later.

Improper Affidavits

- On application, a court may strike out paragraphs of the affidavit, strike out the whole affidavit, or just place no weight on the affidavit.
- In some circumstances, improper affidavits can even result in costs being awarded to the other side.



Improving Legal System Responses to Violence

With support from the
Status of Women
Canada

Presentation overview



- Introduction
- Key themes
 - Challenges
 - Recommendations
- Including Women with Lived Experiences

Project Overview



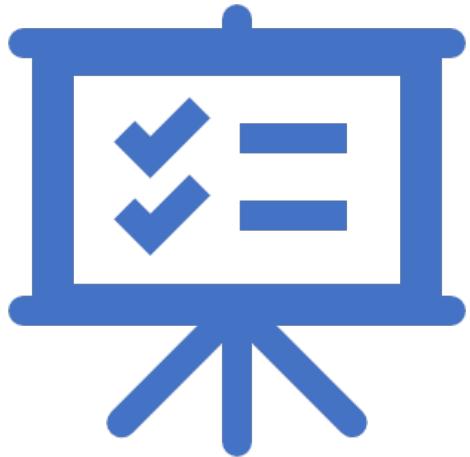
Interviews with 19 women
including 2 focus group
discussions



"I remember being so excited when the new family law act came out, because it pretty clearly outlines the whole impact and issue of family violence, but in terms of making a difference as to how judges are looking at the whole thing? No."



"Luckily we have a broad definition (of family violence)... but still (there is) a lack of understanding of what constitutes violence. I still hear stories from colleagues about how judges minimize the violence."



Key Themes

- 1) **Screening for Violence/ Interviews**
 - Compassion- “Relationships are really complicated and very hard, and I’m not imposing any judgment, I just need the information so I can best know this file”
 - Safety from a response-based approach
 - Empowering - “we are the gatekeepers of this legal information and the more information you impart, you have left them in a better place as they move ahead with their matter.”



Key Themes

2) Challenges

- Myths, Stereotypes, and the Patriarchal System
- Lack of Understanding of Violence and Family Violence

Key Themes

3) Lack of Legal Representation

“Not having legal help at all. They don’t have access. When they have access to lawyers it is very piecemeal. Might be just summary advice, so they are not going to feel comfortable disclosing abuse to someone in such a short amount of time, and they have to pick their battles.”



Key themes

- 4) 211 Reports
- 5) Intersection between family law; criminal law; and immigration law

- **Positive**



- When people are treated with empathy from lawyers and judges

When there have been supports including advocates present

When the woman is empowered

Key Themes



- **Training**
 - Law School Curriculum
 - Continuing Legal Education for lawyers
 - Litigation Guide
 - Rise Curriculum
-

Recommendations



Including Women with Lived Experiences



211 report interviews



Provide Honorarium; money
for transportation; childcare



Meal provided



Attend an established group



How can we include women with lived experiences into this conversation in a meaningful way?



Where should we be looking to meet with established groups of women?



Please help us spread the word



We are seeking partnerships with organizations across BC.

Discussion



If you are interested in hosting a focus-group, or know a person who may be interested in attending, please contact **Haley** at research@womenslegalcentre.ca.



The focus groups will take place throughout the fall of 2018. The first one will be at MOSAIC on October 24th.

Thank you.



Parent Support Services
Society of BC

Accessing Kids' Benefits **

Scenario-based group problem-solving

2018 Provincial Advocacy Training Conference for Legal Advocates
October 16-18, 2018

Resource Package Includes: PowerPoint presentation slides

Federal benefits:

Canada Child Benefit 1.1 booklet published by Canada Revenue Agency, last updated August 24, 2018, 1.2

Canada Child Benefits Application Form, last updated June 30, 2017

Child Disability Benefit 2.1 Disability Tax Credit Certificate, last updated January 3, 2018

Registered Disability Savings Plans 3.1 Disability Alliance BC Help Sheet: The Registered Disability Savings Plan, last updated February 26, 2018

Canada Pension Plan Children of Deceased Contributors Benefit 4.1 Service Canada Information Sheet: How to Apply for the Canada Pension Plan Survivor's Pension and Child(ren)'s Benefit(s), last updated February 21, 2018

Canada Pension Plan Children of Disabled Contributors Benefit 5.1 Service Canada Application for a Canada Pension Plan Child's Benefit, last updated January 24, 2018, 5.2 Declaration of Attendance at School or University, last updated November 27, 2017/January 18, 2018

Employment Insurance Parental Leave Benefit 6.1 Government of Canada: Employment Insurance maternity and parental benefits, last updated September 25, 2018

Provincial:

Ministry for Children and Family Development (MCFD) Extended Family Program Agreement (EFP)

7.1 Extended Family Program Agreement factsheet, 7.2 Extended Family Program Agreement form dated June 7, 2012

MCFD children whose legal status is transferred under the Child, Family and Community Service Act 8.1 Payment and Supplemental Benefits Table: Reference for Out of Care Options Practitioners, dated May 2015

Ministry of Social Development and Poverty Reduction – Healthy Kids 9.1 BC Healthy Kids Program What it means for children brochure, dated September 9, 2017

MCFD Affordable Child Care Benefit (formerly BC Child Care Subsidy and Surcharge), 10.1 Do You Qualify for the Affordable Child Care Benefit effective September 1, 2018, 10.2 Affordable Child Care Benefit: Rates, effective September 1, 2018

MCFD Youth Agreements 11.1 Summary of Youth Agreement Eligibility, dated June 2004 but current to July 24, 2018 11.2 Youth and Young Adults Cost Estimate Guide, effective April 1, 2018

MCFD Agreements with Young Adults 12.1 AgedOut.com Agreements with Young Adults factsheet (AYA program was updated April 1, 2018 to provide for eligibility up to 27th birthday)

Ministry of Advanced Education and Skills Training (MAEST) Tuition Waiver Program 13.1 Provincial Tuition Waiver Program v3.0, effective September 2018; 13.2 Provincial Tuition Waiver Program 2017/2018



**Parent Support Services
Society of BC**

Accessing Kids' Benefits

Scenario-based group problem-solving

2018 Provincial Advocacy Training Conference for Legal Advocates

October 16-18, 2018



Grandparents Raising Grandchildren Support Line

Advocacy and information services we provide to kinship caregivers and advocates:

The Grandparents Raising Grandchildren (GRG) Support Line provides support, advocacy and resource information to grandparents and other relatives raising a family member's child.

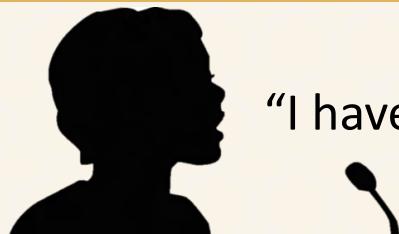
The GRG Support line is open on **Monday, Tuesday, Thursday and Friday from 10 AM to 2 PM**. At all other times callers are encouraged to leave a voicemail message or send an e-mail which will be returned promptly

604-558-4740

1-855-474-9777 (toll free)

GRGline@parentsupportbc.ca

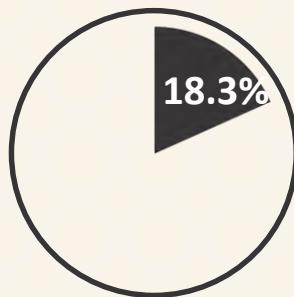
Supporting vulnerable families and children with greater needs



"I have a right to shelter, food and clothing."

Article 27, UN Convention on the Rights of the Child

153,000 children in B.C. are growing up in poverty.



1 in 5 B.C. children
are living in poverty
Source: 2017 BC Child
Poverty Report Card

Homelessness is growing visibly in communities all around B.C., including amongst young people and families with children.

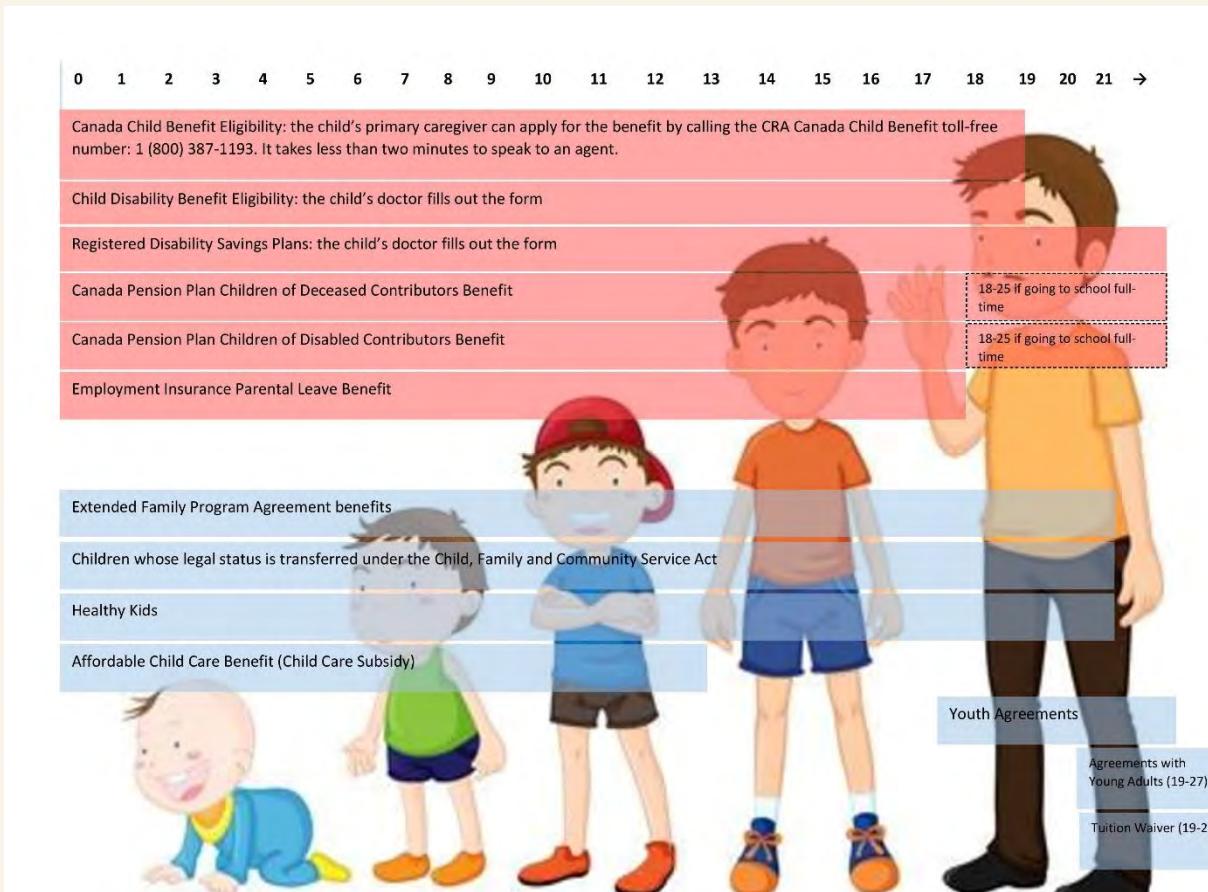
Child benefits are designed to reduce poverty in two ways:

- By improving income security for families, and
- By recognizing the benefit to the economy of caregiving labour.

Overview of benefits for children and youth 0-26

Age →
**(federal
benefits)**

to 27th birthday



← young
adults

Federal child benefits (age of majority: 18; some support to age 25)

Canada Child Benefit

The **Canada child benefit** (CCB) is a tax-free monthly payment to a child's primary caregiver to help with the cost of raising children under 18 years of age. The Canada Revenue Agency administers the benefit which is structured so that caregivers who earn less income receive more benefit. Monthly max \$541.33 for 0-5 years, \$456.75 for 6-17 year olds. Eligibility ends when child turns 18. CRA Benefit Enquiries: 1-800-387-1193

Child Disability Benefit

The **Child Disability Benefit** (CDB) is a tax-free benefit of up to \$224.58 per month (\$2,685 per year) to care for a child under 18 with a severe and prolonged impairment of their physical and/or mental functions. Entry point is a doctor certifying [Form T2201, Disability Tax Credit Certificate](#) (DTC) and CRA approval.

Registered Disability Savings Plan

The **Registered Disability Savings Plan** (RDSP) is long-term savings plan to help Canadians with disabilities and their families save for the future by accessing up to a lifetime max of \$90,000 of income-tested grants and bonds. Entry point is the DTC. Both the plan holder and beneficiary (if beneficiary is a child) must have Social Insurance Numbers. Disability Alliance BC and British Columbia Aboriginal on Disability Network (BCANDS) can help.

Canada Pension Plan Children of Deceased Contributors Benefit

The **Canada Pension Plan** (CPP) children's benefits provide monthly payments to dependent children of deceased CPP contributors who had the care and custody of the child at the time of death. The child must be either under age 18 or between the ages of 18 and 25 and attending a recognized school or university full-time. The monthly payment is \$244.64.

Canada Pension Plan Children of Disabled Contributors Benefit

The **Canada Pension Plan** (CPP) children's benefits provide monthly payments to dependent children of disabled CPP contributors receiving a CPP-Disability Benefit (CPP-D). The child must be either under age 18 or between the ages of 18 and 25 and attending a recognized school or university full-time. The monthly payment is \$244.64. When the CPP-D recipient turns 65 the disability benefit ends and becomes a CPP retirement pension and the child benefit is lost.

Employment Insurance Parental Leave

EI parental benefits are offered to parents caring for a newborn or newly adopted child or children or non-birth permanent guardians with an attestation of permanency. Standard benefits (max 35 weeks, 55% of the claimant's average weekly insurable earnings or extended benefits (max 61 weeks, 33% of weekly insurable earnings up to a maximum. Benefits can be shared between two parents.



Provincial child benefits (age of majority: 19; some support to age 26)

Extended Family Program Agreement benefits

The **Extended Family Program** (EFP) agreement is a three-way agreement between the child's parent(s), a social worker, and the caregiver, to provide temporary services and support to help meet the child's needs with the goal of family reunification (maximum 2 year agreement). Maintenance: \$554.27 monthly for children 0-11, \$625 monthly for 12-19 year olds. Basic medical, extended medical, dental & optical, child care subsidy.

CFCSA (MCFD) payments

If a social worker takes the legal authority for a child away from a parent, a caregiver or foster parent may get monthly payments of \$803.81 for 0-11 year olds, \$909.95 for 12-19 year olds, and medical/dental/optical coverage, child care subsidy, gas and food vouchers. Children may qualify for a post-secondary tuition waiver.

Healthy Kids

The **BC Healthy Kids Program** off-sets the costs of basic dental care, prescription eye wear and hearing assistance for children in low-income families. Eligible are dependent children under 19 years of age who receive Medical Services Plan (MSP) premium assistance through the Ministry of Health.

Affordable Child Care Benefit (Child Care Subsidy)

Families earning <\$45K annually may qualify for full funding; families earning <\$111K may qualify for partial funding for child care. CRA consent is required to check the previous year's income. Online application.

Eligible: parents or guardians who have a current BC address and who have Canadian citizenship/Permanent Resident status or are a Convention refugee or person in need of protection.

Young Parent Program: parents 24 yrs old and younger may qualify for up to \$1500 monthly in child care near their high school to help them finish their Grade 12. The child must have been born on or before the parent turned 20.

Youth Agreements

Teenagers age 16-18 in extreme need (who need financial assistance and may be in need of protection) may qualify for an agreement with the Ministry of Children and Family Development to support their basic needs (shelter, food, budgeting, etc).

Agreements with Young Adults

19-26 year olds who were in foster care or on a [Youth Agreement](#) may qualify for the Agreements with a Young Adult (AYA) program to help cover the cost of things like housing, child care, tuition and health care while attending school, rehabilitation, vocational or approved life skills program.

Tuition Waiver

This program waives tuition fees for B.C. students who are former youth in care between 19 and up to their 27th birthday who are attending a B.C. public post-secondary institution. It has been expanded to include some kinship care eligibility.

Advocacy tools to protect dignity and privacy and reduce child poverty

Non-stigmatizing, inclusive benefit programs = mobile, flexible supports for children

cultural identity
relationships
well-being
resilience
stability



identity
connectedness

Scenario 1

Parent under the age of majority who is struggling in their capacity to parent

An eighteen-year-old parent of a newborn comes to you for help. They identify that they are struggling in their capacity to parent and they want to go back to high school and finish their grade 12 education. The eighteen-year-old's mother wants to take the baby full-time, but the baby's parent is worried that if this happens, grandma won't give the child back.

What supports are available to this 18-year-old parent?

What are the concerns?

Scenario 2

Prenatal Substance Use

A young person calls you seeking help for their friend who has an opioid dependency and is pregnant.

What supports are available?

Do you have a legal obligation to report prenatal substance use or other risks to the fetus during the course of a pregnancy?

Scenario 3

Grandma seeking income and shelter assistance and family law info

Grandma is caring for her 14 year old grandchild who left parent care. The increase in living expenses has resulted in grandma being evicted. Grandma calls you from the shelter looking for support. What can she do?

Can grandma apply for the Canada Child Benefit?

Who has legal guardianship of this child? What does this mean?

A worker advised grandma that in order to add the grandchild to her income assistance case, she needs to go to family court and apply for guardianship. What do you think?

What other supports can grandma access?

Are there any issues that either grandma or grandchild are likely to encounter down the road?

Scenario 4

Testamentary guardian

A client comes to you after his sister passed away. She was caring for her children, working full-time, and making Canada Pension Plan contributions at the time she died. She made a will appointing her brother to be guardian in the event of her death. He wants to honour her wishes and raise her child, but he is also working full-time and needs some transitional support.

What supports can he access?

Are there any issues that the uncle or the nibling will encounter down the road?

Scenario 5

Great-auntie wishes to adopt

Great-auntie was in the delivery room when her grand-nephew was born and has been raising him ever since with the consent of the child's mother. The grand-nephew is connected to his northern First Nation and Great-auntie is connected both to her own First Nation in the interior and to the child's First Nation in the north. Great-auntie wants to adopt her grand-nephew. She has a court order granting her full guardianship already. She has already asked the child's First Nation whether they would oppose her adopting the child and they have said that they will consent.

Can she?

Other scenarios

Group-sourced fact patterns about advocacy strategies to reduce child poverty:

You can ask us questions, and you can call us

Grandparents Raising Grandchildren (GRG) Support Line:

Help for grandparents or other relatives raising a family member's child

**Province-wide Monday, Tuesday, Thursday and Friday: 10:00 am to 2:00 pm
1-855-474-9777 toll-free anywhere in BC or 604-558-4740 (Lower Mainland)**

Christina Campbell, M.S.W.
Advocate – Social Worker



Parent Support Services
Society of BC

Jessie Caryl, M.A., J.D.
Advocate – Lawyer





**Parent Support Services
Society of BC**

Thank you

Parent Support Services Society

Provincial Office

204-5623 Imperial Street, Burnaby, BC V5J 1G1

T: 604-669-1616 F: 604-669-1636

www.parentsupportbc.ca



Canada Child Benefit

and related provincial and territorial programs

For the period from July 2017 to June 2018

Our publications and personalized correspondence are available in braille, large print, e-text, or MP3 for those who have a visual impairment. Find more information at cra.gc.ca/alternate or by calling **1-800-387-1193**.

Is this booklet for you?

This booklet gives information about the Canada child benefit, such as:

- who is eligible;
- how you apply for it;
- when you get it;
- how we calculate it; and
- what are the related provincial and territorial child benefit and credit programs administered by the Canada Revenue Agency (CRA).

What's new for 2017?

Northwest Territories child benefit

The Northwest Territories government has made changes to the Northwest Territories child benefit. These changes include providing additional support to low and middle income families as well as the elimination of the territorial worker's supplement. For more information, see "Northwest Territories child benefit" on page 18.

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Definitions

Adjusted family net income – this is your family net income minus any universal child care benefit (UCCB) and registered disability savings plan (RDSP) income received plus any UCCB and RDSP amounts repaid.

Common-law partner – this applies to a person who is **not your spouse**, with whom you are in a conjugal relationship, and to whom one of the following situations applies. They:

- have been living with you for at least 12 continuous months;

Note

In this definition, 12 continuous months includes any period you were separated for less than 90 days because of a breakdown in the relationship.

- are the parent of your child by birth or adoption; or
- have custody and control of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

Family net income – this is your net income (line 236 of your tax return) added to the net income of your spouse or common-law partner, if you have one. Family net income does not include your child's net income.

If you or your spouse or common-law partner were non-residents of Canada for part or all of the year, family net income includes your or your spouse's or common-law partner's income from all sources, both inside and outside Canada, for any part of the year that either of you were not residents of Canada.

Primarily responsible for the care and upbringing of a child – means that you are responsible for such things as supervising the child's daily activities and needs, making sure the child's medical needs are met, and arranging for child care when necessary. If there is a female parent who lives with the child, we usually consider her to be this person.

Note

You may not be considered primarily responsible for the care and upbringing of a child if the child is legally, physically, or financially maintained by a child welfare agency. For more information, follow the "Children's special allowances (CSA)" link at cra.gc.ca/benefits and select "CSA fact sheet" or call 1-800-387-1193.

Separated – you are separated when you start living separate and apart from your spouse or common-law partner because of a breakdown in the relationship for a period of at least 90 days and you have not reconciled.

Once you have been separated for 90 days (because of a breakdown in the relationship), the effective day of your separated status is the date you started living separate and apart.

Note

You are still be considered to have a spouse or common-law partner if there is no breakdown in the relationship and you were living apart because of:

- work;
- studies; or
- health problems.

Spouse – this applies only to a person to whom you are legally married.

What is the Canada child benefit?

The Canada child benefit (CCB) is a **non-taxable amount paid monthly** to help eligible families with the cost of raising children under 18 years of age. The CCB may include an additional amount for the child disability benefit (see page 13).

Are you eligible?

To get the CCB, you must meet all of the following conditions:

1. You must live with the child, and the child must be under 18 years of age.
2. You must be the person primarily responsible for the care and upbringing of the child.

Note

If a child does not live with you all the time, see "Do you share custody of a child?" on page 8.

3. You must be a resident of Canada for tax purposes. We consider you to be a resident of Canada when you establish sufficient residential ties in Canada. For more information, see Income Tax Folio S5-F1-C1, *Determining an Individual's Residence Status*.
4. You or your spouse or common-law partner must be:

- a Canadian citizen;
- a permanent resident (as defined in the *Immigration and Refugee Protection Act*);
- a protected person (as defined in the *Immigration and Refugee Protection Act*);
- a temporary resident (as defined in the *Immigration and Refugee Protection Act*) who has lived in Canada throughout the previous 18 months, and who has a valid permit in the 19th month other than one that states "does not confer status" or "does not confer temporary resident status." If this is your situation, do not apply before the 19th month; or
- an Indian within the meaning of the *Indian Act*.

Note

We pay children's special allowances for children under 18 years of age who are being maintained by a government department, agency, or institution. You cannot get the CCB for a child for any month in which children's special allowances are payable for that child.

Should you apply?

The person who is primarily responsible for the care and upbringing of the child should apply for the CCB. You should apply even if:

- your child only lives with you part of the time (see "Do you share custody of a child?" on the next page);
- your current adjusted family net income is too high. We calculate your amount every July based on your adjusted family net income for the previous year; or
- your child is living with you for a determined temporary period of time, for example over the summer holidays.

When should you apply?

You should apply for the CCB as soon as possible after:

- your child is born;
- a child starts to live with you;
- you share custody; or
- you or your spouse or common-law partner meet the eligibility conditions under "Are you eligible?" on page 6.

Note

Although regular payments for the Canada child tax benefit, the national child benefit supplement, and the universal child care benefit are no longer being issued after June 2016, you can still request an adjustment for prior years, if applicable.

Your application for the CCB is considered late if it includes a period that started more than 11 months ago. If your application is late, you may not get payments for the entire period requested.

If your application is late, you must attach clear photocopies (including both sides of all pages) of the following documents for the entire period:

- proof of citizenship status (for example, a Canadian birth certificate) or immigration status in Canada for you and your spouse or common-law partner, if you have one;
- proof that you resided in Canada, such as a lease agreement, rent receipts, utility bills or bank statements;
- proof of birth for each child; and

- proof that you were the person who is primarily responsible for the care and upbringing of the child(ren).

Note

If you are not a Canadian citizen and are an Indian within the meaning of the *Indian Act*, you must attach proof of registration with Indigenous and Northern Affairs Canada.

For more information, see "How do you apply?" below.

Do you share custody of a child?

You share custody of a child if the child lives with two different individuals in separate residences on a more or less equal basis, such as:

- the child lives with one parent four days a week and the other parent three days a week;
- the child lives with one parent one week and the other parent the following week; or
- any other regular cycle of alternation.

In these cases, both individuals may be considered primarily responsible for the child's care and upbringing when the child lives with them. Each individual will get 50% of the payment they would have received if the child lived with them all of the time.

If you have just entered into a shared custody situation for your child(ren), you have to apply for the benefits (see "How do you apply?" below). If you already get the benefits, you have to tell us by:

- using "Apply for child benefits" in My Account at cra.gc.ca/myaccount;
- calling 1-800-387-1193;
- sending Form RC66, *Canada Child Benefits Application*, indicating shared custody; or
- sending us a letter explaining the shared custody situation.

Your payments will be recalculated accordingly.

For more information, go to canada.ca/canada-child-benefit or call 1-800-387-1193.

How do you apply?

You can apply for the CCB by using "Apply for child benefits" in My Account at cra.gc.ca/myaccount or by sending Form RC66, *Canada Child Benefits Application*.

If you are the mother of a newborn, you can use the Automated Benefits Application to apply for your child benefits. For more information, see "Automated Benefits Application" on the next page.

You must also fill out and attach to your application Schedule RC66SCH, *Status in Canada/Statement of Income*, if you or your spouse or common-law partner:

- became a new resident or returned as a resident of Canada in the last two years;
- became a Canadian citizen in the last 12 months;
- are, as defined in the *Immigration and Refugee Protection Act*, a permanent resident, protected person (refugee), or temporary resident who has lived in Canada for the previous 18 months; or
- are not a Canadian citizen and are an Indian within the meaning of the *Indian Act*.

If you and your spouse or common-law partner were residents of Canada for any part of 2016 you must both file a 2016 tax return before we can calculate your benefit.

You need to provide proof of birth for the child, on which the child's last name, given name, and date of birth appear, if we have not previously paid benefits to anyone for this child and either of the following applies:

- the child was born outside Canada; or
- the child was born in Canada and is one year of age or older.

Once we receive your application, we may ask you to provide supporting documents to prove that you are primarily responsible for the care and upbringing of the child, such as:

- a letter from the daycare or school authorities indicating the child's home address and contact information on file;
- a letter from a person in a position of authority (such as a lawyer or a social worker) stating that they have personal knowledge that the child lived with you for the period you indicated;
- a registration form or a receipt from an activity or club the child was enrolled in for the period you indicated; or
- a court order, decree, or separation agreement.

You do not have to provide these documents with your application. However, if you choose to do so, we may still contact you if we need more information.

Automated Benefits Application

The Automated Benefits Application service is a quick, easy, and secure way to apply for your child benefits. This service is offered in all provinces of Canada. The territories will offer this service in the near future.

If you are the mother of a newborn, all you need to do is:

- fill out and sign your child's birth registration form issued by your province;
- give your consent to the vital statistics office to share your information with us; and
- provide your social insurance number (see "Do you have a social insurance number?" below).

For more information on this service, go to cra.gc.ca/aba.

If you choose to use this service to apply for your child benefits, do not re-apply using our online service or Form RC66, *Canada Child Benefits Application*. Re-applying may result in a delay in getting your payments.

Do you have a social insurance number?

You need a social insurance number (SIN) to apply for the CCB. For more information or to get an application for a SIN, visit the Service Canada website at servicecanada.gc.ca or call 1-800-206-7218. To find the address of the Service Canada centre nearest you, visit servicecanada.gc.ca or call 1-800-622-6232.

If Service Canada will not give you a SIN, you can still apply for the CCB if you meet all of the conditions listed under "Are you eligible?" on page 6. Attach a note to your Form RC66, *Canada Child Benefits Application*, explaining why you cannot get a SIN and include a photocopy of one of the following documents:

- passport;
- driver's license;
- visitor record or a study permit;
- temporary resident permit;
- any document issued by Immigration, Refugees and Citizenship Canada; or
- registration with Indigenous and Northern Affairs Canada.

What happens after you apply?

If your application is not complete, we will ask for the missing information. This will delay the processing of your application.

After we process your application, we will send you a CCB notice. It will tell you how much you will get and what information we used to calculate the amount.

We may review your situation at a later date to confirm that the information you gave us has not changed.

Note

Keep your CCB notice in case you need to refer to it when you contact us. You may also have to provide information from your notice to other federal, provincial, or territorial government departments.

Do you have a spouse or common-law partner?

For CCB purposes, when both a male and a female parent live in the same home as the child, the female parent is usually considered to be primarily responsible for the child and should apply. However, if the male parent is primarily responsible, he can apply. He must attach to Form RC66, *Canada Child Benefits Application*, a signed note from the female parent that states he is primarily responsible for all of the children in the household. If your spouse or common-law partner is a person of the same sex, one of you will get the CCB for all the children.

If your spouse or common-law partner is a non-resident of Canada during any part of the year, you will have to fill out Form CTB9, *Canada Child Benefit – Statement of Income*, for each year or part of a year that they are a non-resident of Canada.

When your spouse immigrates to Canada, they have to send us in writing the following information in writing about themselves:

- social insurance number;
- date of birth;
- address;
- immigration date; and
- statement of income.

If you have a new spouse or common-law partner

When you tell us of your new married or common-law status, include your spouse's or common-law partner's name, address, and social insurance number. Also, you and your spouse or common-law partner should both sign the applicable form. Generally, all the children will be moved to the female parent's account.

Only one CCB payment is allowed per family each month. If both you and your new spouse or common-law partner were getting separate payments, only one payment will be made based on your new adjusted family net income. If you continue to get separate payments, one of you will have to repay the amounts you got after your marital status changed.

How do we calculate your benefit?

For the payment period of July 2017 to June 2018, we calculate your benefit based on:

- the number of eligible children you have and their ages;
- your adjusted family net income for the base year 2016; and
- your child's eligibility for the disability tax credit.

To continue getting the CCB, you and your spouse or common-law partner each have to file separate tax returns every year, even if you have not received income in the year.

Base year and payment period

The **base year** is the year of the tax return from which information is taken to calculate the CCB amount for the payment period. The base year is the calendar year just before the start of the payment period.

The **payment period** is the 12-month period during which the CCB payments are paid. The payment period runs from July 1 of the year following the base year to June 30 of the next year. For example, CCB payments calculated based on the 2016 tax return will start being issued in July 2017, which is the beginning of the payment period. For more information, see "When do we pay your benefit?" on page 13.

The following chart illustrates the link between the base year and the payment period.

| Base year (tax return) | Payment period |
|------------------------|-----------------------|
| 2016 | July 2017 – June 2018 |
| 2015 | July 2016 – June 2017 |
| 2014 | July 2015 – June 2016 |

Example

Lucy just received her July 2017 CCB payment. The amount changed considerably compared to the amount she received in June. There have not been any changes to the number of eligible children she has. Her June and July payments were calculated using two different base years (2015 and 2016). Since Lucy's adjusted family net income was higher in 2016 than it was in 2015, her July 2017 payment was lower than her June 2017 payment.

Child and family benefits online calculator

You can use our online calculator to get an estimate of your child benefits, by going to cra.gc.ca/benefits-calculator.

Canada child benefit

We calculate the Canada child benefit (CCB) as follows:

- \$6,400 per year (\$533.33 per month) for each eligible child under the age of six; and
- \$5,400 per year (\$450.00 per month) for each eligible child aged 6 to 17.

These amounts start being reduced when the adjusted family net income (AFNI) is over \$30,000. The reduction is calculated as follows:

- For families with one eligible child, the reduction is 7% of the amount of AFNI between \$30,000 and \$65,000, plus 3.2% of the amount of AFNI over \$65,000.
- For families with two eligible children, the reduction is 13.5% of the amount of AFNI between \$30,000 and \$65,000, plus 5.7% of the amount of AFNI over \$65,000.
- For families with three eligible children, the reduction is 19% of the amount of AFNI between \$30,000 and \$65,000, plus 8% of the amount of AFNI over \$65,000.
- For families with four or more eligible children, the reduction is 23% of the amount of AFNI between \$30,000 and \$65,000, plus 9.5% of the amount of AFNI over \$65,000.

Child disability benefit

The child disability benefit (CDB) is an additional monthly benefit included in the CCB to provide financial assistance to qualified families caring for children who have a severe and prolonged impairment in physical or mental functions. Families with children under 18 years of age who are eligible for the disability tax credit (DTC) may receive a CDB.

A child is eligible for the DTC when we have approved Form T2201, *Disability Tax Credit Certificate*, for that child. For more information on the DTC, go to cra.gc.ca/dtc. For more information on the CDB, go to cra.gc.ca/cdb or call 1-800-387-1193.

The CDB provides up to \$2,730 per year (\$227.50 per month) for each child eligible for the DTC. The CDB starts being reduced when the adjusted family net income (AFNI) is more than \$65,000. The reduction is calculated as follows:

- For families with one child eligible for the DTC, the reduction is 3.2% of the amount of AFNI over \$65,000.
- For families with two or more children eligible for the DTC, the reduction is 5.7% of the amount of AFNI over \$65,000.

Note

If you have already applied for the CCB or previous federal child benefits (such as the Canada child tax benefit) for a child who is eligible for the DTC, the CDB will be calculated automatically for the current and the two previous CCB payment periods. Beyond these payment periods, you have to send a written request to your tax centre (see page 22).

When do we pay your benefit?

You are eligible to receive the CCB in the month following the month you become an eligible individual. For more information, see "Are you eligible?" on page 6.

We generally pay your benefit on the 20th of each month. However, if your monthly amount is less than \$20, we will make one lump-sum payment on July 20, 2017, to cover the entire payment period from July 2017 to June 2018.

If you do not receive your payment on the scheduled day, wait five working days before calling 1-800-387-1193.

You can view benefit payments in My Account at cra.gc.ca/myaccount or by using the MyCRA or MyBenefit CRA mobile app at cra.gc.ca/mobileapps.

When do we recalculate your benefit?

We will recalculate your benefit and, if applicable, send you a CCB notice showing our revised calculation:

- at the beginning of every payment period (every July) based on the tax returns that you and your spouse or common-law partner filed for the previous year;
- after any reassessment of either your or your spouse's or common-law partner's tax return that affects the amount of your benefit;
- after a change in your marital status;
- after a change in the number of eligible children in your care; or
- after you tell us about changes to your situation that could affect your benefit. For more information, see "When should you contact us?" on page 20.

What happens if you were overpaid?

If a recalculation shows that you were overpaid for the CCB, we will send you a notice to tell you of the amount due. We may keep all or a part of future CCB payments, income tax refunds, or goods and services tax/harmonized sales tax (GST/HST) credits until the amount you owe is repaid. This may also apply to the other federal, provincial, and territorial programs that we administer.

For more information on how to make a payment, go to cra.gc.ca/benefits, select "Balance owing – Benefits overpayment" and see "How to make a payment."

Related programs

The Canada Revenue Agency administers the following provincial and territorial child benefit and credit programs:

- Alberta child benefit;
- Alberta family employment tax credit;
- BC early childhood tax benefit;
- BC family bonus;
- New Brunswick child tax benefit;
- Newfoundland and Labrador child benefit;
- Northwest Territories child benefit;
- Nova Scotia child benefit;
- Nunavut child benefit;
- Ontario child benefit; and
- Yukon child benefit.

You do not need to apply to a province or a territory to get payments for these programs. We use the information from your Canada child benefits application to determine your eligibility for these programs. If you are eligible, the amount of your payments will be calculated based on information from the tax returns that you and your spouse or common-law partner file.

If you share the custody of a child, you will get 50% of the provincial or territorial payment that you would have received if the child lived with you all of the time.

If you use our direct deposit service for your CCB payments, we will deposit your provincial and territorial payments into the same account.

Note

The “earned income” and “working income” used to calculate certain provincial and territorial benefits include income from employment, self-employment, training allowances, scholarships (if taxable), research grants, and disability payments received under the Canada Pension Plan and the Quebec Pension Plan.

Alberta child benefit

This benefit is a non-taxable amount paid to lower-income families with children under 18 years of age. The quarterly amounts are issued separately from the CCB and Alberta family employment tax credit (AFETC) in August 2017, November 2017, February 2018 and May 2018. Unlike the AFETC, there is no minimum working income requirement.

You may be entitled to:

- \$1,114 for the first child;
- \$557 for the second child;
- \$557 for the third child; and
- \$557 for the fourth child.

The benefit is reduced if your adjusted family net income is more than \$25,832.

This program is fully funded by the Province of Alberta. For more information, call 1-800-959-2809.

Alberta family employment tax credit

This credit is a non-taxable amount paid to families with working income that have children under 18 years of age. The amounts are split into two payments made separately from CCB in July 2017 and January 2018.

You may be entitled to:

- \$773 for the first child;
- \$703 for the second child;
- \$422 for the third child; and
- \$140 for the fourth child.

The maximum you can get is the lesser of \$2,038 and 11% of your family's working income that is more than \$2,760. The credit is reduced by 4% of your adjusted family net income that is more than \$41,786.

This program is fully funded by the Province of Alberta. For more information, call 1-800-959-2809.

BC early childhood tax benefit

This benefit is a non-taxable amount paid monthly to qualifying families to help with the cost of raising children under the age of six. The amount is combined with the CCB into a single monthly payment. It is calculated based on the number of eligible children you have and your adjusted family net income.

This program is fully funded by the Province of British Columbia.

BC family bonus

This program provides a non-taxable amount paid monthly to help low- and modest-income families with the cost of raising children under 18 years of age. The amount is combined with the CCB into a single monthly payment. It is calculated based on the number of children you have and your adjusted family net income.

This program is fully funded by the Province of British Columbia.

New Brunswick child tax benefit

This benefit is a non-taxable amount paid monthly to qualifying families with children under 18 years of age. The New Brunswick working income supplement (NBWIS) is an additional benefit paid to qualifying families with earned income who have children under 18 years of age. Benefits are combined with the CCB into a single monthly payment.

You may be entitled to a basic benefit of \$20.83 per month for each child. The amount of the basic benefit is reduced if your adjusted family net income is more than \$20,000.

The NBWIS is an additional benefit of up to \$20.83 per month for each family. It is phased in once family earned income is more than \$3,750. The maximum benefit is reached when family earned income is \$10,000. If your adjusted family net income is between \$20,921 and \$25,921, you may get part of the supplement.

Your New Brunswick child tax benefit payment may include a New Brunswick school supplement (NBSS) amount. The NBSS is paid once a year in July to help low income families with the cost of back to school supplies for their children. If your adjusted family net income is \$20,000 or less, you will get \$100 for each of your children born between January 1, 2000, and December 31, 2012.

These amounts will be combined with the CCB into a single monthly payment.

This program is fully funded by the Province of New Brunswick.

Newfoundland and Labrador child benefit

This benefit is a non-taxable amount paid monthly to help low-income families with the cost of raising children under 18 years of age. The mother baby nutrition supplement is an additional benefit paid to qualifying families who have children under one year of age. Benefits are combined with the CCB into a single monthly payment.

Under the Newfoundland and Labrador child benefit, you may be entitled to a benefit of:

- \$32.16 per month for the first child;
- \$34.16 per month for the second child;

- \$36.66 per month for the third child; and

- \$39.33 per month for each additional child.

If your adjusted family net income is above \$17,397, you may get part of the benefit.

Under the mother baby nutrition supplement, you may be entitled to a benefit of \$60 per month for each child under one year of age depending on your adjusted family net income.

This program is fully funded by the Province of Newfoundland and Labrador.

Northwest Territories child benefit

This benefit is a non-taxable amount paid monthly to qualifying families with children under 18 years of age. The first monthly payment under the enhanced program will be issued in July 2017.

You may be entitled to receive the following monthly amounts:

Children under the age of 6:

- \$67.91 for one child;
- \$122.25 for two children;
- \$166.41 for three children;
- \$203.75 for four children; and
- \$30.58 for each additional child.

Children aged 6 to 17:

- \$54.33 for one child;
- \$97.83 for two children;
- \$133.08 for three children;
- \$163.00 for four children; and
- \$24.41 for each additional child

If your adjusted family net income is above \$30,000, you may get part of the benefit.

These amounts are combined with the CCB into a single monthly payment.

This program is fully funded by the Northwest Territories.

Nova Scotia child benefit

This benefit is a non-taxable amount paid monthly to help low- and modest-income families with the cost of raising children under 18 years of age. These amounts are combined with the CCB into a single monthly payment.

You may be entitled to a benefit of:

- \$52.08 per month for the first child;
- \$68.75 per month for the second child; and
- \$75.00 per month for each additional child.

If your adjusted family net income is between \$18,000 and \$26,000, you may get part of the benefit.

This program is fully funded by the Province of Nova Scotia.

Nunavut child benefit

This benefit is a non-taxable amount paid monthly to qualifying families with children under 18 years of age. You may be entitled to a basic benefit of \$27.50 per month for each child.

Families who have earned income of more than \$3,750 and who have children under 18 years of age, may also get the territorial workers' supplement of up to:

- \$22.91 per month for one child; and
- \$29.16 per month for two or more children.

If your adjusted family net income is above \$20,921, you may get part of the benefit.

These amounts are combined with the CCB into a single monthly payment.

This program is fully funded by Nunavut.

Ontario child benefit

This is a non-taxable amount paid to help low- and modest-income families provide for their children. It is combined with the CCB into a single monthly payment.

You may be entitled to a benefit of up to \$114.83 per month for each child under 18 years of age. If your adjusted family net income is above \$21,037, you may get part of the benefit.

This program is fully funded by the Province of Ontario. For more information, visit Ontario Ministry of Children and Youth Services at ontario.ca/childbenefit.

Yukon child benefit

This benefit is a non-taxable amount paid monthly to help low- and modest-income families with the cost of raising children under 18 years of age. This amount is combined with the CCB into a single monthly payment.

You may be entitled to a benefit of \$68.33 per month for each child. If your adjusted family net income is above \$35,000, you may get part of the benefit.

This program is funded by the Yukon with a contribution from Aboriginal Affairs and Northern Development Canada on behalf of Indian children.

Related program not administered by the CRA

Quebec child assistance payments

If you live in Quebec, you must file your application for child assistance payments and make any changes to your family situation directly with Retraite Québec. However, you do not have to file an application for a child born in Quebec because Retraite Québec is automatically notified by the Registrar of Civil Status. For more information, visit rrq.gouv.qc.ca/en/enfants.

When should you contact us?

You should tell us immediately about certain changes, as well as the date they happened or will happen. This section explains what the changes are and how you should tell us about them.

Note

For confidentiality reasons, we can only discuss a file with a benefit recipient, unless they give us permission to speak to someone else. To give someone else permission, you can use "Authorize my representative" in My Account at cra.gc.ca/myaccount or send Form T1013, *Authorizing or Cancelling a Representative*.

Has the number of children in your care changed?

We may need to recalculate your benefit based on new information such as when:

- your child is born, a child starts to live with you, or you share custody of a child (see "How do you apply?" on page 8); or
- a child for whom you are getting benefits no longer lives with you on a full-time basis, stops living with you, or has died. You can tell us by:
 - using My Account at cra.gc.ca/myaccount;
 - using MyCRA or MyBenefits CRA mobile app at cra.gc.ca/mobileapps; or
 - calling 1-800-387-1193.

Has your marital status changed?

If your marital status changes, let us know by the end of the month following the month in which your status changed. However, do not tell us of your separation until you have been separated for more than 90 consecutive days. You can tell us by:

- using My Account at cra.gc.ca/myaccount;
- using MyCRA or MyBenefits CRA mobile app at cra.gc.ca/mobileapps;
- calling 1-800-387-1193; or
- sending Form RC65, *Marital Status Change*.

When we get notification of your change in marital status, we will recalculate your CCB taking into consideration your new marital status and your new adjusted family net income.

Your CCB will be adjusted starting with the month following the month that your marital status changed.

Example 1

Lucy was single and received the CCB for her two children based on her income only. In September 2017, Lucy married Peter. Peter's net income in 2016 was \$100,000. Lucy informed us of her new marital status by using My Account. We will base the CCB payments on Lucy's new adjusted family net income and her CCB payments will change starting with the October 2017 payment.

Example 2

After 10 years of marriage, Mary and Mark separated on October 5, 2017. In January 2018, after Mary had been separated for more than 90 consecutive days, she informed us of her separation by sending Form RC65. Mark's income was very high in 2016. We will base her CCB payments on her income alone from November until the end of the current payment period (June 2018), and Mary will get higher CCB payments.

Has a benefit recipient died?

If a benefit recipient has died, the next of kin or the estate should inform us as soon as possible. Someone else may be eligible to receive the benefits for the child(ren). Call 1-800-387-1193, or send a letter to your tax centre (see page 22).

Are you moving?

If you move, let us know your new address immediately. Otherwise, your payments may stop, even if you use direct deposit and your bank account does not change.

You can change your address by:

- using My Account at cra.gc.ca/myaccount;
- using MyCRA or MyBenefits CRA mobile app at cra.gc.ca/mobileapps;
- calling 1-800-387-1193; or
- sending Form RC325, *Address change request*.

Other changes

Call 1-800-387-1193 to tell us, if:

- any of the personal information, such as your name, marital status, or the spousal or child information shown on your CCB notice is not correct; or
- you (or your spouse or common-law partner) are no longer a resident of Canada.

Tax centre addresses

Send your form or letter and any documents to the tax centre that serves your area. Use the chart below to find out the address:

| If your tax services office is located in: | Send your correspondence to the following address: |
|---|--|
| Alberta, British Columbia, Hamilton, Kitchener/Waterloo, London, Manitoba, Northwest Territories, Regina, Saskatoon, Thunder Bay, Windsor, or Yukon | Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2 |
| Barrie, Belleville, Kingston, Montréal, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ottawa, Outaouais, Peterborough, Prince Edward Island, St.Catharines, Sherbrooke, Sudbury, Toronto Centre, Toronto East, Toronto North, or Toronto West | Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1 |
| Chicoutimi, Laval, Montérégie-Rive-Sud, Québec, Rimouski, Rouyn-Noranda, or Trois-Rivières | Jonquière Tax Centre 2251 René-Lévesque Boulevard Jonquière QC G7S 5J2 |

Online services

My Account

The CRA's My Account service is fast, easy, and secure.

Use My Account to:

- view your benefit and credit payment amounts and dates;
- view your notice of assessment;
- change your address, direct deposit information, and marital status;
- sign up for account alerts;
- check your TFSA contribution room and RRSP deduction limit;
- check the status of your tax return;
- request your proof of income statement (option "C" print); and
- link between your CRA My Account and My Service Canada Account.

How to register

For information, go to cra.gc.ca/myaccount.

Sign up for online mail

Sign up for the CRA's online mail service to get most of your CRA mail, like your notice of assessment, online.

For more information, go to cra.gc.ca/onlinemail.

MyBenefits CRA mobile app

Get your benefit information on the go! Use MyBenefits CRA mobile app throughout the year to:

- view the amounts and dates of your benefit and credit payments, including any provincial or territorial payments;
- view the status of your application for child benefits;
- change your address, phone number and marital status;
- let us know if a child is no longer in your care;
- sign up for online mail and account alerts.

To get more information, go to cra.gc.ca/mobileapps.

MyCRA mobile app

Use MyCRA throughout the year to:

- view the amounts and dates of your benefit and credit payments;
- check your TFSA contribution room;
- change your address, direct deposit information, and marital status;
- let us know if a child is no longer in your care;
- sign up for online mail and account alerts; and
- request your proof of income statement (option "C" print).

Getting ready to file your income tax and benefit return? Use MyCRA to:

- check your RRSP deduction limit;
- look up a local tax preparer; and
- see what tax filing software the CRA has certified.

Done filing? Use MyCRA to:

- check the status of your tax return; and
- view your notice of assessment.

For more information, go to cra.gc.ca/mobileapps.

Electronic payments

Make your payment using:

- your financial institution's online or telephone banking services;
- the CRA's My Payment service at cra.gc.ca/mypayment; or
- pre-authorized debit at cra.gc.ca/myaccount.

For more information on all payment options, go to cra.gc.ca/payments.

For more information

What if you need help?

If you need more information after reading this booklet, go to canada.ca/canada-child-benefit or call 1-800-387-1193.

Direct deposit

Direct deposit is a fast, convenient, reliable, and secure way to get your CRA payments directly into your account at a financial institution in Canada. To enrol for direct deposit or to update your banking information, go to cra.gc.ca/directdeposit.

Forms and publications

To get our forms and publications, go to cra.gc.ca/forms or call 1-800-387-1193.

Electronic mailing lists

The CRA can notify you by email when new information on a subject of interest to you is available on the website. To subscribe to the electronic mailing lists, go to canada.ca/cra-email-lists.

Tax Information Phone Service (TIPS)

For personal and general tax information by telephone, use our automated service, TIPS, by calling 1-800-267-6999.

Teletypewriter (TTY) users

If you have a hearing or speech impairment and use a TTY, call 1-800-665-0354.

If you use an operator-assisted relay service, call our regular telephone numbers instead of the TTY number.

Service complaints

You can expect to be treated fairly under clear and established rules, and get a high level of service each time you deal with the CRA. See the *Taxpayer Bill of Rights*.

If you are not satisfied with the service you received, try to resolve the matter with the CRA employee you have been dealing with or call the telephone number provided in the CRA's correspondence. If you do not have contact information, go to cra.gc.ca/contact.

If you still disagree with the way your concerns were addressed, you can ask to discuss the matter with the employee's supervisor.

If you are still not satisfied, you can file a service complaint by filling out Form RC193, *Service-Related Complaint*. For more information and how to file a complaint, go to cra.gc.ca/complaints.

If the CRA has not resolved your service-related complaint, you can submit a complaint with the Office of the Taxpayers' Ombudsman.

Reprisal complaint

If you believe that you have experienced reprisal, fill out Form RC459, *Reprisal Complaint*.

For more information about reprisal complaints, go to cra.gc.ca/reprisalcomplaints.

Tax information videos

We have a number of tax information videos for individuals on topics such as the income tax and benefit return, the Canadian tax system, and tax measures for persons with disabilities. To watch our videos, go to cra.gc.ca/videogallery.

Canada Child Benefits Application

Use this form to apply for all child benefit programs that we administer, including the Canada child benefit (CCB) and the goods and services tax/harmonized sales tax (GST/HST) credit. Unless you indicate otherwise, the information you give on this form will be used for all programs, including federal, provincial, and territorial programs.

Do not use this area.

For instructions on how to fill out this form, see the "General Information" on pages 3 and 4.

Fill out the parts that apply to you.

Part 1 – Information about the applicant

When both a male and a female parent live in the same home, we usually consider the female parent to be the applicant.

| | | | |
|---|--------------------------|--|--------------------------|
| First name and initial | Last name | Social Insurance number | |
| Last name at birth (if different from above) | | <input type="checkbox"/> Female <input type="checkbox"/> Male | |
| Date of birth | Year Month Day | Your language of correspondence: Votre langue de correspondance : <input type="checkbox"/> English <input type="checkbox"/> Français | |
| Mailing address (Apt No – Street No Street name, PO Box, RR) | | | |
| City | | Province or territory <input type="checkbox"/> | Postal code |
| Home address (if different from mailing address) (Apt No – Street No Street name, RR) | | | |
| City | | Province or territory <input type="checkbox"/> | Postal code |
| Home telephone number | | Work telephone number | |
| If you moved from a different province or territory within the last 12 months, enter the previous province or territory and the date you moved: | | Province or territory <input type="checkbox"/> | Year Month Day |
| Tick the box that applies to your current marital status (tick only one box) and enter the date this marital status began. See the definitions for common-law partner, separated, and spouse on page 4. | | | |
| <input type="checkbox"/> Married <input type="checkbox"/> Living common-law <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Single | | Since | Year Month Day |

Part 2 – Information about your spouse or common-law partner

| | | | | | |
|------------------------|-------|-----|-------------------------|--|-------------------------------|
| First name and initial | | | Last name | <input type="checkbox"/> Female | <input type="checkbox"/> Male |
| Year | Month | Day | Social Insurance number | Your spouse or common-law partner's address will be updated to the address indicated in Part 1, unless you indicate otherwise. | |
| Date of birth | | | | | |

Part 3 – Citizenship/Residency status

Have you been a Canadian citizen for the last 12 months?

Yes No

Has your spouse or common-law partner been a Canadian citizen for the last 12 months?

Yes No

If no, you must attach Schedule RC66SCH, *Status in Canada/Statement of Income*. For more information on when to attach Schedule RC66SCH, see "Do you need to attach Schedule RC66SCH, *Status in Canada/Statement of Income*?" on page 3.

Part 4 – Information about the child(ren)

To find out if you need to attach proof of birth, see Part 4 on page 3.

If your application includes a period that started more than 11 months ago, see Part 4 on page 3 to find out which documents you need to send.

Child information #1 (Do not give information about a child for whom you have already applied, unless the child left your care and has now returned.)

| | | | |
|------------------------|-----------|---------------------------------|-------------------------------|
| First name and initial | Last name | <input type="checkbox"/> Female | <input type="checkbox"/> Male |
|------------------------|-----------|---------------------------------|-------------------------------|

| | | | | | |
|-----------------------|--|---------------|------|-------|-----|
| Place of birth – City | Province or territory (or country if outside Canada) | Date of birth | Year | Month | Day |
|-----------------------|--|---------------|------|-------|-----|

Enter the date you became primarily responsible for the care and upbringing of this child.

See the definition of primarily responsible for the care and upbringing of a child on page 4.

Are you in a shared custody situation for this child?
See "Do you share custody of a child?" on page 4.

Yes No

Child information #2 (Do not give information about a child for whom you have already applied, unless the child left your care and has now returned.)

| | | | |
|------------------------|-----------|---------------------------------|-------------------------------|
| First name and initial | Last name | <input type="checkbox"/> Female | <input type="checkbox"/> Male |
|------------------------|-----------|---------------------------------|-------------------------------|

| | | | | | |
|-----------------------|--|---------------|------|-------|-----|
| Place of birth – City | Province or territory (or country if outside Canada) | Date of birth | Year | Month | Day |
|-----------------------|--|---------------|------|-------|-----|

Enter the date you became primarily responsible for the care and upbringing of this child.

See the definition of primarily responsible for the care and upbringing of a child on page 4.

Are you in a shared custody situation for this child?
See "Do you share custody of a child?" on page 4.

Yes No

If you are applying for more than two children, attach a separate sheet of paper with the information asked above for the additional child(ren) and sign it.

Part 5 – Change of recipient

Fill out this part if the child(ren) had been living with another individual or maintained by an agency.

Name, address, and telephone number of previous caregiver or agency

Name of child(ren)

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Part 6 – Certification

I certify that the information given on this form and in any attached documents is correct and complete. It is a serious offence to make a false statement.

Applicant's signature _____ Date: _____

Spouse's or common-law partner's signature _____ Date: _____

Personal information is collected under the *Income Tax Act* to administer tax, benefits, and related programs. It may also be used for any purpose related to the administration or enforcement of the Act such as audit, compliance and the payment of debts owed to the Crown. It may be shared or verified with other federal, provincial/territorial government institutions to the extent authorized by law. Failure to provide this information may result in interest payable, penalties or other actions. The social insurance number is collected under section 237 of the Act and is used for identification purposes. Under the *Privacy Act*, individuals have the right to access their personal information and request correction if there are errors or omissions. Refer to Info Source at cra.gc.ca/gncc/tp/infarc/infarc-eng.html, Personal Information Bank CRA PPU 063.

General information

How do you apply?

You can apply by using "Apply for child benefits" in My Account at cra.gc.ca/myaccount or by sending this form, with any needed documents, to your tax centre (see "Where do you send this form?" on the next page).

If you are the mother of a newborn, you can use the Automated Benefits Application (ABA) service to apply for your child's benefits. This service is offered in all provinces of Canada. If you use this service, do not re-apply using the Canada Revenue Agency online service or this form. For more information on the ABA service, go to cra.gc.ca/aba.

You should apply even if:

- your child only lives with you part of the time (see "Do you share custody of a child?" on the next page);
- your child is living with you for a determined temporary period of time, for example over the summer holidays; or
- your current adjusted family net income is too high. We recalculate your entitlement every July based on your adjusted family net income for the previous year.

Part 1 – Information about the applicant

Fill out this part if you are primarily responsible for the care and upbringing of the child.

For CCB, when both a male and a female parent live in the same home as the child, the female parent is usually considered to be primarily responsible for the child (defined on the next page) and should apply. However, if the male parent is primarily responsible, he can apply. He must attach to his application a signed note from the female parent that states he is primarily responsible for all of the children in the household.

Supporting documents

You do not have to send the following supporting documents with your application. However, we may ask you to send them to prove you are primarily responsible for the care and upbringing of the child, such as:

- a letter from the daycare or school authorities indicating the child's home address and contact information on file;
- a letter from a person in a position of authority (such as a lawyer or a social worker) stating that they have personal knowledge that the child lived with you for the period you indicated;
- a registration form or a receipt from an activity or club the child was enrolled in for the period you indicated; or
- a court order, decree, or separation agreement.

What is your current marital status?

Tick "Married" if you have a spouse. Tick "Living common-law" if you have a common-law partner. If you have been separated for less than 90 days, you are still considered to be married or living common-law. For more information, see the definitions on the next page.

Part 2 – Information about your spouse or common-law partner

Fill out Part 2 only if you ticked married or living common-law in Part 1.

Part 3 – Citizenship/Residency status

Fill out this part to confirm your and your spouse's or common-law partner's citizenship status.

Do you need to attach Schedule RC66SCH, Status in Canada/Statement of Income?

You must attach Schedule RC66SCH, Status in Canada/Statement of Income, if you or your spouse or common-law partner:

- became a Canadian citizen within the last 12 months;
- became a new resident or returned as a resident of Canada in the last two years;
- are, as defined in the *Immigration and Refugee Protection Act*, a permanent resident, protected person (refugee), or temporary resident who has lived in Canada for the previous 18 months; or
- are not a Canadian citizen and are an Indian within the meaning of the *Indian Act*.

Part 4 – Information about the child(ren)

Fill out this part to give information about the child(ren).

Do not give information about a child for whom you have already applied, unless the child left your care and has now returned.

When do you need to give proof of birth?

You need to attach proof of birth for the child, on which the child's last name, given name, and date of birth appear, if we have not previously paid benefits to anyone for this child, and one of the following applies:

- the child was born outside Canada; or
- the child was born in Canada and is one year of age or older.

Attach clear photocopies of both sides of all pages of one of the following documents for proof of birth:

- birth certificate or birth registration;
- hospital record of birth or record of the physician, nurse, or midwife who attended the birth;
- passport;
- Record of Landing or Confirmation of Permanent Residence issued by Citizenship and Immigration Canada;
- citizenship certificate; or
- Notice of Decision or a Temporary Resident's Permit issued under the *Immigration and Refugee Protection Act*.

Does your application include a period that started more than 11 months ago?

If so, you must attach clear photocopies of both sides of all pages of the following documents for the entire period that started more than 11 months ago:

- proof of citizenship status (for example, a Canadian birth certificate) or immigration status in Canada for you and your spouse or common-law partner, if you have one;
- proof that you resided in Canada, such as a lease agreement, rent receipts, utility bills, or bank statements;
- proof of birth for each child (see above); and
- proof that you were the person who is primarily responsible for the care and upbringing of the child(ren) (defined on the next page) (see "Supporting documents" on this page).

If your application is late, you may not get payments for the entire period requested.

Do you share custody of a child?

You share custody of a child if the child lives with two different individuals in separate residences on a more or less equal basis, such as:

- the child lives with one parent four days a week and the other parent three days a week;
- the child lives with one parent one week and the other parent the following week; or
- any other regular cycle of alternation.

In these cases, both individuals may be considered primarily responsible for the child's care and upbringing when the child lives with them. Each individual will get 50% of the payment they would have received if the child lived with them all of the time.

If you have just entered into a shared custody situation for your child(ren), you have to apply for the benefits (see "How do you apply?" on page 3). If you already get the benefits, you have to tell us by:

- using "Apply for child benefits" in My Account at cra.gc.ca/myaccount;
- calling 1-800-387-1193;
- sending Form RC66, *Canada Child Benefits Application*, indicating shared custody; or
- sending us a letter explaining the shared custody situation.

Part 5 – Change of recipient

Fill out this part if the child(ren) had been living with another individual or were maintained by an agency.

Part 6 – Certification

Sign this part. If you filled out Part 2, your spouse or common-law partner also has to sign this part.

Child and family benefits online calculator

You can use our online calculator to get an estimate of your child benefits by going to cra.gc.ca/benefits-calculator.

Definitions

Common-law partner – this applies to a person who is not your spouse, with whom you are in a conjugal relationship, and to whom one of the following situations applies. They:

- have been living with you for at least 12 continuous months;
- Note**
In this definition, 12 continuous months includes any period you were separated for less than 90 days because of a breakdown in your relationship.
- are the parent of your child by birth or adoption;
- have custody and control of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

Primarily responsible for the care and upbringing of a child – means that you are responsible for such things as supervising the child's daily activities and needs, making sure the child's medical needs are met, and arranging for child care when necessary. If there is a female parent who lives with the child, we usually consider her to be this person.

Note

You may not be considered primarily responsible for the care and upbringing of the child if the child is legally, physically, or financially maintained by a child welfare agency. For more information, follow the "Children's special allowances (CSA)" link at cra.gc.ca/benefits and select "CSA fact sheet" or call 1-800-387-1193.

Separated – you are separated when you start living separate and apart from your spouse or common-law partner because of a breakdown in the relationship for a period of at least 90 days and you have not reconciled.

Once you have been separated for 90 days (because of a breakdown in the relationship), the effective day of your separated status is the date you started living separate and apart.

Note

You would still be considered to have a spouse or common-law partner if there is no breakdown in the relationship and you were living apart for reasons such as:

- work;
- studies; or
- health problems.

Spouse – this applies only to a person to whom you are legally married.

For more information

For more information, go to cra.gc.ca/benefits or call 1-800-387-1193.

To get our forms and publications, go to cra.gc.ca/forms or call 1-800-387-1193.

Where do you send this form?

Send this form and any documents to the tax centre that serves your area. If you are a deemed resident of Canada and reside outside of Canada, send the form to the tax centre you had prior to leaving Canada. Use the chart below to find out the address.

| If your tax services office is located in: | Send your correspondence to the following address: |
|--|--|
| Alberta, British Columbia, Hamilton, Kitchener/Waterloo, London, Manitoba, Northwest Territories, Regina, Saskatoon, Thunder Bay, Windsor, or Yukon | Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2 |
| Barrie, Belleville, Kingston, Montréal, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ottawa, Outaouais, Peterborough, Prince Edward Island, St. Catharines, Sherbrooke, Sudbury, Toronto Centre, Toronto East, Toronto North, or Toronto West | Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1 |
| Chicoutimi, Laval, Montérégie-Rive-Sud, Québec, Rimouski, Rouyn-Noranda, or Trois-Rivières | Jonquière Tax Centre 2251 René-Lévesque Boulevard Jonquière QC G7S 5J2 |

Direct deposit

Direct deposit is a fast, convenient, reliable, and secure way to get your CRA payments directly into your account at a financial institution in Canada. To sign up for direct deposit or to update your banking information, go to cra.gc.ca/directdeposit.



Disability Tax Credit Certificate

Use this form to apply for the disability tax credit (DTC). The Canada Revenue Agency (CRA) will use this information to make a decision on eligibility for the DTC. See the "General information" on page 6 for more information.

Step 1 – Fill out and sign the sections of Part A that apply to you.

Step 2 – Ask a medical practitioner to fill out and certify Part B.

Step 3 – Send the form to the CRA.

Part A – To be filled out by the taxpayer

Section 1 – Information about the person with the disability

| | | |
|------------------------|-----------|-------------------------|
| First name and initial | Last name | Social insurance number |
|------------------------|-----------|-------------------------|

Mailing address (Apt No. – Street No. Street name, PO Box, RR)

| | | | | | | |
|------|-----------------------|-------------|----------------|------|-------|-----|
| City | Province or territory | Postal code | Date of birth: | Year | Month | Day |
|------|-----------------------|-------------|----------------|------|-------|-----|

Section 2 – Information about the person claiming the disability amount (if different from above)

| | | |
|------------------------|-----------|-------------------------|
| First name and initial | Last name | Social insurance number |
|------------------------|-----------|-------------------------|

The person with the disability is: my spouse/common-law partner my dependant (specify): _____

Answer the following questions for all of the years that you are claiming the disability amount for the person with the disability.

1. Does the person with the disability live with you?

Yes No

If yes, for which year(s)? _____

2. If you answered no to Question 1, does the person with the disability regularly and consistently depend on you for one or more of the basic necessities of life such as food, shelter, or clothing?

Yes No

If yes, for which year(s)? _____

Give details about the regular and consistent support you provide for food, shelter or clothing to the person with the disability (if you need more space, attach a separate sheet of paper). We may ask you to provide receipts or other documents to support your request.

Section 3 – Adjust your income tax and benefit return

Once eligibility is approved, the CRA can adjust your returns for all applicable years to include the disability amount for yourself or your dependant under the age of 18. For more information, see Guide RC4064, *Disability-Related Information*.

Yes, I want the CRA to adjust my returns, if possible. No, I do not want an adjustment.

Section 4 – Authorization

As the person with the disability or their legal representative, I authorize the following actions:

- Medical practitioner(s) can give information to the CRA from their medical records or discuss the information on this form.
- The CRA can adjust my returns, as applicable, if the "Yes" box has been ticked in section 3.

| | | | | |
|------------------|-----------|------|-------|-----|
| Sign here: _____ | Telephone | Year | Month | Day |
|------------------|-----------|------|-------|-----|

Personal information is collected under the *Income Tax Act* to administer tax, benefits, and related programs. It may also be used for any purpose related to the administration or enforcement of the Act such as audit, compliance and the payment of debts owed to the Crown. It may be shared or verified with other federal, provincial/territorial government institutions to the extent authorized by law. Failure to provide this information may result in interest payable, penalties or other actions. Under the *Privacy Act*, individuals have the right to access their personal information and request correction if there are errors or omissions. Refer to Info Source at canada.ca/cra-Info-source, Personal Information Bank CRA PPU 218.

Patient's name: _____

Part B – Must be filled out by the medical practitioner

Step 1 – Fill out only the section(s) on pages 2 to 4 that apply to your patient. Each category states which medical practitioner(s) can certify the information in this part.

Note

Whether filling out this form for a child or an adult, assess your patient compared to someone of similar age with no impairment.

Step 2 – Fill out the "Effects of impairment", "Duration", and "Certification" sections on page 5. If more information is needed, the Canada Revenue Agency (CRA) may contact you.

Eligibility for the DTC is based on the effects of the impairment, not on the medical condition itself. For definitions and examples of impairments that may qualify for the DTC, see Guide RC4064, *Disability-Related Information*. For more information, go to canada.ca/disability-tax-credit.

Vision – Medical doctor, nurse practitioner, or optometrist

Your patient is considered blind if, even with the use of corrective lenses or medication:

- the visual acuity in both eyes is 20/200 (6/60) or less, with the Snellen Chart (or an equivalent); or
- the greatest diameter of the field of vision in both eyes is 20 degrees or less.

1. Is your patient blind, as described above?

Yes No

If yes, when did your patient become blind (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


2. What is your patient's visual acuity after correction?

Right eye Left eye

3. What is your patient's visual field after correction (in degrees if possible)?

Right eye Left eye

Speaking – Medical doctor, nurse practitioner, or speech-language pathologist

Your patient is considered markedly restricted in speaking if, even with appropriate therapy, medication, and devices:

- they are unable or take an inordinate amount of time to speak so as to be understood by another person familiar with the patient, in a quiet setting; and
- this is the case all or substantially all of the time (at least 90% of the time).

Is your patient markedly restricted in speaking, as described above?

Yes No

If yes, when did your patient's restriction in speaking become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Hearing – Medical doctor, nurse practitioner, or audiologist

Your patient is considered markedly restricted in hearing if, even with appropriate devices:

- they are unable or take an inordinate amount of time to hear so as to understand another person familiar with the patient, in a quiet setting; and
- this is the case all or substantially all of the time (at least 90% of the time).

Is your patient markedly restricted in hearing, as described above?

Yes No

If yes, when did your patient's restriction in hearing become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Walking – Medical doctor, nurse practitioner, occupational therapist, or physiotherapist

Your patient is considered markedly restricted in walking if, even with appropriate therapy, medication, and devices:

- they are unable or take an inordinate amount of time to walk; and
- this is the case all or substantially all of the time (at least 90% of the time).

Is your patient markedly restricted in walking, as described above?

Yes No

If yes, when did your patient's restriction in walking become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Patient's name: _____

Eliminating (bowel or bladder functions) – Medical doctor or nurse practitioner

Your patient is considered **markedly restricted** in eliminating if, even with appropriate therapy, medication, and devices:

- they are unable or take an inordinate amount of time to personally manage bowel or bladder functions; and
- this is the case all or substantially all of the time (at least 90% of the time).

Is your patient markedly restricted in eliminating, as described above?

Yes No

If yes, when did your patient's restriction in eliminating become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Feeding – Medical doctor, nurse practitioner, or occupational therapist

Your patient is considered **markedly restricted** in feeding if, even with appropriate therapy, medication, and devices:

- they are unable or take an inordinate amount of time to feed themselves; and
- this is the case all or substantially all of the time (at least 90% of the time).

Feeding yourself does not include identifying, finding, shopping for, or obtaining food.

Feeding yourself does include preparing food, except when the time spent is related to a dietary restriction or regime, even when the restriction or regime is needed due to an illness or medical condition.

Is your patient markedly restricted in feeding, as described above?

Yes No

If yes, when did your patient's restriction in feeding become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Dressing – Medical doctor, nurse practitioner, or occupational therapist

Your patient is considered **markedly restricted** in dressing if, even with appropriate therapy, medication, and devices:

- they are unable or take an inordinate amount of time to dress themselves; and
- this is the case all or substantially all of the time (at least 90% of the time).

Dressing yourself does not include identifying, finding, shopping for, or obtaining clothing.

Is your patient markedly restricted in dressing, as described above?

Yes No

If yes, when did your patient's restriction in dressing become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Mental functions necessary for everyday life – Medical doctor, nurse practitioner, or psychologist

Your patient is considered **markedly restricted** in performing the mental functions necessary for everyday life (described below) if, even with appropriate therapy, medication, and devices (for example, memory aids and adaptive aids):

- they are unable or take an inordinate amount of time to perform these functions by themselves; and
- this is the case all or substantially all of the time (at least 90% of the time).

Mental functions necessary for everyday life include:

- adaptive functioning (for example, abilities related to self-care, health and safety, abilities to initiate and respond to social interactions, and common, simple transactions);
- memory (for example, the ability to remember simple instructions, basic personal information such as name and address, or material of importance and interest); and
- problem-solving, goal-setting, and judgment taken together (for example, the ability to solve problems, set and keep goals, and make the appropriate decisions and judgments).

Note

A restriction in problem-solving, goal-setting, or judgment that markedly restricts adaptive functioning, all or substantially all of the time (at least 90% of the time), would qualify.

Is your patient markedly restricted in performing the mental functions necessary for everyday life, as described above?

Yes No

If yes, when did your patient's restriction in performing the mental functions necessary for everyday life become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Patient's name: _____

Life-sustaining therapy – Medical doctor or nurse practitioner

Life-sustaining therapy for your patient must meet both of the following criteria:

- your patient needs this therapy to support a vital function, even if this therapy has eased the symptoms; and
- your patient needs this therapy at least 3 times per week, for an average of at least 14 hours per week.

The 14-hour per week requirement

Include only the time your patient must dedicate to the therapy – that is, the patient has to take time away from normal, everyday activities to receive it.

If a child cannot do the activities related to the therapy because of their age, include the time spent by the child's primary caregivers to do and supervise these activities.

Do not include the time a portable or implanted device takes to deliver the therapy, the time spent on activities related to dietary restrictions or regimes (such as carbohydrate calculation) or exercising (even when these activities are a factor in determining the daily dosage of medication), travel time to receive therapy, medical appointments (other than appointments where the therapy is received), shopping for medication, or recuperation after therapy.

1. Does your patient need this therapy to support a vital function?

Yes No

2. Does your patient need this therapy at least 3 times per week?

Yes No

3. Does this therapy take an average of at least 14 hours per week?

Yes No

If yes, when did your patient's therapy begin to meet the above criteria (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


It is mandatory that you describe how the therapy meets the criteria as stated above. If you need more space, use a separate sheet of paper, sign it and attach it to this form.

Cumulative effect of significant restrictions – Medical doctor, nurse practitioner, or occupational therapist

Note: An occupational therapist can only certify limitations for walking, feeding and dressing.

Answer all the following questions to certify the cumulative effect of your patient's significant restrictions.

1. Even with appropriate therapy, medication, and devices, does your patient have a significant restriction, that is not quite a marked restriction, in two or more basic activities of daily living or in vision and one or more of the basic activities of daily living?

Yes No

If yes, tick at least two of the following, as they apply to your patient.

vision

speaking

hearing

walking

eliminating (bowel or bladder functions)

feeding

dressing

mental functions necessary for everyday life

Note

You cannot include the time spent on life-sustaining therapy.

2. Do these restrictions exist together, all or substantially all of the time (at least 90% of the time)?

Yes No

3. Is the cumulative effect of these significant restrictions equivalent to being markedly restricted in one basic activity of daily living?

Yes No

4. When did the cumulative effect described above begin (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)?

Year


Patient's name: _____

Effects of impairment – Mandatory

The effects of your patient's impairment must be those which, even with therapy and the use of appropriate devices and medication, cause your patient to be restricted all or substantially all of the time (at least 90% of the time).

Note

Working, housekeeping, managing a bank account, and social or recreational activities are not considered basic activities of daily living. Basic activities of daily living are limited to walking, speaking, hearing, dressing, feeding, eliminating (bowel or bladder functions), and mental functions necessary for everyday life.

It is mandatory that you describe the effects of your patient's impairment on his or her ability to do each of the basic activities of daily living that you indicated are or were markedly or significantly restricted. If you need more space, use a separate sheet of paper, sign it and attach it to this form. You may include copies of medical reports, diagnostic tests, and any other medical information, if needed.

Duration – Mandatory

Has your patient's impairment lasted, or is it expected to last, for a continuous period of at least 12 months?
For deceased patients, was the impairment expected to last for a continuous period of at least 12 months?

Yes No

If yes, has the impairment improved, or is it likely to improve, to such an extent that the patient would no longer be blind, markedly restricted, in need of life-sustaining therapy, or have the equivalent of a marked restriction due to the cumulative effect of significant restrictions?

Unsure Yes No

If yes, enter the year that the improvement occurred or may be expected to occur.

Year



Certification – Mandatory

1. For which year(s) have you been the attending medical practitioner for your patient? _____

2. Do you have medical information on file supporting the restriction(s) for all the year(s) you certified on this form? Yes No

Tick the box that applies to you:

Medical doctor

Nurse practitioner

Optometrist

Occupational therapist

Audiologist

Physiotherapist

Psychologist

Speech-language pathologist

As a medical practitioner, I certify that the information given in Part B of this form is correct and complete. I understand that this information will be used by the CRA to make a decision if my patient is eligible for the DTC.

Sign here: _____

It is a serious offence to make a false statement.

Address

Name (print)

| | | | |
|------|-------|-----|-----------|
| Year | Month | Day | Telephone |
|------|-------|-----|-----------|

Date: _____

General information

What is the DTC?

The disability tax credit (DTC) is a non-refundable tax credit that helps persons with disabilities or their supporting persons reduce the amount of income tax they may have to pay. The disability amount may be claimed once the person with a disability is eligible for the DTC. This amount includes a supplement for persons under 18 years of age at the end of the year. Being eligible for this credit may open the door to other programs.

For more information, go to canada.ca/disability-tax-credit or see Guide RC4064, *Disability-Related Information*.

Are you eligible?

You are eligible for the DTC only if we approve your application. On this form, a medical practitioner has to indicate and certify that you have a severe and prolonged impairment and must describe its effects.

To find out if you may be eligible for the DTC, fill out the self-assessment questionnaire in Guide RC4064, *Disability-Related Information*. If we have already told you that you are eligible, do not send another form unless the previous period of approval has ended or if we tell you that we need one. You should tell us if your medical condition improves.

If you receive Canada Pension Plan or Quebec Pension Plan disability benefits, workers' compensation benefits, or other types of disability or insurance benefits, it does not necessarily mean you are eligible for the DTC. These programs have other purposes and different criteria, such as an individual's inability to work.

You can send the form at any time during the year. By sending your form before you file your income tax and benefit return, you may prevent a delay in your assessment. We will review your form before we assess your return. Keep a copy for your records.

Fees – You are responsible for any fees that the medical practitioner charges to fill out this form or to give us more information. However, you may be able to claim these fees as medical expenses on line 330 or line 331 of your income tax and benefit return.

What happens after you send Form T2201?

After we receive Form T2201, we will review your application. We will then send you a notice of determination to inform you of our decision. Our decision is based on the information given by the medical practitioner. If your application is denied, we will explain why on the notice of determination. For more information, see Guide RC4064, *Disability-Related Information*, or go to canada.ca/disability-tax-credit.

Where do you send this form?

Send your form to the Disability Tax Credit Unit of your tax centre. Use the chart below to get the address.

| If your tax services office is located in: | Send your correspondence to the following address: |
|--|---|
| Alberta, British Columbia, Hamilton, Kitchener/Waterloo, London, Manitoba, Northwest Territories, Regina, Saskatoon, Thunder Bay, Windsor, or Yukon | Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2 |
| Barrie, Belleville, Kingston, Montréal, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ottawa, Outaouais, Peterborough, St. Catharines, Prince Edward Island, Sherbrooke, Sudbury, Toronto Centre, Toronto East, Toronto North, or Toronto West | Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1 |
| Chicoutimi, Laval, Montérégie-Rive-Sud, Québec, Rimouski, Rouyn-Noranda, or Trois-Rivières | Jonquière Tax Centre 2251 René-Lévesque Blvd Jonquière QC G7S 5J2 |
| Deemed residents, non-residents, and new or returning residents of Canada | Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1 CANADA or Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2 CANADA |

What if you need help?

If you need more information after reading this form, go to canada.ca/disability-tax-credit or call 1-800-959-8281.

Forms and publications

To get our forms and publications, go to canada.ca/cra-forms or call 1-800-959-8281.



2018

The Registered Disability Savings Plan

This Help Sheet is funded by the Health Sciences Association of BC, the Law Foundation of BC and the Vancouver Foundation

What is it?

The Registered Disability Savings Plan (RDSP) is a savings plan introduced by the federal government in 2007. The RDSP is designed to help people with disabilities and their families save money for their long-term financial security.

What Does the RDSP Allow You to Do?

If you open an RDSP, you may be eligible to receive government grants and bonds up to a lifetime maximum of \$90,000. Grants and bonds can be received until December 31 of the year you turn 49.

- The **Canada Disability Savings Bond (CDSB)** provides an annual maximum amount of \$1,000, up to a lifetime maximum of \$20,000. This bond is income tested (for families with low or modest income). If your family income is below \$26,364*, you are eligible for the full bond amount. Families with higher income may be eligible for a partial bond.
- The **Canada Disability Savings Grant (CDSG)** provides up to \$3,500 annually, if your family income is under \$90,563*. The amount of the CDSG depends on how much you contribute to your RDSP. Here's how it works: You get \$1,500 on the first \$500 of contributions and \$2,000 on the next \$1,000 contributions. You can receive a lifetime maximum of \$70,000. Families with high income are eligible for a reduced grant.
- The maximum you can contribute to your RDSP over your lifetime is \$200,000, but the value of an RDSP could be much higher with government contributions and investment savings. You can only make contributions until December 31 of the year you turn 59.



Your Provincial Disability or Income Assistance Benefits

Your provincial disability or income assistance benefits will not be stopped or reduced because of any RDSP savings or withdrawals. This is because the Ministry of Social Development and Poverty Reduction (MSDPR) has introduced regulations that exempt RDSP assets and income.

Requirements and Restrictions

To benefit from an RDSP you must:

- Be eligible for the Disability Tax Credit (DTC) and maintain this eligibility (please see our [Help Sheet 14: The Disability Tax Credit](#) for details)
- Have a Social Insurance Number (SIN)
- Be living in Canada when the RDSP is opened
- Be up-to-date with filing your income tax returns
- Be under 50, if you want to claim the CDSG and CDSB (grant and bond)
- Not make any withdrawals for at least 10 years, if you want to keep all of the federal grants and/or bonds that you have received. This is because there is a special rule that says, if you withdraw any money from your savings plan, all or part of the grants and bonds paid into it in the preceding 10 years must be repaid to the government. Also, you may have to repay any CDSGs or CDSBs you have received in the preceding 10 years, if you no longer qualify for the DTC.

How to Establish an RDSP

If you have already qualified for the DTC, you should contact a financial institution that offers the RDSP. Each financial institution has its own forms that you will need to complete to access the RDSP.

You can only have one RDSP at any given time. With your permission, other people can also contribute to your RDSP. Some banks may let you open an RDSP if you have not already qualified for the DTC, but your RDSP will not be official until the DTC is approved.

Contact the RDSP Hotline for questions and help to open an RDSP: **1-844-311-7526**

The Endowment 150 Grant

The Endowment 150 Grant is one-time grant of \$150 to help you boost your RDSP savings. It is available to British Columbia residents with disabilities who have income below \$25,000 per year or who received income assistance any time since January 1, 2008 (for adults). Children are also eligible and do not have to meet an income test. When you open an RDSP with at least \$25, you can apply.

Application forms can be found at: www.rdsp.com.



Taking Money Out of an RDSP

In most cases, you should not make withdrawals for 10-30 years, so you can get the full benefit of your RDSP grants and bonds. When you are ready, there are two kinds of payments that can come out of an RDSP.

- **Lifetime Disability Assistance Payments (LDAPs)** are annual payments that, once started, must continue until the RDSP is spent. LDAPs can begin before the beneficiary turns 60, but must start when the beneficiary is 60. The LDAP has a maximum annual amount which is set by a legislated formula, based on the value of the plan and life expectancy of the beneficiary.
- **Disability Assistance Payments (DAPs)** are one-time payments from the RDSP that can be requested at any time. However, talk to your bank about their policies on DAP payments. Each bank is permitted to have their own rules or restrictions on these payments.

Repayment Rules

If any money is taken out of an RDSP, you have to repay the federal government all or part of the grants and bonds put into your RDSP in the previous 10 years.

Financial Institutions Offering the RDSP

Most financial institutions are currently offering RDSPs, including the following:

- Bank of Montreal (BMO)
- Canadian Imperial Bank of Commerce (CIBC)
- Central 1 Credit Union
- Community Savings Credit Union
- Desjardins Trust Inc.
- Envision Investment Services Ltd.
- Investors Group Trust Co. Ltd.
- Mackenzie Financial Corporation
- Royal Bank of Canada (RBC)
- Scotia Bank
- TD Canada Trust
- Vancity Credit Union.

NOTE: Banks' RDSP policies vary. For example, they may have different restrictions on when you can make withdrawals from an RDSP. Be sure to ask your bank about these policies, before you set up an RDSP.



RDSP: Pros and cons

Pros

- The RDSP provides generous grants and bonds from the federal government, and is an excellent savings opportunity for many people with disabilities.
- For people on income assistance, the provincial government has made RDSP assets and withdrawals exempt. This means that people can save and use this money without having their monthly income assistance affected.
- For people who get provincial disability benefits and receive lump-sum payments (such as an ICBC settlement), the RDSP is a practical alternative to a trust, to exempt the asset.
- The RDSP can provide long-term financial security.

Cons

- The older you are, the fewer financial incentives you will have to start an RDSP. For example, if you are over 49, you cannot qualify for the federal grants and bonds going forward.
- You must meet a relatively strict definition of disability to qualify for the DTC. If you do qualify, but lose your eligibility at a later time, you may have to close your RDSP. However, an RDSP may remain open, if you meet certain criteria. Please see, [If You Are No Longer Eligible for the DTC](#) in this Help Sheet.
- The Repayment Rules mean that you have to pay back all or part of the grants and bonds you have received in the past 10 years, when you withdraw any amount of money from the RDSP.

Carry Forward and Rollover Provisions

The Carry Forward provision allows people who may not be able to contribute regularly to their RDSP to claim unused grant and bond entitlements for a 10-year period (starting from 2008, when the RDSP first became available). The annual maximum for unused grants is \$10,500, for unused bonds it is \$11,000.

The Rollover provision allows the Registered Retirement Savings Plan (RRSP), Registered Retirement Income Fund (RRIF) or Registered Pension Plan (RPP) of a deceased family member to be rolled over into the RDSP of a dependent child or grandchild.

Proportional Repayment Rule

If grant and bond payments have been made to your RDSP in the last 10 years, and you withdraw money from it, you may have to pay back a portion of the grants and bonds you received. Under the Proportional Repayment Rule, for every \$1 withdrawn from an RDSP, \$3 of any grants or bonds received in the past 10 years must be repaid.



If You Are No Longer Eligible for the DTC

It is important to re-apply for the DTC, if you have an RDSP. If you cease to qualify for the DTC and do not re-qualify, your RDSP will likely be closed. The period an RDSP can remain open after your DTC eligibility expires may be extended up to five years, with certification from a medical practitioner that you will likely re-qualify for the DTC in the foreseeable future.

Other Resources

Plan Institute operates an RDSP and disability planning information hotline, hosts RDSP workshops, and helps individuals and families with low-incomes save for their future through the Endowment 150 fund, which provides a one-time \$150 gift to help their RDSP grow.

Hotline: 1-844-311-7526 | **Website:** <http://planinstitute.ca/>

Details about the RDSP can be obtained from the **Canada Revenue Agency (CRA)**. Information about the DTC can also be obtained from the CRA. Phone your local CRA office or visit their website for more information.

Website: www.cra.gc.ca

The financial institutions that offer the RDSP have also produced information materials and have financial advisors who may be able to answer your questions.

Basic eligibility factors for the Canada Pension Plan Survivor's pension

To qualify for a Survivor's pension:

- you must have been legally married or in a common-law union with your deceased spouse or common-law partner at the time of his/her death; and
- your deceased spouse or common-law partner must have made enough contributions to the Canada Pension Plan; and
- you must apply in writing and submit the necessary documents.

If you were legally separated from your deceased spouse at the time of his/her death, you may still qualify for a Survivor's pension.

Note: If you were under 35 years of age at the time of your spouse's or common-law partner's death, you do not qualify for a Survivor's pension unless:

- you are disabled; or
- had a dependent child of the deceased at the time of your deceased spouse's or common-law partner's death.

Definition of spouse and common-law partner

Under the Canada Pension Plan:

- a **spouse** is a person to whom you are legally married;
- a **common-law partner** is a person of the opposite sex or same sex who has been living in a conjugal relationship for at least one year.

Did your deceased spouse or common-law partner contribute to the Régime de rentes du Québec (Quebec Pension Plan)?

A person may contribute to both the Canada Pension Plan and Quebec Pension Plan. The contributions made under both plans are combined when a benefit entitlement is calculated. If your deceased spouse or common-law partner only contributed to the Quebec Pension Plan, or if he/she contributed to both plans and resided in Quebec, or the last province of residence in Canada was Quebec at the time of death, you should contact:

Québec Pension Plan (QPP)
Retraite Québec
Case postale 5200
Québec (Québec) G1K 7S9

Send certified photocopies instead of original documents

With your application, you usually have to send us certain documents. When you send us documents, we suggest you send certified photocopies rather than the original documents, if possible. This will ensure the original documents stay with you in case you need them for other purposes. If you must send your original documents, we suggest you send them by registered mail. We will return all the original documents to you.

We can only accept a photocopy of an original document if it is readable and if you have someone certify that it is a true copy of the original. If you bring your original documents to any Service Canada Centre, our staff will photocopy the documents and certify them for free. If you cannot visit a Service Canada Centre, you can ask a member of one of the following professions to certify your photocopy:

- Accountant
- Chief of First Nations Band
- Commissioner for Oaths
- Employee of a Service Canada Centre acting in an official capacity
- Funeral Director
- Justice of the Peace
- Lawyer, Magistrate, Notary
- Manager of a Financial Institution
- Medical and Health Practitioners: Chiropractor, Dentist, Doctor, Naturopathic Doctor, Nurse Practitioner, Ophthalmologist, Optometrist, Pharmacist, Psychologist, Registered Nurse
- Member of Parliament or their staff
- Member of a Provincial Legislature or their staff
- Minister of Religion
- Municipal Clerk
- Official of a federal or provincial government department, or one of its agencies
- Official of an Embassy, Consulate or High Commission
- Official of a country with which Canada has a reciprocal Social Security Agreement
- Police Officer
- Professional Engineer
- Social Worker
- Teacher
- University Professor

Send certified photocopies instead of original documents (continued)

People who certify photocopies must compare the original document to the photocopy, state their official position or title, sign and print their name, give their telephone number and indicate the date they certified the document. They also must write the following statement on the photocopy:

This photocopy is a true copy of the original document which has not been altered in any way.

Note: If your photocopy is missing any of the above elements, it will not be accepted and you will have to submit a new, properly certified photocopy, which will result in delays in processing your application.

If an original document has information on both sides, both sides must be photocopied and certified.

You cannot certify photocopies of your own documents and you cannot ask a relative to do it for you.

Please write the Client Identification Number or Social Insurance Number on any document or photocopy that you send us.

Filling out your application

The following information explains how to complete the application form. Where needed, explanations have been provided. These explanations match the box numbers on the application form.

If you have any questions, please call us at the telephone numbers listed in the section called "How to contact us".

Section A: Information about your deceased spouse or common-law partner

Box 1A Social Insurance Number

Enter your deceased spouse's or common-law partner's Social Insurance Number in this box.

The Survivor's pension is based on how much, and for how long, the deceased contributed to the Canada Pension Plan. We keep a record of the contributions made to the Canada Pension Plan by individuals under their Social Insurance Number. To make sure that we use your deceased spouse's or common-law partner's record, you must indicate his/her Social Insurance Number in question 1A.

If the deceased had more than one Social Insurance Number, please attach a note to your application, listing all numbers assigned to the deceased.

Box 1B

Date of birth

You do not need to provide proof of birth for the deceased if you provided their Social Insurance Number in the application. However, the Canada Pension Plan has the right to request proof of birth at any time, when deemed necessary.

If you did not provide the Social Insurance Number of the deceased, then you must submit a certified true copy of the deceased's original birth certificate.

If you do not have this document and the deceased was born in Canada, you can obtain a copy of the deceased's birth certificate by contacting the provincial or territorial birth, marriage or death registration office in the province or territory where the deceased was born.

For people born in Canada, acceptable birth certificates are ones issued by a Provincial birth, marriage or death registration office. You can find the telephone numbers in the provincial or territorial government listings of the telephone book (usually listed as a Provincial Vital Statistics office).

If you cannot get one of these documents, please call us. One of our service delivery agents will let you know what other kind of documents you can use to confirm the deceased's date of birth.

Box 2B

Date of death

You must submit proof of your deceased spouse's or common-law partner's date of death with your application. To be accepted as proof, the document must give the name, date and place of death of your deceased spouse or common-law partner. The document must be on official letterhead or contain a seal, and provide the name and/or signature of the person or authority issuing the document. The following documents may be accepted as proof of date of death.

| ACCEPTABLE DOCUMENTS FOR PROOF OF DEATH | |
|---|--|
| <ul style="list-style-type: none"> - Burial or Death Certificate - Certification of Death from another country, if an agreement on social security exists with that country - Life or Group Insurance Claim along with a statement signed by a medical doctor - Medical Certification of Death - Memorandum of Notification of Death issued by the Chief of National Defence Staff - Notarial copy of Letters of Probate - Official Death Certificate - Official Notification from the Public Trustee for a Province - Registration of Death - Statement of a medical doctor, coroner or funeral director - Statement of Verification of Death from the Department of Veterans Affairs | <p>The deceased may have accumulated credits that could help qualify the estate or survivors for Canadian benefits under an international social security agreement. The deceased's Canada Pension Plan credits can also help qualify the estate or the survivors for a foreign pension. You will be advised in writing if either of the above conditions apply to the deceased.</p> |

Box 3

Marital status at the time of death

If you were married to the deceased at the time of death, we need documents to confirm the date of your marriage. When possible, a certified true copy of your original marriage certificate should be submitted.

If you are unable to obtain this document, please contact us to obtain the form titled "Statutory Declaration of Legal Marriage", along with any additional documentation and return it with your application.

If you and the deceased were living in a common-law relationship, the form titled "Statutory Declaration of Common-law Union" and additional documentation must be submitted to confirm the start date of your common-law union. Please contact us to obtain this form.

Box 6

Did your deceased spouse or common-law partner ever live or work in another country?

Canada has international agreements on social security with many countries. If your answer to question 6 is yes, you should provide us with the name of the country and the insurance number issued to the deceased by that country.

The deceased may have accumulated credits that could help qualify the estate or survivors for Canadian benefits under an international social security agreement. The deceased's Canada Pension Plan credits can also help qualify the estate or the survivors for a foreign pension. You will be advised in writing if either of the above conditions apply to the deceased.

Section B: Information about you (the surviving spouse or common-law partner)

Box 7A

Your Social Insurance Number

Enter your Social Insurance Number in question 7A. If you have more than one Social Insurance Number, please attach a note to your application, listing all your Social Insurance Numbers.

Box 7B

Your date of birth

Please enter your date of birth in this box.

You do not need to provide proof of birth with your application. However, the Canada Pension Plan has the right to request proof of birth at any time, when deemed necessary.

Box 8A

Written communication

In this box, please tell us in which language you would like to get letters from us. Check only one box.

Box 8B

Verbal communication

Please check the language - English or French - you would like to use when you talk to us.

You can choose a different language for written communication than the one you choose for verbal communication. For example, you can ask to receive your letters in English, and you can ask to use French when talking to one of our agents.

Box 14

Are you disabled?

If you were under the age of 35 at the time of your spouse's or common-law partner's death, you may be entitled to receive a Canada Pension Plan survivor's pension only if you have a dependent child or if you are disabled. Your disabling condition can be physical or mental.

According to the Canada Pension Plan legislation, your disability must be "severe and prolonged". "Severe" means your condition prevents you from working regularly at any job, and "prolonged" means your condition is long term or may result in your death. The "severe" and "prolonged" criteria must both be met at the time of application.

If you feel this applies to you and you have not already applied for the disability pension, please contact us.

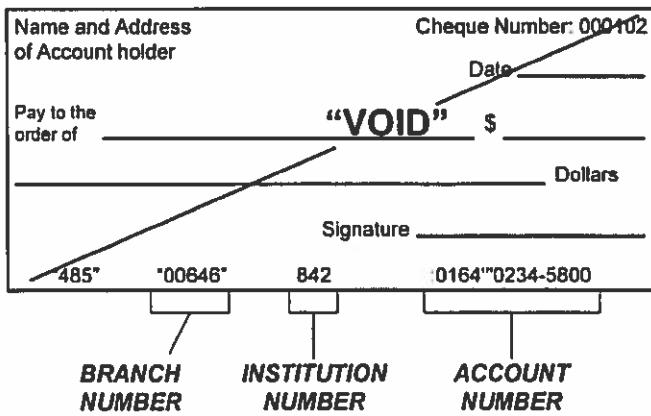
Box 18

Payment Information

Direct deposit in Canada

If your application is approved, your monthly payments will be deposited into your account at your financial institution. The account must be in your name. A joint account is also acceptable.

In order to enroll for direct deposit banking you must provide the branch, financial institution and account numbers that appear at the bottom of a cheque. A sample of a void cheque is provided below identifying where the branch, financial institution and account numbers are located.



Consenting to share your direct deposit information with the Canada Revenue Agency

Should you wish, you can share your direct deposit information with the Canada Revenue Agency (CRA). To share your direct deposit information with the CRA you must consent to ESDC sharing your direct deposit information and other personal information (Social Insurance Number, last name, date of birth) for the CRA to correctly identify you. The CRA will use your direct deposit information for any income tax refunds, working income tax benefit advance payments, Canada child benefit, universal child care benefit, and GST/HST credit payments you may receive.

If you choose to consent, select "I agree."

If you choose not to consent, select "I do not agree." You may still update your direct deposit information with the CRA by contacting the CRA directly.

For more details about the handling of your personal information by ESDC, please see ESDC's Privacy Notice Statement.

For more details about the handling of your personal information by the CRA, please see the CRA's Banking Information Privacy Notice.

Direct deposit outside Canada

For direct deposit outside Canada, please contact us at 1-800-277-9914 from the United States and at 613-957-1954 from all other countries (collect calls accepted Monday to Friday, 8:30 a.m. to 4:30 p.m. Eastern Time). The form and a list of countries where direct deposit service is available can be found at www.directdeposit.gc.ca.

Box 19

Voluntary income tax deduction

Your Canada Pension Plan benefit is taxable. Fill out Box 19 if you would like to have us take off monthly voluntary income tax deductions from your Canada Pension Plan benefit. You should consider your personal tax situation before choosing an amount. If you decide to have us withhold voluntary income tax deductions, you may request an amount now, and have it changed at a later date. This service is available to Canadian residents only.

Section C: Information about the child(ren) of the deceased

The child(ren) of the deceased could be eligible for a surviving child's benefit. To be eligible, the child(ren) must be the deceased's:

- natural child;
- legally adopted child;
- child adopted in fact; or
- a child who was legally or in fact in the care and custody of the deceased.

The child must also be a dependent child of the deceased. A dependent child is a child who, at the time of death of the deceased, was:

- under the age of 18; or
- between the ages of 18 and 25 and was attending school or university full-time.

A child may receive up to two benefits under the Canada Pension Plan if both parents were Canada Pension Plan contributors and are either deceased or are disabled, and if all conditions of eligibility are met for both benefits.

If a child is 18 years old, he/she must complete and submit the forms "Application for Canada Pension Plan Child's Benefit (for children between ages 18 and 25)" and the "Declaration of Attendance at School or University". The child must be attending school or university full-time to receive or continue to receive the benefit.

Box 20

Do you have any children under the age of 18?

If you have children under the age of 18 in your care and custody, please complete question 20.

Note: If a child was in the care and custody of the deceased but is now in the care and custody of someone other than you, that person must apply on the child's behalf for that child to receive the benefit.

You do not need to provide proof of birth for the children if you provided their Social Insurance Number in the application. However, the Canada Pension Plan has the right to request proof of birth at any time, when deemed necessary. If you did not provide the Social Insurance Number of the children, then you must submit a certified true copy of the children's original birth certificate.

If you do not have this document and the children were born in Canada, please refer to the previous section 1B "Date of Birth", on how to obtain birth evidence.

Box 21

Do you have any children between the ages of 18 and 25 attending school, college or university full-time?

If you have children between the ages of 18 and 25, please complete question 21 and we will send an application to each child that is listed. The child must be attending school or university full-time to receive the benefit.

When will my survivor's pension and child(ren) benefit(s) start?

If your application is approved, your survivor's pension will normally begin the later of:

- the month after the death of the contributor;
- the 11th month prior to the month your application is received.

The child(ren) benefit(s) will begin the later of:

- the month after the death of the contributor;
- the month after the birth of the child;
- the 11th month prior to the month your application is received.

You can receive a retroactive payment for up to 11 months from when we receive your application but this retroactive period cannot cover any months prior to the month after the month of death of the contributor or the month after the month of birth of the child. If you are covered under the Incapacity provision (see the following section), retroactive payments could be made for more than 11 months.

Inc incapacity

Protection is available for persons who did not apply for a Canada Pension Plan pension benefit since they were unable to apply or to ask someone to apply on their behalf because of their medical condition. If you feel this applies to you, please contact us to obtain a "Declaration of Incapacity" form.

Non-Resident Tax

If you are a non-resident of Canada for income tax purposes, we may deduct a Non-Resident Tax from your monthly benefit. The tax rate is 25% of your monthly benefit unless the country you live in has a tax treaty with Canada that reduces the rate or exempts you from paying the tax.

Sometimes you can benefit from paying tax at the same rate as residents of Canada by filing a yearly Canadian income tax return. The Canada Revenue Agency will determine if you are due for a refund of any Non-Resident Tax you may have paid.

You can also reduce the amount of tax we withhold from your survivor's benefit by completing a yearly "Application by a Non-Resident of Canada for a Reduction in the Amount of Non-Resident Tax Required to be Withheld" (Form NR5).

This form can be obtained by writing to the:

International Tax Services Office
Canada Revenue Agency
2204 Walkley Road
Ottawa, Ontario
K1A 1A8

or by calling:

Outside North America: English 613-940-8495
French 613-940-8496

Applicant's declaration

To complete the application, you have to sign and date it in this section.

Note: If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid.

Witness's declaration

If you signed your application with a mark, a witness has to sign and date the application in that section and provide their name, address, relationship to you, and telephone number in case we need to contact that person.

Other information you should read before mailing your application

Before you mail your application

Before you send this application form to us, please make sure that you have:

- completed, signed and dated your application; and
- enclosed certified photocopies or any original documents we need.

Please refer to the "Check List" at the beginning of this information sheet for the documents we need.

When we receive your application

Once we receive your application and any supporting documents, we will review your application and contact you if we need more information. We will send you a letter once we have completed our review to let you know if you are eligible.

If you have not heard from us by the time you expect your first payment, please contact us at the telephone numbers listed in the section called "How to contact us" at the beginning of this information sheet.

What you must do after your pension starts

If you move

You must tell us if you move, even if your pension is being sent to another address or is being deposited directly into your financial institution account. This way, we will be able to send you important information and the tax slips you need for income tax purposes.

Also, if you move outside of Canada or from one country to another, your tax status may change. If you do not inform us of an address change and you should have paid a higher tax rate, you will have to repay any overpayments.

If you change financial institutions or account numbers

If your payment is directly deposited, please let us know if you change financial institutions or accounts. Do not close your old account until you are sure that your pension is being deposited into your new account.

If the Canada Pension Plan recipient dies

The estate representative must inform Service Canada as soon as possible of the death of the recipient. Your estate can receive benefits for the month of your death. If we do not get the information quickly enough, any benefits paid after the month of death will have to be paid back.

If you become disabled or cease to be disabled

Please notify us if you become disabled or cease to be disabled.

Other pensions / benefits

Child Rearing Provision

This provision may help you increase the monthly amount of your pension. If you received Family Allowances (FA) or were eligible to receive the Child Tax Benefit on behalf of any children born after December 31, 1958, this provision may apply to you. In this case, complete the form titled "Canada Pension Plan Child Rearing Provision" and return it with your application.

If you were a spouse as defined under the Canada Pension Plan prior to the repeal of the Family Allowances Program in 1993 and you received the Family Allowances but your deceased spouse was the person who remained at home and was the primary caregiver for these children, you can waive your rights in favour of the deceased. If you wish to waive your rights, complete the "Canada Pension Plan Child Rearing Provision" form and return it with your application.

Retirement Pension

If the deceased made contributions to the Canada Pension Plan, was at least 70 years of age at the time of his/her death, and had not applied for or received a Canada Pension Plan retirement pension, you should contact us and request an application. The application must be made within one year of the date of death.

Old Age Security Pension

If you are between the ages of 60 and 64, you may be eligible for the Allowance for the Survivor. For more information on this subject, please contact us.

Protection of personal information

The information requested is required under the Canada Pension Plan (CPP). We may not be able to give you a benefit if you do not give us all the information we need. We will keep this information in the Personal Information Bank ESDC PPU 146. Your personal information is governed by the Privacy Act and we may disclose it where we are authorized to do so under the CPP.

Under the *Canada Pension Plan* and the *Privacy Act* you have the right to look at the personal information about you in your file. You can ask to see your file by contacting a Service Canada office. To find out how to get your personal information through the Access to Information Coordinator's office, see the Info Source, a directory that lists all the information banks and the information they contain. Copies of the Info Source are available in all Service Canada offices.



Application for a Canada Pension Plan Child's Benefit

(BENEFIT FOR CHILD AGE 18 TO 25 AND IN FULL TIME ATTENDANCE AT SCHOOL OR UNIVERSITY)

THIS APPLICATION MUST BE SUPPORTED BY A DECLARATION OF ATTENDANCE AT SCHOOL OR UNIVERSITY FORM

It is very important that you:

- send in this form with supporting documents (see the information sheet for the documents we need); and
- use a pen and print as clearly as possible.

SECTION A - INFORMATION ABOUT THE CONTRIBUTOR

| | | |
|--|--|---|
| 1A. Contributor's Social Insurance Number | 1B. Sex <input type="radio"/> Male <input type="radio"/> Female | 1C. Preferred language for correspondence <input type="radio"/> English <input type="radio"/> French |
| 2. <input type="radio"/> Mr. <input type="radio"/> Mrs. Usual First Name and Initial | Last Name | |
| <input type="radio"/> Ms. <input type="radio"/> Miss | | |
| 3. Contributor's Address (No., Street, Apt., R.R.) | City | |
| 4. Province or Territory | Country other than Canada | Postal Code |

SECTION B - INFORMATION ABOUT THE CHILD OF THE CONTRIBUTOR

| | | | |
|--|--|--|--|
| 5A. Child's Social Insurance Number | 5B. Sex <input type="radio"/> Male <input type="radio"/> Female | | |
| 6. <input type="radio"/> Mr. <input type="radio"/> Mrs. Usual First Name and Initial | Last Name | | |
| <input type="radio"/> Ms. <input type="radio"/> Miss | | | |
| 7. Home Address if different from 3 above (No., Street, Apt., R.R.) | City | | |
| Province or Territory | Country other than Canada | Postal Code | |
| 8. Mailing Address for cheque if different from 7 above (No., Street, Apt., R.R.) | City | | |
| Province or Territory | Country other than Canada | Postal Code | |
| 9A. Are you disabled? <input type="radio"/> Yes <input type="radio"/> No | 9B. Date of Birth YYYY MM DD | AGE ESTABLISHED (FOR OFFICE USE ONLY) | |
| 10A. Are or were you ever a beneficiary or an applicant for a benefit under: <input type="radio"/> Yes <input type="radio"/> No | Canada Pension Plan? <input type="radio"/> Yes <input type="radio"/> No | Quebec Pension Plan? <input type="radio"/> Yes <input type="radio"/> No | 10B. If yes, under what Social Insurance Number |
| 11. Are you a natural child of the contributor? <input type="radio"/> Yes <input type="radio"/> No | If you were legally adopted, please indicate the date of adoption. | | YYYY MM DD |

SECTION C - DECLARATION OF APPLICANT

| | | | |
|--|--|------------|------------------|
| 12. I hereby apply for a Disabled Contributor's Child's Benefit. <input type="checkbox"/> I hereby apply for a Surviving Child's Benefit. <input type="checkbox"/> | I declare that, to the best of my knowledge and belief, the information given in this application is true and completed and I undertake to notify Service Canada of any changes in the circumstances which may affect eligibility. | | |
| NOTE: If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the <i>Canada Pension Plan</i> , or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid. | | | |
| Student's Signature | Date of Application | YYYY MM DD | Telephone Number |

FOR OFFICE USE ONLY - DO NOT WRITE BELOW THIS LINE

| | | |
|---|----------------------|---------------------------|
| Application taken by: | Date | Date Application Received |
| Application approved pursuant to Subsection 59(3) of the Canada Pension Plan. | Authorized Signature | |
| Effective Date (year) (month) | | |

Service Canada delivers Employment and Social Development Canada
programs and services for the Government of Canada

INFORMATION SHEET FOR CHILD'S BENEFIT

PLEASE RETAIN FOR YOUR INFORMATION

Your application form must be submitted with all the required documents as soon as possible. Failure to do so could result in delays or loss of payments. Application forms may be mailed to your nearest Service Canada Office.

PRIVACY ACT

The *Privacy Act* gives all Canadians a right of access to information, about themselves, held by the federal government. To help you exercise this right, the federal government has published an Index of Personal Information and a Personal Information Request form which can be found in public libraries, federal government libraries, most post offices and in other government offices open to the public. Should you wish to exercise your right of access, you may do so by completing a "Personal Information Request" form indicating which information bank you wish to consult.

PERSONAL INFORMATION BANK ESDC PPU 146

The information requested on the application form will be used to determine your entitlement to receive a Child's Benefit under the *Canada Pension Plan*. Failure to provide the required information may result in the denial of these benefits. The information provided will be retained in the above-noted bank. Under the *Privacy Act*, you have a right to obtain a copy of this record.

PROOF OF AGE DOCUMENTATION

You do not need to provide proof of birth if you provided your Social Insurance Number in the application. However, the *Canada Pension Plan* has the right to request proof of birth at any time, when deemed necessary. If you did not provide your Social Insurance Number, then you must submit a **certified true copy of your birth certificate**. If you have to send us documents, try to send us certified photocopies instead of the original documents. If you do decide to send your original documents, you may want to send them by registered mail. We will return all the original documents you send us. Keep in mind, however, that we can only accept a photocopy if it is readable and if you have someone certify it as a true copy of the original.

If you can bring your original documents into any Service Canada office, our staff will photocopy the documents and certify them for free. If you cannot visit a Service Canada office, you can ask one of the following people to certify your photocopy: Accountant; Chief of First Nations Band; Commissioner for Oaths; Employee of a Service Canada Centre acting in an official capacity; Funeral Director; Justice of the Peace; Lawyer; Magistrate; Notary; Manager of a Financial Institution; Medical and Health Practitioner: Chiropractor, Dentist, Doctor, Naturopathic Doctor, Pharmacist, Psychologist, Nurse Practitioner, Registered Nurse; Ophthalmologist, Optometrist, Member of Parliament or their staff; Member of Provincial Legislature or their staff; Minister of Religion; Municipal Clerk; Official of a federal government department or provincial government department, or one of its agencies; Official of an Embassy, Consulate or High Commission; Official of a country with which Canada has a reciprocal social security agreement; Police Officer; Postmaster; Professional Engineer; University Professor; Social Worker and Teacher.

People who certify photocopies have to compare the original document to the photocopy and provide the following information: State their official position or title; sign and print their name; provide their phone number; and include the date they certified the document(s).

They also have to write the following statement on the photocopy:

"This photocopy is a true copy of the original document which has not been altered in any way."

All Service Canada Offices can provide this service free of charge.

NOTE: If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid.

If you require any assistance or further information to complete your application, please contact the nearest Service Canada Office. The telephone number and address are in the government listings of the telephone book.

Service Canada Offices Canada Pension Plan (CPP) - Declaration of Attendance

Mail your forms to:

The nearest Service Canada office listed below.

From outside of Canada: The Service Canada office in the province where you last resided.

Need help completing the forms?

Canada or the United States: **1-800-277-9914**

All other countries: **613-957-1954** (we accept collect calls)

TTY: **1-800-255-4786**

Important: Please have your social insurance number ready when you call.

NEWFOUNDLAND AND LABRADOR

Service Canada
PO Box 9430 Station A
St. John's NL A1A 2Y5
CANADA

PRINCE EDWARD ISLAND

Service Canada
PO Box 8000 Station Central
Charlottetown PE C1A 8K1
CANADA

NOVA SCOTIA

Service Canada
PO Box 1687 Station Central
Halifax NS B3J 3J4
CANADA

NEW BRUNSWICK AND QUEBEC

Service Canada
PO Box 250
Fredericton NB E3B 4Z6
CANADA

ONTARIO

If your parent is receiving a CPP Disability benefit
Service Canada
PO Box 2020 Station Main
Chatham ON N7M 6B2
CANADA

ONTARIO

For postal codes beginning with "L, M or N"
Service Canada
PO Box 5100 Station D
Scarborough ON M1R 5C8
CANADA

ONTARIO

For postal codes beginning with "K or P"
Service Canada
PO Box 2013 Station Main
Timmins ON P4N 8C8
CANADA

MANITOBA AND SASKATCHEWAN

Service Canada
PO Box 818 Station Main
Winnipeg MB R3C 2N4
CANADA

ALBERTA / NORTHWEST TERRITORIES

AND NUNAVUT
Service Canada
PO Box 818 Station Main
Winnipeg MB R3C 2N4
CANADA

**ALBERTA / NORTHWEST TERRITORIES
AND NUNAVUT**

If your parent is receiving a CPP Disability benefit
Service Canada
PO Box 2710 Station Main
Edmonton AB T5J 2G4
CANADA

BRITISH COLUMBIA AND YUKON

Service Canada
PO Box 1177 Station CSC
Victoria BC V8W 2V2
CANADA

Disponible en français



Declaration of Attendance at School or University

| Section A - To be completed by student after the start of first day of class | | | |
|--|---|--|---|
| 1. Contributor's Social Insurance Number | Contributor's given name and initial | | Family name |
| 2. Your Social Insurance Number | Preferred language <input type="radio"/> English <input type="radio"/> French | Your given name and Initial | Family name |
| 3. Your home address | Home address (No., Street, Apt. No., RR) | | City, town or village |
| | Province or territory | Country | Postal code |
| 4. Mailing address (If different from home address) | Mailing address (No., Street, Apt. No., PO Box, RR) | | City, town or village |
| | Province or territory | Country | Postal code |
| 5A. Student ID number | 5B. Name of school, university, college, training centre, etc. | | |
| 6A. Type of enrollment (if "Evening" or "Other", please provide an explanation in question 8) <input type="radio"/> Full Time <input type="radio"/> Evening <input type="radio"/> Other | 6B. Number of courses per term | 6C. Enrolled in (specify course, grade or program) | |
| 7A. Number of hours you are required to attend for course, grade or program. Hours per week: | 7B. When did your current attendance begin? YYYY-MM-DD | 7C. When will your current attendance end? YYYY-MM-DD | |
| 8. Give duration and reasons for any absence(s) during your current and past academic year plus any additional explanation with reference to question 6A if "Evening" or "Other" was selected. | | | |
| 9. Have you applied for or are you receiving a Canada Pension Plan benefit as a result of the disability or death of a contributor not identified in question 1? | | <input type="radio"/> Yes | Social Insurance Number of that Contributor |
| | | <input type="radio"/> No | |

10. Payment Information

Direct deposit in Canada: Complete the boxes below with your banking information.

Branch number (5 digits)

Institution number (3 digits)

Account number (maximum of 12 digits)

Name(s) on the account

Telephone number of your financial institution

Sharing your direct deposit information with the Canada Revenue Agency

For Employment and Social Development Canada (ESDC) and the Canada Revenue Agency (CRA) to share your personal and direct deposit information, your consent is required.

By selecting "I agree", you agree with these two statements:

- I consent to ESDC sharing with the CRA my direct deposit information entered on this form for any payments I may receive from the CRA.
- I consent to ESDC sharing with the CRA my Social Insurance Number, last name, and date of birth so that the CRA can identify me correctly.

If you select "I do not agree", your information will not be shared.

I agree I do not agree

Direct deposit outside Canada:

For direct deposit outside Canada, please contact us at 1-800-277-9914 from the United States and at 613-957-1954 from all other countries (collect calls accepted). The form and a list of countries where direct deposit service is available can be found at www.directdeposit.gc.ca.

Section B - Declaration and signature

I hereby declare that, to the best of my knowledge and belief, the information given above is true and complete. I understand to notify Service Canada should I interrupt or terminate my attendance at school or university. I hereby authorize the above school or university to provide the Canada Pension Plan Administration with information regarding my enrollment and attendance.

Your personal information is collected under the authority of the *Canada Pension Plan (CPP)* and will be used to determine your benefit eligibility and entitlement. The Social Insurance Number (SIN) is collected under the authority of section 52 of the *CPP Regulations*, and in accordance with the Treasury Board Secretariat Directive on the SIN, which lists the CPP as an authorized user of the SIN. The SIN will be used as a file identifier and to ensure your exact identification so that contributory earnings can be correctly applied to your record to allow benefits and entitlements to be accurately calculated.

Submitting this application is voluntary. However, if you refuse to provide your personal information, the Department of Employment and Social Development Canada (ESDC) will be unable to process your application. Your personal information may be shared within ESDC, with any federal institution, provincial authority or public body created under provincial law with which the Minister of ESDC may have entered into an agreement and/or with non-governmental third parties for the purpose of administering the CPP, other acts of Parliament and federal or provincial law as well as for policy analysis, research and/or evaluation purposes however, these additional uses and/or disclosures of your personal information will never result in an administrative decision being made about you. The information may be shared with the government of other countries in accordance with agreements for the reciprocal administration or operation of the foreign pension program and of the CPP and *Old Age Security Act*.

Your personal information is administered in accordance with the *CPP*, the *Privacy Act*, the *Department of Employment and Social Development Act* and other applicable laws. You have the right to the protection of, access to, and correction of your personal information, which is described in Personal Information Bank Canada Pension Plan Program (ESDC PPU 146). You can ask to see your file by contacting a Service Canada office. Instructions for requesting personal information are provided in the government publication entitled *Info Source*, which is available at the following web site address: www.canada.ca/infosource-ESDC. *Info Source* may also be accessed on-line at any Service Canada Centre.

You have the right to file a complaint with the Privacy Commissioner of Canada regarding the institution's handling of your personal information at www.priv.gc.ca/en/report-a-concern.

Section B - Declaration and signature (cont'd)

Note: If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid.

Signature of StudentXDate of application
YYYY-MM-DDTelephone number
(including area code)**Section C - To be completed by school or university after the start of first day of class**

To the best of our knowledge and belief, the answers to the questions in Section A above, are correct unless otherwise stated below:

Additional comments:

Does the above noted course load meet or exceed the minimum requirement to be considered a full-time student at your school or university? Yes No

| | |
|--|---------------------------|
| Name and address of school or university | Name of authorized person |
| | Signature |
| | Title |
| Date | Telephone number |

FOR OFFICE USE ONLY

Approved pursuant to Section 59 of the Canada Pension Plan for continuing payment until advised otherwise.

Authorized signature

Date



Service Canada Offices Canada Pension Plan (CPP) - Declaration of Attendance

Mail your forms to:

The nearest Service Canada office listed below.

From outside of Canada: The Service Canada office in the province where you last resided.

Need help completing the forms?

Canada or the United States: 1-800-277-9914

All other countries: 613-957-1954 (we accept collect calls)

TTY: 1-800-255-4786

Important: Please have your social insurance number ready when you call.

NEWFOUNDLAND AND LABRADOR

Service Canada

PO Box 9430 Station A

St. John's NL A1A 2Y5

CANADA

PRINCE EDWARD ISLAND

Service Canada

PO Box 8000 Station Central

Charlottetown PE C1A 8K1

CANADA

NOVA SCOTIA

Service Canada

PO Box 1687 Station Central

Halifax NS B3J 3J4

CANADA

NEW BRUNSWICK AND QUEBEC

Service Canada

PO Box 250

Fredericton NB E3B 4Z6

CANADA

ONTARIO

If your parent is receiving a CPP Disability benefit

Service Canada

PO Box 2020 Station Main

Chatham ON N7M 6B2

CANADA

ONTARIO

For postal codes beginning with "L, M or N"

Service Canada

PO Box 5100 Station D

Scarborough ON M1R 5C8

CANADA

ONTARIO

For postal codes beginning with "K or P"

Service Canada

PO Box 2013 Station Main

Timmins ON P4N 8C8

CANADA

MANITOBA AND SASKATCHEWAN

Service Canada

PO Box 818 Station Main

Winnipeg MB R3C 2N4

CANADA

ALBERTA / NORTHWEST TERRITORIES AND NUNAVUT

Service Canada

PO Box 818 Station Main

Winnipeg MB R3C 2N4

CANADA

ALBERTA / NORTHWEST TERRITORIES AND NUNAVUT

If your parent is receiving a CPP Disability benefit

Service Canada

PO Box 2710 Station Main

Edmonton AB T5J 2G4

CANADA

BRITISH COLUMBIA AND YUKON

Service Canada

PO Box 1177 Station CSC

Victoria BC V8W 2V2

CANADA

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→ [Benefits and Programs](#) → [Reports: Employment Insurance \(EI\)](#)

Employment Insurance maternity and parental benefits

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① Go online to create your own My Service Canada Account

My Service Canada Account is a fast and convenient way to securely:

- confirm any decision made about your Employment Insurance (EI) application;
- see details on your payments and deductions;
- view and update your personal information;
- view your EI tax information slips;
- view all Records of Employment your employers submitted electronically in the last two years;
- view and print your Canada Pension Plan Statement of Contributions and benefit estimate; and

- register to access EI special benefits for self-employed people.
- For information on how to create your account, visit the [My Service Canada Account](#).

What's new

In the 2017 Budget announcement, the Government committed to provide more flexible EI maternity and parental benefits to support Canadian families. Starting December 3, 2017, claimants can access maternity benefits up to 12 weeks prior to their expected date of confinement. In addition, parents have the option to receive parental benefits over a longer period at a lower benefit rate.

What are Employment Insurance maternity and parental benefits

The Employment Insurance (EI) program offers temporary financial assistance to unemployed workers. This assistance includes providing **maternity benefits** and **parental benefits**.

The Province of Quebec is responsible for providing maternity, paternity, parental, and adoption benefits to residents of Quebec through a program called the Quebec Parental Insurance Program. All other types of EI benefits, such as regular benefits, sickness benefits, compassionate care and family caregiver benefits, remain available to residents of Quebec.

① EI Special Benefits for Self-Employed People

Self-employed Canadians can apply for EI special benefits (sickness, maternity, parental, compassionate care and family caregiver benefits) if they are registered for access to the EI program. For more information please consult the publication called [EI special benefits for self-employed people](#).

What are EI maternity benefits

EI maternity benefits are offered to biological mothers, including surrogate mothers, who cannot work because they are pregnant or have recently given birth. A maximum of **15 weeks** of EI maternity benefits is available. Effective December 3, 2017, the 15 weeks can start as early as 12 weeks before the expected date of birth, and can end as late as 17 weeks after the actual date of birth.

What are EI parental benefits

EI parental benefits are offered to parents who are caring for a newborn or newly adopted child or children.

There are two options available for receiving parental benefits: standard or extended.

- **Standard parental benefits** can be paid for a maximum of 35 weeks and must be claimed within a 52-week period (12 months) after the week the child was born or placed for the purpose of adoption. The benefits are available to biological, adoptive, or legally recognized parents at a weekly benefit rate of 55% of the claimant's average weekly insurable earnings up to a maximum amount. The two parents can share these 35 weeks of standard parental benefits.
- **Extended parental benefits** can be paid for a maximum of 61 weeks and must be claimed within a 78-week period (18 months) after the week the child was born or placed for the purpose of adoption. The benefits are available to biological, adoptive, or legally recognized parents at a weekly benefit rate of 33% of the claimant's average weekly insurable earnings up to a maximum amount. The two parents can share these 61 weeks of extended parental benefits.
 - You can choose to claim extended parental benefits **only** if your child was born or placed with you for the purpose of adoption on or after December 3, 2017.

① Note: The number of weeks of EI maternity or parental benefits you are entitled to receive does not change, even if you have a multiple birth (twins, triplets, etc.) or if you adopt more than one child at the same time.

Are you eligible for EI maternity or parental benefits

You may be eligible to receive EI maternity or parental benefits if:

- you are employed in insurable employment;
- you meet the specific criteria for receiving EI maternity or parental benefits;
- your normal weekly earnings are reduced by more than 40%; and
- you have accumulated at least 600 hours of insurable employment during the qualifying period **or**, if you are a self-employed fisher, you have earned enough money during the qualifying period.

You have paid EI premiums

If you are employed in insurable employment, your employer will deduct the applicable EI premiums from your wages or salary. There is no minimum or maximum age for paying EI premiums.

You need to pay EI premiums on all your earnings up to a maximum amount. In 2018, for every \$100 you earn, your employer will deduct \$1.66, until your annual earnings reach the maximum yearly insurable amount of \$51,700. The maximum amount of premiums to be paid in 2018 is therefore \$858.22.

Since Quebec has its own program that offers maternity, paternity, and parental benefits, the Government of Canada has adjusted the premiums accordingly for that province. In 2018, the premium rate for workers in Quebec is set at \$1.30 for every \$100 of earnings, up to a maximum amount of \$672.10 for the year.

1 Note: These rates and amounts are reviewed each year. For more information on the most recent rates and amounts, visit the [EI premium rates and maximums](#).

You meet the specific criteria for receiving EI maternity or parental benefits

EI maternity benefits are payable only to the biological mother who is unable to work because she is pregnant or has recently given birth. To receive maternity benefits, you need to prove your pregnancy by signing a statement declaring the expected due date or the actual date of birth.

EI parental benefits are payable only to the biological, adoptive, or legally recognized parents while they are caring for their newborn or newly adopted child or children. To receive parental benefits, you must sign a statement declaring the newborn's date of birth or, when there is an adoption, the child's date of placement for the purposes of the adoption and the name and address of the adoption authority. In cases where the child is not legally adoptable, parental benefits could be payable from the date you attest that you consider the placement a permanent one. In these circumstances, the Commission may, at any time, request proof certifying that the child for whom you are claiming parental benefits has been placed with you by a recognized authority and that the placement was not merely a temporary one.

Your normal weekly earnings are reduced by more than 40%

When your normal weekly earnings are reduced by more than 40% because of pregnancy or your need to care for newborn or newly adopted children, you may be eligible for EI maternity or parental benefits.

You have accumulated at least 600 hours of insurable employment during the qualifying period

Hours of insurable employment are the hours you work, for either one or more employers under written or verbal contracts of service, for which you receive wages.

The qualifying period is the shorter of:

- the 52-week period immediately before the start date of your EI period; or
- the period since the start of a previous EI benefit period, if that benefit period started during the last 52 weeks.

To be eligible for EI maternity benefits, you must have accumulated at least 600 hours of insurable employment in your qualifying period. If you are a **self-employed fisher**, you must have earned \$3,760 from fishing during the 31-week qualifying period immediately before the start of your benefit period.

To be eligible for EI parental benefits, each parent who applies for benefits must have accumulated at least 600 hours of insurable employment in his or her qualifying period. If you are a **self-employed fisher**, you must have earned \$3,760 from fishing during the 31-week qualifying period immediately before the start of your benefit period.

For more information on EI benefits for self-employed fishers, consult the guide called [Employment Insurance Benefits for Fishers](#).

Note

If you made a false statement or misrepresentation on a previous EI claim, you may be required to accumulate more hours of insurable employment or earnings to qualify for benefits in the future. The increase in the number of hours or earnings you will need depends on the number and seriousness of misrepresentations that have been recorded in the five-year period before the start of your claim. For more information on mistakes and misrepresentations, see the section "Protecting Employment Insurance- with your help".

Applying for EI maternity or parental benefits

Do I need to apply to receive EI maternity or parental benefits

Yes. You need to apply for EI benefits, since Service Canada first needs to determine whether you are entitled to receive them. Benefits are not paid to you automatically, even if you have received a Record of Employment (ROE) from your employer.

When should I apply

You should apply as soon as possible after you stop working, even if your employer has not issued your ROE yet. If you delay applying for benefits later than four weeks after your last day of work, you risk losing benefits.

Applying for EI maternity benefits

You can apply for EI maternity benefits before you give birth. In fact, you can start receiving benefits as early as 12 weeks before your due date or before the actual week you give birth.

You cannot receive EI maternity benefits more than 17 weeks after the week you were expected to give birth or the week you actually gave birth, whichever is later. When the actual date of birth is different from the expected date of birth, you must let us know the child's actual date of birth as soon as possible by calling 1-800-206-7218 (TTY: 1-800-529-3742) or by visiting a Service Canada Centre.

The date you submit your application is very important, since it affects the number of weeks of maternity benefits you are entitled to receive. If you have difficulty determining which maternity benefit period works best for you, call us at 1-800-206-7218 (TTY: 1-800-529-3742).

Note

If your newborn is hospitalized, the 17-week timeframe can be extended by the number of weeks your child is in the hospital, up to 52 weeks after the date of birth. You could receive 15 weeks of benefits, but the payments may be suspended until your child leaves the hospital. If you received maternity benefits before your child's birth and you want to receive the remaining benefits after the child comes home, contact us.

Applying for EI parental benefits

For **biological or legally recognized parents**, EI parental benefits can be paid starting from the child's date of birth. For **adoptive parents**, parental benefits can be paid starting from the date the child is placed with them for the purpose of adoption. In cases where the child is not legally adoptable, parental benefits could be payable from the date you attest that you consider the placement a permanent one.

When applying, you will have to select under which option you choose to claim EI parental benefits: standard or extended.

Standard parental benefits can be paid within a 52 week-period after the week the child is born or placed for the purpose of adoption. The benefits are paid for a maximum of 35 weeks at a weekly benefit rate of 55% of your average weekly insurable earnings, up to a maximum amount.

Extended parental benefits can be paid within a 78-week period after the week the child is born or placed for the purpose of adoption. The benefits are paid for a maximum of 61 weeks at a weekly benefit rate of 33% of your average weekly insurable earnings, up to a maximum amount.

Note

- If your newborn or newly adopted child is hospitalized, the 52-week or 78-week timeframe can be extended by the number of weeks your child is in the hospital.
- The parents of a newborn or newly adopted child who is hospitalized for an extended period may decide to wait until their child leaves the hospital before they apply for parental benefits. For information about options available to you in your specific situation, call 1-800-206-7218 (TTY: 1-800-529-3742).

Can both parents apply for EI parental benefits

Yes, but they have to share the benefits. Furthermore, both parents are required to choose the same parental benefit option, either standard or extended. The option chosen by the first claimant who completes the EI application will be considered as the option chosen by the second claimant. The choice is final once parental benefits have been paid on a claim. This means that you cannot change between standard and extended once parental benefits have been paid.

Standard parental benefits:

In total, there are 35 weeks of standard parental benefits available to eligible parents of a newborn or newly adopted child.

There are many ways you can decide to use your standard parental benefits. For instance, one of the parents can take the entire 35 weeks of standard parental benefits, or both parents can share them.

Examples

- If the biological mother wants to return to work after her maternity leave, the other parent can then take the 35 weeks of standard parental benefits.
- If one parent decides to take only 10 weeks of standard parental benefits before returning to work, the other parent can use the remaining 25 weeks of standard parental benefits.
- If one parent decides to return to work after taking a few weeks of standard parental benefits, but then realizes a few weeks later that he or she would prefer to stay home with the child, he or she is still entitled to the unused weeks of standard parental benefits, as long as the 52-week period after the birth or adoption placement has not expired.

Extended parental benefits:

In total, there are 61 weeks of extended parental benefits available to eligible parents of a newborn or newly adopted child.

There are many ways you can decide to use your extended parental benefits. For instance, one of the parents can take the entire 61 weeks of extended parental benefits, or both parents can share them.

Examples

- If the biological mother wants to return to work after her maternity leave, the other parent can then take the 61 weeks of extended parental benefits.
- If one parent decides to take only 20 weeks of extended parental benefits before returning to work, the other parent can use the remaining 41 weeks of extended parental benefits.
- If one parent decides to return to work after taking a few weeks of extended parental benefits, but then realizes a few weeks later that he or she would prefer to stay home with the child, he or she is still entitled to the unused weeks of extended parental benefits, as long as the 78-week period after the birth or adoption placement has not expired.

How do I apply

To find out if you are eligible to receive EI benefits, you must submit an application online. It will take about 60 minutes to complete the online application.

The website takes you step by step through the application process, and provides detailed instructions on how to complete the form.

What information do I need to apply

To complete the online EI application, you will need the following **personal information**:

- your Social Insurance Number (SIN)—if your SIN begins with a 9, you will need to provide proof of your immigration status and work permit;
- your mother's maiden name;
- your mailing and residential addresses, **including the postal codes**—if you do not have a usual place of residence, you must apply in person at your local Service Canada Centre; and
- your complete banking information, including the financial institution name and number, the branch number, and your account number, if you want to sign up for direct deposit.

When you apply for **EI maternity benefits**, you must also provide the expected or actual date of birth.

When you apply for **EI parental benefits**, you must provide:

- the date of birth of your newborn or, in the case of an adoption, the date on which your child was placed with you (you must also provide the full name and address of the agency handling the adoption); and
- the SIN of the other parent, if you plan to share the benefits.

You will also need the following **employment information** if you are or were an employee:

- the names and addresses of all employers you worked for in the last 52 weeks, as well as the dates of employment and the reasons for separation from these employers;
- your detailed version of the facts, if you quit or were dismissed from any job in the last 52 weeks; and
- the dates (Sunday to Saturday) and earnings for each of your highest paid weeks of insurable earnings in the last 52 weeks or since the start of your last EI claim, whichever is the shorter period. This information will be used, along with your Record(s) of Employment, to calculate your weekly EI benefit rate.

For more information, see the publication called [How to Apply for Employment Insurance Benefits](#).

Receiving your EI maternity and parental benefits

When will I know if I am eligible to receive EI maternity or parental benefits

If you are **eligible** to receive EI benefits, you should receive your first payment within 28 days of the date we receive your application and all required documents.

If you are **not eligible** to receive EI benefits, we will notify you by letter or by telephone to explain why. If you disagree with our decision, you have the right to request a reconsideration.

You can get more information on the status of your application by registering for My Service Canada Account on our website.

What is the one-week waiting period

Before you can start receiving EI benefits, there is a one-week waiting period during which you will not be paid. This waiting period is like the deductible you pay for other types of insurance.

You usually serve the waiting period at the beginning of your benefit period, unless you receive earnings during the first week. In that case, the waiting period will start during the first week you should begin to receive benefits.

When EI parental benefits are shared, a single waiting period may apply. For example, if the waiting period has already been served for EI maternity benefits, then neither parent has to serve a waiting period if one or the other submits an application for EI parental benefits.

At the end of parental leave, the parent who did not serve a waiting period might have to serve one, if that parent then applies for another type of EI benefit.

If you already received EI benefits during the last 52 weeks and you have reactivated your claim and already served the one-week waiting period, you will not have to serve an additional waiting period.

If I am eligible to receive EI maternity or parental benefits, how much can I expect to receive

We cannot tell you exactly how much you will receive before we process your application.

The basic rate for calculating EI maternity benefits is 55% of your average weekly insurable earnings, up to a maximum amount. As of January 1, 2018, the maximum yearly insurable earnings amount is \$51,700. This means that you can receive a maximum amount of \$547 per week.

The basic rate for calculating EI parental benefits depends on the option you choose:

Standard parental benefits are paid at a weekly benefit rate of 55% of your average weekly insurable earnings, up to a maximum amount. For 2018, this means that you can receive a maximum amount of \$547 per week for up to 35 weeks.

Extended parental benefits are paid at a weekly benefit rate of 33% of your average weekly insurable earnings, up to a maximum amount. For 2018, this means that you can receive a

maximum amount of \$328 per week for up to 61 weeks. (The amount of \$328 can be increased if you are eligible to receive the Family Supplement.)

i Note: The amount of weekly benefits are reviewed each year.

Can I receive EI maternity or parental benefits if I am authorized to work in Canada

You can access EI maternity or parental benefits if you are authorized to work in Canada and your Social Insurance Number (SIN) has not expired.

Is the benefit rate higher for low-income family members

Yes. If we determine that your net family income is \$25,921 or less per year, that you have children, and that you or your spouse receives the Canada Child Tax Benefit, you are considered a member of a low-income family. You may be eligible to receive the EI Family Supplement. It would be applied automatically by Service Canada. No action is required from you.

The amount of EI Family Supplement you receive depends on:

- your net family income (up to the \$25,921 yearly maximum); and
- the number of children in your family, and their ages.

The Family Supplement may increase your benefit rate to as high as 80% of your average insurable earnings. If you and your spouse claim EI benefits at the same time, only one of you can receive the Family Supplement. It is usually better for the spouse with the lower benefit rate to receive the Family Supplement.

If your income level rises, the Family Supplement gradually decreases. You are no longer eligible to receive the Family Supplement when your net family income is greater than \$25,921.

i Note

- These amounts are reviewed each year. For the most recent amounts, visit [Employment Insurance and the family supplement](#) page.
- The Family Supplement is automatically added to eligible claims.
- The Family Supplement cannot increase your total benefits to more than the maximum weekly amount of \$547.

Do I pay income tax on EI benefits

Yes, your EI benefits are taxable. This means that federal and provincial or territorial taxes will be deducted from your benefits.

How long will I receive EI maternity or parental benefits

EI maternity benefits can be paid for a maximum of 15 weeks. You cannot receive EI maternity benefits beyond 17 weeks after the expected or actual week of childbirth, whichever of the two is later.

EI standard parental benefits can be paid for a maximum of 35 weeks. The payments must be made within 52 weeks (12 months) of the week your child was born or the week your child was placed with you for the purpose of adoption.

EI extended parental benefits can be paid for a maximum of 61 weeks. The payments must be made within 78 weeks (18 months) of the week your child was born or the week your child was placed with you for the purpose of adoption.

❶ The eligibility period for EI parental benefits can be extended for members of military families

The Government of Canada introduced a new measure in July 2010 to extend the eligibility period for EI parental benefits, up to a maximum of 104 weeks.

This extension is available to Canadian Forces members who are prevented from collecting:

- all their standard parental benefits during the regular 52-week eligibility period; or
- all their extended parental benefits during the regular 78-week eligibility period;

because their parental leave has been deferred or interrupted by an imperative military requirement.

The regular eligibility period starts during the week of birth for a newborn or the week a child is placed with you for the purpose of adoption and continues for the following 52 weeks for standard parental benefits or 78 weeks for extended parental benefits.

Does receiving my EI benefit statement mean my application is approved

Shortly after you file your EI application, we will mail you an EI benefit statement. Receiving the EI benefit statement does not mean that your application has been approved. This statement simply provides you with your **EI access code** and instructions on how to complete your EI reports.

❶ Important information about your EI access code

Your EI access code is the four-digit code printed in the shaded area of your EI benefit statement. You need to have it with you whenever you want to obtain information about your benefit claim and when you submit your EI reports. Your access code is used to identify you and ensure the confidentiality of the information you provide.

Do not share your access code with anyone, since you will be held responsible if someone accesses your information or modifies your claim without your knowledge. Always store it in a safe place and, for added protection, be sure to store it separately from your Social Insurance

Number.

If you received a temporary access code, you will need to change it. You can also change your current access code for security reasons. Simply call the EI Telephone Information Service at 1-800-206-7218 (TTY: 1-800-529-3742). Choose "1" and follow the instructions to change your access code.

If you lose your access code, please call the EI Telephone Information Service at 1-800-206-7218 (TTY: 1-800-529-3742) from 8:30 a.m. to 4:30 p.m., Monday to Friday. Choose "0" to speak to an agent. You can also visit a Service Canada Centre. In either case, we will ask you questions to verify your identity before we issue you a new access code.

Do I have to submit EI reports to receive maternity or parental benefits

You do not have to submit EI reports while you are receiving maternity and parental benefits, unless you are working. In that case, you must let us know by contacting the Service Canada Centre in your area. You will then have to complete EI reports.

For more information on filing EI reports, see the [Internet Reporting Service](#) page.

How will I receive my benefits

There are two ways to receive your EI benefits:

- we can deposit them directly into your bank account; or
- we can mail them to you.

Receiving benefits by direct deposit

Direct deposit ensures that you will get your payment as quickly as possible and is reliable, convenient, and easy to set up. When you use direct deposit, your EI payments are deposited automatically into your bank account.

You can sign up for direct deposit when you apply for EI. You can also [sign up for direct deposit](#) online, by phone, in person, or by mail.

① Note: You need to let us know if you change your bank account information or if you move.

Receiving benefits by mail

If you do not register for direct deposit, we will mail your payments to you.

When do my EI benefits stop

You will stop receiving EI benefits in any of the following cases, whichever comes first:

- you have received all the weeks of benefits to which you were entitled; or
- the maximum benefit period has been reached
 - 52 weeks for maternity and standard parental benefits,
 - 78 weeks for maternity and extended parental benefits; or
- the payment timeframe during which you can receive benefits has ended, as follows:
 - EI maternity benefits must end 17 weeks **after** the week you were expected to give birth or the week you actually give birth, whichever is later;
 - EI standard parental benefits must end 52 weeks **after** the week your child was born or was placed with you for the purpose of adoption; or
 - EI extended parental benefits must end 78 weeks **after** the week your child was born or was placed with you for the purpose of adoption.

What will happen if I work or receive other payments during my benefit period

If you work while receiving maternity or parental benefits and have served your waiting period, you will be able to keep 50 cents of your EI benefits for every dollar you earn, up to 90 percent of the weekly insurable earnings used to calculate your EI benefit amount. This 90 percent amount is called the earnings threshold. If you earn any money above this threshold, we will deduct it dollar for dollar from your benefits.

For more information, visit the [Working While on Claim page](#).

When you work and receive benefits at the same time, you must not combine the hours and earnings of more than one week. It is essential that you report your work earnings and hours for the week you worked.

If you notice that you made an error on your report (for example, if you forgot to report some work hours or you did not report them in the right week), tell us immediately so that we can make the necessary corrections.

When you receive other payments

The following types of income will be deducted from your EI maternity and parental benefits:

- other income from employment (including self-employment), such as commissions;
- payments received as compensation for a work accident or an occupational illness, such as compensation for lost wages;
- payments received under a group health insurance plan or a group wage loss replacement plan;
- certain payments received under an accident insurance plan to replace lost wages;
- retirement income from a retirement plan, a military or police pension, the Canada Pension Plan, the Quebec Pension Plan, or provincial employment-based plans; and

- allowances, amounts, or other benefits paid under provincial legislation, such as benefits under the Quebec Parental Insurance Program.

Other types of income have no impact on your EI maternity and parental benefits, including:

- disability benefits;
- survivor or dependent benefits;
- workers' compensation benefits paid under specific regulations;
- additional insurance benefits paid under a private plan approved by Service Canada (for example, payments for pain and suffering or medical expenses that you receive from an insurance company after you have been injured in a car accident);
- additional maternity/parental benefits paid by your employer from a supplemental unemployment benefit plan (as long as the income, benefits, and additional amounts combined do not exceed 100% of your weekly earnings);
- sickness or disability payments received under a private wage loss replacement plan; and
- retroactive salary increases.

❶ Note: You are responsible for reporting all monies paid or payable to you, cash or other, while receiving EI maternity or parental benefits.

When you receive money during the waiting period

Any amounts you receive that are allocated to the one-week waiting period, including vacation pay or severance pay, will be deducted dollar for dollar from the first three weeks of benefits that you are entitled to receive.

Can I receive EI maternity or parental benefits and other types of EI benefits in the same benefit period

Yes, you can receive up to 50 weeks of benefits in a 52-week benefit period. However, when maternity or parental benefits are combined with other types of special benefits (sickness, compassionate care or family caregiver), the maximum number of weeks for which benefits may be paid may increase to 102 weeks. Please note that you must meet the eligibility criteria specific to each type of benefits you claim.

If you receive EI regular benefits combined with EI special benefits, the maximum number of weeks for which benefits may be paid is normally 50 weeks during a benefit period of 52 weeks. The only exception is when EI regular benefits and extended parental benefits are paid during the 52-week period. As extended parental benefits are paid at a benefit rate of 33% of your average weekly insurable earnings, once 50 weeks of benefits have been paid, the weeks of extended parental benefits will be converted to an equivalent number of weeks that would have been paid at the 55% benefit rate. This conversion will determine how many more weeks of regular benefits and special benefits can be paid to reach the equivalent of 50 weeks paid at the 55% benefits rate. Any weeks

where you return to work during this period will be considered weeks paid for the purposes of calculating the equivalent of 50 weeks paid at the 55% benefit rate. Once the number of additional weeks that can be paid is determined, the 52-week benefit period will be extended to allow for the additional weeks to be paid.

Example: A claimant becomes ill and receives 10 weeks of sickness benefits. He then applies for extended parental benefits and receives 15 weeks. The claimant is laid off from his employment and applies for regular benefits. After proving his availability for work, the claimant is paid up to 25 weeks of regular benefits. At this time 50 weeks of benefits have been paid to the claimant, therefore a conversion calculation is required to determine how many more weeks he can receive before reaching the equivalent of 50 weeks paid at the 55% benefit rate. The 15 weeks of extended parental benefits paid at the 33% benefit rate are converted to 9 weeks of benefits at the 55% benefit rate. In total, 10 weeks of sickness benefits, 25 weeks of regular benefits and the equivalent of 9 weeks of standard parental benefits have been paid at the 55% benefit rate, for a total of 44 weeks. There are 6 more weeks that may be paid on the claim, before reaching the equivalent of 50 weeks paid at the 55% benefit rate.

Am I allowed to leave Canada while receiving EI maternity or parental benefits

Yes, you can receive EI maternity and parental benefits while you are outside Canada. However, if you leave the country, please let us know by calling 1-800-206-7218 (TTY: 1-800-529-3742) and pressing "0" to speak with a representative.

Note: Different provisions may apply to Quebec residents who receive Quebec Parental Insurance Program benefits.

Where can I get more information about my EI claim

To get more information about your EI claim, you can visit our website or call us.

Online

To get information about your claim online, you first need to register with My Service Canada Account on our website.

By telephone

You can also get information about your benefit claim by using the EI Telephone Information Service. Call 1-800-206-7218 (TTY: 1-800-529-3742) and choose option "1." Be sure to have your Social Insurance Number and your EI access code on hand when you call.

Protecting Employment Insurance—with your help

Service Canada works to protect the EI program from misuse. One of the ways we do this is by working with employers and claimants to ensure the accuracy of the information we receive. With your help, we can reduce the amount of misuse and ensure that the EI program is used as it should be—as a program that provides temporary financial assistance to individuals who qualify.

What is a mistake

A mistake is an unintentional act. We know claimants can make mistakes when filing their reports. Common mistakes include:

- estimating weekly earnings instead of putting in the actual amount earned;
- forgetting to declare all the earnings received;
- writing or entering the wrong number when reporting earnings; or
- adding the number of hours or amount of earnings incorrectly.

Some mistakes can delay benefit payments, while others can affect the amount of benefits you receive—meaning you are paid more or less than you are entitled to receive.

For example, estimating your earnings can have the following effects:

- If you estimated your earnings for one week and your estimate was higher than the earnings you actually received, your benefit amount will be less than it should have been. If this happens, let us know and we will adjust your file to make sure you receive all the benefits to which you are entitled.
- If you estimated your earnings for one week and your estimate was lower than the earnings you actually received, your benefit amount will be higher than it should have been. Let us know if this happens. You will have to repay the excess amount, but we will ensure that repaying it causes no undue hardship. As well, we will adjust your file to reflect your accurate information.

If you notice a mistake on a completed form or report, or if there is a change in your circumstances that could affect your EI claim, tell Service Canada immediately. This will help prevent any future problems with your claim.

Absence from Canada

Although you can receive EI maternity and parental benefits while you are outside Canada, you usually **cannot** be outside Canada while you are receiving other types of EI benefits.

One measure we take to enforce this rule is to compare EI information with information from the Canada Border Services Agency. If we find you have been out of the country while collecting benefits, we will determine whether you were entitled to receive those benefits. If you were not entitled to receive them, we will calculate how much we overpaid you, and you will then have to repay the benefits.

We may also impose penalties of up to three times your weekly benefit rate or three times the amount of your overpayment. As well, you may have to work more hours or, in the case of self-employment in fishing, you may need more insurable earnings to qualify for benefits in the future.

Misrepresentation

If you knowingly withhold information, make misleading statements, or misrepresent the facts to make a false claim for benefits, this is considered misrepresentation. You could face severe monetary penalties or prosecution. This could also affect your future benefits. However, if you disclose your actions to Service Canada before an investigation begins, we may waive any monetary penalties and prosecutions that might otherwise apply.

Consequences of misrepresentation: Interest and penalties

Interest on debt

When EI claimants receive benefits to which they are not entitled, the amount of the overpayment counts as a debt that must be repaid.

Service Canada charges interest on this debt when it results from claimants who knowingly omit information or make false or misleading representations or statements. However, we do not charge interest on debt that results when Service Canada makes an error in the benefit payment.

The rate of interest is the Bank of Canada average rate plus 3%. Interest is calculated daily and compounded monthly.

Penalties

A penalty may be imposed on a claimant, an employer, or an individual acting on their behalf in relation to a claim for benefits when he or she has:

- knowingly made false or misleading representations or statements; or
- completed a statement without declaring essential information.

There are many situations when a penalty may apply, and the amount could become very high. Depending on the circumstances, the maximum penalty could be up to three times the amount of the overpayment, three times the weekly benefit rate for each incident of misrepresentation, or three times the maximum benefit rate.

Violations

Deliberate misuse of the EI program can result in a violation. With a violation, claimants may need more insurable earnings or hours to qualify for benefits in the future. The required amount rises based on the number and seriousness of misrepresentations that have been recorded in the five-year period before the start of their claims.

Rights and responsibilities

What are my rights

As a claimant of EI benefits, you have rights and responsibilities.

Your right to request a reconsideration of a decision

If you disagree with the decision regarding your application for EI benefits, you have the right to request a reconsideration.

Can my employer contest a decision concerning my EI benefits application

Yes. If we decide to pay you benefits even if you quit, were fired for misconduct, refused work, or are involved in a labour dispute, we will notify your employer. If an employer believes that our decision is not justified, he or she can request a reconsideration of that decision.

What are Service Canada's responsibilities

At Service Canada, we are responsible for:

- giving you prompt and courteous service;
- advising you of the programs and services that are available to you;
- serving you in the official language of your choice;
- determining if you are eligible to receive benefits—that is, whether or not you meet the qualifying conditions specified in the Employment Insurance Act and Regulations—and determining how many weeks of benefits you can receive;
- processing all claims within the same timeframe;
- issuing your first payment no later than 28 days after the date we receive your application, if you have provided us with all the required information and if you are eligible for benefits;
- giving you accurate information about your claim, including how you can share parental benefits with your EI-eligible spouse or partner and compassionate care benefits with other EI-eligible family members, and whether or not you will need to serve a one-week waiting period; and
- letting you know about decisions we've made about your claim and explaining the process to follow if you disagree with a decision.

What are my responsibilities

When you apply for EI maternity or parental EI benefits, you must:

- provide all required information and documents;

- provide our office with your child's actual date of birth;
- in the case of an adoption, provide the date of the child's placement with you, the name and address of the adoption authority;
- elect under which option you wish to claim parental benefits (standard or extended);
- report if you stop providing care for your child;
- report all employment, whether you work for someone else or for yourself;
- accurately report all employment earnings before deductions in the week(s) in which they were earned, as well as any other monies you may receive.

For more information on rights and responsibilities, see [Employment Insurance – Rights and Responsibilities](#).

The Quebec Parental Insurance Program

Since 2006, the Province of Quebec has been responsible for providing maternity, paternity, parental, and adoption benefits to residents of Quebec through a program called the Quebec Parental Insurance Program. This program is offered by Quebec's Ministry of Employment and Social Solidarity.

Applying for benefits

If you live in Quebec and would like to submit an application for benefits following a birth or an adoption, you can:

- use the [Quebec Parental Insurance Program's online services](#); or
- call the Customer Service Centre at 1-888-610-7727.

Sharing parental benefits

The Quebec Parental Insurance Program and the EI program allow parents to share parental benefits. In most cases, the two parents will receive benefits under the same program, either the Quebec Parental Insurance Program or the EI program.

Parents who would like to share their benefits must decide how they will share them when the first parent applies for parental or adoption benefits. If applying to the Quebec Parental Insurance Program, the applicant must contact the Quebec Ministry of Employment and Social Solidarity. If applying outside Quebec, the applicant must contact Service Canada.

If the parents cannot decide how they want to share the benefits when they submit their application, they must contact the Quebec Ministry of Employment and Social Solidarity if they live in Quebec or Service Canada if they live elsewhere in Canada. A formula has been established and approved by the governments of Quebec and Canada to allow parents to share benefit weeks.

Place of residence, place of work, and mobility

Where you reside, not where you work, determines which program applies to your situation. If you work in Quebec but live in another province, you cannot receive Quebec Parental Insurance Program benefits—you must apply for EI benefits. If you live in Quebec but work in another province, you will receive Quebec Parental Insurance Program benefits.

If you move to Quebec while receiving EI maternity or parental benefits, you will continue to receive EI benefits. If you move away from Quebec while receiving Quebec Parental Insurance Program benefits, you will continue to receive Quebec Parental Insurance Program benefits.

Combining Quebec Parental Insurance Program benefits and EI benefits

Depending on your situation, you could be eligible for EI benefits—for example, regular, sickness, compassionate care or family caregiver benefits—for weeks during which you do not receive Quebec Parental Insurance Program benefits.

Benefits paid under the Quebec Parental Insurance Program may extend the EI benefit period, allowing people to receive the maximum number of weeks of EI sickness, compassionate care and/or family caregiver benefits. We take into account each week of benefits paid under the Quebec Parental Insurance Program to calculate the number of weeks of EI benefits to which these people might be entitled.

For more information, contact Service Canada.

Benefits and income tax

Like EI benefits, Quebec Parental Insurance Program benefits are taxable. To learn more about income tax and Quebec Parental Insurance Program benefits, visit the [Canada Revenue Agency website](#) or the [Revenu Québec website](#).

Co-operation between the two governments

To ensure that the two benefit programs operate smoothly and to prevent abuse, the governments of Quebec and Canada have agreed to share information about the two programs, including Records of Employment, applications for benefits, and Social Insurance Numbers. This agreement is in compliance with the *Privacy Act*.

Contacts and other useful information

EI Telephone Information Service

The EI Telephone Information Service is an automated telephone service that is available 24 hours a day, seven days a week. If you would prefer to speak to a representative, call this number between 8:30 a.m. and 4:30 p.m., Monday to Friday, and press "0." You can get general information about the EI program, the Social Insurance Number (SIN), and your specific EI claim.

Information about your claim is updated every morning from Monday to Friday. To access information about your EI claim, you will need your SIN and access code, which you will find on the benefit statement that is mailed to you after you apply for EI benefits.

① EI Telephone Information Service: 1-800-206-7218

If you have a hearing or speech impairment and use a teletypewriter, TTY: 1-800-529-3742.

My Service Canada Account

My Service Canada Account allows you to view and update your EI information in one place using a secure website. With My Service Canada Account, you can:

- confirm any decision made about your EI application
- see details on your payments and deductions
- sign up for direct deposit
- view and update your personal information, including your mailing address, telephone number, and banking information for direct deposit
- view your EI tax information slips;
- view all Records of Employment that your employers have submitted electronically in the last two years
- view and print your Canada Pension Plan Statement of Contributions and benefit estimate
- register to access EI special benefits for self-employed people

How can I register for My Service Canada Account

Before you register, you must have your four-digit EI access code (printed in the shaded area at the bottom of your benefit statement). You can then register for My Service Canada Account. It will take about 10 minutes to complete the registration process.

For more information

For more information about EI maternity and parental benefits:

Click: Service Canada website

Call: 1-800-206-7218 / (TTY: 1-800-529-3742)

Visit a Service Canada Centre

Service Canada has produced a series of EI-related videos. To watch them, visit our website.

Date modified:

2018-09-25

Extended Family Program

When circumstances prevent a child from living with their parents, the preferred option is for the child to be with someone they know. This usually means an immediate family member – a grandparent, aunt or uncle, or an older sibling – it can also include someone with an established relationship or cultural connection to the child and their family.

How to determine if you can access the program

Children are better off when they are cared for by their families – and the Extended Family Program offers services and financial supports to help improve outcomes for children and youth. The main criteria for families to access the Extended Family Program include:

- Circumstances temporarily prevent the parent(s) from caring for their child in the home.
- Other services and supports have been tried to help keep the parent(s) and child together. This could include programs to meet the needs of the child or supports for parents such as counselling or parenting programs.
- The care provider, who cannot be the child's legal guardian, is a relative or someone with a significant relationship or cultural connection to the child.
- A parent must request services from the ministry or a Delegated Aboriginal Agency - only the legal guardian of the child can initiate an application.
- Parents must agree to the choice of care provider and the plan for the child and, where possible, contribute financially to their child's care.

What else you need to know about the program

- The goal is always to reunite the child with their parents wherever possible.
- The program puts the child at the center of all decisions being made and their views will be considered in decisions that affect them.
- Together, the social worker and family develop a plan for the child that addresses the child's needs and assists the parent(s) and the care provider.
- The family remains in contact with the social worker – meeting at least every six months and evaluating the plan regularly.
- When reunification cannot be achieved, permanency and legal options that provide the child with long-term stability can be explored as part of the long-term planning.

If the child's needs are best met by a plan to live outside the parental home, and the parents agree, financial and other supports may be provided to the care provider through the Extended Family Program. Care providers may receive monthly benefit payments of \$554.27 per child under 12 years of age and \$625.00 per child 12 years of age and older. Additional benefits are available based on the child's assessed needs and may include dental and optical coverage, child minding and respite. Your worker will help you determine what is available.

- [Steps to Becoming a Care Provider Information Sheet](#)
- [Find a Ministry office](#)
- Call our Client Relations office at: 1 877 387-7027/Contact a [Delegated Aboriginal Agency](#)

Becoming a Care Provider

1

Contact an MCFD Office

The parent(s) must call the local Ministry office or Delegated Aboriginal Agency to request service which may include services under the Extended Family Program. A parent can call 1 877 387-7027 for more information about services.

2

Meet with a Worker

A social worker from MCFD or a Delegated Aboriginal Agency will meet with the family – this includes the parent, the proposed care provider and the child – to assess the child's needs and help determine if the Extended Family Program is the best fit, or if alternatives should be considered. If the child's needs are best met by a plan to live outside their parent's home, the family and worker will discuss what financial and other supports may be available through the Extended Family Program.

Even if the family doesn't meet the criteria for the Extended Family Program, there are many programs available that can help families through a difficult period. You may be referred to another program through community services, such as parent/teen mediation, counselling or other services to meet the child's special needs.

3

Background Check

The screening process for care providers includes:

- A criminal record check;
- A prior contact check to review any previous involvement the care provider may have had with the ministry or Delegated Aboriginal Agency;
- Three written references, including two from family members and one from a non-family member who has known the applicant for at least three years; and
- A home visit, to interview the care provider and all other individuals living in the home, to ensure the environment is suitable for the child's needs.
- An assessment of the care provider's readiness, capacity and commitment to care for the child.

4

Enter into an Agreement

An agreement between the parent(s), the care provider and the ministry or Delegated Aboriginal Agency is signed. Working as a team, the family and worker will develop a plan for the child that details the services and supports necessary to meet the child's needs.

5

Ongoing Contact and Support

The plan for the child will be reviewed by the social worker and family regularly to make sure that it still fits the child's needs. Ultimately the plan is to reunite the child and their parent(s); however, if reunification cannot be achieved, an alternate permanency plan is developed to meet the child's need for long-term stability.

EXTENDED FAMILY PROGRAM AGREEMENT
Under Section 8 of the *Child, Family and Community Service Act*



The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Child, Family and Community Service Act* (CFCSA). Under certain circumstances, the collected information may be subject to disclosure as per the CFCSA and/or the *Freedom of Information and Protection of Privacy Act*. Any questions about the collection, use or disclosure of this information should be discussed with the worker involved with this agreement.

This is a tri-party agreement between parent(s), care provider(s), and the director to enable financial assistance and support services when an assessment indicates that a parent is temporarily unable to care for a child and the child's needs would be best met by an agreement.

This agreement is in regard to the following child(ren):

CHILD(REN)'S INFORMATION:

Child(ren)'s Names

Child(ren)'s Birthday (yyyy mmm dd)

Aboriginal : Yes No

If yes, Community/Band: _____

Aboriginal : Yes No

If yes, Community/Band: _____

And the parties listed below are entering into this agreement with each other and with the Director:

PARENT(S):

Family Service File #: _____

Parent's Surname

Given

Telephone: () _____

Address

Parent's Surname

Given

Telephone: () _____

Address

The parent(s) has/have custody through: Court Order Agreement Other (de facto)

CARE PROVIDER(S)

Resource File #: _____

Name

Telephone: () _____

Address

A) TERMS AGREED TO BY THE PARENT(S):

I/We _____ {Name(s) of Parents}

Transfer care of my/our child(ren) _____ {Name(s) of Children}

To the care provider(s): {Careprovider}

Starting (yyyy mmm dd) _____ Ending (yyyy mmm dd) _____

And further agree that I/we:

- 1) Will maintain guardianship responsibility for the child(ren) regarding significant decisions affecting them;
- 2) Authorize the care provider(s) to:
 - a. make day-to-day decisions affecting the child(ren), including having the day-to-day care of the child(ren) and supervising their daily activities;
 - b. authorize a health care provider to examine the child(ren);
 - c. consent to necessary health care for the child(ren), if in the opinion of a health care provider, the health care should be provided without delay and I/we cannot be contacted prior to the necessary health care being provided;
 - d. consent to the child(ren)'s participation in routine school, social and recreational activities, including travel of a short duration within the province; and
 - e. access and manage supports, services and/or funding that may be available for the child/youth (e.g. Autism Funding, At Home Program, CYSN Family Support Services).
- 3) When necessary sign waivers of liability for the child(ren)'s participation in those activities.
- 4) Will co-operate with any access orders or agreements in place relating to the child(ren);
- 5) Will maintain contact with the child(ren) while the child(ren) is/are in the care of the care provider(s), consistent with the Additional Terms outlined below;
- 6) Will work toward the goals and comply with the expectations regarding care of the child(ren), reunification and an alternate permanent plan as outlined in the attached Extended Family Program written plan* dated _____ (including any amendments), and any Additional Terms stated below;
- 7) Will comply with a maintenance agreement or order made under section 97 of the CFCSA, if applicable; and
- 8) Will be responsible for informing Canada Revenue Agency (CRA) that my/our child(ren) is/are no longer in my/our care. When the child(ren) is/are returned to my/our care, I/we am/are responsible to apply for the reinstatement of the Child Tax Benefit, the BC Family Bonus Benefit, and any other child benefits administered by CRA.

I/We agree to provide:

| | | | | |
|--------------------------|------------------------------|-----------------------------|------------------------------|-------|
| Clothing | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | _____ |
| Transportation | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | _____ |
| Recreation/activity fees | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | _____ |
| Medical coverage | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | _____ |
| Other | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A | _____ |

Additional Terms:

Initials _____

B) TERMS AGREED TO BY THE CARE PROVIDER(S):

As the care provider(s), I/we:

- 1) Will assume responsibility for the full-time care, parenting, nurturing and safety of the child(ren) and make day-to-day decisions affecting the child(ren), including supervising their daily activities;
- 2) Agree to refrain from the use of physical punishments and behaviour management practices that can cause harm to the child(ren) physically, psychologically or emotionally, and to use forms of discipline that are non-violent, appropriate to the child(ren)'s level of development and take the best interests of the child(ren) into consideration;
- 3) Will ensure that the child(ren) has/have been provided with information about the Rights of Children in Out of Care Placements;
- 4) Agree to use the funds provided under this agreement to pay the daily costs of caring for the child(ren);
- 5) Will co-operate with any access orders or agreements in place relating to the child(ren);
- 6) Will inform the parent(s) of any alternative care arrangements such as child minding or respite;
- 7) Agree that it is my responsibility to be aware of any regulatory requirements associated with employment (e.g., Workers Compensation Act, Employment Standards Act) if hiring respite persons as employees;
- 8) Will notify the director and the parent(s) as soon as possible of any change in the household membership or ability to provide care for the child(ren);
- 9) Will notify the director of any new criminal charges made against myself/ourselves or against those age 18 years of age or older who live in my/our home, or who may spend significant and unsupervised time with the child and any child under 18 living in my home and notify of any criminal convictions of these same individuals;

- 10) Acknowledge that the Canada Revenue Agency (CRA), not the director, is responsible for responding to questions, and making eligibility decisions, about the Child Tax Benefit and any other child benefits administered by CRA;
- 11) Acknowledge it is the role of the Canada Revenue Agency to determine whether the payments made under this Agreement are considered income under the IncomeTax Act;
- 12) Will notify the director immediately if the parent(s) retake care of the child(ren);
- 13) Will notify the parent(s) and the director immediately if there has been a critical injury or other serious incident involving the child(ren), as outlined in ministry standards;
- 14) Will work toward the goals and comply with the expectations regarding care of the child(ren), reunification and an alternate permanent plan as outlined in the attached Extended Family Program written plan* dated _____ (including any amendments), and any Additional Terms stated below; and
- 15) Acknowledge that I/we will be responsible for repaying any overpayment made under this Agreement in circumstances where:
 - a) I/we fail to provide notice to the Director as required by this Agreement; or
 - b) for any reason the Director determines that an overpayment has been made under this Agreement.

Additional Terms:

Initials _____

C) TERMS AGREED TO BY THE DIRECTOR:

The director agrees to:

- 1) Provide supports and services as outlined in the Extended Family Program (EFP) written plan * to assist parent(s) to strengthen their capacity to meet the needs of the child(ren);
- 2) Provide financial assistance for the care of the child(ren) as outlined below, as well as services to the care provider(s) as outlined in the EFP written plan to maintain the care provider(s) placement and meet the needs of the child(ren);
- 3) Support the goals as mutually agreed upon regarding care of the child(ren), reunification and an alternate permanent plan as outlined in the attached EFP written plan* dated _____ (including any amendments), and any Additional Terms stated below;
- 4) Provide the care provider(s) with all the information known to the director relevant for the care of the child(ren);
- 5) Review expectations of the care provider(s) regarding criminal record checks according to criminal record check policy;
- 6) Provide information to the care provider about the child(ren)'s rights;
- 7) Provide information to the care provider about reporting critical injuries and serious incidents involving the child(ren), as outlined in ministry standards; and
- 8) Along with providing an opportunity to discuss and ask questions, provide information to parent(s), care provider(s) and the child(ren) on the Rights of Children in Out of Care Placements, the pertinent MCFD or Delegated Aboriginal Agency complaints process, and other relevant services, including those of the Representative for Children and Youth, The B.C. Ombudsperson, the Helpline for Children, and the After Hours Support Line for Out of Care Care-Providers.
- 9) Provide payment to the care provider to a maximum of \$554.27 Cdn per month for a child aged 0 to 11 or \$625.00 Cdn per month for a child age 12 or over.

Additional Terms:

Initials _____

D) DURATION AND TERMINATION OF THE AGREEMENT:

We agree that:

- 1) The parent(s) may end this agreement at any time. Whenever possible, the parent(s) will give _____ days notice to support transition planning;
- 2) The care provider(s) may end the Agreement at any time by giving 7 days oral or written notice to the other parties;
- 3) The director may end this Agreement by giving 7 days written notice to the parent(s) and care provider(s);
- 4) This Agreement starts on the day of _____, and will end on the day of _____, unless ended earlier by the parent(s) or the care provider(s) or the director;
- 5) If on the expiry of this Agreement, it is not possible to make contact with the parent(s) for further consent, all parties agree that the director, in consultation with the care provider(s), can extend this agreement for up to 30 days; and
- 6) The director, a parent, care provider or child may request a review or an amendment to this Agreement at any time.

* The Extended Family Program (EFP) written plan pertaining to this agreement is dated and attached to this agreement, and will be amended as required throughout the course of this agreement subject to the agreement of all parties. The EFP written plan to meet the needs of the child(ren) outlines: goals and expectations of reunification; alternate permanent plans; services and supports to children and family; and connections to all other plans in place to forward the care and welfare of the child(ren) that are the subject of this agreement.

Signatures of Parties: I have reviewed this Agreement and I agree with the terms and conditions which apply to me:

| | | |
|--------------|-------------------|---------------------------|
| Parent Name: | Parent Signature: | Date Signed(yyyy mmm dd): |
| Parent Name: | Parent Signature: | Date Signed(yyyy mmm dd): |

| | | |
|---------------------|--------------------------|---------------------------|
| Care Provider Name: | Care Provider Signature: | Date Signed(yyyy mmm dd): |
| Care Provider Name: | Care Provider Signature: | Date Signed(yyyy mmm dd): |

| | | |
|-------------------|------------------------|---------------------------|
| Director Name: | Director Signature: | Date Signed(yyyy mmm dd): |
| Team Leader Name: | Team Leader Signature: | Date Signed(yyyy mmm dd): |

Signature of Children (Youth): [OPTIONAL]

I/We have reviewed this agreement, and I/we am/are in agreement that I/we will reside with:

(Name(s) of care provider(s))

| | | |
|-------|------------|---------------------------|
| Name: | Signature: | Date Signed(yyyy mmm dd): |
| Name: | Signature: | Date Signed(yyyy mmm dd): |

PRACTITIONER'S NAME AND DISTRICT OFFICE ADDRESS:

Payment and Supplemental Benefits Table

Reference for Out-of-Care Options Practitioners

| Program | Maintenance Payment | Basic Medical (MSP) | Extended Medical | Dental Optical | Child Care Subsidy & Surcharge | Child Tax Benefit Universal Child Care Benefit Child Disability Allowance |
|---|--------------------------------|---------------------|-------------------|------------------|--------------------------------|---|
| MCFD | | | | | | Canada Revenue Agency |
| Extended Family Program (Sec. 8) | ✓ Not income tested | ✓ | ✓ | ✓ Form CF2190 | ✓ | Care provider to contact CRA about eligibility |
| Age 0 to 11 | \$554.27 | | | | | |
| Age 12 to 19 (ends 19 th birthday) | \$625.00 | | | | | |
| Interim and Temporary Custody to Other (Sec. 35(2)(d); 41(1)(b); 42.2(4)(c) & 49(7)(b) | ✓ Not income tested | ✓ CSM Approval | ✓ CSM Approval | * | ✓ | Not Eligible |
| Age 0 to 11 | \$803.81 | | | | | |
| Age 12 to 19 (ends 19 th birthday) | \$909.95 | | | | | |
| Post Transfer of Custody Assistance (Sec. 54.01 & 54.1) | ✓ Not income tested | X | X | X | ✓ | Not Eligible |
| Age 0 – 11 | \$803.81 | | | | | |
| Age 12 to 19 (ends 19 th birthday) | \$909.95 | | | | | |
| Family Law Act (FLA) Guardianship Formerly Family Relations Act (FRA) | \$0 | X | X | X | X | Guardian to contact CRA about eligibility |
| MCFD Restricted and Regular Foster Care | ✓ Not Income tested | ✓ | ✓ | ✓ | ✓ Subsidy only | Not Eligible |
| Ages 0 – 11 | \$803.81 | | | | | |
| Age 12 to 19 (ends 19 th birthday) | \$909.95 | | | | | |
| Post Adoption Assistance (PAA)** | Income and asset test Up to | X | X | X | X | Adoptive parent(s) to contact CRA about eligibility |
| Ages 0 – 11 | \$701.55 | | | | | |
| Age 12 to 19 (ends 19 th birthday) | \$805.68 | | | | | |

* Funding may be available when considered on a case-by-case basis and approved by the Community Service Manager. (Paid by local cheque: Activity Code 14312)

** Adoptive parents may be eligible for additional support services.

X Not available through MCFD. Section 54.01/54.1/FLA guardians and adoptive parents with low incomes may be eligible for Premium Assistance (MSP) and Healthy Kids Program (dental) available through the Ministry of Social Development.

Who provides services under the BC Healthy Kids Program?

Before treatment begins, confirm that your dentist, optical provider or audiologist/hearing instrument provider offers services under the BC Healthy Kids Program. The program does not keep a list of participating providers. It is the responsibility of the parent to find a dentist, optician or audiologist/hearing instrument provider who is accepting children covered by the BC Healthy Kids Program.

Important: Before any services begin, check with your provider to see if there will be additional charges to you over what the BC Healthy Kids program will cover.

How do the service providers get paid?

The dental, optical and audiologist/hearing instrument service provider bills and receives payment directly from the BC Healthy Kids Program.

The BC Healthy Kids Program is not responsible for charges that may be billed for services:

- » For children without active coverage
- » Not covered by the program
- » Not provided within time restrictions
- » Over the annual limit
- » Over the rates of the program

For More Information

If you receive MSP premium assistance, contact your dentist, optician or audiologist/hearing instrument provider directly.

Visit the government website at:

www.gov.bc.ca/sdpr

Or call the Ministry of Social Development and Poverty Reduction toll-free:

1 866 866-0800



BC Healthy Kids Program

What it means for children



Ministry of
Social Development
and Poverty Reduction

What is the BC Healthy Kids Program?

The BC Healthy Kids Program helps low income families with the costs of basic dental care, prescription eye wear and hearing assistance for their children.

Eligible clients include dependent children under 19 years of age who receive Medical Services Plan (MSP) premium assistance through the Ministry of Health.

How do I apply for the BC Healthy Kids Program?

Families who have been approved for MSP premium assistance will be signed up with the program. Coverage begins at the start of the next month. No additional application form is needed to register.

For information on how to apply for MSP, contact the Ministry of Health at:

- » 604 683-7151, or
- » Toll-free 1 800 663-7100

Information is also available from the MSP website at: www.gov.bc.ca/msp.

What does the BC Healthy Kids Program cover?

Dental – Children are eligible for \$2,000 of basic dental services every two years. This coverage includes services such as exams, x-rays, fillings, cleanings and extractions. Your dentist can advise you of other services that may be covered. Emergency dental treatment is also available if the child's biennial limit has been reached. Emergency treatment is only available for the immediate relief of pain.

Optical – Children are eligible for prescription eyeglasses (lenses and basic frames) once in a twelve-month period. All prescriptions must be current and meet the program criteria. Further information is available from your optical provider. Children's eye examinations are covered by MSP.

The BC Healthy Kids Program does not cover orthodontic treatment and/or contact lenses.

Hearing – Children are eligible for:

- » Hearing aids
- » Bone anchored hearing aids
- » Cochlear implants
- » Repairs
- » Related items

Coverage is provided for the least expensive, appropriate hearing instruments based on an assessment completed by either an audiologist or hearing instrument provider. Preauthorization must be obtained by the provider.

An Alternative Hearing Assistance Supplement may be available if your child cannot benefit from a hearing instrument for the purpose of speech comprehension.

Contact the Healthy Kids Program at 1 866 866-0800 for further information about the Alternative Hearing Assistance Supplement.

How do I access services under the BC Healthy Kids program?

To use services under the BC Healthy Kids Program you will need to show your child's BC CareCard or BC Services Card to your provider. Your dentist, optical provider or audiologist/hearing instrument provider will confirm coverage with the program contractor before each appointment.

How long will my child be covered under the BC Healthy Kids Program?

Children are covered under the BC Healthy Kids Program as long as their parent's MSP premium assistance is active and continuously in effect. Children may be covered up to and including the month they turn 19. Any changes with your family's MSP premium assisted medical coverage may affect your child's coverage with the BC Healthy Kids Program.



Do You Qualify for the Affordable Child Care Benefit

Specific criteria are used to check if a family qualifies for the Affordable Child Care Benefit.

[Expand All](#) | [Collapse All](#)

Residency and citizenship status

A parent or guardian must be:

- A resident of B.C. (you must have a current B.C. address)
- A Canadian citizen, a permanent resident of Canada, a Convention refugee or a person in need of protection

Type of care

Most types of child care are eligible. Child care by a family member who lives with you and licensed occasional child care are not eligible for funding.

- Use the estimator to see how much your child care could qualify for
- Review rates by type

Reason for child care

Parents must provide one of the following reasons for requiring child care:

- Working or self-employed
- Attending school
- Participating in an employment program
- Looking for work (only one parent or guardian)
- Living with a medical condition that interferes with your ability to care for your child
- Your child is attending licensed preschool
- You have been referred by a Ministry of Children and Family Development or Delegated Aboriginal Agency social worker.

Income

A formula is used to calculate whether a family qualifies for a funding amount based on their annual income and deductions, or adjustments. This step is called income testing.

Generally speaking, families that earn up to \$111,000 may qualify for funding. Families that earn more than \$111,000, but have considerable deductions for family size or children who have special needs, can also apply.

- [Find out more about sharing your income information with the Ministry of Children and Family Development](#)

Families may be exempt from income testing if they are caring for someone else's child under a Ministry of Children and Family Development placement.

Application date

Apply for funding before the end of the month in which you need child care. For example, if you would like to receive funding for child care starting September 1, you need to apply by September 30.

Estimate your funding

Apply for funding

[Use the online estimator](#)

[Get ready to apply](#)

My Family Services



Finish an application or review messages about the status of your application.

[Log in to My Family Services](#)

Contact Information

Child Care Service Centre

NEW! Extended hours

8:30 am to 7 pm, Monday to Friday



Affordable Child Care Benefit: Rates

Affordable Child Care Benefit rates are based on the type of child care provided.

- [Learn more about the different types of child care in B.C.](#)

Licensed Child Care

| Group child care / multi-age child care | Maximum monthly funding |
|---|--------------------------------|
| Children under 19 months | \$1,250 |
| Children 19 months and over but under 37 months | \$1,060 |
| Children 37 months and over but who have not reached school age | \$550 |
| Children of school age | \$415 |
| Family child care / in-home multi-age child care | |
| Children under 19 months | \$1,000 |
| Children 19 months and over but under 37 months | \$1,000 |
| Children 37 months and over but who have not reached school age | \$550 |

| Group child care / multi-age child care | Maximum monthly funding |
|---|--------------------------------|
| Children of school age | \$415 |
| Other | |
| Preschool (children 30 months and over but who have not reached school age) | \$225 |
| Care surrounding school day (children of school age) | \$210 |

Registered Licence-Not-Required Child Care

| Child care provided in a registered licence-not-required setting | Maximum monthly funding |
|---|--------------------------------|
| Children under 19 months | \$600 |
| Children 19 months and over but under 37 months | \$600 |
| Children 37 months and over but who have not reached school age | \$550 |
| Children of school age | \$415 |
| Care surrounding school day (children of school age) | \$210 |

Licence-Not-Required Child Care

| Child care provided in an unlicensed (licence-not-required) setting | Maximum monthly funding |
|--|--------------------------------|
| Children under 19 months | \$438 |
| Children 19 months and over but under 37 months | \$404 |
| Children 37 months and over | \$354 |
| Care surrounding school day (children of school age) | \$210 |

In-Child's-Own-Home Care

| Child care provided in a child's own home | Maximum monthly funding |
|--|--------------------------------|
| First child under 19 months | \$394 |
| First child 19 months and over | \$318 |
| Second child under 19 months | \$198 |

| Child care provided in a child's own home | Maximum monthly funding |
|--|--------------------------------|
| <ul style="list-style-type: none">• First child of school age receiving care before or after school care if another child in the family, who has not reached school age, is also in care in the home• Second child, unless the child is under 19 months, whether or not receiving care surrounding school day• Each additional child, whether or not receiving care surrounding school day | \$147 |
| Care surrounding school day: First child of school age unless another child in the family, who has not reached school age, is also in care in the home | \$210 |



BRITISH COLUMBIA

Ministry of Children
and
Family Development

Summary of Youth Agreement Eligibility

Youth's Name: _____

CS# _____

Completed by: _____ Date: _____

This checklist is intended to assist with summarizing Youth Agreement eligibility within for a given youth as prescribed under CF&CS Act section 12.2 and Regulations section 8.1 as laid out in Standard #7 of the *Standards for Youth Support Services and Agreements*. One "YES" within each of the following six (6) criteria would indicate that Youth Agreement eligibility has been met and a Youth Agreement may be in the youth's best interests.

| Criteria | Description: | YES | NO |
|--|---|--------------------------|--------------------------|
| #1 Age & Status | a) The youth is 16 years of age or over, but under 19 years of age. b) The youth is younger than 16 years of age, and i) the youth is married (but not living with spouse). ii) the youth is a parent or expecting to be a parent. | <input type="checkbox"/> | <input type="checkbox"/> |
| #2 Need for Out-of-Home Service Plan | The youth: a) is affected by a significant adverse condition: i) severe substance abuse. ii) a significant behavioural or mental disorder. iii) sexual exploitation or involved in the sex trade. iv) chronic homelessness. v) other (specify): _____ b) is in the care of the director under a temporary order or agreement that is about to expire and it would be in the best interests of the youth if an YA were in place following expiry of the order or agreement. c) is or likely to be in need of protection as described in section 13 of the Act and a Youth Agreement would be a safe and effective alternative to action under Part 3 of the Act. | <input type="checkbox"/> | <input type="checkbox"/> |
| #3 No Family or Adult to Assist | The youth cannot be re-established in the youth's family or has no parent or other person willing or able to assist them, and reasonable efforts to support the youth in the home of the youth's parent or other adult person have been unsuccessful. | <input type="checkbox"/> | <input type="checkbox"/> |
| #4 Need Wrap-Around Supports of YA | The youth requires the additional services and supports of a Youth Agreement beyond that which is available through other sources (e.g., private means) and government programs (e.g., underage income assistance). | <input type="checkbox"/> | <input type="checkbox"/> |
| #5 Demonstrated Understanding | The youth understands the responsibilities and implications of entering into the agreement. | <input type="checkbox"/> | <input type="checkbox"/> |
| #6 Ability & Readiness | With all of the following, the youth demonstrates ability and readiness to: ⇒ engage in supported independent living; ⇒ implement a Plan for Independence; and ⇒ address and manage risks that may affect the youth's safety and well-being. | <input type="checkbox"/> | <input type="checkbox"/> |
| OVERALL ELIGIBILITY | Youth is eligible for a Youth Agreement (a "YES" for each of six criteria above) | YES | NO |

Youth and Young Adults Cost Estimate Guide

* Please note that this guide portrays the average costs to be considered by youth and young adult service staff in planning.

Service Lines

Agreements with Young Adults (AYA)* 14241

Youth Agreements (YA) – 14233

Independent Living for CICs (IL) – 14653

Approval level: Team Leader (AYA)

| Service Description | Cost Estimate | Service Line | STOB |
|-------------------------|--|---|------|
| Basic Shelter | \$500-\$950/mo | YA /IL /AYA | 7920 |
| Security Deposit | \$250-\$350 | YA (2x only) IL (2x only) AYA (1x only) | 1295 |
| Telephone | \$25-\$50/mo | YA /IL /AYA | 7958 |
| Hydro & Other Utilities | \$100/mo | YA /IL /AYA | 7959 |
| Basic Support | Up to a maximum of \$533/mo for an individual Up to a maximum of \$750/mo for those with dependents | YA /IL /AYA | 7918 |
| Diet Allowances | \$300/mo | YA /IL /AYA | 7982 |
| Clothing | \$73/mo | YA /IL /AYA | 7919 |
| Local Transportation | \$350/mo Or bus pass cost | YA /IL /AYA | 7983 |
| Educational Fees** | \$5500 (1x/school year August - August) | YA /IL AYA – YAGs only (to use if YEAF is not available to the youth) | 7965 |

Approval level: Director of Operations (AYA)

| Service Description | Cost Estimate | Service Line | STOB |
|---|---------------------------|--------------|------|
| Exceptional Medical Costs | \$750 | YA/IL | 7985 |
| Babysitting/Childcare (For dependants of Young Adult) | TBD | AYA | 7957 |
| Discretionary Fees | \$550 | YA /IL /AYA | 7956 |
| Start-Up Costs | \$500-\$1000 (1x only) | YA /IL /AYA | 7931 |
| Other Transportation/Travel | \$500 (1x only) | YA /IL /AYA | 7924 |

*Up to \$1250 for AYA in a combination of above potential costs

**Educational costs \$5500 – CCO from YEAF, not from AYA budget

Costs above the cost estimate maximum are to be approved by a Director of Operations.

AGREEMENTS WITH YOUNG ADULTS

WHAT?

The Agreements with Young Adults (AYA) program is for former youth in care. It provides financial support for you to finish high school, go to college or university, or take a rehabilitation program or life skills program.

WHO?

1. You had one of the following care statuses on your 19th birthday:

- Continuing Custody Order (CCO)
- Youth Agreement
- In the process of adoption (Infants Act)

2. You are doing at least one of the following:

- Finishing high school
- Enrolled in college or university
- Completing a rehabilitation program
- Completing a Life Skills Program

AGE?

27th!

19 up to your 26th birthday!

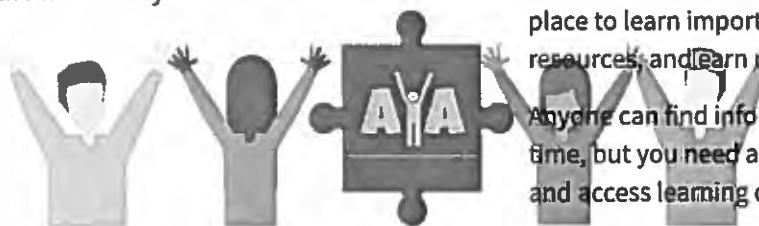
WHAT'S CHANGING?

Effective April 1, 2018, the AYA Program will be expanded!

- The age limit for eligibility will increase from your 26th birthday to your 27th birthday.
- If you are enrolled in multi-year educational or vocational programs you may access AYA funding over scheduled program breaks, such as summer months, if you plan to attend the program after the break, up to a maximum of 48 months.
- The maximum monthly funding for needs-based supports has been increased from \$1,000 to \$1,250 – you may be eligible to receive up to \$250 per month of additional funding.

HOW?

Talk to a social worker at your local MCFD office!



Well, hello there!

Welcome to AgedOut.com. You're in the right place to learn important life skills find helpful resources, and earn rewards.

Anyone can find info on AgedOut.com at any time, but you need an account to earn badges and access learning quests.

[LOG IN \(/USER/LOGIN\)](#)

[SIGN UP \(/USER/REGISTER\)](#)

Provincial Tuition Waiver Program

Student FAQs

Statement of Intent:

The aim of the Provincial Tuition Waiver Program (PTWP) is to improve access, services and educational outcomes for former youth in care by waiving tuition fees starting in September 2017.

Tuition fees are defined as all tuition and mandatory fees a student must pay an institution in order to successfully complete the program/courses they are enrolled in.

The intent of the PTWP is to be inclusive. If an individual falls outside of the following eligibility criteria, the Ministry of Advanced Education, Skills and Training (AEST) will consider exceptions on an individual basis.

Eligibility Criteria

You are eligible for the PTWP if you:

- Are a B.C. student 19-26 years old (inclusive) attending a B.C. public post-secondary institution or an approved union trades training provider.
 - Were formerly in a B.C. Ministry of Children and Family Development (MCFD) category of care for at least 24 months (consecutive or accumulated) – see [detailed summary of eligible categories of care on page 2](#).
- Or**
- Were formerly in the Ministry of Social Development and Poverty Reduction program Child in Home of Relative.

Not eligible for the PTWP or for an appeal:

- Students claiming tuition fee reimbursements from the previous fiscal year¹.
- Are 27 or older when you sign the waiver consent form.
- Have spent less than 24 total months in care.
- Student in Masters, PhD or post-graduate courses or programs.

If you do not meet the eligibility criteria:

- If you do not meet the eligibility criteria, and you are not in either of the “not eligible” categories, you may submit a request to the System Navigator (tuitionwaiver@gov.bc.ca) for consideration.
- The Navigator is a system liaison, connecting government, institutions, students and stakeholders around tuition waivers for former youth in care.

Step-by-Step – What you need to do to participate:

1. Complete institution application and self-identify as former youth in care meeting the PTWP eligibility.
2. Complete the consent form to disclose information and verify identity through your signature. This consent allows your institution to validate your eligibility with MCFD.

¹ The Ministry fiscal year runs from April 01 to March 31 of each year.

Provincial Tuition Waiver Program

3. Your institution will request validation of student eligibility from MCFD through AEST. See attached validation process information.
4. Your institution will admit you to your program of study without collecting tuition fees once you have met the admission requirements and if there is space in your program of choice. If you have already been verified and paid your fees for this current study period, your fees will be reimbursed. Application fees for the institution you are attending can be included in this amount.

Eligible Categories of Care

You are eligible for the PTWP if:

You are a B.C. student 19-26 years old (inclusive) attending a B.C. public post-secondary institution or one of the 10 union trades training providers

and

You have received care² from MCFD or a Delegated Aboriginal Agency (DAA) through the *Child, Family and Community Service Act* for a minimum of twenty-four months (consecutive or accumulated) in any, or a combination, of the following categories:

- Continuing Custody Order pursuant to sections 41 (1) (d), 42.2 (4) (d) or (7) or 49 (4), (5) or 10 (a) of the Act
 - *A protective order in which the court has assigned permanent custody of the child to the Director of Child Welfare (the Director).*
- Temporary Custody Order
 - *A protective order in which the court has assigned custody of the child to the Director on a temporary basis.*
- Special Needs Agreement pursuant to section 7 of the Act
 - *A parent of a child with special needs may voluntarily and temporarily agree to place the child in the care of the Director.*
- Voluntary Care Agreement pursuant to section 6 of the Act
 - *A parent voluntarily and temporarily places the child in the care of the Director*
- Youth Agreement pursuant to section 12.2 of the Act
 - *The Director enters into an agreement with a youth (ages 16 – 19) who needs assistance to live independently and cannot be re-established with family.*
- Extended Family Plan pursuant to section 8 of the Act
 - *A parent voluntarily and temporarily places the child in the care of an adult who has an established familial, relational, or cultural connection to the child.*
- Permanent Transfer of Custody Order pursuant to section 54.01 or 54.1 of the Act
 - *An order in which the court permanently transfers custody to another (non-parent) family member or another adult with an established relational or cultural connection to the child.*
- Temporary Transfer of Custody pursuant to section 41(1)(b) of the Act

² Includes both in care and out of care arrangements.

Provincial Tuition Waiver Program

- *A protective order in which the court temporarily places the child in the custody of an adult who has an established familial, relational, or cultural connection to the child.*
- **Interim Custody of Care** pursuant to section 36(1) of the Act
 - As a result of an order made under one of the following sections of the *Child, Family and Community Service Act*: 35(2)(d), 41(1)(b), 42.1(6)(b), 42.2(4)(a), 42.2(4)(c), 49(7)(b)

Students who fall under the program **Child in Home of Relative**, which is administered by the Ministry of Social Development and Poverty Reduction, need to contact the System Navigator at tuitionwaiver@gov.bc.ca.

Student FAQs

Q1. How do I know if I qualify?

You will be asked to complete a consent form to disclose information and verify identity through your signature. A completed consent form provides the institution permission to verify your eligibility. The institution will submit your completed consent form to AEST for verification from MCFD. The verification process can vary from a couple of days to up to four weeks depending on the complexity of your records search.

Q2. For the current school year, some students have already paid. What happens for them?

If you have already paid tuition and mandatory fees and are eligible for the PTWP, you will be reimbursed by your institution. See **Q10: Can I claim a waiver retroactively?**

Q3. What are tuition fees and what is covered?

Tuition fees are all tuition and mandatory fees you pay your institution in order to successfully complete the program/courses you are enrolled in. Starting July, 01 2018, students that are qualified for the PTWP can also be reimbursed their application fees.

There are other government programs that can assist with other costs associated with post-secondary education. See the financial aid department at your institution for more information.

Q4. Can I still access other/existing programs?

The PTWP serves the specific purpose of waiving tuition fees for former youth in care and is not intended to replace existing programs. Other programs that help offset educational costs for former youth in care will continue. Contact your institution's financial aid department to determine eligibility for other programs and bursaries.

Q5. What if I am already receiving funding through another program (e.g., YEAF or AYA), am I still eligible for a tuition waiver?

Yes.

Q6. Where can I find information about the PTWP?

Information will be available on Agedout.com as well as government websites such as AEST, MCFD, and DAA websites.

Q7. Tuition is just one piece. What other supports are available?

Provincial Tuition Waiver Program

Students who were formerly in care represent a wide spectrum of the population. In many cases, these students will require additional supports and a dedicated point of contact. These supports will be considered for the 2018/19 school year.

Your government will engage with stakeholders, including institutions and students, to determine what these supports might look like and how they could be implemented.

Many institutions have various supports in place already. Please contact your financial aid office.

Q8. Does the PTWP also apply to private institutions?

No. The PTWP applies only to B.C. public post-secondary institutions, Native Education College and union trades training providers. A list of all public post-secondary institutions can be found at: <http://www2.gov.bc.ca/gov/content/education-training/post-secondary-education/find-a-program-or-institution/find-an-institution>

Q9. What happens if I have to drop out after having my tuition fees reimbursed?

You will be reimbursed by your institution upon verification of eligibility by AEST. If you have to drop out after the course/program drop date, you are not required to repay tuition.

Q10. Can I claim a waiver retroactively?

Students may claim reimbursement for tuition paid at any time during the current fiscal year. The one exception will be those institutions that require early application deadlines i.e. January application deadlines for September intakes.

Q11. What about part-time students?

The PTWP applies to part-time students as long as you remain enrolled beyond your institution's drop date for each study period.

Q12. Is successful completion a determinant of whether or not a tuition waiver is issued?

The PTWP applies as long as you are still enrolled in a course or program beyond the drop date for each study period.

Q13. What are the limits on the type of programs (e.g., can students get tuition waived for a masters or medical degree)?

The PTWP does not apply to Masters, PhD or post-graduate courses or programs. It does not apply to any Adult Basic Education programs and/or fees whatsoever.

Unlike StudentAid, there is no income test to be eligible. The PTWP will cover a wide range of study programs outlined below and there is no minimum course duration, course load, or maximum tuition fee coverage.

- Credit and non-credit courses leading to a certificate, diploma, credential or undergraduate degree. Dual degrees, except for those that are undergraduate and post-graduate in nature, also fall into this category.
- Courses taken during unclassified qualifying years, non-credit-based trades programs and continuing education programs eligible for student financial assistance.
- Apprenticeship training.

Provincial Tuition Waiver Program

- Any non-credit courses associated with lifelong learning or competencies related to the labour market.

Provincial Tuition Waiver Program 2017/18

Institution FAQs

Eligibility Criteria

Tuition for former youth in care will be waived for B.C. students who are between 19 - 26 years of age (inclusive), attending a BC public post-secondary institution(s) and who meet the following criteria:

- Have received care¹ from the ministry or a Delegated Aboriginal Agency (DAA) through the *Child, Family and Community Service Act* for a minimum of twenty-four months (consecutive or accumulated) in any, or a combination, of the following categories:
 - Continuing Custody Order pursuant to sections 41 (1) (d), 42.2 (4) (d) or (7) or 49 (4), (5) or 10 (a) of the Act
 - *A protective order in which the court has assigned permanent custody of the child to the Director of Child Welfare (the Director).*
 - Temporary Custody Order
 - *A protective order in which the court has assigned custody of the child to the Director on a temporary basis.*
 - Special Needs Agreement pursuant to section 7 of the Act
 - *A parent of a child with special needs may voluntarily and temporarily agree to place the child in the care of the Director.*
 - Voluntary Care Agreement pursuant to section 6 of the Act
 - *A parent voluntarily and temporarily places the child in the care of the Director*
 - Youth Agreement pursuant to section 12.2 of the Act
 - *The Director enters into an agreement with a youth (ages 16 – 19) who needs assistance to live independently and cannot be re-established with family.*
 - Extended Family Plan pursuant to section 8 of the Act
 - *A parent voluntarily and temporarily places the child in the care of an adult who has an established familial, relational, or cultural connection to the child.*
 - Permanent Transfer of Custody Order pursuant to section 54.01 or 54.1 of the Act
 - *An order in which the court permanently transfers custody to another (non-parent) family member or another adult with an established relational or cultural connection to the child.*
 - Temporary Transfer of Custody pursuant to section 41(1)(b) of the Act
 - *A protective order in which the court temporarily places the child in the custody of an adult who has an established familial, relational, or cultural connection to the child.*

The intent is to take an inclusive approach. If an individual falls outside of the above eligibility criteria, government will consider exceptions on an individual basis.

Further program enhancements and alignment will be considered in phase 2, including scope and eligibility.

¹ Includes both in care and out of care arrangements.

Provincial Tuition Waiver Program 2017/18

Institution FAQs

Step-by-Step Provincial Tuition Waiver Program (the Program):

1. Student completes institution application and self-identifies as former youth in care meeting the Program eligibility (Starting in January 2018. For September 2017, go to Step 2).
2. Institution asks student to complete consent form to disclose information and verifies identity through student signature. Consent allows institution to validate eligibility with the Ministry of Children and Family Development (MCFD).
3. Institution requests validation of student eligibility from MCFD by submitting consent form through the MCFD validation process. See attached validation process information.
4. Institution admits student to study program without collecting tuition fees. See Q4 for definition of tuition fees.
 - a. If student has already been verified and paid fees, reimburse tuition fees and proceed to next step.
5. Institution collects list of students receiving tuition waivers including name, Personal Education Number (PEN) if available, study program and tuition amount, as well as copies of MCFD signed validation letters. See Q3 for more details.
6. Institution submits list of students receiving tuition waivers, including the other details mentioned above, to the Ministry of Advanced Education, Skills and Training (AEST) at tuitionwaiver@gov.bc.ca after drop dates have passed and enrollment is confirmed.
7. AEST provides institutions grants to offset tuition waiver costs three times per year (November, March and July).
8. Where an individual falls outside the eligibility criteria, but wishes to be considered, the individual or the institution can submit a request to the System Navigator for consideration. See Q11 for more details.

Statement of Intent:

The aim of the Program is to improve access, services and educational outcomes for former youth in care by waiving tuition fees starting in September 2017, and providing comprehensive supports starting 2018/19. Establishing broad program eligibility criteria ensures greater access and inclusivity:

- B.C. students 19-26 years old (inclusive).
- Attending a B.C. public post-secondary institution.
- Formerly in any B.C. MCFD category of care (except interim care) for at least 24 months (consecutive or accumulated).
- Individuals outside the eligibility criteria will be considered on a case by case basis.

Tuition fees are defined as all tuition and mandatory fees charged to the student by the institution that are required to be paid in order for the student to successfully complete the program/courses they are enrolled in.

Provincial Tuition Waiver Program 2017/18

Institution FAQs

Q1. How can an institution verify if a student was formerly in care of MCFD or Delegated Aboriginal Agency?

For September 2017, students who have heard about the program will likely approach the institution to inquire if they are eligible. The institution may choose to communicate/advertise this option for students.

Once a student claims to be eligible, institution staff will ask students to complete the attached consent form to disclose information and verify identity through student signature. A completed consent form provides the institution permission to verify student eligibility with MCFD. The institution will submit the completed student consent forms to MCFD. Please see attached validation process information. The timelines for the verification process can vary from a couple of days to up to four weeks depending on the complexity of the records search.

For the future, institutions may want to consider changes to institution application forms and admissions processes to encourage students to self-identify.

Q2. For the current school year, some students have already paid. What happens for them?

Students who have already paid tuition fees for 2017/18, but are eligible for the Program, need to be reimbursed by their institution. See the Step-by-Step Provincial Tuition Waiver Program section above for details.

Q3. Where will institutions get the money to fund this program?

AEST will provide institutions with grants in November, March and July to offset tuition waiver costs. To receive their grants, institutions will provide AEST the number of students, their names and Personal Education Numbers (PEN) if available, the program in which they are enrolled, and their total tuition fee costs, as well as copies of the MCFD signed validation letters for each student.

Q4. How are tuition fees to be defined for the purposes of the Provincial Tuition Waiver Program?

Tuition fees are all tuition and mandatory fees charged to the student by the institution which are required to be paid in order for the student to successfully complete the program/courses they are enrolled in. There are other government programs that can assist with other costs associated with post-secondary education.

Q5. How does this impact other existing programs and processes?

The Program serves the specific purpose of waiving tuition fees for former youth in care and is not intended to replace existing programs. Other programs that help offset educational costs for former youth in care will continue. Program alignment will be considered as part of Phase 2 of implementation for 2018/19. Any changes will be communicated to institutions and students prior to 2018/19 school year. Please note that the Program eligibility criteria are unique to the Program and do not apply to other government programs for former youth in care.

Q6. What if the applicant is already receiving funding through another program, e.g. YEAF or AYA, are they still eligible for a tuition waiver?

Yes. Program alignment will be considered and any gaps or overlaps will be addressed in Phase 2 of the Program.

Provincial Tuition Waiver Program 2017/18

Institution FAQs

Q7. How will the message be spread to all students who potentially qualify?

Information will be available on Agedout.com as well as Government websites. Current system support organizations and individuals as well as other stakeholders who work with youth and former youth in care will raise awareness at their point of contact with potential students. Program uptake is expected to increase in subsequent school years as awareness spreads. Institutions may also raise awareness through their websites and on-campus communications.

Q8. Tuition is just one piece. What about other supports for former youth in care?

Students who were formerly in care represent a wide spectrum of the population. In many cases, these students will require additional supports and a dedicated point of contact.

Wrap-around supports for tuition waiver students, e.g., housing, child-care, and a single point of contact, will be considered in Phase 2 of this project for the 2018/19 school year. Government will engage with stakeholders, including institutions and students, to determine what these supports might look like and how they could be implemented.

Many institutions have various supports in place already.

Q9. Does the program also apply to private institutions?

The Program applies to B.C. public post-secondary institutions.

Q10. What happens if a student drops out after having their tuition fees reimbursed?

Student will be reimbursed by institutions on verification of eligibility by MCFD. Institutions will collect enrolment figures under tuition waivers and submit their information to AEST after course/program drop dates. AEST will provide institutions grants to offset tuition waiver costs three times per year in November, March and July. If a student drops out after the course/program drop date they are not required to repay tuition.

Q11. Can students claim a waiver retroactively?

The Program is effective as of September 1, 2017. Students will not be able to claim tuition fee reimbursements for study periods prior to September 1, 2017. For September 2017 and beyond, students may claim reimbursement at any time during the study period (a study period is defined as the first day of classes to the final class or exam, whichever is later).

If a student has paid for September 2017 enrolment, or in the case of some trades programs, August 2017 enrolment, the Program applies and their tuition fees will be reimbursed.

For cases where an individual falls outside of the eligibility criteria but wishes to make a case to be considered, the individual or the institution can submit a request to the System Navigator for consideration. The Navigator will be a system liaison, connecting government, institutions, students and stakeholders around tuition waivers for former youth in care. This individual will be introduced to the sector on September 5, 2017.

Q12. What about part-time students?

The Program applies to part-time students as long as they remain enrolled beyond the drop date for each study period.

Provincial Tuition Waiver Program 2017/18

Institution FAQs

Q13. Is successful completion a determinant of whether or not a tuition waiver is issued?

The Program applies as long as a student is still enrolled in a course or program beyond the drop date for each study period.

Q14. What are the limits on the type of programs e.g. can students get tuition waived for a masters or medical degree?

The Program applies to the wide range of study programs outlined below. There is no minimum course duration, course load, or maximum tuition fee coverage.

- Credit and non-credit courses leading to a certificate, diploma, credential or undergraduate degree.
- Courses taken during unclassified qualifying years, non-credit-based trades programs and continuing education programs eligible for student financial assistance.
- Apprenticeship training.
- Any non-credit courses associated with lifelong learning or competencies related to the labour market.

The Program does not apply to graduate or post-graduate courses or programs.



THURSDAY, OCTOBER 18, 2018 – DAY 3

No Materials/Materials at session

Child protection: Effective advocacy: Chandan Sabharwal - lawyer, Sabharwal Law
An overview of how best to support parents and communicate with the Ministry.

Demystifying FMEP

The Maintenance Enforcement and Locate Services Programs

- **The Family Maintenance Enforcement Program (FMEP)** is a free and voluntary service that assists families entitled to support by monitoring and enforcing maintenance orders and agreements that are filed with it.
- **The Locate Services Program** conducts searches to find a person's location, assets, employment, and sources of income in order to obtain, change, or enforce orders or agreements concerning maintenance and child care matters.
- **The Interjurisdictional Support Services** ensures the smooth flow of support application and maintenance orders between reciprocating jurisdictions, BC courts, and FMEP.
- **Child Support Recalculation Service** reviews child support orders originating in the Kelowna Family Court to ensure the support order is still appropriate given the payor's income.

Service Snapshot (as of July 31, 2018)



$$130,000 = 38,000$$

children, recipients
and payors

Program Funding vs Support Collected

\$ 1 : \$12.74

1,338
Calls per day

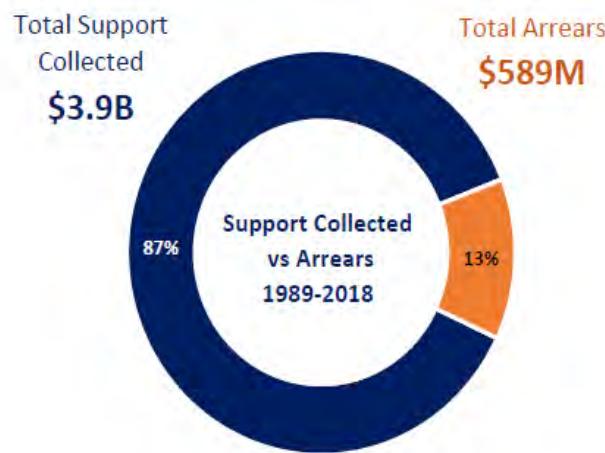
40,300+

Calls per day

Support Payments Processed per Month

120,000+

Web Visits per Month



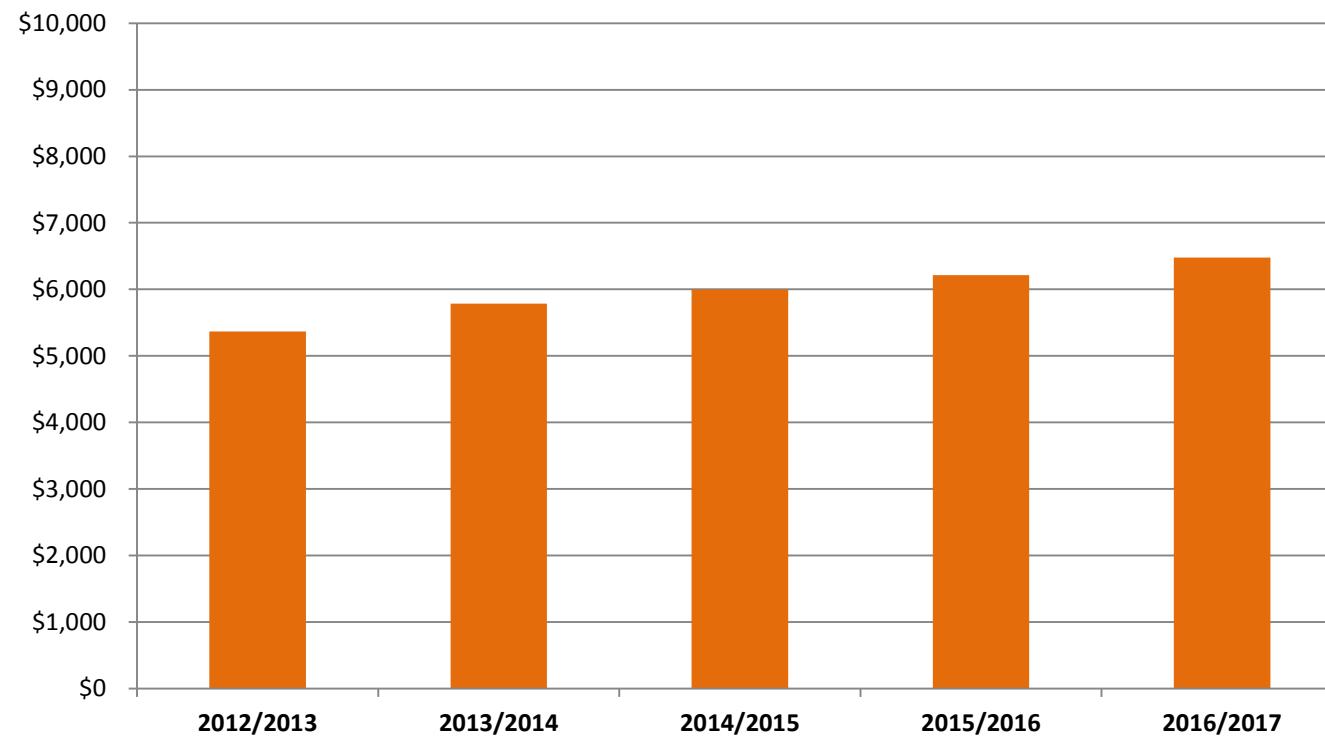
Enforcements in place or underway include:

- **12,800+** Federal license suspensions (e.g. passport)
 - **13,900+** Personal property or land liens
 - **106,000+** Federal payments garnished (e.g. tax refund, EI)
 - **10,000+** Driver's license or motor vehicle plate suspensions (at any given time)

FMEP collected \$213.9M in 2017-2018
= \$6,500
Collected per family



Average Amount Collected per case



What We Can Do For:

Recipients

- Monitor the file to ensure they are receiving ordered/agreed upon amount
- Enforce and recover funds when payors avoid paying
- Provide an accounting service to track payments
- Provide a confidential method of receiving support to avoid the exchange of personal information
- Provide up to date info on the file 24/7

Payors

- Monitor the file to ensure they are paying the correct amount
- Provide an accounting service which offers proof of payment
- Provide a confidential method of making payments to avoid the exchange of personal information
- Provide up to date info on the file 24/7

What We Can't Do:

- Vary an order
- Cancel or reduce arrears
- Settle disputes between parties
- Recover funds where there aren't any (or can we?)

ABOUT THE PROGRAM

FMEP is a free service of the BC Ministry of Justice helping families and children entitled to support under a maintenance order or agreement.

[Learn More](#)

SIGN IN TO YOUR WEB ACCOUNT

Select Sign In to access or create your FMEP web account.

[Sign In](#)

Receiving Maintenance

- Getting payments by direct deposit
- One parent lives outside BC
- Special or extraordinary expenses
- Obtaining a court order

Paying Maintenance

- Sending payments using online banking
- Late or missed payments
- Children over 19
- Changing a court order

Enforcement Actions

- Federal Interception
- Driver's Licence Withhold
- Credit Reporting
- See all enforcement actions

Not enrolled yet?

| | |
|--|-------------------------|
| Personal Details: | |
| First Name (Last Name): | Last Name (First Name): |
| Date of Birth: | Age: |
| Address for Correspondence: | |
| Residential Address (if different from above): | |
| Telephone Number: | |
| E-mail Address: | |

A pen is shown pointing at the form.

Received a Notice of Attachment?

- What is a NOA
- Making NOA deductions
- Sending NOA payments
- Sign in and use the NOA calculator

What's New

Optimized design for smart phones & tablets
December 12, 2016

Changes to My Account
September 15, 2016

Life of A File

Recipient and Payor

Rachael and Patrick

- Rachael and Patrick have been separated for two years. They have two children, ages 5 and 8. The children live with Rachael. Patrick was employed when they separated but has recently lost his job. Although the parties were on good terms when they separated there is currently minimal contact between Rachael and Patrick and he does not see the children.
- Rachael applied to court for a child support order soon after separating. Support was ordered one year ago but payments have been sporadic.
- Special expenses include after school care, hockey for one child and ballet for the other.

It All Starts With An Order

- Obtain an order/agreement
- Enroll with FMEP
 - Who?
 - When?
 - What is Required? (filing kit, list of payments, contact info)
 - Options? (direct deposit, web account)

Rachael submits her filing kit. She does not have contact information for Patrick but provides identifying info.

FMEP submits a search request to Locate Services and an address is found for Patrick.



Home > Enrol & Get Started

Who Can Enrol

How to Enrol

Getting Started with the Program

Withdrawing from the Program

ENROL & GET STARTED

Some people enrol with us because they aren't getting their maintenance payments, while others enrol simply because it's easier to have us collect and track their payments.

To enrol:

1. Ensure you have a valid maintenance order or agreement filed in a BC court.
2. Complete and mail in an [enrolment application](#).
3. Create a FMEP web account.

If you have any difficulty completing the forms, [contact us](#), we'd be glad to help.

Payor living outside BC?

We have agreements with all Canadian provinces, the US and several other countries who can take action on our behalf. [Find out more](#)

Children over 19



Special or Extraordinary Expenses



Who can enrol



Anyone with a maintenance order or agreement filed in a BC court can enrol in FMEP at no cost. Either the recipient or payor can enrol.

[Learn More](#)

How to enrol

- Obtaining an order
- Getting an application
- After sending an application

Withdrawning from the Program

The recipient can withdraw at any time. We just need a request in writing.

[Learn More](#)

Just received a Notice of Filing?

Find out how to [get started with the Program](#) and the best ways to get information about your case.

Glossary of Terms

[View All](#)

Agreement

Maintenance Order

Notice of Filing

Payor

Recipient

- FMEP sends notice of filing to both Patrick and Rachael. This includes information regarding how to make and receive payments through FMEP, case and PIN numbers and how to establish a web account.
- Patrick disputes the list of payments as supplied by Rachael. FMEP advises Patrick in order to further review the information as provided by Rachael, proof of payment is required.

- FMEP advises Patrick of how much he owes in arrears and his monthly support amount as stated in the order
- Patrick states he cannot pay the amount as ordered as his income has changed, he is now receiving EI.
- FMEP is not able to vary the order and advises Patrick he will need to apply to court for a new order or obtain a new written agreement with Rachael.

- [Payments](#)
- [Enforcement Actions](#)
- [Changing a Court Order](#)
- [Out of Province Orders](#)

PAYING OR RECEIVING MAINTENANCE

Once a case is enrolled in FMEP the payor is required to send all payments to us, rather than directly to the recipient. This ensures we keep accurate and up-to-date payment records. We record the payments as being made and then forward them on to the recipient, usually the same day.

We encourage the payor to send payments to us electronically and the recipient to receive payments by direct deposit. These are the fastest, most secure ways for payments to be made and disbursed.

If payments are late or missed, [interest and default fees](#) can be charged.

We can also take various [enforcement actions](#) against the payor to collect the maintenance.

Payments

- [Reporting a direct payment](#)
- [Work out a Voluntary Payment Arrangement](#)
- [Direct Deposit](#)
- [Online Banking](#)

[See all payment options](#)

Need to increase or decrease maintenance?

- [Change your maintenance order or agreement](#)
- [Get legal help](#)

Enforcement Actions

FMEP can take various actions against the payor to collect the maintenance if payments are not made.

[Find Out More](#)

Children over 19

Maintenance can continue past age 19 if the child remains dependent on the recipient.

[Learn More](#)

Payor living outside BC?

We have agreements with all Canadian provinces, the US and several other countries who can take action on our behalf.

[Learn More](#)

Special or Extraordinary Expenses

We can collect a child's expenses in addition to child support. [Read more](#)

Sending payments for a NOA?



Just enrolled?

Learn about getting started with the Program and the easiest ways to get information about your case.

[Learn More](#)

About the Program



Glossary of Terms

[View All](#)

Default Fee

Special or Extraordinary Expenses

Voluntary Payment Arrangement

Three Possible Scenarios

Scenario One

- Patrick pays his support as ordered. He may or may not apply to court to reduce the amount he is to pay each month. Patrick pays what he owes in arrears in one lump sum his first month.
- Rachael has signed up for direct deposit and receives her support at the beginning of the month. She is able to monitor the payments on her web account.

Scenario Two

- Patrick pays his monthly amount but is not able to pay his arrears. Patrick provides his expense and income information to FMEP in order to establish a voluntary payment arrangement to deal with his arrears.
- He follows his voluntary payment arrangement and over a series of months pays off his arrears.

Scenario Three

- Patrick does not pay his monthly amount or arrears. The Enforcement Officer may attempt to communicate with Patrick and determine what the challenges are.
- FMEP begins enforcement action. A percentage of his Employment Insurance is garnished; funds that he would be receiving as a tax refund are also intercepted.
- Eventually Patrick's arrears exceed \$3000 and he is not able to renew his driver's licence or obtain a passport.
- Patrick is charged interest on his arrears and a default fee of \$400 for missed payments (collected only after support has been paid to Rachael).

Enforcement Tools

We looks at each case individually. The action or actions we choose will depend on the payor's history, how much money the payor owes, and what we know about the payor's current situation. We choose enforcement actions we think will have the best chance of success.

If the payor falls into arrears federal and provincial laws give us the authority to take a number of actions, such as:

- Notice of Attachment
- Federal Interception
- Driver's Licence Withholding
- Federal Licence and Passport Denial

Making NOA Deductions

Sending NOA Payments

NOTICES OF ATTACHMENT

What Is a NOA

A Notice of Attachment (NOA) is issued when the payor is behind on his or her maintenance payments. Sometimes called a garnishment, the attachment requires anyone who owes the payor money to pay all or a portion of the money to FMEP.

We can attach income from one or more sources, including:

- wages, salaries and/or commissions
- pensions and workers' compensation benefits
- long- or short-term disability payments
- rental income
- bank accounts
- ICBC claims

The attachee is required to respond to the Notice of Attachment and send payments to FMEP for the recipient.

The Notice of Attachment can remain in place for 5 years and will be renewed if the payor is still behind in his or her maintenance payments.

What are an Attachee's obligations

An Attachee must:

- Respond within 10 days by completing:
 1. Response by Attachee form, and
 2. Wage Information form, if the payor is an employee.
- Calculate and deduct payments from money owing to the payor.
- Send payments to FMEP within 5 days after deduction.
- Contact FMEP to let us know if payments will stop.

About the Program



Need help with a NOA deduction?

[Sign in](#) and use the NOA calculator or [contact us](#)

Don't have a FMEP web account yet?

To access a FMEP case on our website an attachee will need to have a web account. [Create a web account now](#)

Glossary of Terms

[View All](#)

[Attachee](#)

[Attachment](#)

[Payor](#)

[Recipient](#)

Change in Circumstances/Challenges

- Section 7 special expenses
- Income Changes
- Multiple Families
- One party moves to another jurisdiction
- Child is over the age of majority

[Back to My Account](#)

Home > My Account > 889966

My Case [Payments](#) [Messages](#) [Request a Callback](#)**Profile** [Account Settings](#) [Address & Phone Number](#) [Direct Deposit](#)**Account Tools** [Add a Case](#) [Request Forms](#)

CASE #889966

SIX SIXTH FROM TEST (#889966)

Payor

SIX SIXTH FROM TEST

Case Status

We're keeping a record of all payments made and owing, and will take enforcement action if necessary.

This case is being managed by

Nancy Curtis
Victoria Client Office

Payments

[Report Payment](#)

| Received | Amount | Received on | Status |
|----------|------------|--------------|--|
| | \$1500.00 | Jul 21, 2016 | Payment Received |
| Due | Amount Due | Due Date | Status |
| | \$275.00 | Sep 1, 2016 | Late Payment 1 |
| | \$275.00 | Sep 15, 2016 | Next Payment |
| | \$275.00 | Sep 29, 2016 | Upcoming |
| | \$275.00 | Oct 13, 2016 | Upcoming |

Account Balance \$17,910.55 DueBalance includes interest [View all transactions](#)

Message Centre

[Send a message](#)

Most recent messages

Inbox 1 unread / 1 messages

Date

[Dear Zero Zerond From Test, Thank you for the information, we've...](#)

Sep 13, 2016

► Enforcement Actions

▼ Enforcement Actions

In BC:

| Date | Status | Type View definitions | Details |
|--------------|-----------|--|---|
| Jul 27, 2016 | Withdrawn | Notice of Attachment | We have withdrawn the attachment. |
| Jul 27, 2016 | Inactive | Notice of Attachment | We are not expecting money from the attachment. It remains in place in case circumstances change. |
| Jul 27, 2016 | Active | Notice of Attachment | We are reviewing the case as either the payor or attachee is disagreeing with the attachment. |
| Jul 27, 2016 | Issued | Notice of Federal Interception | We issued an attachment to the federal government requiring the government to send us all or part of any money it may owe to the payor. |
| Jul 27, 2016 | Inactive | Notice of Attachment | We are not expecting money from the attachment. It remains in place in case circumstances change. |
| Jul 27, 2016 | Active | Notice of Attachment | The attachee is required to send us all or part of money they may owe to the payor. |
| Jul 27, 2016 | Inactive | Notice of Attachment | We are not expecting money from the attachment. It remains in place in case circumstances change. |
| Jul 27, 2016 | Active | Notice of Attachment | The attachee is required to send us all or part of money they may owe to the payor. |

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My Case**Payments**

- Transaction History
- Request a Statement
- Ways to Receive Payment
- Report a Direct Payment

Messages**Request a Callback****Profile****Account Settings****Address & Phone Number****Direct Deposit****Account Tools****Add a Case****Request Forms**

PAYMENT SUMMARY

SIX SIXTH FROM TEST (#889966)

Next Due
\$275.00 on Sep 15, 2016

Account Balance
\$17,910.55

Show me:

Arrears

Update Summary[View all transactions](#) [Print as PDF](#)

Arrears

From Jul 20, 2016 to Present, the total owing is \$17,910.55 which includes:

Arrears Summary

| | |
|----------------------------------|--------------------|
| Arrears from ongoing maintenance | \$17,840.00 |
| Interest on Arrears | \$70.55 |
| Subtotal | \$17,910.55 |

Total Owning **\$17,910.55**

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My Case**\$ Payments**

- Transaction History
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TRANSACTION HISTORY

SIX SIXTH FROM TEST (#889966)

Next Due

\$275.00 on Sep 15, 2016

Account Balance

\$17,910.55

Show me:

All Transactions

Last 3 months

Date Range

Period

Update History**Last 3 months:****Print as PDF**

| Date | Description | Due | Received |
|--------------|---|----------|------------|
| Sep 13, 2016 | Interest | \$15.88 | |
| Sep 1, 2016 | Ongoing maintenance | \$275.00 | |
| Aug 31, 2016 | Interest | \$54.67 | |
| Aug 18, 2016 | Ongoing maintenance | \$275.00 | |
| Aug 4, 2016 | Ongoing maintenance | \$275.00 | |
| Jul 21, 2016 | PAYMENT: Direct payment reported to Program | | \$1,500.00 |
| Jul 21, 2016 | Ongoing maintenance | \$275.00 | |

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SEND A MESSAGE

You have 30 minutes to enter your message before your session expires.

To: **FMEP**

Message: Here is the information on my son Tim

Remaining Characters: 3963

Attachments:

Attach Files

Or drag and drop files here

Acceptable file types: PDF, JPG, PNG, TIF, BMP
Attachments cannot exceed 10MB in total

Processing complete

The following file will be uploaded with this message:

| File | Size | |
|--|---------|-----------------------------|
| BCFMEP-Review-of-Child-Circumstances.pdf | 42.1 KB | Remove File |

Send[Cancel](#)

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My Case

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MESSAGE CENTRE

SIX SIXTH FROM TEST (#889966)

 [Move to Trash](#)

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From: **You** Sent on: Sep 13, 2016 02:22:16 PM

Here is the information on my son Tim

You attached this file to your message:

File

BCFMEP-Review-of-Child-Circumstances.pdf

From: **FMEP** Sent on: Sep 13, 2016 02:27:01 PM

Dear Zero Zerond From Test,

Thank you for the information. It has been forwarded on to the Enforcement Officer for review.

Family Maintenance Enforcement Program

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REQUEST A CALLBACK

If you want us to call you, enter a phone number where we can reach you between 9:00 am and 4:30 pm.

Telephone

ext

[Submit Request](#)

[Cancel](#)

What Are Some of the “Do’s”?

1. Communicate: Set the “rules of engagement” – what are the communication channels that FMEP staff should use?
2. Understand that this is a “movie in progress” – FMEP staff probably have a history with your client that pre-dates your engagement.
3. Understand that the ‘enforcement officer’ is the case manager, with delegated authority to make decisions.
4. Be in the business of awareness:
 - The fact that an order is enrolled in FMEP does not change the characteristics of the paying parent...
 - Help your client be realistic about what FMEP can and cannot do
5. Encourage your client to pay whatever they can.
 - Pay something. Anything. No amount is too small and it will make a difference.
6. Respect the experience of the enforcement officer.
 - Many have 10 years or more experience – they can find a way to help your client.

What Are Some of the “Don’t’s”?

1. Move towards the light. Don’t repeat the errors of your client.
2. Don’t underestimate the knowledge that caseworkers have of the law and the court processes.
3. Don’t forget the children involved – their interests are primary to FMEP.
4. Don’t assume that FMEP can enforce all orders – especially, in the way your client wants them enforced.
5. Don’t forget that FMEP staff are human too...

Special Expenses

In order to be enforceable, FMEP must be able to reasonably determine and calculate the special or extraordinary expenses.

- FMEP can enforce orders and agreements for special or extraordinary expenses provided that a fixed amount per month is clearly stated in the agreement or order and referred to using the term “Special or Extraordinary Expense”.
- If both the payor’s and recipient’s guideline incomes are stated in the order, and the order states the payor is to pay his/her proportional share of the expense, FMEP will calculate the amount to be paid.

Fixed Amount Expenses

- Fixed amount expenses are the most straightforward for FMEP to monitor and enforce.
- Basics:
 - type of expense
 - name of the child to whom the expense relates
 - the exact amount one parent is to pay the other parent for the expense
 - the date payments are to start
 - the frequency of payments (e.g. per month)

Receipt-Based Expenses

- FMEP will only enforce receipt based expenses where the expense is clearly defined. If the expense is not defined, FMEP cannot determine whether the child's activity qualifies as a special or extraordinary expense
- Where the expense is receipt-based, the recipient is expected to provide receipts, even if the order does not state receipts are necessary.
- Challenges:
 - Maintenance Enforcement Programs in most other provinces do not enforce receipt-based expenses.
 - Sharing receipts and waiting for payment after a cost is incurred can be onerous for recipients.

Special Expenses Considerations

- FMEP may have difficulty enforcing a special or extraordinary expense where the description of the expense is too restrictive or too general as either may lead to disputes. For example, allowing for \$400 for “tap dance” versus “dance” precludes a change to “jazz dance”. On the other hand, simply stating “after school activities” without a payment amount and detail as to what activities were contemplated is unenforceable.
- FMEP cannot enforce payments for a third party named in an order or where a third party must provide information and/or receipts. (However, if a recipient can provide proof that she or he has paid a third party, such as a daycare provider, because the payor did not, FMEP may be able to recover the expense for the recipient.)

2. Housing

- **Effective advocacy for RTB hearings (Day 1)**
 - Effective Advocacy for RTB Hearings
- **Update on housing issues (Day 1)**
 - Update on Housing Issues: Current Issues in Housing
- **Exempt RTA cases (Day 2)**
 - Legislation
 - Civil Resolution Tribunal
- **Ideas for solving clients problems with utilities (Day 3)**
 - Helping Clients with Utilities Issues

EFFECTIVE ADVOCACY FOR RTB HEARINGS

DANIELLE SABELLI AND HOLLY POPENIA
COMMUNITY LEGAL ASSISTANCE SOCIETY

WHY WE WANTED TO DO THIS SESSION

GENERAL PRINCIPLE OF PROCEDURAL FAIRNESS

- YOU CAN'T GET WHAT YOU DON'T ASK FOR
- ASK FOR THE PROCESS YOU WANT (I.E. TO CROSS-EXAMINE A WITNESS, MAKE SUBMISSIONS, ENTER EVIDENCE, ETC.) AT THE RTB HEARING
- ON JUDICIAL REVIEW, IT IS DIFFICULT TO ARGUE A BREACH OF PROCEDURAL FAIRNESS IF YOU DIDN'T ASK FOR THE PROCESS AT THE ORIGINAL RTB HEARING.

PROCEDURAL FAIRNESS IS COMPRISED OF TWO RIGHTS:

- 1) THE RIGHT TO BE HEARD; AND
- 2) THE RIGHT TO AN IMPARTIAL HEARING.

- *CREST GROUP HOLDINGS LTD. v. BRITISH COLUMBIA (ATTORNEY GENERAL)*, 2014 BCSC 1651 AT PARA. 36.

THE CONTENT OF PROCEDURAL FAIRNESS GOES TO THE MANNER IN WHICH THE DECISION-MAKER WENT ABOUT MAKING THE DECISION RATHER THAN THE DECISION ITSELF.

- *THERRIEN (RE)*, 2001 SCC 35 (CANLII), [2001] 2 S.C.R. 3 AT PARA. 82; *CANADIAN UNION OF PUBLIC EMPLOYEES (C.U.P.E.) v. ONTARIO (MINISTER OF LABOUR)*, 2003 SCC 29 (CANLII), [2003] 1 S.C.R. 539 AT PARA. 102.

THE RIGHT TO BE HEARD

- THE PRINCIPLE AUDI ALTERAM PARTEM IS AN IMPERATIVE WHICH TRANSLATED MEANS “HEAR THE OTHER SIDE.” MORE GENERALLY, IT REFERS TO THE REQUIREMENT IN ADMINISTRATIVE LAW THAT A PERSON MUST KNOW THE CASE BEING MADE AGAINST HIM OR HER AND BE GIVEN AN OPPORTUNITY TO ANSWER IT BEFORE THE PERSON OR AGENCY THAT WILL MAKE THE DECISION. *PRINCIPLES OF ADMINISTRATIVE LAW*, 5TH ED., (TORONTO: CARSWELL, 2009) BY JONES AND DE VILLARS AT PAGE 255
- SPECIFICALLY, THE RIGHT TO BE HEARD INCLUDES BEING GIVEN THE OPPORTUNITY TO:
 - ATTEND THE HEARING
 - CALL WITNESSES
 - HAVE NOTICE OF THE OTHER PARTY’S POSITION
 - MAKE SUBMISSIONS

ATTEND THE HEARING

- *GANITANO v. METRO VANCOUVER HOUSING CORPORATION*, 2009 BCSC 787 (CANLII)

THE PETITIONER HAD ENCOUNTERED PROBLEMS CONNECTING TO A TELEPHONE HEARING AS A RESULT OF A MIX-UP IN THE TELEPHONE CONFERENCE SYSTEM USED BY THE RESIDENTIAL TENANCY BRANCH. AS A RESULT, MUCH OF THE HEARING WAS CONDUCTED IN HER ABSENCE.

- *HUGHES v. PAVLOVIC*, 2011 BCSC 990

THE TENANT DID NOT RECEIVE THE NOTICE OF DIRECT REQUEST PROCEEDING SENT BY REGISTERED MAIL BY THE LANDLORD BECAUSE THERE WAS A POSTAL STRIKE THE NEXT DAY.

- *KIKALS v. BRITISH COLUMBIA (RESIDENTIAL TENANCY BRANCH)*, 2009 BCSC 1642 (CANLII)

THE ARBITRATOR ON THE RECONSIDERATION APPLICATION FOUND AS A FACT THAT THE LANDLORD WAS UNABLE TO ATTEND THE HEARING, BUT DID NOT DECIDE TO HOLD A NEW HEARING.

HAVE NOTICE OF THE OTHER PARTY'S POSITION

- FERNANDEZ v. SAKR, 2012 BCSC 1024

AT THE HEARING, THE TENANT NOTICED THAT SHE HAD NOT BEEN PROVIDED WITH COPIES OF ALL DOCUMENTATION THAT THE LANDLORD HAD PROVIDED TO THE ARBITRATOR, INCLUDING AFFIDAVITS, A DEMAND LETTER, A RECORD OF RENT PAYMENTS, COPIES OF RECEIPTS, PAID INVOICES AND PHOTOGRAPHS. THE TENANT RAISED THIS ISSUE AT THE COMMENCEMENT OF THE HEARING, BUT THE ARBITRATOR DID NOT RESPOND TO IT. THE ARBITRATOR PROCEEDED WITH THE HEARING AND ISSUED A MONETARY ORDER IN FAVOUR OF THE LANDLORD.

OPPORTUNITY TO CALL WITNESSES AND MAKE SUBMISSIONS

- *JOHNSON v. PATRY*, [2014] BCJ No. 554, 2014 BCSC 540, at para 13.

THE PETITIONER HAD NOT BEEN GIVEN THE OPPORTUNITY TO CALL SEVERAL WITNESSES AND THE PETITIONER'S LEGAL ADVOCATE WAS NOT PERMITTED TO MAKE SUBMISSIONS ON WHETHER THE EXISTENCE OF A TENANCY AGREEMENT HAD BEEN ESTABLISHED.

MAKE SUBMISSIONS RE LATE-FILED EVIDENCE

- *POTECHO v. RED DOOR HOUSING SOCIETY*, 2014 BCSC 36 (CANLII)

THE ARBITRATOR FAILED TO HEAR FROM THE PARTIES ON THE ISSUE OF A LATE-FILED SUBMISSION FROM THE TENANT BEFORE EXCLUDING THE LATE-FILED SUBMISSION

SETTLEMENT AGREEMENTS

BENEFITS TO NEGOTIATION:

- **CERTAINTY** – SETTING A DEFINITE MOVE OUT DATE WILL ASSIST IN PLANNING AND PREPARING AND, HOPEFULLY, WILL GIVE ADEQUATE TIME TO FIND A NEW PLACE
- **COST AND TIME** – A NEGOTIATED SETTLEMENT PREVENTS THE COSTS OF FURTHER LEGAL CHALLENGES AND BAILIFFS. AVOIDING THESE COSTS AND THE TIME IT TAKES TO MAKE THEM HAPPEN MAY BE ATTRACTIVE ENOUGH TO LANDLORDS TO ALLOW A TENANT EXTRA TIME TO MOVE.
- **WRAPPING UP THE RELATIONSHIP** – FURTHER LEGAL CHALLENGES CAN BE STRESSFUL AND EMOTIONALLY DRAINING. SETTLEMENTS CAN END THE RELATIONSHIP CIVILLY AND CAN ALSO BE HELPFUL IF THE TENANT WANTS TO HAVE A REFERENCE FROM THIS LANDLORD IN FUTURE.

ITEMS TO COVER IN NEGOTIATIONS

- **MORE TIME** — THERE IS NO “RIGHT” ANSWER FOR ASKING FOR MORE TIME. CONSIDER HOW MUCH TIME IT WILL TAKE THE TENANT TO MOVE, THE TENANT’S ABILITY TO CONTINUE PAYING RENT, WHAT FORM THE RENT PAYMENTS WILL TAKE (IE POST-DATED CHEQUES, CASH UP FRONT), AND THE CONDITION OF THE TENANT’S RELATIONSHIP WITH THE LANDLORD.
- **SECURITY DEPOSIT**—UNLESS IT WAS AWARDED TO THE LANDLORD THROUGH THE RESIDENTIAL TENANCY BRACH DECISION TO COVER DAMAGES, THE LANDLORD CANNOT SIMPLY DECIDE THAT THEY ARE GOING TO KEEP THE DEPOSIT. DISCUSS USING A PORTION OF THE DEPOSIT TO COVER EXTRA TIME IN THE UNIT. FAILING THAT, REITERATE THAT THE TENANT EXPECTS THE SECURITY DEPOSIT RETURNED AND PROVIDE A FORWARDING ADDRESS TO THE LANDLORD.
- **MOVING COSTS**—CONSIDER ASKING THE LANDLORD FOR MOVING COSTS. THE FINANCIAL ASSISTANCE CAN ENSURE THE TENANT WILL VACATE THE UNIT VOLUNTARILY BY A CERTAIN TIME AND ENSURE A SMOOTH TRANSITION.

NEGOTIATING TIPS

- ASK FOR WHAT YOU WANT – DOES THE TENANT WANT MORE TIME TO MOVE? TO END THE RELATIONSHIP WITH THE LANDLORD AS SOON AS POSSIBLE? GET A CLEAR ANSWER FROM THE TENANT BEFORE ENTERING NEGOTIATIONS.
- EXPLAIN WHY IT WILL TAKE TIME TO MOVE – LET THE LANDLORD KNOW ANY OF THE SPECIAL CIRCUMSTANCES OF THE TENANT THAT WOULD MAKE IT DIFFICULT FOR THE TENANT TO MOVE (IE YOUNG CHILDREN, FAMILY MEMBERS WITH DISABILITIES, LACK OF AFFORDABLE HOUSING, STAYING IN THE SAME SCHOOL DISTRICT, ETC.)
- DEMONSTRATE EFFORTS TO MOVE – TELL THE TENANT TO START TO PACK, HIRE MOVERS, SHOW THE LANDLORD LISTINGS THAT THEY HAVE VIEWED.
- PUT YOURSELF IN THE LANDLORDS' SHOES – CONSIDER WHAT THE LANDLORD WANTS WHEN DECIDING WHAT OFFERS TO MAKE. THE TENANT MAY BE ABLE TO OFFER SOMETHING THAT WOULD MOTIVATE THE LANDLORD TO SETTLE.

SIMPLE FORMULA FOR HEARINGS

- TELL THEM WHAT YOU ARE GOING TO TELL THEM (OPENING STATEMENT); TELL THEM (EXAMINATION OF WITNESSES); AND THEN TELL THEM WHAT YOU'VE TOLD THEM (CLOSING ARGUMENT).

THEMES

- CASE PLANNING
- OPENING STATEMENT
- WITNESS PREPARATION
- DIRECT EXAMINATIONS
- CROSS-EXAMINATION
- REHABILITATIVE DEVICES
- CLOSING ARGUMENT

CASE PLANNING

- **FIND A THEME.** ARBITRATORS ARE STILL HUMAN BEINGS WHO CAN BE PERSUADED BY A STORY. A THEME CAN HELP CONVINCE AN ARBITRATOR NOT JUST THAT YOU WOULD WIN UNDER THE LAW, BUT THAT YOU SHOULD WIN. E.G. THE TENANT SHOULD NOT LOSE THEIR HOUSING BECAUSE THE LANDLORD IS GREEDY.

CASE PLANNING

- **DEVELOP A FACTUAL “THEORY OF THE CASE.”** HEARINGS INVOLVE DISPUTES OVER FACTS. YOU NEED TO FIND A VERSION OF THE FACTS THAT IS MOST FAVORABLE TO YOUR CLIENT, CONSISTENT WITH THE EVIDENCE, AND THAT AN ARBITRATOR IS MOST LIKELY TO ACCEPT AS ACCURATE.
 - YOU MAY NEED TO MAKE A CHOICE AMONG SEVERAL POSSIBLE THEORIES (E.G. IS THE TERM OF THE TENANCY AGREEMENT UNCONSCIONABLE, OR AN ATTEMPT TO AVOID THE RTA).

CASE PLANNING

- **DEVELOP A LEGAL THEORY OF THE CASE.** YOUR “FACTUAL THEORY” NEEDS TO FULFILL THE ELEMENTS OF YOUR CLAIM OR DEMONSTRATE THAT THE OPPONENT HAS FAILED TO FULFILL THOSE ELEMENTS.
 - YOUR LEGAL THEORY SHOULD CLEARLY OUTLINE WHY YOU SHOULD WIN.

TELL THEM WHAT YOU ARE GOING TO TELL THEM: OPENING STATEMENT

- **PURPOSE.** PROVIDE THE ARBITRATOR WITH A ROADMAP OF WHAT THEY WILL HEAR AND PERSUADE THE ARBITRATOR TO ACCEPT YOUR VERSION OF THE FACTS.
- **IDENTIFY A THEME** AND PRESENT IT IN A STRAIGHTFORWARD MANNER.
- **OPENING STATEMENT IS NOT ARGUMENT.** TRY TO AVOID THE FOLLOWING:
 - OVERT APPEALS TO EMOTION;
 - DIRECT COMMENTS ON CREDIBILITY; AND
 - SUGGESTIONS TO DRAW PARTICULAR INFERENCES FROM FACTS.
- LET THE FACTS ARGUE FOR YOU.

TELL THEM WHAT YOU ARE GOING TO TELL THEM: OPENING STATEMENT

- “**RULE OF PRIMACY**”. ARBITRATORS TEND TO BELIEVE WHAT THEY HEAR FIRST AND MOST FREQUENTLY.
 - WHAT SOMEONE BELIEVES FIRST IS HARD TO DISLODGE.
- **STRESS** THAT YOUR CLIENT ACTED REASONABLY AND FAIRLY.
- **CREATE** A COMPELLING NARRATIVE.
- **INOCULATE** AGAINST HARMFUL OR UNFAVOURABLE THEMES.
- **TELL** THE ARBITRATOR WHAT THEY WILL HEAR FROM THE OTHER SIDE AND TELL THEM WHAT EVIDENCE THEY WILL HEAR TO REFUTE THAT POINT.

WITNESS PREPARATION

- **PREPARE AN OUTLINE** OF WHAT YOU EXPECT TO ASK YOUR CLIENT DURING DIRECT EXAMINATION, THE KEY POINTS YOU NEED TO ELICIT, AND WHAT EVIDENCE YOU WILL ENTER THROUGH THE WITNESS.
- **PRACTICE CROSS-EXAMINATION** WITH YOUR CLIENT.
- **ASK** YOUR CLIENT IF THERE IS ANYTHING THEY ARE WORRIED ABOUT.

TELL THEM: DIRECT EXAMINATION

- **START WITH THE BIG PICTURE.** FIGURE OUT WHAT YOUR STORY IS AND WHAT PART OF THE STORY EACH WITNESS WILL TELL.
- **SUPPORT OF THE BIG PICTURE** IN THE FOLLOWING WAYS:
 - BREAK DOWN EACH CLAIM OR DEFENSE INTO THE PARTS YOU MUST PROVE;
 - BREAK DOWN EACH TESTIMONY AND EVIDENCE YOU NEED TO PROVE EACH POINT; AND
 - BEGIN TO OUTLINE EACH WITNESS' EXPECTED TESTIMONY.

TELL THEM: DIRECT EXAMINATION

- **PREPARE A STRONG OUTLINE.** INCLUDE THE RELEVANT KNOWLEDGE THE WITNESS HAS.
- FOR EACH POINT IN THE OUTLINE, NOTE WHERE IN THE EXHIBITS THE ARBITRATOR CAN FIND THE EVIDENCE.
- BE SURE TO INCLUDE PERSONAL BACKGROUND QUESTIONS TO GIVE THE ARBITRATOR A SENSE OF THE WHOLE PERSON (PROCEED WITH CAUTION).
- DO NOT MAKE QUESTIONS TOO SPECIFIC, FOCUS ON GENERAL POINTS.

TELL THEM: DIRECT EXAMINATION

- **NO LEADING QUESTIONS.** A “LEADING QUESTION” SUGGESTS AN ANSWER OR LIMITS THE RANGE OF POSSIBLE ANSWERS.
 - LEADING QUESTIONS CAN DILUTE ANSWERS, AND LIMIT THE PERSONAL STORY.
- **USE OPEN-ENDED QUESTIONS.** USE “WHO, WHAT, WHEN, WHY OR HOW” QUESTIONS TO DESCRIBE EVENTS.
- **ORGANIZE YOUR QUESTIONS AND SIGNAL THE SHIFT IN CHRONOLOGY OR TOPIC.** ORGANIZE QUESTIONS BY CHRONOLOGY OR TOPIC. MAKE IT CLEAR TO THE ARBITRATOR YOU ARE MOVING ONTO A NEW TOPIC OR SERIES OF EVENTS.

TELL THEM: DIRECT EXAMINATION-DURING THE HEARING

- **STAY ON MESSAGE.** KNOW EXACTLY WHAT YOU NEED FROM THE WITNESS. HAVE AN OUTLINE OF YOUR QUESTIONS, AS WELL AS THE ADMISSIONS YOU WANT FROM THE WITNESS.
- **ANTICIPATE OBJECTIONS.** THINK ABOUT ANY OBJECTIONS YOU MAY RECEIVE FROM THE OTHER SIDE.
- **ACTIVELY LISTEN TO YOUR WITNESS DURING DIRECT.** BE FULLY PRESENT SO THAT YOU CAN REACT QUICKLY AND NATURALLY WITH YOUR NEXT QUESTION.
- **BE READY TO SLASH.** DO NOT BE AFRAID TO SLASH A LINE OF QUESTIONING FOR YOUR WITNESS IF THEY HAVE ALREADY PROVIDED THE ANSWER YOU ARE SEEKING, OR IF THEIR ANSWERS HAVE TAKEN AN UNEXPECTED TWIST.

TELL THEM: CROSS EXAMINATION

- **GET READY TO GO WITH RE-DIRECT.** MAKE A SYSTEM FOR RECORDING WHAT YOUR WITNESS HAS SAID ON CROSS-EXAMINATION AND WHAT FOLLOW-UP QUESTIONS YOU WOULD LIKE TO ASK.
- **MAINTAIN CONTROL OVER THE PROCESS.** QUESTIONS SHOULD BE LEADING, CLEAR, AND SHORT. YOUR GOAL IS FOR THE WITNESS TO SAY NOTHING BUT “YES” OR “NO”.
- **ASK QUESTIONS FOR WHICH YOU CAN PREDICT OR CONTROL THE ANSWER.** TOO DANGEROUS TO VENTURE INTO THE ZONE OF UNPREDICTABILITY.

TELL THEM: CROSS EXAMINATION

- **HAVE A MEANS OF CONTROLLING THE ANSWER.** BECOME FAMILIAR WITH EVIDENCE WHICH MAY ESTABLISH A RECORD THAT THE WITNESS CANNOT DENY. USE THIS EVIDENCE AS A GUIDE WHEN SELECTING FACTS TO INCLUDE IN YOUR QUESTIONS. HAVE THIS EVIDENCE AT YOUR FINGERTIPS SO YOU CAN CONFRONT THE WITNESS IF THEIR ANSWER CONTRADICTS THAT EVIDENCE.
- **AVOID THE “ONE QUESTION TOO MANY”.** DO NOT GIVE THE WITNESS THE CONCLUSION YOU ARE TRYING TO PROVE (E.G. SO, YOU GAVE THE NTE IN BAD FAITH?).
- **BE MORE PREPARED THAN THE WITNESS.** KNOW WHAT EVERY RELEVANT PIECE OF EVIDENCE SAYS.

TELL THEM: CROSS EXAMINATION

- **IMPEACHING A WITNESS.** ELICITING FACTS TO SHOW THE WITNESS SHOULD NOT BE BELIEVED. HERE ARE A FEW METHODS OF IMPEACHMENT:
 - **BIAS OR PREJUDICE.** THE WITNESS IS PREDISPOSED TO FAVOUR ONE PARTY OVER THE OTHER.
 - **SELF INTEREST.** THE WITNESS HAS STAKE IN THE OUTCOME.
 - **CORRUPTION.** THE WITNESS HAS BEEN BRIBED, OR IMPROPERLY INFLUENCED.
 - **MEMORY.** THE WITNESS CANNOT REMEMBER ACCURATELY OR PROVIDE SUFFICIENT DETAIL.
 - **PERCEPTION.** THE WITNESS COULD NOT SEE OR HEAR ACCURATELY.
 - **INCONSISTENT FACTS.** THE WITNESS' VERSION OF EVENTS IS INCONSISTENT WITH OTHER CREDIBLE EVIDENCE, OR IS INTERNALLY INCONSISTENT.

TELL THEM: CROSS EXAMINATION

- **PRIOR INCONSISTENT STATEMENT.** THE CLASSIC TECHNIQUE IS AS FOLLOWS:
 - **COMMIT** THE WITNESS TO THEIR LATEST VERSION OF THE TRUTH;
 - **CREDIT** THE EARLIER INCONSISTENT STATEMENT. AS A SERIES OF QUESTIONS THAT SHOW THE EARLIER VERSION IS THE MORE WORTHY VERSION (E.G. THE UNIT NEEDS SOME RENOVATING, CORRECT? WORK NEEDS TO BE DONE IN DIFFERENT PARTS OF THE UNIT, RIGHT? DOING THE RENOVATIONS IN STAGES WILL BE MORE COSTLY, CORRECT?).
 - **CONFRONT** THE WITNESS WITH THE PRIOR INCONSISTENT STATEMENT (E.G. EARLIER YOU SAID THAT THE RENOVATIONS CAN PROCEED IF THE UNIT IS VACANT, RIGHT? NOW YOU ARE SAYING THAT THEY COULD PROCEED IN STAGES, ALBEIT MORE COSTLY).

TELL THEM: CROSS EXAMINATION

- EXTRA TIPS ON IMPEACHMENT BY PRIOR INCONSISTENT STATEMENTS:
 - **BE TACTFUL.** YOU DO NOT WANT TO APPEAR AS THOUGH YOU ARE TRYING TO INTIMIDATE A WITNESS OR ARE BEING UNFAIR.
 - **IMPEACH ONLY IMPORTANT AREAS.** DON'T LET THE ARBITRATOR FEEL YOU ARE LINGERING ON DETAILS THAT ESCAPED THE RECOLLECTION OF AN HONEST WITNESS.
 - **STOP WHILE YOU ARE AHEAD.** YOU DO NOT WANT TO VENTURE INTO AN AREA THAT WOULD GIVE THE WITNESS ANY WIGGLE ROOM.

REHABILITATIVE DEVICES

- EVIDENTIARY AND PROCEDURAL TECHNIQUES TO USE IF YOUR WITNESS' TESTIMONY BECOMES UNFAVOURABLE:
- **REDIRECT** EXAMINATION OF A WITNESS WHO HAS BEEN ATTACKED.
- **CORROBORATING** THE TESTIMONY OF YOUR WITNESS WITH OBJECTIVE DATA OR UNIMPEACHABLE TESTIMONY WHEN THEIR CHARACTER HAS BEEN ATTACKED.
- **USING A PRIOR CONSISTENT** STATEMENT TO REHABILITATE A WITNESS WHO HAS BEEN IMPEACHED WITH A PRIOR INCONSISTENT STATEMENT.
- **USING PRESENT RECOLLECTION** REFRESHED TO RESCUE A WITNESS WHO HAD A LAPSE WHILE TESTIFYING.

TELL THEM WHAT YOU HAVE TOLD THEM: CLOSING ARGUMENT

- **AVOID THE RE-RUN.** DO NOT JUST RECOUNT EVERY DETAIL. PRESENT ARGUMENTS THEMATICALLY.
- **MAKE IT DYNAMIC.** BREAK DOWN THEMES INTO MEMORABLE SOUND BITES. EMPHASIZE WHY A FAVOURABLE DECISION IS FAIR.
- **STAY SAFE.** AVOID THE AREAS THAT MAY BE TROUBLESOME AND THAT COULD LEAD TO A HOOK FOR THE OTHER SIDE.

TELL THEM WHAT YOU HAVE TOLD THEM: CLOSING ARGUMENT

- **EXPOSE THE CREDIBILITY OF WITNESSES.** POINT OUT ANY BIAS, PREJUDICE, INTERESTEDNESS, OR UNREASONABLENESS DISPLAYED BY ANY OF THE WITNESSES.
- **CONTINUE WITH THE THEME OF THE CASE.** REMIND THE ARBITRATOR HOW THE THEME WAS ESTABLISHED DURING THE OPENING STATEMENT.
- **DON'T IGNORE THE BAD FACTS.**



Update on Housing Issues:

Current Issues in Housing.

Zuzana Modrovic, TRAC
Danielle Sabelli, CLAS

What this presentation will cover:

- Changes to the RTA and MHPTA
- Case-law updates
- The RTB's online application system
- Emerging trends

Legislative Changes

[Home](#) > [Housing & Tenancy](#) > [Residential Tenancies](#) >

News

Check out the latest Residential Tenancy Branch news items.

2018 News Items

[Expand All](#) | [Collapse All](#)

Residential tenancy rent increases that take effect in 2019 are allowed to a maximum of 2.5%. (news release date: September 26, 2018). ▾

2018 Wildfires ▾

Canada Post Labour Dispute - News Release Date September 26, 2018 ▾

Changes to the *Manufactured Home Park Tenancy Act* to improve compensation for tenants when manufactured home parks close are in force effective June 6, 2018. ▾

British Columbia's Rental Housing Task Force will tour the province in June 2018, stopping in communities to engage British Columbians. ▾

Changes to *Residential Tenancy Act* to improve security for tenants facing eviction came into force May 17 2018. ▾

Legislative Changes

Residential Tenancy Act, SBC 2002, c 78 

[Versions](#) [Noteup](#) [Regulations](#) [Amendments](#)

COMPARE

[Access version in force !\[\]\(b344db34e4914927d2bdcb6ef05fb641_img.jpg\)](#)



10. since May 17, 2018 (current)



9. between Dec 11, 2017 and May 16, 2018 (past)



8. between Nov 30, 2017 and Dec 10, 2017 (past)



7. between Nov 2, 2017 and Nov 29, 2017 (past)



6. between Dec 2, 2016 and Nov 1, 2017 (past)

This statute replaces [RSBC 1996, c 406](#).

Current version: in force since May 17, 2018

Legislative Changes

(f) the agreed terms in respect of the following:

(i) the date on which the tenancy starts;

(ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis;

(iii) if the tenancy is a fixed term tenancy,

(A) the date the tenancy ends, and

(B) whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the rental unit on that date;

(iv) the amount of rent payable for a specified period, and, if the rent varies with the number of occupants, the amount by which it varies;

(v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;

(vi) which services and facilities are included in the rent;

(f) the agreed terms in respect of the following:

(i) the date on which the tenancy starts;

(ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis;

(iii) if the tenancy is a fixed term tenancy, the date on which the term ends;

(iii.1) if the tenancy is a fixed term tenancy in circumstances prescribed under section 97(2)(a.1), that the tenant must vacate the rental unit at the end of the term;

(iv) the amount of rent payable for a specified period, and, if the rent varies with the number of occupants, the amount by which it varies;

(v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;

(vi) which services and facilities are included in the rent;

RTA change #1 - Vacate Clauses

2. BEGINNING AND TERM OF THE AGREEMENT *(please fill in the dates and times in the spaces provided)*

This tenancy created by this agreement starts on:

| | | |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| day | month | year |

Check A) and continues on a month-to-month basis until ended in accordance with the Act.

A, B or C B) and continues on another periodic basis, as specified below, until ended in accordance with the Act.

weekly bi-weekly other:

C) and is for a fixed term ending on

| | | |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| day | month | year |

IF YOU CHOOSE C, CHECK AND COMPLETE D OR E

Check D) At the end of this time, the tenancy will continue on a month-to-month basis, or another fixed length of time, unless the tenant gives notice to end tenancy at least one clear month before the end of the term.

E) At the end of this time, the tenancy is ended and the tenant must vacate the rental unit.

This requirement is only permitted in circumstances prescribed under section 13.1 of the Residential Tenancy Regulation, or if this is a sublease agreement as defined in the Act.

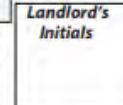
Reason tenant must vacate (required):

Residential Tenancy Regulation section number (if applicable):

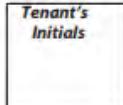
- If you choose E, both the landlord and tenant must initial here

The tenant must move out on or before the last day of the tenancy.

Landlord's Initials



Tenant's Initials



RTA change #1 - Vacate Clauses

Residential Tenancy Act:

Power to make regulations

- 97 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) exempting tenancy agreements, rental units or residential property from all or part of this Act;
 - (a.1) prescribing the circumstances in which a landlord may include in a fixed term tenancy agreement a requirement that the tenant vacate a rental unit at the end of the term;
 - (a.2) prescribing the minimum period of time for which a circumstance prescribed under paragraph (a.1) must be satisfied;

Residential Tenancy Regulation:

Fixed term tenancy – circumstances when tenant must vacate at end of term

- 13.1 (1) In this section, "close family member" has the same meaning as in section 49 (1) of the Act.
- (2) For the purposes of section 97 (2) (a.1) of the Act [*prescribing circumstances when landlord may include term requiring tenant to vacate*], the circumstances in which a landlord may include in a fixed term tenancy agreement a requirement that the tenant vacate a rental unit at the end of the term are that
- (a) the landlord is an individual, and
 - (b) that landlord or a close family member of that landlord intends in good faith at the time of entering into the tenancy agreement to occupy the rental unit at the end of the term.

[en. B.C. Reg. 225/2017, App. 2, s. 1.]

RTA Change #2 - Geographic Rent Increase Eliminated

Additional rent increase

23 (1) A landlord may apply under section 43 (3) of the Act [*additional rent increase*] if one or more of the following apply:

- (a) after the rent increase allowed under section 22 [annual rent increase], the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit;
 - (b) the landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that
 - (i) could not have been foreseen under reasonable circumstances, and
 - (ii) will not recur within a time period that is reasonable for the repair or renovation;
 - (c) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;
 - (d) the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances;
 - (e) the landlord, as a tenant, has received an additional rent increase under this section for the same rental unit.
- (2) If the landlord applies for an increase under paragraph (1)(b), (c), or (d), the landlord must make a single application to increase the rent for all rental units in the residential property by an equal percentage.

Additional rent increase

23(1) A landlord may apply under section 43 (3) of the Act [*additional rent increase*] if one or more of the following apply:

- (a) Repealed. [B.C. Reg. 225/2017, App. 2, s. 2.]
 - (b) the landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that
 - (i) could not have been foreseen under reasonable circumstances, and
 - (ii) will not recur within a time period that is reasonable for the repair or renovation;
 - (c) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;
 - (d) the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances;
 - (e) the landlord, as a tenant, has received an additional rent increase under this section for the same rental unit.
- (2) If the landlord applies for an increase under paragraph (1)(b), (c), or (d), the landlord must make a single application to increase the rent for all rental units in the residential property by an equal percentage.

RTA Change #3 - four month NTEs

(2) Subject to section 51 [tenant's compensation: section 49 notice], a landlord may end a tenancy for a purpose referred to in subsection (3), (4), (5) or (6) by giving notice to end the tenancy effective on a date that must be

- (a) not earlier than 2 months after the date the tenant receives the notice,
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

(2) Subject to section 51 [tenant's compensation: section 49 notice], a landlord may end a tenancy

- (a) for a purpose referred to in subsection (3)..(4) or (5) by giving notice to end the tenancy effective on a date that must be
 - (i) not earlier than 2 months after the date the tenant receives the notice,
 - (ii) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
 - (iii) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy, or
- (b) for a purpose referred to in subsection (6) by giving notice to end the tenancy effective on a date that must be
 - (i) not earlier than 4 months after the date the tenant receives the notice,
 - (ii) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
 - (iii) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

RTA Change #3 - four month NTEs

New Policy Guideline: Ending a Tenancy: Landlord's Use

Permits

- When ending a tenancy under section 49 (6) of the RTA or section 42 (1) of the MHPTA, a landlord must have all necessary permits and approvals that are required by law before they can give the tenant notice. This includes any additional permits, permit amendments, and updates. It is not sufficient to give notice while in the process of or prior to obtaining permits or approvals.

Good Faith

- In *Gichuru v Palmar Properties Ltd.* (2011 BCSC 827) the BC Supreme Court found that a claim of good faith requires honesty of intention with no ulterior motive.
- When the issue of an ulterior motive or purpose for an eviction notice is raised, the onus is on the landlord to establish that they are acting in good faith: *Baumann v. Aarti Investments Ltd.*, 2018 BCSC 636.

RTA Change #3 - four month NTEs

Renovations and Repairs

- In *Berry and Kloet v British Columbia (Residential Tenancy Act, Arbitrator)*, 2007 BCSC 257 (see also *Baumann v. Aarti Investments Ltd.*, 2018 BCSC 636), the BCSC found there were three requirements to end a tenancy for renovations or repairs:
 - The landlord must have the necessary permits;
 - The landlord must intend, in good faith, to renovate the rental unit; and
 - The renovations or repairs require the rental unit to be vacant.
- In order for the third requirement to be met:
 - The renovations or repairs must be so extensive that they require the unit to be empty in order for them to take place; and
 - the only way to achieve this necessary emptiness or vacancy must be by terminating the tenancy.

RTA Change #4 - section 51(2) compensation

Section 51(2) of the RTA:

(2) In addition to the amount payable under subsection (1), if

- (a) steps have not been taken to accomplish the stated purpose for ending the tenancy ~~under section 49~~ within a reasonable period after the effective date of the notice, ~~or~~
- (b) ~~the rental unit is not used~~ for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,

~~the landlord, or the purchaser, as applicable under section 49~~, must pay the tenant an amount that is the equivalent of ~~double~~ the monthly rent payable under the ~~tenancy agreement~~.

(2) ~~Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if~~

- (a) ~~steps have not been taken, within a reasonable period after the effective date of the notice, to accomplish the stated purpose for ending the tenancy, or~~
- (b) ~~the rental unit is not used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.~~

(3) ~~The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as the case may be, from~~

- (a) ~~accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, or~~
- (b) ~~using the rental unit for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.~~

RTA Change #4 - section 51(2) compensation

New Policy Guideline: Compensation for Ending a Tenancy

- Arbitrator has no authority to vary or alter the amount of compensation.

Taking Steps to Accomplish the Stated Purpose

- A step is an action or measure that is taken to accomplish a purpose e.g. ordering materials, hiring a tradesperson, employment contracts etc.

Reasonable Period

- Amount of time that is “fairly required” for the landlord to start doing what they planned.
 - Will usually be a short time.
- If the landlord ends a tenancy for repairs or renovations, they should start taking the steps immediately after the tenancy ends. However, there may be circumstances that prevent a landlord from doing so.

RTA Change #4 - section 51(2) compensation

Accomplishing the Purpose/Using the Rental Unit

- A landlord cannot end a tenancy to occupy the rental unit, and then re-rent the unit to a new tenant without occupying the rental unit for at least 6 months.
- A landlord cannot end a tenancy for renovations or repairs and then perform cosmetic repairs, or other minor repairs that could have been completed during the tenancy.

Extenuating Circumstances

- Circumstances where it would be unreasonable or unjust for a landlord to pay compensation. e.g. family member moving in passes away, unit destroyed by wildfire, tenant exercised right of first refusal, but did not notify the landlord of further contact information.

RTA Change #5 - “Right of First Refusal”

RTA:

Not in force

51.1 [Not in force.]

Right of first refusal

- 51.2** (1) In respect of a rental unit in a residential property containing 5 or more rental units, a tenant who receives a notice under section 49 (6) (b) is entitled to enter into a new tenancy agreement respecting the rental unit upon completion of the renovations or repairs for which the notice was issued if, before the tenant vacates the rental unit, the tenant gives the landlord a notice that the tenant intends to do so.
- (2) If a tenant has given a notice under subsection (1), the landlord, at least 45 days before the completion of the renovations or repairs, must give the tenant
- (a) a notice of the availability date of the rental unit, and
 - (b) a tenancy agreement to commence effective on that availability date.
- (3) If the tenant, on or before the availability date, does not enter into a tenancy agreement in respect of the rental unit that has undergone the renovations or repairs, the tenant has no further rights in respect of the rental unit.
- (4) A notice under subsection (1) or (2) must be in the approved form.

Tenant's compensation: no right of first refusal

- 51.3** (1) Subject to subsection (2) of this section, if a tenant has given a notice under subsection (1) of section 51.2, the landlord must pay the tenant an amount that is the equivalent of 12 times the monthly rent payable under the previous tenancy agreement if the landlord does not comply with section 51.2 (2).
- (2) The director may excuse the landlord from paying the tenant the amount required under subsection (1) if, in the director's opinion, extenuating circumstances prevented the landlord from complying with section 51.2 (2).

RTA Change #6 - Buyer name and address must be on NTE

Section 49(7) of the RTA:

(7) A notice under this section must comply with section 52 [form and content of notice to end tenancy].

(7) A notice under this section must comply with section 52 [form and content of notice to end tenancy] and, in the case of a notice under subsection (5), must contain the name and address of the purchaser who asked the landlord to give the notice.

Reason for this Two Month Notice to End Tenancy (check the box that applies)

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).
- The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.
- All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.
- The tenant no longer qualifies for the subsidized rental unit.

Purchaser information (complete only if issuing this Notice because the purchaser asked for notice to be given)

first and middle name(s)

last name or full legal business name

Purchaser Address

unit/site #

street number and street name

city

province

postal code

RTA Change #7 - Rent Increase Formula

Residential tenancy rent increases that take effect in 2019 are allowed to a maximum of 2.5%. (news release date: September 26, 2018). ▲

Manufactured home park tenancy rent increases that take effect in 2019 are allowed to a maximum of 2.5% plus a proportional amount.

The Minister of Municipal Affairs and Housing is listening to the concerns of renters by cutting the annual allowable rent increase by 2%, limiting it to inflation. This change is an early recommendation from B.C.'s Rental Housing Task Force.

Landlords that have already provided notice to their tenants for 2019 are required to completed an updated form with the new rent increase formula and provide notice to tenants. The landlord 3 months' notice requirement is not applicable to the updated notice.

- See the [news release](#) for more information
- See the early recommendations from the [Rental Housing Task Force](#)
- Learn more about [rent increases](#)

RTA (?) Change #8 - Cannabis

[Home](#) > [Housing & Tenancy](#) > [Residential Tenancies](#) > [During a Tenancy](#) >

Paying Rent

▶ [Rent Increases](#)

Repairs & Maintenance

Landlord's Access

Possession of the Unit

Quiet Enjoyment

Changes to the Agreement

▶ [Pets](#)

Sublet & Assignment

Selling a Tenanted Property

Serving Notices During Tenancy

Talking it Over

Get it in Writing

Cannabis

Cannabis

On October 17, 2018, cannabis will be legalized under the federal *Cannabis Act* and section 14 of the provincial *Cannabis Control and Licensing Act*.

Changes to the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act* around growing and smoking cannabis are coming into force when cannabis is legalized:

1. Existing “no-smoking” clauses will apply to cannabis smoking

If a tenancy agreement was entered into prior to the legalization of cannabis and had a “no-smoking” clause, it would include smoking cannabis (but not vapourizing cannabis) in the same way.

2. Existing tenancy agreements will be deemed to include a no-grow clause

All existing tenancy agreements are considered to include a term prohibiting growing cannabis (meaning to cultivate, propagate, or harvest) in or on the residential rental property, or the common areas of a manufactured home park and outdoor areas of a manufactured home site unless:

- the tenant is authorized under applicable federal law to grow medical marijuana, and
- the tenant is in compliance with the requirements under that law; or
- the tenancy agreement specifically allows growing;

MHPTA Changes

Tenant's compensation: section 42 notice

- 44(1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, **an amount that is equivalent to 12 months' rent payable under the tenancy agreement.**
- (2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant **an amount that is the equivalent of 6 times the monthly rent payable under the tenancy agreement.**

Tenant's compensation: section 42 notice

- 44(1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, **the amount prescribed under section 89 (2) (g.1).**
- (2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant **the amount prescribed under section 89 (2) (g.2).**
- (3) **The director may excuse the landlord from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord from accomplishing the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice.**

Additional tenant's compensation: section 42 notice

- 44.1(1) A tenant may make an application for dispute resolution to request an order for compensation in addition to the amount payable under section 44 (1) if
- a landlord gives the tenant notice to end a tenancy under section 42 [*landlord's use of property*].
 - only in the circumstances prescribed in the regulations, the manufactured home is not capable of being moved before the tenant is required to vacate the manufactured home site at the end of the tenancy, and
 - the most recent assessed value of the manufactured home, as determined under the Assessment Act, is greater than the amount prescribed for the purposes of section 44 (1).
- (2) If the director is satisfied that, in the circumstances prescribed for the purposes of subsection (1) (b), the manufactured home is not capable of being moved before the tenant is required to vacate the manufactured home site at the end of the tenancy, the director may order the landlord to pay to the tenant compensation equivalent to the amount by which the most recent assessed value of the manufactured home, as determined under the Assessment Act, is greater than the amount prescribed for the purposes of section 44 (1).

MHPTA Changes

Part 5.1 - Tenant's Compensation

Tenant's compensation: notice under section 42 of the Act

- 33.1(1) For the purposes of section 44 (1) of the Act, the amount of compensation payable by a landlord is \$20 000.
- (2) For the purposes of section 44 (2) of the Act, the amount of compensation payable by a landlord is the greater of
- \$5 000, and
 - the equivalent of 12 months' rent payable under the tenancy agreement.

[en. B.C. Reg. 109/2018, Sch. s. 1.]

Additional tenant's compensation: manufactured home is not capable of being moved

- 33.2 For the purposes of section 44.1 (1) (b) of the Act, the following circumstances must be satisfied:
- the tenant is not able to
 - obtain the necessary permits, licences, approvals or certificates required by law to move the manufactured home, or
 - move the manufactured home to another manufactured home site within a reasonable distance of the current manufactured home site;
 - the tenant does not owe any tax in relation to the manufactured home.

[en. B.C. Reg. 109/2018, Sch. s. 1.]

Case Law Update

RENOVATIONS

Baumann v. Aarti Investments Ltd., 2018 BCSC 636

- Purpose of s 49(6) of the *RTA*: The purpose of s 49(6) is not to give landlords a means for evicting tenants; rather, it is to ensure that landlords are able carry out renovations. Therefore, where it is possible to carry out renovations without ending the tenancy, there is no need to apply s 49(6).
- Requirement that the unit be vacant has 2 components:
 - Firstly, the arbitrator must determine whether "as a practical matter" the unit needs to be empty for the renovations to take place.
 - renovations might be more easily or economically undertaken if the unit were empty, but that will not require that the unit be empty (confirmed *Allman v. Amacon Property Management Services Inc.*).
 - Secondly, the only manner in which to achieve the necessary emptiness, is by terminating the tenancy.

Case Law Update

- Arbitrator made several errors:
 - Arbitrator failed to consider the tenant's offer to move out temporarily. Therefore the arbitrator failed to deal with the question of whether permanent termination of the tenancy was the only way to carry out the necessary renovations.
 - Arbitrator misapplied the onus of proof on the good faith issue.
 - When the issue of an ulterior motive or purpose for an eviction notice is raised, the onus is on the landlord to establish that they are acting in good faith.
 - Policy required the landlord to establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.
 - Arbitrator did not consider evidence that was sufficient to raise the issue of good faith.
 - Landlord did not have all the necessary permits for the proposed work to be carried out.
 - Characterizing the additional permit as an amendment or an update does not save the matter.

Case Law Update

EXEMPTION FROM THE RTA & GUEST POLICY

PHS Community Services Society v. Swait, 2018 BCSC 824

- This case involved former residents of tent city in Victoria. On June 15, 2016, the Province announced that it had purchased a building in order to provide 140 units of supportive housing specifically for the residents of tent city.
- Evidence submitted by the tenants demonstrated the building was made available to address a housing need, not a health need.

Exemption from the RTA

- Landlord alleged that pursuant to s 4(g)(v) of the *RTA*, the building was a “housing based health facility that provides hospitality support services and personal health care.”

Case Law Update

- Landlord argued that the overriding purpose of the *RTA* is to regulate residential tenancies operated by commercially motivated landlords (landlord relied on s 2 of the *Regulation*).
 - “Had the legislation been meant to apply only to facilities operating in a commercial setting for profit, it could easily have said so...”
- Landlord did not cite any case law or authority to suggest that the interpretation or application of the *RTA* is dependent upon whether the landlord operates on the profit motive.
 - “More fundamentally, the petitioner has not provided any justification of why tenants who are being given a social benefit of below market housing, in an effort to try and stabilize their living situation, ought to be given less legal rights than tenants paying market rates in a residential building operated by a commercial entity.”

Case Law Update

Guest Policy

- Landlord argued that the guest policy was reasonable because of the demographics of the particular resident population.
- Judge confirmed the arbitrator followed the reasoning of Justice McEwan in *Atira Property Management v. Richardson* where he found that a blanket policy was inconsistent with the RTA.

Case Law Update

DAMAGES & REPAIRS

Gates v Sahota, 2018 BCCA 375

- The Director has exclusion jurisdiction over *RTA* disputes when the amount claimed is within the small claims monetary limit (currently \$35,000).
- The Director's authority to order repairs is not subject to the small claims monetary limit (no monetary limit).
- Separate claims that are within the small claims limit, cannot be aggregated to avoid the Director's exclusive jurisdiction over such claims.
- Class actions or representative proceedings are not available in the BCSC with respect to *RTA* disputes.
- An *RTA* dispute within the Director's monetary jurisdiction can be heard in BCSC on the basis of "linkage" only if an order is made under rule 22-5(8) of the BCSC Civil Rules (re: consolidation) that it be heard with a matter already before the court.
- When an *RTA* matter is heard in the BCSC, that Court may only make orders the Director may make.
- Neither the Director nor the BCSC can award punitive damages.

Case Law Update

Fraud, Fairness, and Damages

Ndachena v Nguyen, 2018 BCSC 1468

Facts

- Tenants provided the landlord with a security deposit in the amount of \$3700.00.
- Landlord did not return the security deposit. The tenants filed an application to retrieve double the amount of the security deposit.
- Landlord cross-filed an application seeking compensation of \$25,000 (originally was \$40,108).
- Due to a mistaken belief, tenants did not call into the hearing, but the landlord did.
- Arbitrator issued a decision awarding the landlord \$25,000 for damage to the unit and dismissed the tenants' application.

Case Law Update

Fraud

- Judge considered the tenants' arguments on JR that the decision was obtained by fraud.
- Judge stated that the consequences of a finding of fraud are not directly addressed in the *Administrative Tribunals Act (ATA)*. However, the law is well settled that a finding of fraud will vitiate an award of an administrative tribunal, on the same principles that apply to a court decision.

Fairness

- "I am satisfied that the petitioners were entitled to a high level of procedural fairness in the Dispute Resolution Applications. The issues before the arbitrator were adversarial with serious financial consequences to the petitioners. The statutory scheme under the *RTA* vests the RTB with the same powers in residential tenancy disputes to grant monetary judgments as the provincial court has in other matters".
- The RTB Rules govern Dispute Resolution proceedings. They contemplate a high level of procedural fairness. Any person dealing with the RTB would have a reasonable expectation that the RTB Rules would be complied with.

Case Law Update

- Judge found that the petitioners were not provided with the evidence upon which the landlord relied at hearing at any time before the hearing.
- Judge concluded that the failure to provide evidence to the petitioners before the hearing, together with the arbitrator's reliance upon this evidence when the record clearly showed they had not been provided to the petitioners was a breach of the duty of fairness owed to the petitioners. Decision was set aside.
 - “ It may well be that in the future a court will find that the absence of some mechanism for redress for a person who honestly misapprehended their procedural responsibilities but otherwise had a meritorious case amounted to substantial unfairness.”

Damages

- Judge found the decision as patently unreasonable because the arbitrator did not address the critical issue of the extent of the necessary repairs; arbitrator just accepted the landlord's evidence without question.
- Nothing in the rules that permit an arbitrator to make an award of damages merely because the opposite party does not attend at the hearing.

Case Law Update

Highest Injury to Dignity Award for Housing Matter

Biggins obo Walsh v. Pink and others, 2018 BCHRT 174

- "...I agree that discrimination in respect of a person's home can be particularly egregious, and is often marked by a power imbalance between landlord and tenant. Safe and secure housing is critical to a person's overall well-being. For people with disabilities, this necessarily requires that housing be accessible to them, taking into account their individual needs and circumstances."
- The trend in damages for injury to dignity is upwards, and since 2012, the Tribunal has made awards of up to \$75,000; \$50,000; \$35,000; and \$30,000. While most of the Tribunal's high awards have arisen in connection with employment discrimination, the Tribunal Member acknowledged there is no principled reason to suggest that the awards should be higher or lower depending on the area of discrimination. "Just as work is fundamental to a person's dignity, so is their housing."

Case Law Update

RECORDING HEARINGS

Seignoret v. Bakonyi Holdings Ltd., 2018 BCSC 994

- Judge accepted the transcript of the hearing.

The online system

Apply Online - Fast and Easy!

- We've launched a new online application!!

Applicants wanting to update online applications filed before September 25, 2017 must contact the Residential Tenancy Branch or visit any [Service BC Office](#) or [Residential Tenancy Branch Office](#).

[Expand All](#) | [Collapse All](#)

[What Do I Need?](#)

[How Do I Prepare My Evidence?](#)

[How Do I Pay?](#)

[What's My Application Status?](#)

[Email Notifications](#)

[Quick Video Overview: Before You Apply](#)

Don't forget! You will need a Basic BCeID account to access the Online Application for Dispute Resolution. Already have one? Click [Apply Online](#).

Emerging trends

- Welfare checks
- Guest policies
- Buyouts
- Others?

Exemptions from Residential Tenancy Act

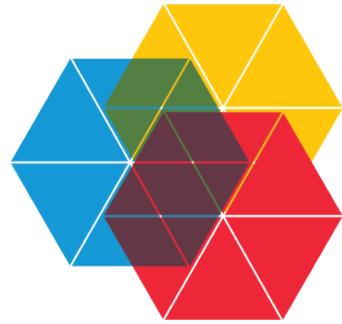
4 This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,
- (g) living accommodation
 - (i) in a community care facility under the *Community Care and Assisted Living Act*,
 - (ii) in a continuing care facility under the *Continuing Care Act*,
 - (iii) in a public or private hospital under the *Hospital Act*,
 - (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
 - (v) in a housing based health facility that provides hospitality support services and personal health care, or
 - (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,

- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

Residential Tenancy Regulation

- 1 (2) For the purposes of section 4 (f) of the Act [*what the Act does not apply to*], "**transitional housing**" means living accommodation that is provided
 - (a) on a temporary basis,
 - (b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and
 - (c) together with programs intended to assist tenants to become better able to live independently.



Civil Resolution Tribunal

Residential Tenancy Act Exempt Disputes

Kate Campbell, Tribunal Member

October 17, 2018

CRT Overview

CRT has been taking small claims disputes since June 2017, and strata disputes since July 2016.

CRT's small claims jurisdiction currently extends up to \$5,000, exclusive of interest, fees, and dispute-related expenses.

CRT Overview

Small claims jurisdiction governed by section 3.1 of the *Civil Resolution Tribunal Act*. Includes claims for:

- Debt or damages
- recovery of personal property;
- specific performance of an agreement relating to personal property or services;
- relief from opposing claims to personal property.

CRT Jurisdiction

s. 3.1(2) – No CRT jurisdiction in a claim:

- (a) for libel, slander or malicious prosecution,
- (b) for or against the government, or
- (c) excluded by regulation (none yet).

CRT – Residential Tenancies

Currently, the CRT will not take jurisdiction where *Residential Tenancy Act* applies.

Refers these to Residential Tenancy Branch first, so RTB can determine the scope of its jurisdiction.

CRT – Residential Tenancies

RTB has exclusive jurisdiction over matters falling within the RTA:

s. 9 – Director of RTB responsible for administration of all matters under the RTA.

Residential Tenancy Act

s. 58 – a person may make application to the Director for dispute resolution in relation to a dispute with a person's landlord or tenant in respect of:

- (a) rights, obligations and prohibitions under this Act;
- (b) rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this Act, or
 - (ii) relate to
 - (A) the tenant's use, occupation or maintenance of the rental unit, or
 - (B) the use of common areas or services or facilities.

CRT – Residential Tenancy

CRT has no jurisdiction to order statutory remedies set out in Parts 5 & 6 of the RTA, such as:

- Payment of rent to director
- Deduction from rent for repairs
- Return of seized personal property
- Assignment of tenancy agreement

Statutory Remedies under RTA

RTB has exclusive jurisdiction over:

- Rent increases
- Right to enter rental unit
- Amending notice to end tenancy

CRT – Residential Tenancy

The Owners, Strata Plan BCS 4207 v. Dhaliwal, 2018 BCCRT 467 – application to enforce an eviction notice issued under section 47 of the RTA. Decision – tribunal does not have authority to enforce such orders.

Noted s. 3.6(3)(a) of the CRT Act – CRT does not have jurisdiction over a claim to which Part 5 of the RTA (administrative penalties) applies.

CRT does have jurisdiction to determine whether a tenant's repeated actions seriously interfered with another person's use and enjoyment of a strata lot, common property, or a common asset. The CRT therefore has jurisdiction to determine if the strata had sufficient grounds to issue an eviction notice under section 138 of the SPA.

Shared Kitchen or Bathroom

RTA s. 4(c) – RTA does not apply to living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

CRT will take jurisdiction in these cases.

Weise v. White, 2018 BCCRT 527 – applicant rented a room in a house with kitchen and bathroom shared by the owner. Sought return of damage deposit.

- Damage deposit provisions in RTA don't apply. Dispute governed by general principles of contract law. Burden on applicant to prove her claim.

Roommate Disputes

RTB doesn't take disputes between roommates, so CRT will decide these (unless one party is the landlord).

Zabsinky v. Elliott, 2018 BCCRT 218: CRT ordered a party to refund \$750 share of the damage deposit to their former roommate, based on the written contract between the parties.

- Both parties were tenants on the lease with the landlord. Dispute was between them, not with landlord.

Other CRT Rental Disputes

- Rented storage or garage space.
- Commercial leases: *Michael's Beer Factory Inc. v. Cupcasions Handheld Dessert Specialists Inc. et al*, 2018 BCCRT 90

Vacation Rental

RTA s. 4(e) – RTA doesn't apply to living accommodation occupied as vacation or travel accommodation.

CRT case on vacation rental property:
Stewart v. Ware et al, 2018 BCCRT 23.
Applicant awarded damages for breach of contract after rental cancelled by owner.

CRT Process

You can still file a dispute involving a residential tenancy at the CRT.

You cannot get a pre-filing ruling on whether the CRT will resolve your dispute.

CRT Process

Flagged during the intake process, or later.
A Tribunal Member will be asked to make a
preliminary decision on whether the
tribunal will refuse to resolve the dispute.

If refused, CRT fees usually refunded.

Fee Waiver

CRT Rules 12 & 13:

- 12) A person who cannot afford to pay a fee can ask the tribunal to waive payment of fees
- 13) In deciding a request to waive the payment of fees, the tribunal will consider the person's ability to pay, based on the information about that person's financial situation.

Fee Waiver

A person will usually qualify for a fee waiver if they receive:

- BC Income Assistance
- BC Income and Disability Assistance
- Canada Guaranteed Income Supplement

The CRT may also look at:

- The number of people living in the same household as the person making the request (including those the applicant supports financially).
- Total annual income of the person making the request and the total household income.
- The net value of all real estate (assessed value, minus any mortgages).

Limitation Period

Limitation Act applies to CRT claims.

s. 14 – CRT Act. Limitation periods do not run after the tribunal issues its initiating notice (Dispute Notice), while the proceeding continues to run.

WARNING: Once CRT refuses to resolve dispute, limitation period resumes.

SOME THINGS IN LIFE SHOULDN'T BE HARD.

Resolve your small claims dispute
from your smartphone.



civilresolutionbc.ca



Civil Resolution Tribunal

More Information

Email: info@crtbc.ca

www.civilresolutionbc.ca

Helping Clients with Utilities Issues

Kevin Love, Lawyer, Community Legal Assistance Society

Sarah Khan, Lawyer

Law Foundation/Legal Services Society Provincial
Advocates Training Conference

October 18, 2018

Presentation overview

- ▶ Helping low income customers maintain electricity service with BC Hydro
- ▶ How to deal with utilities issues that arise through Residential Tenancy Branch proceedings

Applying for electricity service

- ▶ Customers must apply directly to BC Hydro unless they are renting and their landlords are paying for the customer's electricity usage directly.

BC Hydro - Contact information

- ▶ BC Hydro contact information
 - ▶ 1 800 BCHYDRO (1 800 224 9376)
 - ▶ www.bchydro.com
- ▶ Customer Service offices
 - ▶ Vancouver (corporate head office)
333 Dunsmuir St.
Monday to Friday, 8 a.m. to 4 p.m.
 - ▶ Burnaby
6911 Southpoint Dr.
Monday to Friday, 8 a.m. to 4 p.m.
 - ▶ Vernon
1401 Kalamalka Lake Rd.
Monday to Friday, 8 a.m. to 4 p.m.
 - ▶ Prince George
3333 22nd Ave.
Monday to Friday, 8:30 a.m. to 3:30 p.m.

Standard Charges that may apply to accounts

| Standard charges | Amount |
|--|--|
| Account charge | \$12.40 |
| Returned payment charge | \$6.00 |
| Reconnection charge (minimum) | \$30.00 |
| Meter test charge for meters sent to Measurement Canada for testing and found to be accurate | \$181.00 |
| Failed (meter) installation charge | \$65.00 |
| Late payment charge | \$1.5% per month (equivalent 19.6% per annum compounded monthly) |

Responsibility for paying accounts

- ▶ Customers are responsible for paying for the electricity used at any property that is in the customer's possession. This applies even if a service agreement hasn't been signed or the customer isn't the one using the electricity at the property.
- ▶ For example, when a customer moves into a home but doesn't open an account until after they have been living there for several days, the customer will still be responsible for paying for the electricity used at the property since the customer moved in.
- ▶ BC Hydro will transfer any outstanding amounts due on previously closed accounts to the customer's new account.

Moving BC Hydro service

- ▶ When a customer moves out of their home, they must give BC Hydro at least 24 hours' notice before leaving. Otherwise, the customer could be held responsible for electricity that is used or damage that is done to BC Hydro's property (such as the meter) after they have left.

Security Deposits

- ▶ BC Hydro will ask most new customers or a customers who have not maintained a good payment history to provide a security deposit.
- ▶ BC Hydro calculates the deposit amount based on historical electricity usage at the property and how often the customer receives a bill.
- ▶ BC Hydro pays interest for security deposits, credited to the customer's account on each bill. If the interest credited to an account is more than \$50, BC Hydro will send out a T5 at the end of February so that customers can report the interest to Canada Revenue Agency.
- ▶ The security deposit may be returned to the customer after 12 months of good payment history.
- ▶ Customers who have their bills paid directly by the Province of BC Ministry of Social Development and Poverty Reduction are not required to provide a security deposit.

How security deposits are calculated

BC Hydro calculates the deposit amount based on historical electricity usage at the property and how often bills are received.

| Bill frequency | Security deposit |
|----------------|--|
| Bi-monthly | Security deposit amount is up to three times (3X) the estimated average monthly amount based on actual electricity usage |
| Monthly | Security deposit amount is up to two times (2X) the estimated average monthly bill based on actual electricity usage |

How to waive a security deposit

- ▶ Several ways to waive the security deposit requirement:
 - ▶ Credit bureau report - give BC Hydro permission to obtain a credit bureau report - potential waiver if good credit history.
 - ▶ Credit Reference letter from another utility
 - ▶ Account guarantee by another BC Hydro customer guarantee the account. The guarantor will pay the amount up to the security deposit amount in the event there is an outstanding balance after the account is terminated.
Application form at:
<https://app.bchydro.com/content/dam/BCHydro/customer-portal/documents/accounts-billing/forms-guides/bch-account-guarantee-form.pdf>
 - ▶ Pay As You Go plan - if you're a residential customer, you can choose a Pay As You Go plan. Billing is based on fixed monthly installments plus an initial payment (in advance). This initial payment is calculated based on the average cost of electricity usage at your location for the previous 12 months.

Bill payments

- ▶ Payment for the full amount of the bill is required within 21 days of the billing date. An outstanding balance after the due date may be subject to Late Payment Charges. This applies even if the amount owing is based on an estimated meter reading, for non-energy charges or for security deposits.

Ways to pay bills

- ▶ There are several options to pay BC Hydro bills:
 - ▶ Online banking
 - ▶ Direct withdrawal through MyHydro
 - ▶ Pre-authorized payments
 - ▶ Equal payment plan
 - ▶ Credit card
 - ▶ By mail
 - ▶ At a Service BC location (outside the Lower Mainland)

Equal Payment Plans

- ▶ To make equal payments each month, you can set up an equal payment plan. The last 12 months of electricity use determines your monthly payment amount.
- ▶ Each year, BC Hydro compares the amount that has been billed with the actual use. The difference may result in a credit (if the customer has used less electricity than they have paid for) or additional charges (if the customer has been using more electricity than they've paid for). View the bill for a comparison.

Avoiding disconnection

- ▶ If you know you won't be able to pay your bill on time, you may be able to defer a payment. If you have a MyHydro account you can defer a payment online or by calling BC Hydro.

When BC Hydro can cut off electricity service or refuse to connect a customer

- ▶ BC Hydro may refuse to provide service or discontinue service without notice to any customer who:
- ▶ Fails to pay for electrical service at any residence
- ▶ Fails to pay an amount due as a result of that customer acting as a guarantor for another BC Hydro customer
- ▶ Breaches the service contract with BC Hydro
- ▶ Refuses to provide reference information and identification acceptable to BC Hydro, either when applying for service or at any subsequent time
- ▶ Lives with someone who has unpaid bills, if those bills were incurred while the two people were living together

Getting service reconnected

- ▶ If electrical service has been disconnected because of payment problems, customers must:
 - ▶ Pay the total amount owing or negotiate a payment plan with BC Hydro.
 - ▶ Call BC Hydro to report the payment and request a reconnection.
 - ▶ BC Hydro charges \$30 plus GST to reconnect your electrical service.

Payment plan options

- ▶ **Catch-up payment plans:** If you can't pay the total amount owing, BC Hydro can typically offer catch-up payment plans or flexible payment arrangements so that you can pay the overdue amount over time in a series of payments. Your bill will show the status of your catch-up payments and your regular billing amount, so that you'll know how much is due in your payment plan. To request a payment plan, call our customer team at 1 800 BCHYDRO (1 800 224 9376).
- ▶ **Auto-pay automatic withdrawals:** You can set up pre-authorized automatic withdrawals from your bank account or schedule payments through MyHydro to ensure you don't fall behind on BC Hydro bills or your catch-up payment plan.

Payment plan options (continued)

- ▶ **Equal payment plans:** Winter bills are typically much higher than the rest of the year, and can be hard to manage. You can spread out the cost of winter bills by paying an equal amount monthly through the year.
- ▶ **Defer a payment to a later date:** If you can't pay your bill by the due date, you may be eligible to defer the payment. You may still incur late payment charges. Contact BC Hydro to request to defer a payment.

MSDPR Essential Utilities Crisis Supplement

- ▶ Amended October 1, 2018
- ▶ A crisis supplement for essential utilities may be provided if recipients meet the requirements for a crisis supplement and
 - ▶ where utility is provided by an essential utility provider (e.g., BC Hydro, FortisBC):
 - ▶ are behind in their payments (in arrears); and
 - ▶ are facing the risk of disconnection or have been disconnected; or
 - ▶ where utility is not provided by an essential utility provider:
 - ▶ are facing the risk of having no fuel for heating or for cooking meals.

MSDPR Essential Utilities Crisis Supplement (continued)

- ▶ Where utility is provided by an essential utility provider, the supplement can be provided prior to a disconnection notice being issued. Confirmation of arrears, in the form of documentation, is required.
- ▶ Essential utilities are:
 - ▶ fuel for heating
 - ▶ fuel for cooking meals
 - ▶ water
 - ▶ hydro
- ▶ Fuel for heating and fuel for cooking meals may include natural gas, heating oil, firewood and propane.
- ▶ The crisis supplement limitations policy, including the 12-month maximum, does not apply for this supplement.

Customer Crisis Fund program for residential customers facing disconnection

- ▶ The CCF may be available to customers experiencing a temporary financial crisis, such as a loss of employment, unanticipated medical expenses, or a death in the family who are falling behind in their bills, in order to avoid disconnection. Not restricted to low income ratepayers.
- ▶ The program is available to residential customers only, for their primary residence:
 - ▶ The total amount owing needs to be less than \$1,000, and typically you'll need to have made attempts to make payments.
 - ▶ Grants are available up to \$600 (\$500 if your home isn't heated by electricity) and will be applied directly on your BC Hydro bill against the amount owing.
 - ▶ You can apply for a grant once per year, and the grant doesn't need to be repaid.

Customer Crisis Fund (continued)

- ▶ Funded through a 25 cent/month charge on all residential customers' accounts, will raise about \$5M per year.
- ▶ Customers can appeal denied applications.
- ▶ Random audit process.
- ▶ Many Law Foundation-funded advocates received training from BC Hydro about the CCF prior to the CCF starting in May, 2018.
- ▶ BC Hydro has a useful Frequently Asked Questions page on its site about the CCF.
- ▶ Pilot project for three years, BC Utilities Commission is considering whether to review it after one year.

Winter Disconnection Policy

- ▶ **Non-payment disconnections in winter:** BC Hydro has implemented a Winter Disconnection Policy to assist ratepayers facing non-payment disconnections in winter. BC Hydro now postpones non-payment disconnections for residential customers from November 1 to March 31, when the weather is coldest.
- ▶ The policy will work differently in different parts of BC

Winter Disconnection Policy - Lower Mainland and Vancouver Island

Lower Mainland & Vancouver Island

- ▶ From November 1 to March 31, you won't be disconnected for non-payment if the forecasted daily average temperature for the next 24 hours is below 0 degrees Celsius. When it warms up, you'll be disconnected if you still haven't paid your bill or made a payment arrangement with us.
- ▶ For the purposes of the delayed disconnections in winter for non-payment, the Lower Mainland area includes Vancouver, Burnaby, Coquitlam, the North Shore (including Whistler and Pemberton) and Fraser Valley (including Chilliwack, and Hope). The Vancouver Island area includes Vancouver Island, Sunshine Coast and Gulf Islands.

Winter Disconnection Policy - Rest of BC

- ▶ If you live outside the Lower Mainland and Vancouver Island, you won't be disconnected for non-payment between November 1 and March 31. If you don't pay your bill, you'll still continue to receive payment notices, late payment charges and could be assessed a security deposit. Disconnections for non-payment start again on April 1. If you're disconnected, you'll have to pay the full outstanding balance to resume your electricity service.

Power Smart programs for low income customers

- ▶ If you live in an income-qualifying household, you can get free energy-saving products and professional advice that will help make your home more energy efficient and comfortable, and help you save on your utility bills.

Power Smart programs for low income customers (continued)

To qualify, you must meet the income requirements below. Total household income includes the combined income of all members in the household over the age of 18.

| number of people in household | total household income |
|-------------------------------|------------------------|
| 1 person | \$32,900 |
| 2 persons | \$41,000 |
| 3 persons | \$50,400 |
| 4 persons | \$61,200 |
| 5 persons | \$69,400 |
| 6 persons | \$78,300 |
| 7 or more persons | \$87,200 |

Power Smart programs for low income customers (continued)

- ▶ Free energy saving kit
 - ▶ Contains easy-to-install, energy-saving products such as LED bulbs, high-efficiency showerheads, and weatherstripping that you can install yourself.
- ▶ Free home energy assessment and energy saving product installation
 - ▶ You may qualify for a free home energy assessment and the installation of energy-saving products throughout your home at no cost to you through the Energy Conservation Assistance program. Also includes personalized advice and recommendations for what you can do to further improve your home's energy efficiency.

Power Smart programs for low income customers (continued)

- ▶ Upgrades for non-profit housing providers and Aboriginal communities
 - ▶ Non-profit housing providers and Aboriginal communities can get help with improving the energy efficiency of their housing units to help their tenants and community members save on their utility bills and be more comfortable.

How to make a complaint about BC Hydro

- ▶ It is important that customers (or their advocate or support person) begin by contacting BC Hydro about the complaint.
- ▶ If you are not satisfied with the customer service representative's response to your concerns, then ask to speak to a Supervisor.
- ▶ If you are not satisfied with the Supervisor's response, then ask to speak to a manager. If a manager is not available at that time, BC Hydro's policy is to return your call within 24 hours. If your concern is disconnection of your service, BC Hydro's policy is that a manager will call you back, usually within one hour.

How to make a complaint about BC Hydro to the BC Utilities Commission

- ▶ If you are not satisfied after speaking with a BC Hydro manager, you can contact the BC Utilities Commission
 - ▶ Prior to accepting a complaint, the Commission must be satisfied that you have made a serious attempt to settle the dispute with the utility. You can find more information about the Commission on their website: www.bcuc.com or by calling 1-800-663-1385.
- ▶ The Commission is available to assist the public in the resolution of complaints with utilities in the following areas:
 - ▶ Utility Practices/Procedures • Customer Billings • Service Disconnections
 - ▶ Gas Mains/Powerline Extensions • Third-Party Billings • Easement/Right-of-Way Maintenance

How to make a complaint about BC Hydro to the BC Utilities Commission (continued)

- ▶ If your problem is not time sensitive, send a written complaint. The Commission will forward the complaint to BC Hydro and ask them to respond.
- ▶ The written complaint should contain the following information:
 - ▶ name, address and utility account number of the complainant;
 - ▶ the key elements of the dispute;
 - ▶ names of utility staff/officials contacted and dates contacts were made;
 - ▶ reasons, from the customer's viewpoint, why the problem was not resolved.
- ▶ Send your complaint to the Commission at:

BC Utilities Commission

Box 250, 900 Howe Street, 6th Floor

Vancouver, BC V6Z 2N3

604-660-4700, toll-free: 1-800-663-1385

Complaints to the Ombudsperson about BC Hydro

- ▶ If you believe that BC Hydro has treated you unfairly, you can also complain to the Office of the BC Ombudsperson. The Ombudsperson cannot require BC Hydro to take any particular action, but the Ombudsperson can investigate your complaint and make recommendations about how BC Hydro can improve its practices. For more information, see the Ombudsperson's website www.ombudsman.bc.ca or call 1-800-567-3247 (all areas, toll-free).

BC Hydro Low Income Customer Advisory Committee

- ▶ Set up by BC Hydro in 2017. Meets every 3 or 4 months
- ▶ Participants include:
 - ▶ BC Hydro
 - ▶ Ratepayer groups
 - ▶ Ministry of Social Development and Poverty Reduction
 - ▶ Indigenous and Northern Affairs Canada
 - ▶ Representatives from various advocacy and housing organizations

UTILITIES AND THE RTB

Disputes about utilities might include:

- Landlord restricting a service.
- Eviction for non-payment of utility fees.
- Disputes about what services are included in the rent.
- Annual rent increases under *MHPTA*.
- Additional rent increases under *RTA* and *MHPTA*.

LANDLORD RESTRICTING A SERVICE

RESTRCITONS: WHAT SERVICES ARE COVERED?

RTA s.1: "service or facility" includes any of the following that are provided or agreed to be provided by the landlord to the tenant of a rental unit:

- (a)appliances and furnishings;
- (b)utilities and related services;
- (c)cleaning and maintenance services;
- (d)parking spaces and related facilities;
- (e)cablevision facilities;
- (f)laundry facilities;
- (g)storage facilities;
- (h)elevator;
- (i)common recreational facilities;
- (j)intercom systems;
- (k)garbage facilities and related services;
- (l)heating facilities or services;
- (m)housekeeping services;

RESTRICTIONS: WHAT SERVICES ARE COVERED?

MHPTA s.1: "service or facility" includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:

- (a)water, sewerage, electricity, lighting, roadway and other facilities;
- (b)utilities and related services;
- (c)garbage facilities and related services;
- (d)laundry facilities;
- (e)parking and storage areas;
- (f)recreation facilities;

LANDLORD RESTRICTING SERVICES

Two categories:

1. Essential services and services that are a material term of the tenancy agreement: Landlord cannot restrict.
2. Other services: Can restrict on 30 days written notice with rent reduction.

LANDLORD RESTRICTING SERVICES

Two categories:

1. Essential services and services that are a material term of the tenancy agreement: Landlord cannot restrict.
2. Other services: Can restrict on 30 days written notice with rent reduction.

EVICTION FOR NON-PAYMENT OF UTILITIES

EVICTIONS

Landlord must show four things:

1. Must be a “utility”.
2. Required to be paid by tenant under tenancy agreement.
3. Landlord must give written demand for payment.
4. Unpaid 30 days after written demand.

WHAT IS A UTILITY?

No specific definition.

Not the same as a “service or facility”.

Not all “services” are “utilities”.

Clues from definition of “utility fee” in s. 32 of *MHPTR*?

WHAT SERVICES ARE INCLUDED IN THE RENT?

WHAT'S INCLUDED IN THE RENT?

First look at tenancy agreement. Standard RT form has tick boxes.

Section 5 of “standard terms” say landlord cannot make tenant pay extra for service already included in rent.

Problems often arise when tenant has informally received a service (spliced cable, wifi access etc.)

ANNUAL RENT INCREASES

MHPTA “proportional amount” allows landlords to increase rent based on increase in utility fees.

Again, not all “services” are “utilities”.

ADDITIONAL RENT INCREASES

RTA s. 23(1)(c) ; MHPTA s. 33(1)(c)

Landlord can apply for additional rent increase based on “extraordinary increase in operating expenses”.

No definition of “operating expense”. Includes utilities and services?

QUESTIONS?

3. Indigenous Issues

- **Wills and estates on reserve (Day 2)**
 - No materials/Materials at session
- **Working with Indigenous survivors of violence (Day 2)**
 - No materials/Materials at session
- **Indigenous women's rights on and off reserve (Day 2)**
 - Link to online materials



WEDNESDAY, OCTOBER 17, 2018 – DAY 2

No Materials/Materials at session

Wills and estates on reserve:

An overview of housing, matrimonial property, wills and estates, employment, and other issues.



WEDNESDAY, OCTOBER 17, 2018 – DAY 2

No Materials/Materials at session

Working with Indigenous survivors of violence: Salima Samnani - supervising lawyer, Indigenous Community Legal Clinic
A session that will provide important information and resources about helping Indigenous survivors of violence.

WEDNESDAY, OCTOBER 17, 2018 – DAY 2

Link to online materials

Indigenous women's rights on and off reserve: Crystal Reeves - lawyer, Mandell Pinder LLP

This presentation will cover Indigenous child protection, matrimonial property on reserve, Indigenous status, and other topics

<http://www.atira.bc.ca/%E2%80%9Cyour-rights-reserve%E2%80%9D-legal-tool-kit-aboriginal-women-british-columbia>

4. Resources and Services

- **New resources and services (Day 1)**
 - Rise Women's Legal Centre – new resources
- **Consultation on a resource for doctors completing PWD (Day 1)**
 - No materials/Materials at session
- **New initiatives: updates from LSS and the Law Foundation (Day 2)**
 - LSS Services and Initiatives Update
 - LSS publications
- **Working with LSS Intake: Legal aid applications, exception reviews, eligibility reviews (Day 3)**
 - No materials/Materials at session
- **PLEI resources (Day 3)**
 - People's Law School Update
 - Clicklaw sheet

Rise Women's Legal Centre – new resources

Andrea Bryson

Case Manager, Rise Women's Legal Centre

intake@womenslegalcentre.ca / 236-317-9000

Rise Women's Legal Centre

- Has up to 6 UBC law students who provide legal assistance to women in the Lower Mainland.
- Overseen by supervising lawyer
- Takes files from end of January to mid-April, end of May to mid-August, end of September to mid-December.
- There is a ~4 week gap between semesters and 3 week training time to bring students up to speed.
- During transition clients are helped by Case Manager
- Has social work practicum students to assist with accompaniments
- Summary advice clinics with lawyers and clients can refer back to Case Manager for support

Virtual Legal Clinic & Transition House Project

- Family lawyer provides assistance to women in remote communities
- Both the woman & her court case must be outside the area between Whistler and Chilliwack (inclusive).
- Services are for both Provincial and Supreme court
- Services provided are:
 - summary advice,
 - document drafting,
 - legal coaching for self-representing women
 - Some limited court appearances via telephone or video conference may be done: hearings must be less than 2 hours, and on simple issues (ie restrain on assets or non-urgent protection order or change of venue)
 - Some limited negotiation with opposing party

VLC Transition House Project

- In conjunction with BC Society of Transition Houses
- Provides summary advice in:
 - Family Law
 - Immigration Law, and
 - Criminal Law (as accused, complainant and witness)
- Transition House provides secure connection and privacy

Transition House program is for transition house clients:

- Fireweed Collective Society, located in Fort St. James
- Ksan House Society, located in Terrace
- Haida Gwaii Society for Community Peace, located in Haida Gwaii
- Westcoast Community Resources Society, located in Ucluelet

Connecting with Rise

Both the Virtual Legal Clinic and the Client intake go through the case manager

If you would like to find out if there are services available to your client call the case manager or fill out a client assistance request form on our website.

Client can fill in the assistance form and detail that they give permission for Case Manager to speak to advocate/worker in body of questionnaire

Thank you!

Andrea Bryson

Case Manager, Rise Women's Legal Centre

236-317-9000/intake@womenslegalcentre.ca



TUESDAY, OCTOBER 16, 2018 – DAY 1

No Materials/Materials at session

Consultation on a new resource for doctors filling out PWD forms: Karla Rymer-Keil - advocate, Wachiay; Robin Loxton – retired advocate
The creators of a new resource designed to help doctors fill out their portion of the PWD form effectively would like your feedback about how to make this resource the best it can be.

Legal Services Society

Provincial Advocates Conference
October 17, 2018
Presentation by Susanna Hughes
Coordinator, Family Law Services

Services and Initiatives Update



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



The Legal Services Society (LSS) provides:

- *Legal information in many areas of law*
- *Legal advice and representation in criminal, immigration, family and child protection law*

Expanded Criminal Duty Counsel

- Port Coquitlam court
- Faster resolution
- Fewer court appearances
- Follow up with same lawyer for less complex matters



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Expanded Family Duty Counsel

- Victoria Justice Access Centre
- Up to 6 hours of advice
- Continuity of service
- Legal coaching for self-represented parties
- Interpreters can be arranged



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Expanded Family LawLINE

- Available province-wide
- Up to 6 hours of advice
- Continuity of service
- Telephone appointments
- Legal coaching for self-represented parties
- Interpreters available



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Financial eligibility for family advice services

Family advice services

Family legal advice services have a financial [eligibility test](#)

To be eligible for family advice services, your [?net monthly household income](#) must be below the amount for your household size in the table below.

| Household size* | Net monthly income** |
|----------------------------|---------------------------|
| (number of family members) | (income after deductions) |
| 1 – 4 | \$3,470 |
| 5 | \$4,110 |
| 6 | \$4,770 |
| 7 or more | \$5,390 |

Parents Legal Centres

*Specialized
Legal Aid Services for
Child Protection Matters*



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Overview



- What is the Parents Legal Centre
- Why the PLC works
- How the PLC can help your clients

What is the Parents Legal Centre (PLC)?



Specialized Child Protection Service
currently operating in Vancouver and
Surrey

For parents (or person who regularly
cares for a child ie. in place of a
parent), and MCFD has child
protection concerns

PLCs have teams comprised of lawyer,
advocate and administrative assistant
to provide support to parents

PLC expansion:



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



- In February 2018, LSS received additional funding from the BC government to expand the PLCs
- PLCs are part of LSS' Indigenous Services Division
 - 41% LSS's child protection clients self-identify as Indigenous
 - 63% of children in care are of Indigenous ancestry while Indigenous people comprise 6% of BC's population
 - PLC services are available to anyone who qualifies
 - Seven new centres will be open by March 2019

What does the PLC offer?



*Parent supported
early by a team*

The lawyer and the advocate, supported by the admin assistant, work with and on behalf of parents, to engage with social workers to focus on finding solutions

Early intervention - often before the children are even taken into government care, or prior to birth of the child

The lawyer represents the parent at mediations, Family Case Conferences, other collaborative meetings and at court (other than trial).

If not yet a PLC client, lawyer can provide advice (like duty counsel).

What does the PLC offer?



Designed to be culturally sensitive and easily accessible to the clients served

The Advocate can:

- help parents connect with services to address the underlying child protection concerns, e.g., housing; addictions recovery; counselling
- speak with social workers on parents' behalf
- accompany client to various meetings and appointments, including with social worker

Service may also be provided off-site at community locations. The PLC will offer community legal advice clinics on child protection.

Work in coordination with other service providers



- Better support your clients who may be involved in a child protection matter before or in court
- Provide legal resources to expand and enhance the support you may be providing
- Work with you to find solutions that work for our clients
- Organize outreach activities and hold community legal advice clinics with your organization
- Better understand the community to improve our services

PLC Expansion locations:

- Four new centres are opening in November 2018:
 - Campbell River (including Port Hardy)
 - Duncan
 - Prince George (including Fort St. James and Vanderhoof)
 - Smithers (including Hazelton and Houston)
- Plus three more in early 2019:
 - Kamloops
 - Williams Lake
 - Victoria
- Terrace regional office will also offer PLC services



Increased funding in April 2018

Priorities to improving services for:

- Indigenous clients
- Family law
- Child protection



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Indigenous client support

- Lawyers can help with cultural issues in family and child protection cases
- Matrimonial Real Property on Reserve
- Gladue reports and submissions



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Family Law

- **Reinstated discretionary spending**
- **More hours for lawyers to work on family contracts**
- **Increased family duty counsel services**



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Child Protection

- Increased financial eligibility threshold
- representation for some extended family members



Legal
Services
Society

British Columbia
www.legalaid.bc.ca



Questions?



LSS PUBLICATION UPDATES



Legal
Services
Society

British Columbia
www.legalaid.bc.ca

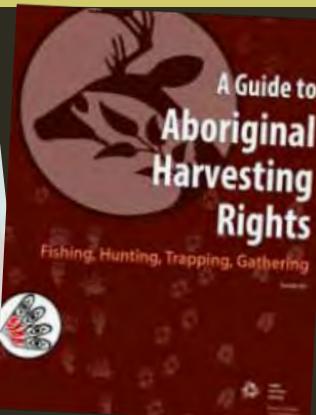
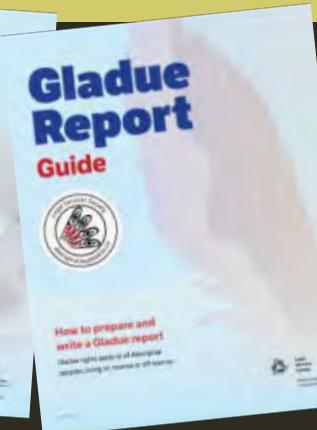


Patricia Lim, 604-601-6054
Patricia.Lim@lss.bc.ca

WHAT I'LL COVER TODAY

- New and revised publications
- Website updates
- Consultations on community needs

NEW AND REVISED PUBLICATIONS



FAMILY LAW



Family LawLINE
a free telephone service in BC

Going through a family law issue?
Need free legal advice?

- Ask to see the same lawyer every time you call
- Learn about your options before and after divorce
- Have a lawyer teach you through court procedures
- Get help with your documents
- Connect with other services and resources

You may qualify if you have children and don't qualify for attorney
legalaid.bc.ca/QualifyAdvice

604-408-2172 (Family Violence)
1-866-577-2525 (Information)

Legal Services Society Call Centre
Monday-Friday from 9am-4pm, except holidays

Family LawLINE
Get advice from a lawyer about immigrating,
separating, divorce, or other family law matters.

604-408-2172
(Family Violence)
1-866-577-2525
(Information)

Legal Services Society Call Centre
Monday-Friday from 9am-4pm, except holidays

COMING UP

Unbundled
Services
Poster

COMING UP

Revision of
Living
Together or
Living Apart

CHILD PROTECTION



Locations opening 2018/2019

- *Campbell River, Smithers/Hazelton, Williams Lake, Prince George, Kamloops, Duncan, and Victoria*

COMING UP

**Aboriginal
Child
Protection
booklet**

WELFARE



COMING UP

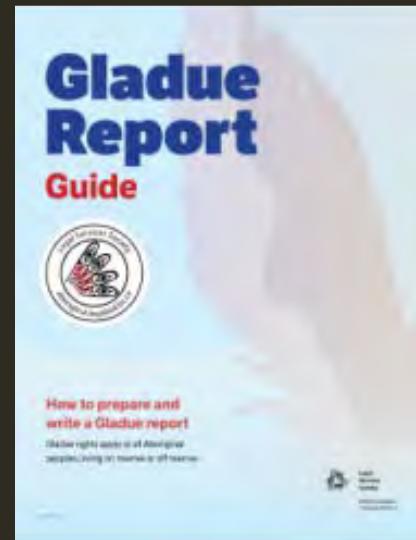
Book 3
Your Welfare
Rights: When
You're On
Welfare

ABORIGINAL LEGAL ISSUES

Level 2



Level 3



COMING UP

**Gladue
Graphic Novel
and
Animatic
Video**

OTHER UPCOMING PUBLICATIONS

NEW

- Mental Health Act legal rights resource
- Refugee Claim infographic
- Matrimonial Real Property on Reserve infographic
- Unbundled Services poster

REVISED

- How to Appeal Your Conviction
- How to Appeal Your Sentence

WEBSITE UPDATES

- Family Law Website
- Aboriginal Legal Aid in BC
- MyLawBC

CONSULTATIONS



|



LANGUAGES OTHER THAN ENGLISH (LOTE) ASSESSMENT

- LSS is conducting an intensive assessment of their LOTE resources over the next 6 months.
- PEERs, Inc., the consulting agency, may contact you to participate in focus groups, surveys, or questionnaires.

MATRIMONIAL PROPERTY ON RESERVE

Thursday, Oct 18

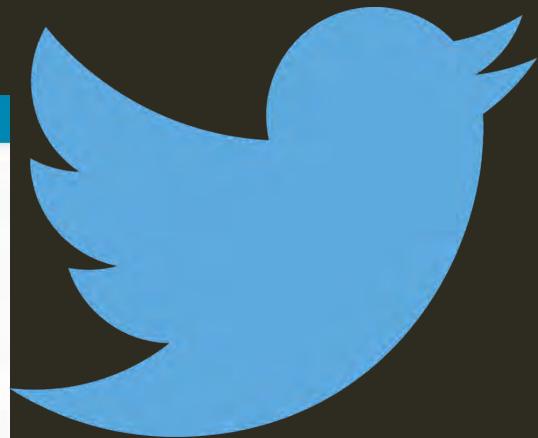
12:30-1:30pm

Focus group discussion about what information your community needs about matrimonial property on reserve

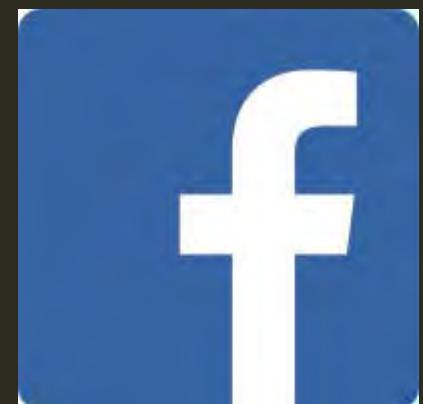
LSS ON SOCIAL MEDIA

factum.mylawbc.com

The screenshot shows the homepage of factum.mylawbc.com. At the top, there is a navigation bar with links to MYLAWBC, LEGAL SERVICES SOCIETY, FAMILY LAW IN BC, and ABORIGINAL LEGAL AID IN BC. Below the navigation is a logo for "THE FACTUM MyLawBC". On the right side of the header, there are social media icons for Facebook and Twitter, and a search bar with placeholder text "To search, type and hit enter". The main content area features a large orange banner with the word "legal" in white. Below the banner, the text "Hot Off the Press: Legal Aid Can Help You Translations" is displayed. To the right of the banner is a sidebar containing a definition of "factum" (a statement of the facts of a case), a link to "SUBSCRIBE TO RSS", and a "SIGN-UP FOR THE NEWSLETTER" section. The "SIGN-UP FOR THE NEWSLETTER" section includes a red circle around the "Name:" input field.



@legalaidBC



**Any ideas for publication improvements or
legal information needs?**

Contact me

Patricia.Lim@lss.bc.ca

604.601.6054





THURSDAY, OCTOBER 18, 2018 – DAY 3

No Materials/Materials at session

Working with LSS Intake: Legal aid applications, exception reviews, eligibility reviews: Branka Matijasic - manager, Intake and Referral Services and Wendy Kupchuk, provincial supervisor, Legal Aid Applications, Legal Services Society



People's
Law
School

Work out life's legal problems

People's Law School Update



Provincial Advocates Conference | October 2018
Drew Jackson, Legal Content Developer

What I'll cover

- What's new from People's Law School for your clients to use
- How you can use our website content on *your* website
- One last thing: a new resource especially for you



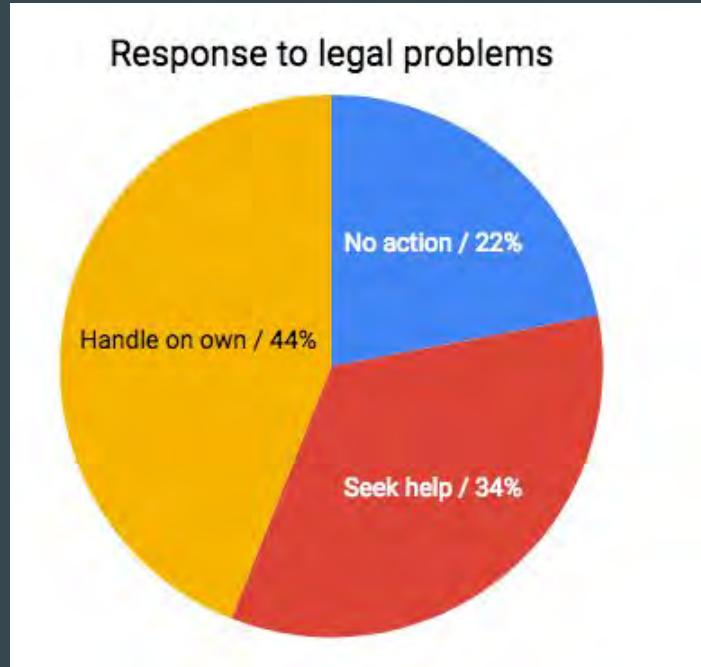
Who we are

- A non-profit serving British Columbia
- We help people “work out life’s legal problems”
- We provide plain language information and education on the law
- Founded in 1972 as the first dedicated PLEI organization in Canada



Our focus

- Our focus: **everyday legal problems**
- Our approach: using plain language to **empower people to take action**
- Our website: highlights **practical steps** people can take and tools they can use



Source: "[The Legal Problems of Everyday Life](#)",
(Department of Justice Canada: 2007), p. 55

We support print...

- *When I'm 64: Benefits for Older Adults* updated in 2018, with more tips, user stories & fresh new look
- 20 titles in print for ordering from Crown Publications
- 15 titles in full text on Clicklaw Wikibooks: online, EPUB, print



... in-person learning in communities ...

- **Classes on everyday legal problems**
hosted by community partners across BC — public libraries and community groups
- Justice Theatre dramatizations for school groups and community forums



... and increasingly, online

Our website at
www.peopleslawschool.ca

- Focuses on **everyday legal problems**
- Is **understandable** and approachable
- Provides **practical** step-by-step guidance, templates and tips

The screenshot shows the homepage of the People's Law School website. At the top, there is a navigation bar with links for Home, About, News, Volunteer, Donate, and Contact. To the right of the navigation are social media icons for Facebook and Twitter, and a search bar labeled "Search this site". The main content area features the People's Law School logo (stylized vertical bars in orange, blue, and teal) and the tagline "Work out life's legal problems". Below this, there are five topic sections arranged in a grid:

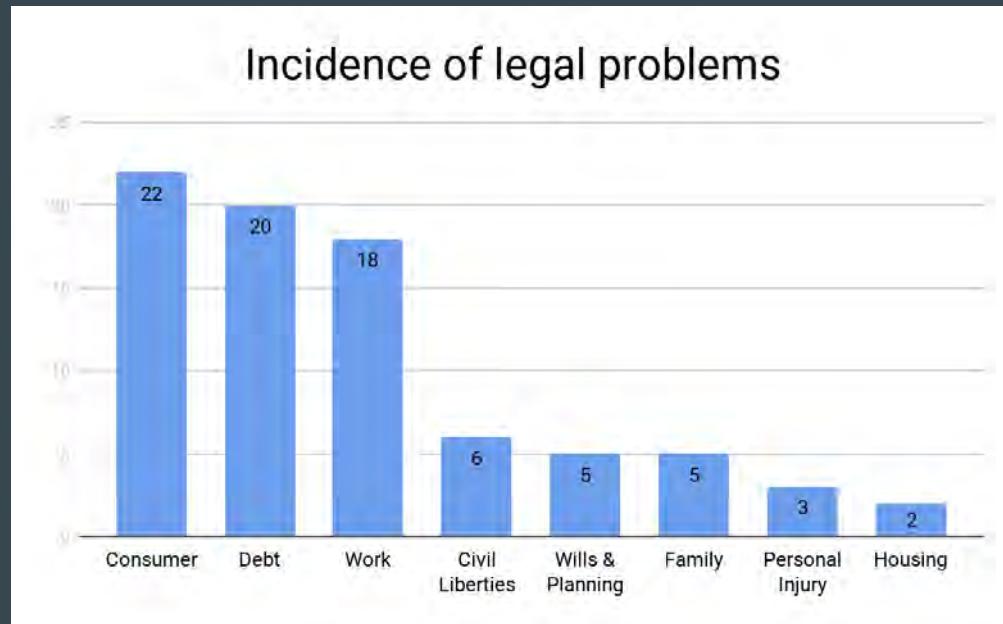
- EVERYDAY LEGAL PROBLEMS >** (highlighted in teal)
- Q&A**
- PUBLICATIONS**
- CLASSES**
- FOR TEACHERS**

| | |
|---|---|
| 01 / Consumer Work out your everyday legal problems in these topics | 02 / Home & Neighbours |
| 03 / Money & Debt | 04 / Wills, Planning & Estates |
| 05 / Work | |

Focus on everyday legal problems

We focus on everyday legal problems that affect a lot of people

- Consumer
- Debt *Expanded coverage in 2018!*
- Work *Expanded coverage in 2018!*
- Wills, planning & estates



Source: "[The Legal Problems of Everyday Life](#)",
(Department of Justice Canada: 2007), p. 12

Understandable & approachable

Designed for the public

- **In plain language**
- **Interactive images** help make information more approachable
- **Accordions** allow people to expand content without overwhelming them

A Creditor Wants to Take Money from Your Wages or Bank Account

This information applies to British Columbia, Canada

Reviewed: June 2018

Time to read: 8 minutes



Test your knowledge: Garnishing orders



You're in debt to someone and haven't paid them back. They've given up waiting and are poised to take action to recover their money. They might want a portion of your monthly pay cheque until the debt is cleared. Or access to money in your bank account. Both are options under a legal procedure called **garnishment**. Learn about your rights if a creditor wants to take money from your wages or bank account.

Understand your legal rights

- › If a creditor wants to take some of your wages
- › If a creditor wants to draw from your bank account
- › Some types of benefits are protected

Deal with the problem

- › Step 1. Apply to set aside a garnishing order
- › Step 2. File and serve the application
- › Step 3. Attend the court hearing

Common questions

Get help

Practical

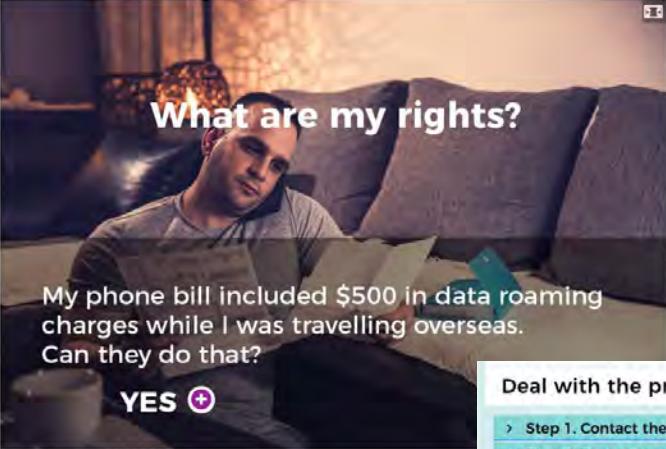
Step-by-step guidance and tools

- Steps help people understand options
- Tools, such as downloadable template letters, help people take action

This information applies to British Columbia, Canada | Reviewed: December 2017 | Time to read: 8 minutes | Print

Disputing a Phone Bill

Test your knowledge: Data roaming charges



What are my rights?

My phone bill included \$500 in data roaming charges while I was travelling overseas. Can they do that?

YES +

The shock of a phone bill much larger than you expected can be stressful. If unusually high phone bill, here are steps to dispute it.

Understand your legal rights

Deal with the problem

> Step 1. Contact the provider

> Step 2. Send a complaint letter

> Step 3. File a complaint with the CCTS

Common questions

Get help

Deal with the problem

> Step 1. Contact the provider

> Step 2. Send a complaint letter

> Step 3. File a complaint with the CCTS

If discussing the situation with the provider doesn't resolve the problem, the next step is to send a complaint letter to them to dispute the bill.

You should include:

- your name, address and contact number
- your customer account or reference number
- copies of the bill you dispute
- why you dispute the bill—say which charges are not right

You can use [our template letter](#) to write to your service provider.

Send the letter to the service provider's customer services department or the contact listed in any complaint procedure the provider has in place. See the back of your paper bill or the provider's website for details on their procedure. If you want to be sure they receive your letter, send it by registered mail.

Keep a copy of your letter.

> Step 3. File a complaint with the CCTS

A large blue arrow points from the 'Step 3' link in the 'Understand your legal rights' section to the 'Step 3' link in the 'Deal with the problem' section.

New in 2018: Shareable content

A next generation way to make content more shareable and findable

- Allowing others to **embed** it on their own websites
- People can find reliable information on websites that they use and trust

The screenshot shows the People's Law School website with a navigation bar at the top. Below the navigation, there are several menu items: EVERDAY LEGAL PROBLEMS, Q&A, PUBLICATIONS, CLASSES, FOR TEACHERS, LOGIN, and social media links for Facebook and Twitter. A search bar is also present. The main content area is titled "Money & Debt". Below the title, there are six cards arranged in two rows of three. Each card has a small thumbnail image, a title, and a "Work It Out" or "Need to Know" label. The titles are: "First Steps to Take in Dealing with Debt", "Dealing with Debt Collectors", "If Your Spouse Declares Bankruptcy", "A Creditor Wants to Take Money from Your Wages or Bank Account", and "A Creditor Wants to Repossess Your Property". At the bottom of the page, there is a note about "Getting Out of Debt" pages and an "Embed" button.

EVERDAY LEGAL PROBLEMS >

Q&A PUBLICATIONS CLASSES FOR TEACHERS

Home / Everyday Legal Problems / Money & Debt

Money & Debt

BORROWING MONEY CREDIT CARDS CREDIT REPORTS DEALING WITH DEBT GETTING OUT OF DEBT TEMPLATE LETTERS & AGREEMENTS

Our [Work It Out](#) pages offer in-depth, step-by-step guidance for dealing with a legal problem from start to finish.

Easy-to-read [Need to Know](#) pages offer tips and highlights.

Work It Out First Steps to Take in Dealing with Debt

Work It Out Dealing with Debt Collectors

Need to Know If Your Spouse Declares Bankruptcy

Work It Out A Creditor Wants to Take Money from Your Wages or Bank Account

Work It Out A Creditor Wants to Repossess Your Property

Also see our [Getting Out of Debt](#) pages for step-by-step guidance on options to become debt free.

</> Embed

Embed widget

Enables you to embed content from People's Law School on ***your website***

- **You get free content**

You get plain language, engaging and practical content on topics of your choosing

- **Updated regularly**

Updates automatically flow through to your site

- **Easy to set up**

Takes only minutes to embed content

The screenshot shows the Consumer Protection BC website. At the top, there is a navigation bar with links to Home, About us, Careers, Contact us, MyAccount Login, Select Language, and a search bar. Below the navigation is a horizontal menu with icons for Consumer Help, Consumer Tips, Motion Picture Ratings, Get & Keep Your Licence, Quick Links for Businesses, Our Enforcement Actions, and News & Media Centre. The main content area features a section titled "Scams" with a brief description of the Canadian Anti-Fraud Centre (CFA) and a link to learn more about certain types of scams. Below this is a "Consumer" section with a sub-menu for Cellphones, Contracts, Hiring Someone, Holidays, Making a Purchase, and Scams & Identity Theft. Under "Scams & Identity Theft", there is a link to Template Letters & Agreements. The "Work It Out" section is highlighted with a teal background and shows six categories: Charity and Sales Scams, Loan and Credit Scams, Online and Computer Scams, Prize and Contest Scams, Romance and Relationship Scams, and Work and Business Scams. Each category has a thumbnail image and a "Work It Out" button.

Step 1

This information applies to British Columbia, Canada | Reviewed: September 2018 | Time to read: 6 minutes | Print

Test your knowledge: Cancelling a payday loan

Can I cancel a payday loan agreement once I've signed?

YES + NO +

You had an unexpected expense, and needed money quick. In a panic, you went to a payday lender and took out a loan. Now your friend has offered to spot you the money instead. You wish you'd never taken out that payday loan. Is it too late to get out of the agreement? Learn what's involved in cancelling a payday loan.

Understand your legal rights

- > There are limits on payday loans
- > You get a two-day "cooling-off period"
- > Your rights to cancel after the cooling-off period

Deal with the problem

Common questions

Get help

Share on Facebook | Share on Twitter | Embed | Print

On our site, look for a page you want to embed, and click on the "Embed" icon

Step 2

[Share on Facebook](#) | [Share on Twitter](#) | [Embed](#) | [Print](#)

Embed People's Law School content on your website. (Learn about [embedding content](#).)

Provide your information

Your name:

Your organization:

Your email:

Provide the website address where you will use our content. Just include the domain part of the address (.unl, .ca, .org, or .com).

Copy the embed code

Copy and paste this code to a location within your website. For the embedded content to appear on your site, you must submit this form.

```
<iframe src="https://www.peopleslawschool.ca/everyday-legal-problems/money-debt/borrowing-money/cancelling-payday-loan?embed" width="100%" height="600px"></iframe>
```

Submit this form

By embedding People's Law School content on your site, you are agreeing to our [terms of service](#).

[Submit to People's Law School](#)

You fill out a short form
to submit information
to People's Law School

You copy the
embed code

Step 3

You paste the embed code onto a page on your website

Word count: 0 Draft saved at 7:24:24 pm.

How's it going, drewjackson

Screen Options Help

Art of Research Communications 11 New Forms

Dashboard Posts Media Forms ! Pages All Pages Add New Comments Appearance Plugins ! 3 Users Tools Settings HSP Content Collapse menu

WordPress 4.9.8 is available! Please update now.

Add New Page

My Web Page

Add Media Add HSP Add Form

b i link b-quote del ins img ul ol li code more close tags

Visual Text (HTML)

```
<iframe src="https://www.peopleslawschool.ca/everyday-legal-problems/money-debt/borrowing-money/cancelling-payday-loan?embedded" width="100%" height="600px"></iframe>
```

Publish Save Draft Preview

Status: Draft Edit

Visibility: Public Publish Immediately Edit

Move to Trash Publish

Page Attributes

Parent (no parent)

Order 0

Need help? Use the Help tab in the upper right of your screen.

Result

SENIORS FIRST BC
FORMERLY KNOWN AS THE BC CENTRE
FOR ELDER ADVOCACY & SUPPORT

Events ▾ News ▾ Get Involved ▾ Contact ▾

CALL SENIORS ABUSE AND
INFORMATION LINE (SAIL)

Getting Help Resources Programs About Us For Professionals

Making a Purchase

If There Is a Problem with a Purchase

This information applies to British Columbia, Canada Reviewed: May 2017
⌚ Time to read: 7 minutes.

Test your knowledge: If there is a problem with a purchase



What are my rights?

If something I bought is damaged, can I get my money back?

YES + NO +

If something's gone wrong with an item you've bought, you may be entitled to a refund, repair or replacement. Learn about your rights and options if there is a problem with a purchase.

Understand your legal rights

- > Your options if the other party is in breach of contract
- > If something was faulty
- > If the seller misled you
- > If the seller acted unfairly towards you
- > If you change your mind

Deal with the problem

Get help

LINKS DIRECTORY

Looking for a link or resources, use the directory tool to find the information you need.

Learn More

SAIL

Seniors Abuse and Information Line

Phone: 604-437-1940
Toll Free: 1-866-437-1940

Monday to Sunday, 8am to 8pm

TTY Teletype
Phone: 604-428-3359
Toll Free: 1-855-306-1443

Language interpretation available 9am to 4pm Monday to Friday

Call SAIL if you feel an older adult is in an abusive situation of any kind.

Learn More

That page is now embedded on your website

One last thing

Consumer and Debt Law, relaunched this week as a Clicklaw Wikibook

- **Key resource for advocates**

Problem-solving manual published for last 20+ years by Legal Services Society

- **Now a Clicklaw Wikibook**

Better online experience *and* you can order a print-on-demand copy

- **Fully updated**

Updated to August 2018 (shoutout to Alison Ward of CLAS for the legal review!)

The screenshot shows a web browser displaying the Clicklaw Wikibook page for "Consumer and Debt Law". The page title is "Consumer and Debt Law" with a yellow book icon. The main content area includes sections like "Before You Begin", "Consumer Law", and "Debt Law", each with a list of sub-topics. On the left, there's a sidebar with links to "Site Main Page", "Contents", "About", "Featured Wikibooks", "Dial-A-Law", "Tools", and "Contributors". A sidebar on the right shows the "Cover of Consumer and Debt Law" and a note: "This is a Clicklaw Wikibook, a collaborative, plain language legal publication that is updated as a wiki and can be edited".

Go to wiki.clicklaw.bc.ca



People's
Law
School

Work out life's legal problems

People's Law School Update



Provincial Advocates Conference | October 2018
Drew Jackson, Legal Content Developer



Have a legal issue or problem? Want to learn about your legal rights in BC?

Start at clicklaw.bc.ca for:

- (1) a **searchable database** of legal education and information resources;
- (2) a HelpMap to find different types of **legal help services** near you; and
- (3) **Common Questions** that direct you to good starting resources.

The diagram illustrates the Clicklaw website interface with five numbered callouts:

- 1** In **Solve Problems**, find understandable information on your legal rights and options
- 2** Find resources and services that are in **languages other than English**
- 3** On **HelpMap** search for someone in your community who can help with legal problems
- 4** Choose from over 150 **common questions**, which offer starting points for common legal problems
- 5** See what's new on the Clicklaw blog or find us on Facebook or Twitter

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Callout 5: Points to the "What's new" section on the right sidebar, which displays recent blog posts and social media links.



HelpMap

Find someone in your community who can help with legal problems. 

1 Search by **keyword** and/or **city/town**
Or browse by topic

Search the HelpMap for law related help with a **Keyword OR Location**

| | | | |
|---|----|--|-----------|
| Keyword | or | <input type="text" value="c"/>  | Go |
| Campbell River Chilliwack Clinton | | | |

Refine your search results

- Topic** [clear selected](#)
- Aboriginal (13)
 - Abuse & family violence (27)
 - Accidents & injuries (14)
 - Alternatives to court (24)

2 [optional]

Refine your search by **topic, location, language, and more**

- Debt (25)
- Disabilities (8)
- Employment (28)
- Environment (5)
- Family law (53)
- Gays, lesbians, trans & bisexuals (2)
- Health (17)
- Housing, tenancy & neighbours (33)
- Immigrants & refugees (1)

Your search results

Showing 1-5 of 53 results

Sort by: [relevance](#)

Lawyer Referral Service

Lawyer Referral Service is a program that connects you with the right lawyer. Lawyers who participate in the program offer an initial consultation of up to 30 ...

From The Canadian Bar Association, BC Branch (CBABC)

Phone/Online only (serving all of BC)

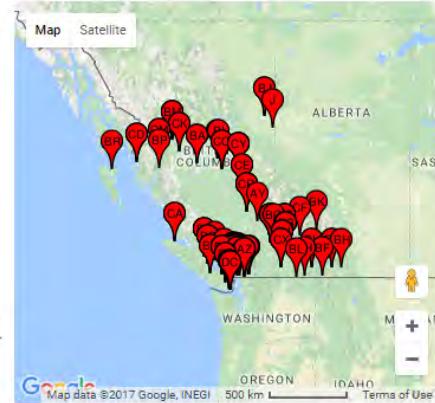
 604-687-3221
1-800-663-1919
[Go To Website](#)

Legal Aid Intake Services

The Legal Services Society (LSS) provides intake at more than 50 legal aid office and courthouse locations across BC. To qualify for a legal aid lawyer, ...

From Legal Services Society

 Abbotsford Courthouse
32203 South Fraser Way, Abbotsford, BC, V2T 1W6
 Abbotsford Office



3 Click on a service name to see more details

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A screenshot of a mobile browser displaying the Clicklaw Wikibooks website. The page features a header with the Clicklaw Wikibooks logo and a search bar. Below the header, there is a section titled "Clicklaw Wikibooks" containing four items, each with a thumbnail image and a brief description:

- JP Boyd on Family Law**: Practical, in-depth, plain-language manual of family law and divorce law in British Columbia.
- Dial-A-Law**: Scripts from the Canadian Bar Association BC Branch written by lawyers and covering over 130 legal topics.
- Legal Help for British Columbians**: Quick answers and BC legal referral information for common legal troubles.
- Legal Issues in Residential Care**: From BC CEAIS, an in-depth legal handbook for seniors & their



Have a legal issue or problem? Want to learn about your legal rights in BC?

Start at clicklaw.bc.ca for:

- (1) a **searchable database** of legal education and information resources;
- (2) a HelpMap to find different types of **legal help services** near you; and
- (3) **Common Questions** that direct you to good starting resources.

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HelpMap

Find someone in your community who can help with legal problems. (b)

Find legal help.

Use the [Clicklaw HelpMap](#) to find people near you who can help. Includes **free and subsidized** services.

For example: legal advice clinics, court form clinics, Justice Access Centres, Family Justice Centres, information programs, counselling, government services.

Search by
keyword and/or
city/town

Or browse by topic

Search the HelpMap for law related help with a Keyword OR Location

or 

- Campbell River
- Chilliwack
- Clinton

Refine your search results

Topic [clear selected](#)

- [Aboriginal \(13\)](#)
- [Abuse & family violence \(27\)](#)
- [Accidents & injuries \(14\)](#)
- [Alternatives to court \(24\)](#)

[optional]
2 Refine your search by **topic, location, language, and more**

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- [Disabilities \(8\)](#)
- [Employment \(28\)](#)
- [Environment \(5\)](#)
- [Family law \(53\)](#)
- [Gays, lesbians, trans & bisexuals \(2\)](#)
- [Health \(17\)](#)
- [Housing, tenancy & neighbours \(33\)](#)
- [Immigration & refugee \(25\)](#)

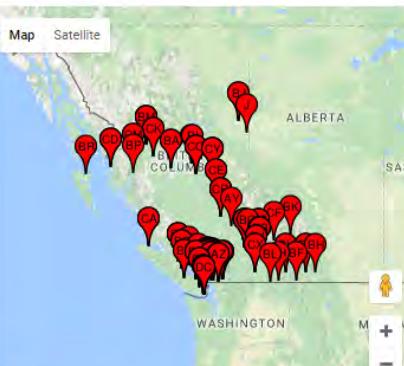
Your search results
Showing 1-5 of 53 results
Sort by: [relevance](#)

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 - Legal Issues in Residential Care**
From BC CEAS, an in-depth legal

5. Skills and Procedure

- **Statutory interpretation (Day 1)**
 - Interpreting Legislation
 - Statutory Interpretation
- **Ethical and practical issues in complex poverty law cases (Day 2)**
 - Complex Files: Setting up for success
- **Making effective service complaints (Day 3)**
 - No Materials/Materials at session
- **Fee waivers in family and civil claims in Small Claims Court, BCSC and BCCA (Day 3)**
 - Applications to Waive Fees

Interpreting Legislation

presented by Kendra Milne

Provincial Training Conference 2018

<http://www2.moa.ubc.ca/musqueamteachingkit/delta.php>

Questions

What do you want to learn today? What's your biggest challenge with statutory interpretation

THE GENERAL RULE

Ordinary Meaning + Context =
Driedger's Modern Rule

**How do we find ordinary
meaning?**

How do we find ordinary meaning?

- Get the actual legislation
- Make sure it's up-to-date
- Make sure it's in force
- Make sure it's formatted

Finding the ordinary meaning

(2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence,consistent with a marriage-like relationship.

(2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence, consistent with a marriage-like relationship

Finding the ordinary meaning

A client comes into your office explaining that she is struggling to walk any distance because of balance issues related to a head injury. She is in receipt of PWD benefits and wonders if the Ministry might cover walking poles, which she strongly prefers to a cane. What arguments do you make?

Finding the ordinary meaning

3.1 (1) Subject to subsection (2) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain basic mobility:

- (a) a cane;
- (b) a crutch;
- (c) a walker;
- (d) an accessory to a cane, a crutch or a walker.

(2) A walking pole is not a health supplement for the purposes of section 3 of this Schedule.

Ambiguity: opportunity for persuasion

- Your job is to make the most credible pitch you can for an interpretation that supports your client's case
- You're trying to be credible to the decision-maker (put yourself in their shoes)
- Context is typically: scheme, purpose, intent, special rules, opinions
- Start with binding context
- Look to non-binding context for additional ambiguities

Ambiguity: opportunity for persuasion

- How do we know what's binding?
- How do we know what context will be the most credible and persuasive?

Ambiguity: opportunity for persuasion

Shay comes to your office having applied for dispute resolution at the RTB for damages for loss of quiet enjoyment. The cause is ongoing garbage and waste in the common area hallways and a bed bug infestation that the landlord has failed to rectify over the past 9 months.

When Shay has asked the building manager about repairs, she verbally told Shay that the building is low barrier and it houses very hard to house clients, so Shay just has to accept they can only do what they can do. The manager also mentioned that because the building is located in a very low income and chaotic area, Shay can't expect that same kind of repairs and maintenance that other tenants do. The manager mentioned that Shay should be happy to have such an affordable apartment.

Ambiguity: opportunity for persuasion

Protection of tenant's right to quiet enjoyment

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

"common area" means any part of residential property the use of which is shared by tenants, or by a landlord and one or more tenants;

Ambiguity: opportunity for persuasion

rea·son·a·ble
rēz(ə)nəb(ə)l/
adjective

1.1

(of a person) having sound judgment; fair and sensible.

(of a person or animal) able to think, understand, or form judgments by a logical process.

2.2.

as much as is appropriate or fair; moderate.

Google

Ambiguity: opportunity for persuasion

Landlord and tenant obligations to repair and maintain

- 32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that
- (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

[...]

- (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Ambiguity: opportunity for persuasion

B. BASIS FOR A FINDING OF BREACH OF QUIET ENJOYMENT

A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.

A landlord can be held responsible for the actions of other tenants *if* it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.

Ambiguity: opportunity for persuasion

[6] Second, I find that the arbitrator's decision with respect to the disturbance complaint is patently unreasonable because, in making that decision, the arbitrator appears to have ignored s. 28(b) of the *Residential Tenancy Act*, which provides that a tenant is entitled to quiet enjoyment, including but not limited to, a right to the following:

(b) freedom from unreasonable disturbance.

[7] It appears that the arbitrator, in violation of this provision of the Act, attached a proviso similar to that contained in s. 32 relating to the provision of decoration and repair of premises, that the right varies with the nature and character and location of the rental unit. In my view, that is a patently unreasonable interpretation of the Act and, on the face of the record, it appears rather discriminatory against the tenant. A tenant who has limited resources and is therefore forced into a neighbourhood that may have problems with neighbours is entitled to the same standard, according to s. 28 of the *Residential Tenancy Act*, that is accorded to all other tenants. It seems to me that the arbitrator, if he in fact interpreted s. 28 in this fashion, has engaged in patently unreasonable reasoning...

Rutherford v. Neighbourhood Housing Society, 2012 BCSC 2177

Ambiguity: opportunity for persuasion

Using the provision and this context (other section of the RTA, google definition, RTB policy guideline, BC Supreme Court decisions) develop a statutory interpretation argument setting out why your client's experience if a breach of section 28 of the Residential Tenancy Act.

Supports

Make sure to use resources available to you when working tough statutory interpretation questions:

- Your supervising lawyer
- Your colleagues
- CASL
- Povnet lists

If you don't feel like you have the experience to deal with an issue, ask for help!

What did we learn?

STATUTORY INTERPRETATION

October 16, 2018

Presented by Kendra Milne

Contents

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I. THE BASICS OF LEGISLATION

Statutes are passed by Parliament or the Legislature and set out the general skeleton of a statutory scheme, as well as what can be expanded on in regulations. Regulations are generally passed by the executive branch and don't have to be debated in the Legislature or Parliament. Regulations are subordinate to statutes and can only regulate within the bounds of the statute. Policies are not legislation and are generally not binding on decision-makers.

1. STEPS FOR FINDING RELEVANT LEGISLATION

Secondary source, if available

In some legal areas, you may already know what legislation to look at. If you don't know, a good place to start is a secondary source (a text book, policy guide or other resource that compiles and summarizes information about the area of law you're dealing with). These resources often have a subject index that might bring to a section that can tell you which legislation to look at. Some examples of secondary sources include the annotated Residential Tenancy Act, the Ministry of Social Development Online Resource or the annotated Canada Pension Plan.

NOTE: this is not the end of the research road. You still always need to go through the following steps and look at the actual wording of the legislation.

Go to the statute

Once you know which statutory sections might be relevant to your client's legal issue, find them. You can usually use one of the consolidated statute sites (CanLII, BC Laws, etc.) or the website of the body that administers the legislation (so the Residential Tenancy Branch site for tenancy legislation, or the Ministry of Social Development site for income assistance legislation, etc.). Once you find the text of the statute or regulation, make sure to check the following:

Is the provision the most up-to-date version?

Legislation changes on a regular basis. In particular, regulations can change very quickly and with no notice. Make sure to check that you are looking at an up-to-date version of the statute or regulation. If you are looking at an online version, there will generally be a note at the top of the document setting out "regulation is current to..." or "includes amendments up to...". Check that date, and if it's not current, you may need to make sure there is not a more recent version of the legislation.

Is the provision in force?

Once you find the legislation, check to make sure it is in force. Sometimes statutes can be passed in the legislature, but not actually be in force, for years.

Is there any companion legislation?

If you're looking at a statute, are there any regulations? If you're looking at regulations, do you also have the statute it was enacted under? You need the whole picture to start interpreting. Don't forget key pieces of the puzzle.

Do you have a version that is formatted correctly?

Finally, while it may seem obvious, make sure you have a version of the legislation that is properly formatted (don't just copy it into a word document). Indenting and punctuation are very important when interpreting legislation and you can make serious errors because of silly formatting issues.

Apply the interpretation methods set out below

II. HOW TO INTERPRET LEGISLATION

When you are faced with a section of a statute and you are trying to determine what that section means, it is important to remember that there is usually no right or wrong answer. There is also no silver bullet or sure fire way to determine the answer. Unless a superior court has expressly determined that the provisions cannot be interpreted in a given way, or there is some other binding interpretation source, your job will generally be to look at what the plain meaning of the language could mean, and what meaning the "context" of the legislation supports. Generally, each statutory provision can be interpreted in more than one way, and you can often argue that an interpretation that helps your client is the one that a decision maker should adopt.

How do you determine the meaning of the painting?

- 1) Plain meaning: What can you see from the physical face of the painting? Are some interpretations ruled out? What aspects are unclear?
- 2) Other interpretations: Do you look at what others have said the painting means? What have others said this painting means? How valuable are their opinions (what weight can you give them)?
- 3) Specific context: Do you use information you can find about the content of the painting? Who is depicted in the painting? Where was it painted? How was it painted? Are there any other specific elements of the painting that might provide information?
- 4) Intention: Do you use what the artist intended the painting to mean? Is there any evidence of what the artists meant the painting to mean?
- 5) Wider context: Do you use the wider context of the painting, and how it fits into broader developments? Who painted the painting? What was going on with the artist when it was painted? Where does the painting fit in art history? What was happening in the broader social history when it was painted?

This process is similar to trying to determine what a statutory provision means. You need to think of a statutory provision as something that can be capable of different interpretations. Your job is to find an interpretation that supports your client's case and that you can realistically persuade a decision maker to adopt.

To determine whether there is an interpretation that supports your client's case, and whether or not that interpretation will be persuasive to a decision maker, you need to ask the same questions we asked with the painting:

- 1) Does the **ordinary meaning** of the text support this interpretation?
- 2) What **specific context** supports this interpretation?
- 3) Has the section been **interpreted by others** and are those interpretations persuasive (or binding)?
- 4) Does the **intention or purpose** of the provision support this interpretation?
- 5) What **wider context** supports this interpretation?

1. General rule for interpreting legislation¹

There are many different theories, approaches and latin rules that you can use to interpreting legislation, but there is one general rule that will probably be the most effective in your practice. That general rule is called "Driedger's Modern Principle". The rule essentially boils down to this:

When determining the meaning of a provision, you need to look at the ordinary meaning of the actual text, together with the context of the provision.

If you follow this general rule when interpreting a statute, it will allow you to determine what interpretations the language of the statute can support and to find the supporting context you need to persuade a decision maker to adopt the interpretation you are putting forward.

The general idea is to look at:

- (1) What interpretations are supported by the actual text of the statutory section (in our painting example, this was question #1); and
- (2) What interpretations are supported by the context – everything other than the text of the specific provision (in our painting example, this includes questions #2 to #5).

¹ These materials refer to statutes and regulations somewhat interchangeably, or refer simply to "legislation". There are some basic differences to remember: statutes are enacted by the legislature or parliament, and are generally the main framework for a statutory regime. Regulations are often enacted outside of the legislature (by the cabinet) and are subordinate to a specific statute. They must comply with their governing statute and generally contain most of the details of the regime.

2. The ordinary meaning(s) of the text

Going back to our painting example, at this stage you are looking at the face of the painting (with no additional research or knowledge) to see what the painting means. This was question #1. Can the face of the painting, for example, support an interpretation about a historic war? Probably not.

Obviously, language is more definite than art so a statute's ordinary meaning will probably support fewer interpretations than a painting, but the process is similar: which interpretation(s) can the face of the statutory provision support?

With a statute, you are determining what interpretations can be supported by the ordinary meaning(s) of the text. There is a general presumption that the legislature intended to use language in the ordinary grammatical sense when it drafted the statute. Unless there is a reason to reject it, the ordinary meaning(s) of the text will prevail (in other words, if the wording and punctuation of the text cannot support an interpretation, it's generally not going to fly with a decision maker).

You do not look at dictionary definitions or external sources at this point. Instead, you are looking for the meaning(s) that a regular person with basic language comprehension would find when reading the provisions.

READ THE WORDS AND PUNCTUATION – WHAT MEANING(S) CAN THEY SUPPORT?

Because some language can be ambiguous, there may be several reasonable interpretations of the face of the text. This is where the context comes in. You will need to look for external information that will help you understand what the text means and where the provisions fits into the larger picture.

3. The context of the provision

Once you've determined what interpretation(s) the face of the provision can support, you need to think about the context of the statutory provision. The context is everything outside the ordinary language of the provision – what external information can you find to help you determine what the section means? Just like in the painting example, we can divide our search for context into four questions:

- What does the specific context suggest?
- How has the section been interpreted by others and are those interpretations persuasive (or binding)?
- What is the intention or purpose of the provision?
- What does the wider context suggest?

Specific context

You can also use the specific context of the statutory provision to support (or to refute) the interpretation you'd like to put forward. The specific context refers to external aides you can use to interpret the specific language of your provision. You're still focused on the text of the provision, but you are now looking outside the section of the statute to determine what it means. You have the text and now you are researching for external aids to help you understand what that specific text means.

- 1) Definitions in legislation: the first place to look is the definition section of the statute. Many statutes have defined terms, either at the beginning of the statute or at the beginning of the section you are dealing with.

Look at the statute you are dealing with to see if there is a defined terms section and, if so, if any of the terms in your provision are there. If you find them, those definitions will generally be binding and you will not be able to suggest that different meanings should be adopted.

- 2) Interpretation Act: the next place you can look for an explanation of the specific terms of your provision is the *Interpretation Act*. There are provincial and federal interpretation acts that set out some definitions for common terms and also some general rules about some statutory interpretation issues. Specifically, it may be helpful with the calculation of time, defining some generic terms, and determining which version of a statute applies to your client's case.

For example, see s. 8 of the BC *Interpretation Act*, which reads “[e]very enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.”

Also see s. 29, which provides definitions for a variety of terms used in provincial legislation.

- 3) Other sources specific to the statute: are there any rules of practice and procedure for the decision maker that offer insight into what the provision means? Some decision makers, like the Residential Tenancy Branch, offer definitions of a handful of procedural terms in its rules of practice and procedure.
- 4) Policy guides: many government branches provide policy guides designed to assist in understanding the statutes and regulations that the branch administers. These are generally non-binding (which means that the decision maker is not bound to follow them), but often give an idea of what the legislature was aiming for. Be careful when using the guides – don't necessarily restrict yourself to what they say the provision means, and make sure they reflect the current version of the statute and case law.
- 5) Dictionary: if you cannot find a term in the definition in the statute or in the Interpretation Act, you can try looking in a regular English dictionary or a legal dictionary. The definitions you find will not be binding but they may be helpful in establishing what the ordinary meaning of a provision is, or what other reasonable interpretations might exist.

Interpretations by others

It is important to know how others have interpreted the provision. Even more importantly, you want to know how important that other interpretation is – on other words, what weight can you give it, or how much authority will it carry with the decision maker.

- 1) Previous decisions: if a superior court or a binding decision maker has previously considered the provision you are dealing with, obviously that is going to be very important to your case because the decision maker in your case will be obligated to follow that interpretation.

A previous interpretation will be binding if it is made by a superior court (BCSC for provincial decision makers) or an administrative decision maker that binds the decision maker you are dealing with. That being said, most tribunals' decisions are not binding on each other – each tribunal panel or decision

maker gets to make its own decision in each specific case. To determine whether a former decision is binding, look at the statute governing the decision maker you are dealing with.

Even if a former tribunal decision is not binding on your current decision maker, if the decision supports your client's interpretation of the provision, it may help you to persuade your decision maker to adopt it as well.

Previous court decisions can be found on CanLII: <http://www.canlii.org/>. If you access the legislation through CanLII, you can often click on the blue section number and any court cases referencing that section will come up.

Previous tribunal decisions, if publicly available, can usually be found on the webpage of the tribunal you are dealing with.

- 2) Secondary sources: your statutory provision may also be addressed in a secondary source, like a textbook or annotated statute. Again, it is helpful to look through these to see if the materials support your interpretation because, if so, you can use them to persuade your decision maker to adopt your interpretation.

If you don't have secondary sources at your office, try looking at the BC Courthouse library website to see if the local branch has relevant textbooks or annotated statutes: <http://www.courthouselibrary.ca/>

The key to using others interpretations is to decide how much weight, or importance, you can give the interpretation. Remember that, if a binding decision has been made interpreting the provision a certain way, it may carry the day.

The intention or the purpose of the provision

When trying to determine what a statutory provision means, an obvious solution is to ask the person who wrote it what she actually meant. Although we cannot speak to the individual drafters of our legislation, we do have tools to look at what the legislature, or the body that enacted the provision, intended it to mean.²

There are generally three places to look for evidence about what the legislature/parliament intended the provision to mean:

- 1) Legislative debates: when enacting a statute, the legislature often debates the content of the statute, and sometimes sends the act to committee so that each provision can be separately debated and examined. All of these materials can give you an idea of what the legislature intended the statute to mean – why was the section enacted? Was there an existing problem it was meant to address? Did the Minister specifically say that it was not intended to mean one interpretation?

BC legislative debates can be found at: <http://www.leg.bc.ca/hansard/>

Canada parliamentary debates can be found at: <http://www.parl.gc.ca/>

² These materials generally refer to the provincial legislature as the body that enacted a provision. Be aware that the same suggestions apply to federal parliament. For regulations, cabinet may have passed the provision.

- 2) Other public statements about the meaning or intent of the provision: there may be other evidence out there about the enactor's intent in enacting the provision you are interpreting. This might include press releases or consultation materials.

These sources can provide evidence about what the body that enacted the provision intended for it to mean. Remember, though, that this evidence must be read with the ordinary meaning of the provisions as well as the rest of the context.

Wider context

Finally, you can look at the wider context of the provision, or where and how it fits into the larger picture. Like in our painting example, we are now looking beyond the text of the provision or the face of the painting; we are looking for external context that might inform what the provision means.

- 1) The rest of the statute: make sure that you understand where your provision fits in the rest of the statutory regime. Look carefully at the index and headings of the legislation to see if any of the other sections might be helpful. Or, look to see if other sections can provide you with more information about what the provision was designed to do.
- 2) Related legislation: if your provision is part of a larger legislative regime that involves more than one statute or regulation, make sure you look at related legislation (this is especially true if you are dealing with a regulation – make sure you look at the enabling statute!). Again, use the index. It is an invaluable tool that can give you a quick overview of the content of the entire piece of legislation. If similar terms or phrases are used in related legislation, those uses can inform how your provision should be interpreted.

All BC legislation can be found here: <http://www.bclaws.ca/>

All federal legislation can be found here: <http://laws.justice.gc.ca/eng/>

- 3) Purpose of the entire statutory regime: the first external aid that you might be able to use is the purpose of the entire statutory regime. If you know that the entire regime is designed, for example, to confer last resort benefits, then you can use that information to decide what your provision might mean. Generally, you can interpret your provision in line with the broader purpose of the regime it is trying to achieve.

To find the broader purpose of the regime, you can look at past decisions, the preamble of the statute (if there is one) or legislative debates on the regime more generally. (You may have come across more general information in your hunt for evidence of the specific intention of your provision.)

- 4) Specialized method of interpretation: some specific types of statutes have specialized methods of interpretation that you can use. They are usually not going to carry the day – you still have to make sure the text of the provision supports the interpretation you are putting forward – but they may assist the decision maker in deciding which interpretation they want to adopt.

For example, benefit conferring social welfare legislation is generally interpreted in a liberal manner and any doubt about its interpretation should be resolved in favour of the claimant. (See for example para. 35 of *Hudson v. British Columbia*, 2009 BCSC 1461 for a list of cases confirming this principle.)

Penal legislation, on the other hand, is generally interpreted in a strict manner and any doubts about its meaning are resolved in favour of the accused.

Again, these tools are not about the specific language of your provision, but instead provide you with information about how and where your provision fits into a wider picture. This wider picture may give you insight into how the provision should be interpreted.

How to put it all together

In summary, your goals when interpreting a legislative provision are to first determine what interpretations the ordinary language can support, and second find external evidence of the context of the provision that supports the interpretation you want to put forward.

When applying this method to a case, you can:

- (1) Decide the plain language meaning of the provision, and identify any aspects that are unclear or ambiguous.
- (2) What other tools can you find to help resolve the ambiguity?
- (3) How much can rely on the interpretation tools? (Are they binding? Are they only persuasive?)
- (4) Do any of the tools support an interpretation that will help your client's case?

COMPLEX FILES: SETTING UP FOR SUCCESS

Kevin Love
Community Legal Assistance Society
October 16, 2018



OVERVIEW

- Identifying the right client(s)
- Starting the file
- Managing the file

IDENTIFYING THE RIGHT CLIENT

IDENTIFYING THE CLIENT(S)

First question: who is my client?

Second question: who is **not** my client?

- Do I know who I am helping?
- Are there other people who think I am helping them but I am not?
- Am I helping people who have never even asked for my help?
- Do other parties and the decision-maker know who I am helping?

First person through the door should not necessarily be your client.

WHY IS THIS IMPORTANT?

Duty of loyalty: Whose interests are you looking out for?

Confidentiality: Can you maintain confidentiality and still fully represent all clients?

Instructions: Who is telling you what to do?

Negligence: What are you responsible for?

Conflicts: May have to stop helping if a conflict arises.

FOUR COMMON ARRANGMENTS

Represent no one.

Represent one client only.

Represent more than one client in separate files.

Represent more than one client jointly.

ASSESSING POTENTIAL CONFLICTS

Conflict: Your loyalty to or representation of one client is materially and adversely affected by your own interests or your duties to another client.

- How closely related is subject matter of each case?
- How immediate is the conflict?
- Are the client's interests directly opposed?
- Is it a substantive conflict or a procedural one?
- How closely related in time is each case?
- How significant is the issue to the client?
- What are each clients' expectations?

MULTIPLE CLIENTS: ASSESSING CONFLICTS

Assessing conflicts not a one time thing. Can arise at any time in file.

Assess not only what conflicts exist now, but what conflicts might arise in future.

How likely and severe are the potential conflicts?

MULTIPLE CLIENTS: CONFIDENTIALITY

Duty to hold clients' information confidential.

Potential conflict arises if you receive information from one client that is relevant to the case of another client.

Will need consent to share it or you cannot keep representing

MULTIPLE CLIENTS: PRACTICAL MATTERS

Is the decision for one person going to be the decision for everyone anyway?

How many clients can I logically manage?

Will having stories from multiple clients help?

Is one client going to bring down all the others?

Will a settlement likely require an all or nothing solution?

ONE CLIENT?

Conflict or high risk of conflict.

Other clients can easily get help from another agency.

Decision for one client is decision for all anyway.

MULTIPLE CLIENTS, SEPARATE FILES?

Need individual decisions.

Little risk that info from one file will be relevant to the other.

Little logistical benefit in running files together.

Asking clients to share confidential information is unreasonable and unnecessary.

Unlikely client can get help from another agency.

Cases can likely be settled separately.

JOINT RETAINER

Clients' cases require individual decisions.

Cases overlap substantially.

Logistical benefit from running files together.

Clients willing to share confidential information.

Unlikely client can get help from another agency.

Case may involve an all or nothing settlement.

WHICH WOULD YOU CHOOSE?

- Three tenants with same landlord come to you after being evicted for not providing documentation to support subsidy.
- Two roommates come to you after being evicted following a fight they had in their rental unit.
- Tenant comes to you on behalf of 30 people in her building who need a repair order because elevator does not work.
- Tenant comes to you saying there are 30 people in her building who want compensation because elevator did not work for three weeks.
- 30 tenants receive NTE for renovations to building.

IDENTIFYING THE CLIENT(S)

If you give legal advice to first person through door the choice may not be yours.

Am I talking to the person directly affected? If not, why not?

If a group, am I talking to the person who best represents the group's interests?

ROSE

Rose comes in to see you. She lives with her mother Betty in a one bedroom apartment. The landlord gave Betty an eviction notice because the tenancy agreement Betty signed said that she cannot have anyone else occupying the unit without the landlord's consent. Rose explains that she has been crashing at her mother's place for the past few months because she cannot afford to rent a place on her own right now. Rose says the landlord did consent to her living there. Today is the deadline to dispute the notice to end tenancy. She wants to know if they have a case and wants your help disputing the notice. How would you proceed?

STARTING THE FILE

RETAINERS

Putting things in writing is critical.

Will be your lifeline when things go wrong.

Plan in advance for as much as possible.

WHAT TO COVER IN RETAINER FOR POTENTIALLY COMPLEX FILES

What you are doing and not doing?

Expectations around who is doing and paying for what.

Expectations around communication.

What happens if the client cannot be found?

What will cause you to withdraw your services?

Reasonable settlement?

CLIENT SUPPORT

In complicated files, having a person supporting the client can be a good thing.

Make sure the person is supporting client, not advancing their own agenda.

Duty is to client, not support person.

Set-out authorization to talk to support person in retainer.

GETTING CONSENT FOR JOINT REPRESENTATION

Should confirm in writing:

- You have been asked to help all clients.
- That you have a duty of loyalty to all of them equally.
- That no information you receive from any of them can be kept confidential from the others.
- If you get information that is relevant to the joint file from one of the clients in a separate file, must disclose or stop helping.
- What will happen if a conflict arises? Generally have to stop representing all of them unless it is resolved.
- Advise them that they can get ILA.

PICKING A LEAD CLIENT

Trying to do a file involving many people by committee is difficult.

Can have clients agree to one or two people who will give you instructions.

- Who is good with staying in touch?
- Who stays in touch with the group?
- Who is likely in for the long haul?
- Is lead client part of the case or an interested activist?
- Who represents the groups interests?
- Who is good at getting things done?
- Who is organized?

ADDITIONAL MATTERS TO COVER IN JOINT RETAINERS

Consent for the joint retainer.

How are decisions going to be made?

Who are the lead clients?

Expectations of representatives.

Expectations of clients.

PRACTICAL MATTERS

How are you going to get all clients to sign on?.

Ensuring each client understands what is involved is your responsibility, not lead clients.

May require that you go to the clients, i.e. door to door or a group meeting.

Will need your lead clients to help getting everyone together.

LISA

Lisa comes to see you. She explains that all the tenants in her manufactured home park just got served eviction notices because the landlord is planning to close the park. Lisa says the landlord is offering \$200 extra to anyone who moves out voluntarily. Lisa thinks the offer is crap. She has been fighting this landlord for years and feels the tenants deserve way more. Lisa worries that some tenants are feeling pressure to take the offer, but after she explained everything to them, they all want to fight. She asks for your advice about whether they have a good case and wants you to take care of filing disputes on behalf of everybody in the park. How would you proceed?

LISA

List five or ten things you would want to set out in a retainer if you decide to help these tenants

MANAGING THE FILE

CHALLENGES IN SETTLING GROUP FILES

You cannot settle claims on behalf of people you do not represent.

Releases: Do you have authority to release all claims?

How to handle all or nothing settlements?

MONEY PROBLEMS

What to do about people you cannot find:

- People drop out of communication.
- People die.
- Advocates do not generally have a trust account to hold money in.

LISA AGAIN

You now represent most tenants in the park. However, Janice from pad 9 went to Arizona for the winter before you could get her to sign on. After a firm conversation with Lisa, the others agree that she will be the lead client. The landlord calls you and says she will up the offer to \$400 extra for each tenant if they all agree to move out. But she says you have to get all the tenants to accept and leave because the property can't be redeveloped if anyone is still living on it. If she has to go to a hearing for one of them anyway, she will just try to get them all evicted without paying anything extra. The landlord says she also needs a release of all claims of any kind because tenants keep filing bogus claims against her. Lisa says everyone she has talked to wants to accept, but she cannot find Fred from pad 10 who originally signed on with the group but has now dropped out of contact. How would you proceed?

TIPS

Make clear to other side you can only settle and release the claim you are dealing with.

Require periodic check-ins from the group, not just the lead client.

Set out in the retainer what will happen if they cannot be located.

Get consent for as much as possible in advance.

CONDUCTING A HEARING

Having a lead client does not change the fact that some claims must be proven individually.

How are you going to get all the evidence you need?

Set out in advance what you expect the individual clients and the representative to do.

Start preparing really, really, really early.

RTB RULES

2.10 of RTB Rules of Procedure allows applications to be joined.

Important, each tenant must sign.

2.4.1 of RTB Rules of Procedure requires a “primary applicant” who will receive all communication.

SPECIAL CHALLENGES AT RTB

Unclear if you can have different orders for each tenant if complaints are joined.

RTB holds some kind of case management conference for joint complaints, but then does not give enough time after to file evidence.

RTB may want complaints to proceed in small batches anyway.

Any real benefit to joining complaints?

GATES V. SAHOTA

- RTB can make repair orders over \$35,000
- Can still use RTB if individual claims are under \$35,000 even if sum total is over.
- RTB can order aggravated damages as compensation, but not punitive damages.

QUESTIONS?



Community Legal
Assistance Society

THE END



THURSDAY, OCTOBER 18, 2018 – DAY 3

No Materials/Materials at session

Making effective service complaints: Amber Prince - lawyer, Atira; Kate Feeney – lawyer

Strategies on how to frame a complaint and who to contact when clients need help with welfare or services.

APPLICATIONS TO WAIVE FEES

A party who alleges he or she is unable to pay court fees may apply for an order relieving them of the obligation to pay the fees to the government. The court must find that the person is unable to pay the fees and that the claim proposed to be made is a reasonable one. An order to waive fees covers the fees set out in Schedule 1 of Appendix C to the Supreme Court Civil and Supreme Court Family Rules. An order to waive fees does not cover the costs of transcripts as those fees are payable to the private company that you choose to prepare the transcript.

Supreme Court Civil Rule 20-5 and Supreme Court Family Rule 20-5 are the rules specific to applications for persons who apply to the court to waive the requirement of paying the fees set out in Schedule 1 of Appendix C to the Supreme Court Civil and Family Rules.

The orders included in this package are templates. If an order is made you will need to prepare a “clean” copy of your order in which you have removed all of the instructions that appear in italics as well as any paragraphs that do not apply. The below link is to the Ministry of Justice website where you will find online fillable forms which you may find helpful in preparing your order. You will need to select the link leading to either Supreme Court “Civil” or “Family” depending what type of proceeding you are involved in:

<http://www.ag.gov.bc.ca/courts/forms/index.htm>

Included in this package are;

- 1) Supreme Court Civil Rule 20-5 – Persons Who are Not Required to Pay Fees
- 2) Civil Form 17 – Requisition
- 3) Civil Form 79 – Order to Waive Fees
- 4) Civil Form 80 – Affidavit in Support of Order to Waive Fees
- 5) Supreme Court Family Rule 20-5 – Persons Who are Not Required to Pay Fees
- 6) Family Form F17 – Requisition
- 7) Family Form F85 – Order to Waive Fees
- 8) Family Form F86 – Affidavit in Support of Order to Waive Fees

Rule 20-5 — Persons Who Are Not Required to Pay Fees

Court may order that no fees are payable

- (1) If the court, on application made in accordance with subrule (3) before or after the start of a proceeding, finds that a person
 - (a) receives benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, or
 - (b) cannot, without undue hardship, afford to pay the fees under Schedule 1 of Appendix C in relation to the proceeding,

the court may order that no fees are payable by the person to the government under Schedule 1 of Appendix C in relation to the proceeding unless the court considers that the claim or defence

- (c) discloses no reasonable claim or defence, as the case may be,
 - (d) is scandalous, frivolous or vexatious, or
 - (e) is otherwise an abuse of the process of the court.

Application of order

- (2) An order under subrule (1) may apply to one or more of the following:
 - (a) a proceeding generally;
 - (b) any part of a proceeding;
 - (c) a specific period of time;
 - (d) one or more particular steps in a proceeding.

How to apply

- (3) An application under subrule (1) may be made by filing
 - (a) a requisition in Form 17,

- (b) a draft of the proposed order in Form 79, and
- (c) an affidavit in Form 80.

[am. B.C. Reg. 95/2011, Sch. A, s. 10.]

Review, variation or rescission of order

- (4) On application or on the court's own motion, the court may review, vary or rescind any order made under subrule (1) or (2).

No fee payable

- (5) Despite anything in this rule, if the court makes an order in relation to a person under this rule, no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to
 - (a) the proceeding,
 - (b) the part of the proceeding,
 - (c) the period of time, or
 - (d) the steps

to which the order applies.

[am. B.C. Reg. 119/2010, Sch. A, s. 34 (b).]

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

REQUISITION – GENERAL

Filed by:
[party(ies)]

Required: Order to Waive Fees

This requisition is supported by the following:

[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows: "Affidavit # ...[sequential number, if any, recorded in the top right hand corner of the affidavit]... of[name]....., made[dd/mmm/yyyy].....".]

1. Form 79 – Order to Waive Fees
2. Form 80 – Affidavit in Support of Order to Waive Fees, Affidavit #..... of , made

Date:

.....
Signature of
 filing party lawyer for filing party(ies)

.....
[type or print name].

No. Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

ORDER TO WAIVE FEES

[Rule 22-3 of the Supreme Court civil rules applies to all forms.]

[Complete the form in accordance with the instructions found in the bracketed italicized wording and the remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]

ON THE APPLICATION of[name]..... [add the following if applicable: coming on before me on[dd/mmm/yyyy]..... and on hearing[name of party/lawyer]..... and[name of party/lawyer].....];

[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

THIS COURT ORDERS that no fee is payable by*[name of person]*..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to this proceeding *[add the following if applicable: subject to the following:*[set out any conditions on this order]*.....]*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to the following part(s) of this proceeding:[describe part(s)]..... [add the following if applicable: subject to the following:[set out any conditions on this order].....].

THIS COURT ORDERS that no fee is payable by*[name of person]*..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to this

proceeding during the following period(s):*[describe period(s)]*..... *[add the following if applicable]*: subject to the following:*[set out any conditions on this order]*.....].

THIS COURT ORDERS that no fee is payable by*[name of person]*..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to the following steps in this proceeding:*[describe step(s)]*..... *[add the following if applicable]*: subject to the following:*[set out any conditions on this order]*.....].

By the Court

.....
Registrar

This is the affidavit
of in this case
and was made on

No.
..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

AFFIDAVIT IN SUPPORT OF ORDER TO WAIVE FEES

I,, of,
[name] [address]

....., SWEAR (OR AFFIRM) THAT:
[occupation]

1. I am the in this proceeding.
[party]
2. I make this affidavit in support of my application for an order that I be declared impoverished with respect to the payment of fees set out in Schedule 1 of Appendix C of the Supreme Court Civil Rules.
3. I am years old.
4. I have the following dependants: *[List all the dependants in the household.]*
.....
.....
.....

5. The following persons contribute to my household expenses: *[List all in the household who contribute to expenses.]*
-
6. I am employed unemployed.
7. Attached as Exhibit A is *[Check whichever one of the following boxes is correct and attach the required exhibit.]*
- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
- proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.
8. Attached as Exhibit B is an accurate description of my educational and employment history.
9. Attached as Exhibit C is an accurate description of my workplace skills.
10. Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE)
ME at , British Columbia)
on)
)
)
)
)
A commissioner for taking)
Affidavits for British Columbia)

..*[print name or affix stamp of commissioner]*..

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

FINANCIAL STATEMENT

ESTIMATE NET MONTHLY INCOME

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

| | |
|--------------------------------------|-----------------|
| Employment | \$ |
| Pension | \$ |
| Dividends | \$ |
| Interest | \$ |
| Other | <u>\$</u> |
| TOTAL (Estimated net monthly income) | \$ |

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

| | |
|--|-----------------|
| Estimated monthly expenses related to housing | \$ |
| Estimated monthly expenses related to transportation | \$ |
| Estimated monthly expenses related to household expenses | \$ |
| Estimated monthly expenses related to medical and dental expenses | \$ |
| Estimated monthly expenses related not included in above, related To dependent children | \$ |
| Estimated monthly debt payment [specify]..... | \$ |
| Estimate of other monthly expenses [specify]..... | <u>\$</u> |
| TOTAL (Estimated monthly expenses) | \$ |

ASSETS

[Specify assets and set out their estimated value.]

| | |
|--------------------------------|---------|
| | \$..... |
| | \$..... |
| | \$..... |
| | \$..... |
| | \$..... |
| TOTAL (Estimated asset values) | \$..... |

This is Exhibit B referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1. Highest level of education attained and date completed:

.....
.....
.....

2. Employment history:

| Employer | Dates | Position |
|----------|-------|----------|
| | | |
| | | |
| | | |

This is Exhibit C referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

WORKPLACE SKILLS

[specify]

.....
.....
.....

Rule 20-5 — Persons Who Are Not Required to Pay Fees

Court may order that no fees are payable

- (1) If the court, on application made in accordance with subrule (3) before or after the start of a family law case, finds that a person
 - (a) receives benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, or
 - (b) cannot, without undue hardship, afford to pay the fees under Schedule 1 of Appendix C in relation to the family law case,

the court may order that no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to the family law case unless the court considers that the claim or defence

- (c) discloses no reasonable claim or defence, as the case may be,
 - (d) is scandalous, frivolous or vexatious, or
 - (e) is otherwise an abuse of the process of the court.

Application of order

- (2) An order under subrule (1) may apply to one or more of the following:
 - (a) a family law case generally;
 - (b) any part of a family law case;
 - (c) a specific period of time;
 - (d) one or more particular steps in a family law case.

How to apply

- (3) An application under subrule (1) may be made by filing

- (a) a requisition in Form F17,
- (b) a draft of the proposed order in Form F85, and
- (c) an affidavit in Form F86.

[am. B.C. Reg. 95/2011, Sch. B, s. 5.]

Review, variation or rescission of order

- (4) On application or on the court's own motion, the court may review, vary or rescind any order made under subrule (1) or (2).

No fee payable

- (5) Despite anything in this rule, if the court makes an order in relation to a person under this rule, no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to
 - (a) the family law case,
 - (b) the part of the family law case,
 - (c) the period of time, or
 - (d) the steps

to which the order applies.

[am. B.C. Reg. 119/2010, Sch. B, s. 24 (b).]

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

REQUISITION

Filed by:
[party(ies)]

Required: Order to Waive Fees

This requisition is supported by the following:

[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows: "Affidavit # ...[sequential number, if any, recorded in the top right hand corner of the affidavit]... of[name]....., made[dd/mmm/yyyy].....".]

1. Form F85 – Order to Waive Fees
2. Form F86 – Affidavit in Support of Order to Waive Fees, Affidavit #..... of , made

Date:

.....
Signature of
 filing party lawyer for filing party(ies)

.....
[type or print name]

In the Supreme Court of British Columbia

Claimant:

Respondent:

ORDER TO WAIVE FEES

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]

BEFORE) THE HONOURABLE JUSTICE)
) or)[dd/mmm/yyyy]....
) MASTER)

ON THE APPLICATION of[name]..... [add, if applicable, coming on before me on[dd/mmm/yyyy]..... and on hearing[name of party/lawyer]..... and[name of party/lawyer].....];

[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to this family law case [add the following if applicable: subject to the following:[set out any conditions on this order].....].

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to the following part(s) of this family law case:[describe part(s)]..... [add the following if applicable: subject to the following:[set out any conditions on this order].....].

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to this family law case during the following period(s):[describe period(s)]..... [add the following if applicable: subject to the following:[set out any conditions on this order].....].

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to the following steps in this family law case:[describe step(s)]..... [add the

following if applicable: subject to the following:*[set out any condition on this order].....*.

By the Court

.....
Registrar

This is the affidavit
of in this case
and was made on

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

AFFIDAVIT IN SUPPORT OF ORDER TO WAIVE FEES

I, , of ,
[name] [address]

....., SWEAR (OR AFFIRM) THAT:
[occupation]

1. I am the in this family law case.
[party]
2. I make this affidavit in support of my application for an order that I be declared impoverished with respect to the payment of fees set out in Schedule 1 of Appendix C of the Supreme Court Family Rules.
3. I am years old.
4. I have the following dependants: *[List all the dependants in the household.]*
.....
.....
.....

5. The following persons contribute to my household expenses: *[List all in the household who contribute to expenses.]*
.....

6. I am employed unemployed.

7. Attached as Exhibit A is [Check whichever one of the following boxes is correct and attach the required exhibit.]
- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
- proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.
8. Attached as Exhibit B is an accurate description of my educational and employment history.
9. Attached as Exhibit C is an accurate description of my workplace skills.
10. Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE)
ME at, British Columbia)
on)
.....)
.....)
.....)
A commissioner for taking)
Affidavits for British Columbia)

..[print name or affix stamp of commissioner]..

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

FINANCIAL STATEMENT

ESTIMATE NET MONTHLY INCOME

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

| | |
|--------------------------------------|-----------------|
| Employment | \$ |
| Pension | \$ |
| Dividends | \$ |
| Interest | \$ |
| Other | <u>\$</u> |
| TOTAL (Estimated net monthly income) | \$ |

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

| | |
|--|-----------------|
| Estimated monthly expenses related to housing | \$ |
| Estimated monthly expenses related to transportation | \$ |
| Estimated monthly expenses related to household expenses | \$ |
| Estimated monthly expenses related to medical and dental expenses | \$ |
| Estimated monthly expenses related not included in above, related To dependent children | \$ |
| Estimated monthly debt payment [specify]..... | \$ |
| Estimate of other monthly expenses [specify]..... | <u>\$</u> |
| TOTAL (Estimated monthly expenses) | \$ |

ASSETS

[Specify assets and set out their estimated value.]

| | |
|--------------------------------|---------|
| | \$..... |
| | \$..... |
| | \$..... |
| | \$..... |
| | \$..... |
| TOTAL (Estimated asset values) | \$..... |

This is Exhibit B referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1. Highest level of education attained and date completed:

.....
.....
.....

2. Employment history:

| Employer | Dates | Position |
|----------|-------|----------|
| | | |
| | | |
| | | |

This is Exhibit C referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

WORKPLACE SKILLS

[specify]

.....
.....
.....

6. Welfare and Disability Benefits

- **Systemic Poverty Law Update (Day 1)**
 - Welfare law update
 - The Time is Now
 - An Effective Poverty Reduction Plan: It's as simple as ABC
- **Welfare law for senior advocates (Day 1)**
 - Amy Taylor PPMB case
 - Daniel Jackson materials
 - Joyce Percey materials
 - Jen Matthews materials
 - Annette Murray materials
 - Amy Taylor denture cases
- **CPP-D update (Day 1)**
 - Information and Instructions for CPPD
 - Medical report
 - Terminal illness application
- **Accessibility issues with MSDPR (Day 2)**
 - Accessibility Issues with the Ministry of Social Development and Poverty Reduction (MSDPR)
- **Prevention loss management services (Day 2)**
 - No Materials/Materials at session
- **EAAT – Checking in with the new Chair (Day 3)**
 - No Materials/Materials at session

Welfare Law Update: October 1, 2017 to October 1, 2018

*Prepared by Alison Ward, Barrister and Solicitor, Community Legal Assistance Society, October 10, 2018

There have been a number of changes to welfare law since the last Provincial Advocacy Training Conference in early October 2017.

SUMMARY

1. A new transportation supplement of \$52 per month was introduced for people with the Persons with Disabilities (“PWD”) designation who receive disability assistance or hardship assistance, effective January 1, 2018.
2. The disability assistance support rate increased by \$52 per month for each person with the PWD designation in a family unit, effective January 1, 2018.
3. Walking boots were added to the definition of available orthoses, as of May 15, 2018.
4. A new chair of the Employment and Assistance Appeal Tribunal was appointed, effective June 25, 2018.
5. As of July 16, 2018, legislative provision that where a family unit has been off benefits for less than three months, they may be able to reapply for benefits by submitting a completed monthly report, rather than having to go through the two-stage application process again.
6. Exemption, as both income and an asset, of money received from the government of BC because a person was a resident at Woodlands School, as of July 16, 2018.
7. Exemption, as both income and an asset, of money paid by the government of BC to someone because of injury, loss or damage caused by the Ministry of Children and Family Development, its employees or contractors, effective July 16, 2018.
8. Exemption, as both income and an asset, of money paid by the federal government in settlements reached with the Songhees Nation and the Esquimalt Nation, effective October 1, 2018.

Related Changes

9. The Office of the Ombudsperson released Special Report #40 to the BC Legislative Assembly, called *Holding Pattern – Call Wait Times for Income and Disability Assistance*, on April 17, 2018. The report is a systemic investigation into wait times on the centralized phone line of the Ministry of Social Development and Poverty Reduction (MSDPR) and into in person wait times at MSDPR offices.
10. The Office of the Ombudsperson released Special Report #41 to the BC Legislative Assembly on May 15, 2018. Called *Working within the Rules: Supporting Employment*

for Income Assistance Recipients, the report deals with MSDPR's misapplication of wait times for earnings exemptions under the *Employment and Assistance Regulation*.

11. A new *Government Cheque Cashing Fees Regulation* was introduced under new provisions in the *Business Practices and Consumer Protection Act* as of September 1, 2018. This new regulation caps the fees that anyone can charge a welfare recipient to cash a cheque from MSDPR.
12. MSDPR introduced a new form called *Consent to Disclosure of Information – Service Authorization* (HR3189A) in July 2018 which allows a client both to authorize an advocate to make service requests on their behalf, and to authorize the Ministry to release information to the advocate.

DETAILS

1. **A new transportation supplement of \$52 per month was introduced for people with the PWD designation who receive disability assistance or hardship assistance, effective January 1, 2018.**

The new supplement is called the “persons with disabilities (“PWD”) transportation supplement.”

Clients can choose how to spend this money. Clients who want a bus pass can use the \$52 to buy a bus pass themselves, or they can obtain a bus pass through the Ministry, on a month by month or annual basis. There is no additional fee to obtain a bus pass through the Ministry. A client who chooses to receive \$52 cash per month does not need to prove this money was spent on transportation. The PWD transportation supplement is defined as a supplement and is not considered to be part of the disability assistance rate.

See: *Employment and Assistance for Persons with Disabilities (“EAPD”)* Regulation, section 54.2

2. **The disability assistance support rate increased by \$52 per month for each person with the PWD designation in a family unit, effective January 1, 2018.**

When the new “persons with disabilities transportation supplement” was introduced on January 1, 2018, the \$52 per month that MSDPR had previously issued as a transportation support allowance to people with the PWD designation from September 1, 2016 to Dec 31, 2017 was subsumed into the disability support rate. As a result the disability assistance support rate increased by \$52 per month for each person with the PWD designation in a family unit. There was also a \$52 per month increase in the comforts allowance for disability assistance recipients with the PWD designation who are:

- a) in room and board situations, other than with a child or parent (from \$75 to \$127 per month); or

- b) in extended or special care facilities or a private hospital (from \$170 to \$222 per month).

See: *Employment and Assistance for Persons with Disabilities Regulation*, Schedule A, sections 2; section 6(1)(a)(iii) and section 8(1)(b)

3. Walking boots added to the definition of available orthoses, effective May 15, 2018

Clients with access to Schedule C coverage for health supplements are now eligible to have walking boots covered as an “orthosis” under section 3.10 of the EA and EAPD Regulations, provided all other eligibility criteria under section 3.10 are met.

This includes people with life threatening health needs who are financially eligible for premium assistance from the Medical Services Plan, as orthoses are a form of medical equipment.

See: *Employment and Assistance (“EA”) Regulation*, Schedule C, section 3.10(1)(p); and *Employment and Assistance for Persons with Disabilities Regulation*, Schedule C, section 3.10(1)(p)

4. A new chair of the Employment and Assistance Appeal Tribunal was appointed, effective June 25, 2018.

Emily Drown was appointed to a five year term as the new chair of the Employment and Assistance Appeal Tribunal, starting June 25, 2018.

5. As of July 16, 2018, legislative provision that where a family unit has been off benefits for less than three months, they may be able to reapply for benefits by submitting a completed monthly report, rather than having to go through the two-stage application process again.

This simplification of the welfare application process for families that are off benefits for less than three months involves the addition of new definitions to section 1 of the EA and EAPD Regulations for “*alternate application for income assistance [or disability assistance] form*,” and “*income assistance [or disability assistance] application date*.”

The new alternate application for assistance refers to completion and submission of a monthly report. For family units that use this method to re-apply for welfare, their income assistance [or disability assistance] application date is considered to be the date the monthly report is submitted. If they are found eligible for benefits again, their benefits can be back-dated to that application date.

This simplified application process also applies to family units that have ceased to receive disability assistance because they have exceeded their annualized earnings exemption (“AEE”) for a calendar year, even if they have been off disability assistance for more than three months for this reason. In that case, the family unit can only re-apply for assistance using the simplified process if they submit voluntary monthly reports to the Ministry while they are off benefits for having exceeded their AEE.

See: *Employment and Assistance Regulation*, section 1(1); section 4(1)(2); section 4.21; and Schedule B, section 3(2). See also *Employment and Assistance for Persons with Disabilities Regulation*, section 1(1); section 4, section 4.21, and 4.4(1)

6. Exemption, as both income and an asset, of money received from the government of BC because a person was a resident at Woodlands School, as of July 16, 2018.

This exemption relates to the BC government's recent agreement to pay \$10 000 to people who resided in Woodlands School before August 1, 1974.

That group of people was previously ineligible for compensation from a class action that was brought on behalf of people who resided at Woodlands School from August 1, 1974 onward. That class action was settled in 2009, and money from that class action settlement was already exempt as income and an asset for all forms of welfare benefits.

In addition to \$10 000 payments to people who resided at Woodlands School before August 1, 1974, the BC government's recent agreement will see people who were part of the class action receiving an additional payment of up to \$10 000.00. All such payments are exempt as both income and assets for all forms of welfare benefits.

See: *Employment and Assistance Regulation*, section 11(1)(yy.2); Schedule B, section 1(a)(l.2); and Schedule D, section 6(xx.2). See also *Employment and Assistance for Persons with Disabilities Regulation*, section 10(1)(yy.2); Schedule B, section 1(a)(liv.2); and Schedule D, section 6(bbb.2)

7. Exemption, as both income and an asset, of money paid by the government of BC to someone because of injury, loss or damage caused by the Ministry of Children and Family Development, its employees or contractors, effective July 16, 2018.

If a person is paid money by the provincial government as a result of an award in a legal proceeding, or settlement of a claim for injury, loss or damage caused by the Ministry of Children and Family Development or its employees or contractors, that money is exempted as both income and an asset for all forms of welfare benefits, including hardship assistance, effective July 16, 2018.

See: *Employment and Assistance Regulation*, section 11(1)(yy.1); Schedule B, section 1(a)(l.1); and Schedule D, section 6(xx.1). See also *Employment and Assistance for Persons with Disabilities Regulation*, section 10(1)(yy.1); Schedule B, section 1(a)(liv.1); and Schedule D, section 6(bbb.1)

8. Exemption, as both income and an asset, of money paid by the federal government in settlements reached with the Songhees Nation and the Esquimalt Nation, effective October 1, 2018.

As of October 1, 2018, money that is paid by the federal government under the following two settlement agreements is exempt as both income and an asset for all forms of welfare benefits (including hardship assistance):

- a) Cadboro Bay Litigation Settlement Agreement between the Esquimalt Nation and Canada; and
- b) Settlement agreement dated October 30, 2017 between the Songhees Nation and Canada.

See: *Employment and Assistance Regulation*, section 11(1)(ddd)(i) and (ii); Schedule B, section 1(a)(iv)(A) and (B); and Schedule D, section 6(ccc)(i) and (ii). See also *Employment and Assistance for Persons with Disabilities Regulation*, section 10(1)(ddd)(i) and (ii); Schedule B, section 1(a)(iviv)(A) and (B); and Schedule D, section 6(ggg)(i) and (ii)

Related Changes

9. **The Office of the Ombudsperson released Special Report #40 to the BC Legislative Assembly on April 17, 2018. Called *Holding Pattern – Call Wait Times for Income and Disability Assistance*, the report is a systemic investigation into wait times on MSDPR's centralized phone line and into in person wait times at MSDPR offices**

This systemic investigation by the Office of the Ombudsperson resulted from complaints filed by the BC Public Interest Advocacy Centre on behalf of a number of advocacy organizations, as well as many individual complaints filed by advocates and clients. The pattern of complaints led the Ombudsperson to conduct a systemic complaint of their own.

A two page summary of the report from the Ombudsperson is **attached**. It outlines the five findings the office made, as well as nine recommendations that the Ombudsperson made as a result of the investigation. MSDPR has fully accepted six of the Ombudsperson's recommendations, and partially accepted the other three.

10. **The Office of the Ombudsperson released Special Report #41 to the BC Legislation Assembly on May 15, 2018. Called *Working within the Rules: Supporting Employment for Income Assistance Recipients*, the report deals with MSDPR's misapplication of wait times for earnings exemptions under the *Employment and Assistance Regulation*.**

This report arose from individual complaints filed by an advocate and her client, and led to the Ombudsperson finding MSDPR's policy with respect to wait times for earnings exemptions under the *Employment and Assistance Regulation* was contrary to the legislation. A one page new release about the report from the office of the Ombudsperson is **attached**.

The Ombudsperson made four recommendations for changing MSDPR policy and practice, all four of which have been accepted by MSDPR:

1. That the ministry follow the law relating to earnings exemptions,
2. that it amend the relevant policy to accord with the law,

3. that by October 1, 2018 it reimburse all persons whose income assistance was improperly calculated; and
4. that the ministry adopt new guidelines to respond effectively where its own Reconsideration section identifies recurring or systemic legal errors in ministry practice.

11. A new *Government Cheque Cashing Fees Regulation* was introduced effective September 1, 2018, under new provisions in the *Business Practices and Consumer Protection Act*. The new regulation caps the fees that anyone can charge to cash a cheque from the Ministry of Social Development and Poverty Reduction (“MSDPR”) to a welfare recipient.

This new regulation introduces limits on the fees anyone can charge a welfare recipient to cash a cheque from MSDPR. The allowable fee is capped at \$2 plus 1% of the value of the cheque, up to a maximum of \$10 (whichever is less).

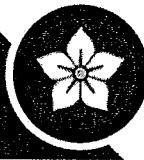
A person who pays more than that as a fee is entitled to a refund of the entire cheque cashing fee, and any other money paid. This in addition to any other penalty the party that charged the fee may be subject to under the *Business Practices and Consumer Protection Act*. Where excess fees are charged or demanded, a complaint can be filed with the Business Practices and Consumer Protection Authority.

See: *Business Practices and Consumer Protection Act*, sections 112.12 to 112.15; and *Government Cheque Cashing Fees Regulation*, sections 1 to 3

12. MSDPR introduced a new form called *Consent to Disclosure of Information – Service Authorization* (HR3189A) in July 2018 which allows a client both to authorize an advocate to make service requests on their behalf, and to authorize the Ministry to release information to the advocate.

Use of the *Consent to Disclosure of Information – Service Authorization* form is important for advocates as, in early 2017, MSDPR had received a legal opinion that they could not act on service requests received from advocates based on general Consent to Release forms. This meant that MSDPR would no longer let advocates make service requests on behalf of their clients, and led to much frustration among advocates.

A copy of the new *Consent to Disclosure of Information – Service Authorization* form is **attached**. It was developed by a group of lawyers and advocates working together with MSDPR. Where a client does not want to authorize an advocate to make service requests on their behalf, and only wants the advocate to receive information from MSDPR, the client can complete another MSDPR form (HR0095) called *Release of Personal Information*.



Holding Pattern: Call Wait Times for Income and Disability Assistance

Introduction

Holding Pattern: Call Wait Times for Income and Disability Assistance is the report of the Ombudsperson's investigation into the Ministry of Social Development and Poverty Reduction's centralized telephone system and its impact on the applicants and recipients of income and disability assistance.

"The ministry's telephone-based service has been chronically slow for a number of years," said B.C. Ombudsperson Jay Chalke. "Income and disability assistance applicants and recipients include some of the most vulnerable people in the province. The ministry needs to ensure its services are timely and meet the needs of the people it serves."

The Ombudsperson initiated the systemic investigation in July 2017 in response to a range of complaints about long wait times, disconnected calls, call time limits, and other challenges recipients of income and disability assistance face in communicating with the ministry by telephone.

Download or request
your free print copy of
Holding Pattern at
www.bcombudsperson.ca

Findings

1. The average call wait times at the ministry's provincial contact centre are chronically and consistently unreasonably long.
2. The ministry does not provide a reasonable level of service via its centralized telephone line because it does not employ a sufficient number of employment and assistance workers in the provincial contact centre.
3. The ministry's regular use of its Tier 1* strategy is unreasonable because it results in an inadequate level of service and creates a delay in the resolution of service requests.
4. The ministry does not inform callers when the provincial contact centre is operating in Tier 1 mode. This approach lacks transparency and is unreasonable because callers lack information about why the ministry is not resolving their service requests.
5. The ministry's failure to monitor, and set service delivery standards for in-person wait times at local offices is unreasonable.

**The Tier 1 strategy is when ministry staff only action phone inquiries that can be addressed in under five minutes. For inquiries anticipated to take longer, staff take enough information to build a service request, which goes into the ministry's provincial queue for later action.*

Recommendations

The investigation resulted in nine recommendations for the Ministry of Social Development and Poverty Reduction. The ministry has fully accepted six of the Ombudsperson's nine recommendations (R1, R4, R5, R6, R7, R9) and partially accepted the other three (R2, R3, R8).

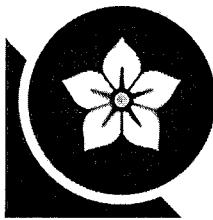
1. By May 31, 2018, the ministry report the daily average speed of answer and the daily longest call wait time statistics on its website for each day in the previous month.
2. By October 31, 2018, the ministry hire sufficient additional employment and assistance workers to ensure that it has a minimum of 220 full-time staff dedicated to answering calls to the centralized telephone line. The incremental staffing is not to be offset from elsewhere in the ministry's income and disability assistance programs.
3. By March 31, 2019, for 95 percent of the days of each month, the ministry answer calls to the centralized telephone line at a daily average speed of answer of 10 minutes or less and attain a longest call wait time for each day of 30 minutes or less.
4. Beginning May 31, 2018, the ministry report when the provincial contact centre is operating in Tier 1 mode by including an announcement on its centralized telephone line and posting on its website.
5. By March 31, 2019, the ministry phase out and cease to use its Tier 1 call-sweeping strategy, and any other strategies for reducing call wait times that result in reduced service levels, except in unforeseen and extraordinary circumstances such as provincial emergencies.
6. By March 31, 2020, the ministry phase out its practice of resolving only one request per call when people contact the centralized telephone line with multiple requests, so that it is able to resolve multiple issues while continuing to achieve the timeliness standards in Recommendation 3.
7. By September 30, 2018, the ministry establish and make public service standards for the timeliness of service delivery and monitor wait times for in-person services at all local offices.
8. By October 31, 2018, the ministry report on its website the average daily individual wait times for in-person service at every local office for the previous month.
9. By June 30, 2019, June 30, 2020 and June 30, 2021, the ministry make public the report of an independent performance audit of the ministry's public reporting of the performance information in Recommendation 1 and Recommendation 3 for the prior fiscal year.

"I am pleased that the ministry has accepted our recommendations about publicly posting its wait times, which means that ministry clients and stakeholders will be able to follow the ministry's progress in addressing this problem. I am also pleased the ministry is phasing out some of the limited service techniques it applied to shorten call answer wait times, but that resulted in reduced service quality," added Chalke. "However, I am disappointed the ministry has not agreed to the timeliness service standards I recommended, preferring to substitute a different standard. Overall, their commitments are a good start, but more will need to be done."

The Office of the Ombudsperson will monitor the progress of the ministry's implementation of the recommendations and report publicly.

The B.C. Ombudsperson provides independent and impartial oversight of public authorities to ensure every person is treated fairly in the provision of public services. In addition to being an independent avenue for individuals with complaints with B.C. public services, the Ombudsperson reports to the Legislative Assembly and the people of British Columbia to bring attention to matters of administrative fairness. These reports provide oversight of public bodies and assurance to legislators and the public regarding the fairness of provincial and local public administration.

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The Office of the

ombudsperson

B.C.'s Independent Voice For Fairness



NEWS RELEASE

May 15th, 2018

For Immediate Release

Ministry of Social Development and Poverty Reduction to reimburse funds to income assistance recipients following investigation by B.C. Ombudsperson

Victoria – B.C.’s Ombudsperson Jay Chalke released a report today of an investigation into a complaint that the Ministry of Social Development and Poverty Reduction failed to follow the law in relation to the calculation of income assistance benefits.

Special Report No. 41, *Working Within The Rules: Supporting Employment For Income Assistance Recipients* arose from an individual’s complaint that the ministry had improperly imposed a one-month suspension of the earnings exemption. The exemption is designed to encourage and support income assistance recipients to work by allowing them to keep limited amounts of earned income over and above their monthly income assistance payments. The Ombudsperson determined that a ministry policy which imposed a one-month hiatus of the earnings exemption for individuals with variable earnings contravened the law, *the Employment and Assistance Regulation*. The investigation found that even though the ministry was aware that the policy was inconsistent with the law, it continued to apply it. The policy had widespread impact, resulting in over 500 instances a year of individuals being denied up to \$700 since 2012.

“It is fundamental to public administration that when law and policy collide, law prevails,” said B.C. Ombudsperson Jay Chalke. “That didn’t happen and as a result vulnerable people were negatively impacted,” Chalke added. “Going forward, as we recommended in this report, the ministry needs to make sure that when a recurring or systemic mistake is identified, proper consideration is given to applying remedies to all affected individuals.”

The report makes four recommendations including ensuring the ministry amend the relevant earnings exemption policy to comply with the law and that by October 1st, 2018 it reimburse all income assistance recipients whose benefits were improperly calculated. “I am pleased that the ministry has accepted all of our recommendations, and that as a result the ministry’s policy is being changed to ensure that its decisions about eligibility for the earnings exemption are consistent with the ministry’s legal framework,” said Chalke. “The ministry has also committed to identifying and reimbursing an estimated 3700 income assistance recipients who over the years received less income assistance than they should have,” said Chalke adding that his office will continue to monitor the recommendations in the report and will report publicly on progress. To view the full report visit:

<https://www.bcombudsperson.ca/>

-30-

Media Contact:

Sara Darling | Outreach Information and Education
Office of the Ombudsperson | 250 356 7740 | 778 679 2588



Consent to Disclosure of Information Service Authorization

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*. The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. You have the right to revoke this consent at any time. Any questions regarding this form, please contact the Ministry of Social Development and Poverty Reduction at 1-866-866-0800.

Client Name

SR Number (if applicable)

Case Number (if applicable)

Section 1 – Consent to Disclosure

I consent to the disclosure within Canada of any personal information about me currently held under the custody and control of the Ministry of Social Development and Poverty Reduction subject to the following limitations:

1. The following specific information only. (If more space is required, please attach an additional page)

2. All information relevant to the Ministry's determination of my eligibility for the Ministry's provision to me of:

- | | |
|--|--|
| <input type="checkbox"/> Income Assistance | <input type="checkbox"/> Hardship Assistance |
| <input type="checkbox"/> Disability Assistance | <input type="checkbox"/> Supplements |

This information may be disclosed to an agency and/or an individual named below for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*.

Section 2 – Service Authorization

Please select which types of service requests the agency and/or individual named below is authorized to make with your knowledge and on your behalf (select all relevant types of service request):

- | |
|--|
| <input type="checkbox"/> All of the following |
| <input type="checkbox"/> Change of your address |
| <input type="checkbox"/> Request for security deposit |
| <input type="checkbox"/> Apply for Persons with Persistent Multiple Barriers (PPMB) |
| <input type="checkbox"/> Request a Persons with Disabilities (PWD) Application |
| <input type="checkbox"/> Request for Special Diet Needs |
| <input type="checkbox"/> Requests for Medical Supplies or Devices, Medical Device Repairs |
| <input type="checkbox"/> Bus Pass |
| <input type="checkbox"/> Request for Reconsideration |
| <input type="checkbox"/> Crisis supplement (i.e., food, shelter, clothing, utilities etc) and I accept this could impact the 12 months limitation rule |
| <input type="checkbox"/> Medical Transportation |
| <input type="checkbox"/> Amendment to Employment Plan Terms |
| <input type="checkbox"/> Other (must specify a specific service) _____ |

This information may be disclosed to the following agency and/or individual that you identify below.

| | | | |
|-----------------------------|---------------------------------|------------------|------------|
| Agency Name (if applicable) | Individual Name (if applicable) | | |
| Address | | | |
| City / Town | Postal Code | Telephone Number | Fax Number |



Consent to Disclosure of Information Service Authorization

| | | | |
|-----------------------------|---------------------------------|------------------|------------|
| Agency Name (if applicable) | Individual Name (if applicable) | | |
| Address | | | |
| City / Town | Postal Code | Telephone Number | Fax Number |

This authorization is effective for (select one box):

3 months 6 months 9 months One year

This authorization is effective starting from the date it is signed and will remain valid for the period chosen. If no box has been selected, the ministry will default to the consent being effective for a 3 month period. Authorization can be cancelled at any time by calling the Ministry of Social Development and Poverty Reduction at 1-866-866-0800.

| | | | |
|-------------------------------|-----------|--------------------|--------------|
| Name of Person Giving Consent | Signature | Date (YYYY MMM DD) | Phone Number |
| Name of Witness | Signature | Phone Number | |

NOTE: If you are signing on behalf of the Ministry Client, you must attach proof of that legal authority (for example, a copy of the court order naming you as Committee) to this Consent.

Authorization

There are two types of authorization: Disclosure of Information and Service authorization. You can give one or both to your representative. By specifying the type of authorization, you control the type of access or information we disclose to your representative.

Section 1 – Consent to Disclosure

An agent/representative may receive any information related to the applicant's/recipient's application for and eligibility for assistance under the Employment and Assistance Act and the Employment and Assistance for Persons with Disabilities Act. Such information may include:

- Amount of assistance for current and previous months
- Reason for signalled payment
- Status of IA applications
- Status of PPMB applications
- Status of PWD applications
- Status of Medical Transportation, Supplies, Devices
- Status of Request for Reconsiderations

Section 2 – Service Authorization*

We may disclose the information listed in **Section 1 – Consent to Disclosure** to your authorized individual or agency and, under **Section 2 – Service Authorization**, you may provide your consent to authorize them to initiate a request for service on your behalf.

Such service requests may include:

- Request for security deposit
- Change of address
- Apply for Persons with Persistent Multiple Barriers
- Persons with Disabilities Application
- Crisis supplement (i.e., food, shelter, clothing, utilities etc) and I accept this could impact the 12 months limitation rule
- Bus Pass
- Request for Reconsideration
- Request for Special Diet Needs
- Medical Transportation
- Amendment to Employment Plan Terms

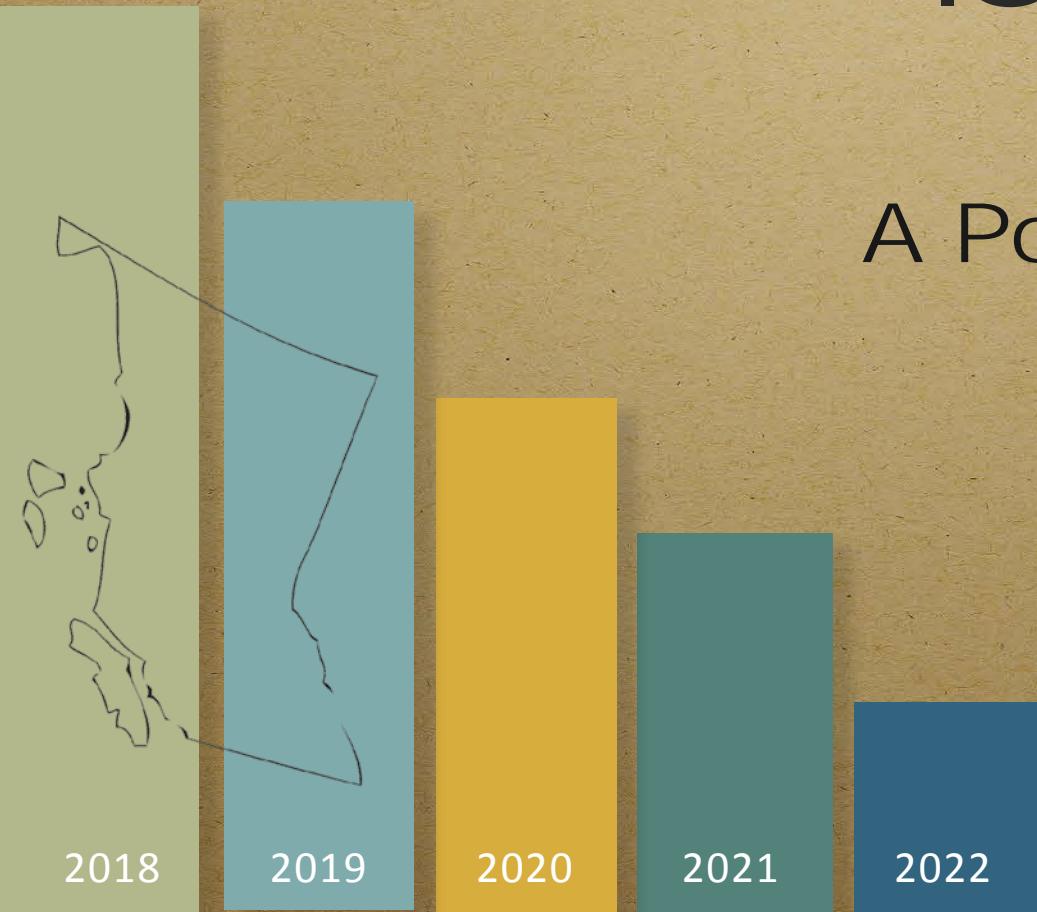
*Please note that service delivery standards are the same for requests submitted through an authorized agency, individual, applicant or recipient.

Your authorized agency/individual **will not be allowed** to change your:

- Direct deposit information;
- Change landlord information.

THE TIME IS NOW

A Poverty Reduction
Plan for BC



Trish Garner
Oct. 16, 2018

Opportunity: Now's Our Chance

BC Government is now developing a Poverty Reduction Plan for BC:

- ▶ Held community meetings throughout BC from January to March
- ▶ “What We Heard” report released in July
- ▶ Legislation tabled on October 2
- ▶ Plan to come in next budget, Feb. 2019

A poverty reduction plan is

- Accountable
- Bold
- Comprehensive

Tell the Minister of Poverty Reduction
that we need an effective plan.

Visit ABCplan.ca to take action.



A clipboard with a white sheet of paper and a black pen, positioned on the left side of the slide.

A poverty reduction plan is

Accountable

- Clear targets and timelines to immediately end deep poverty and to eradicate all poverty by 2030.
- All Ministries work together.
- Respect the human rights of people living in poverty.

Tell the Minister of Poverty Reduction
we need an accountable plan.

Visit ABCplan.ca to take action.

Does the poverty reduction legislation build a strong foundation for an **accountable** plan?



Human Rights

- commitment to rights of indigenous peoples (UNDRIP)
- other human rights commitments
- advisory committee including people living in poverty

Targets and timelines

- for reducing overall and child poverty
- for other impacted groups
- for reducing depth of poverty
- for ending homelessness

Overall Framework

- poverty lens on all budget decisions
- mandatory annual reports
- includes prevention of poverty

Will the plan in March be bold and comprehensive?

Quebec's Impact Clause

Each minister shall, if the minister considers that proposals of a legislative or regulatory nature could have direct and significant impacts on the incomes of persons or families who, according to the indicators retained under this Act, are living in poverty, shall, when presenting the proposals to the Government, give an account of the impacts the minister foresees.

A clipboard with a white sheet of paper and a pen, positioned on the left side of the slide.

A poverty reduction plan is

Bold

- Increase income supports, including welfare and disability assistance to above the poverty line.
- Tie rent control to the unit, and build and protect affordable social and rental housing.

Tell the Minister of Poverty Reduction
we need a bold plan.

Visit ABCplan.ca to take action.



A poverty reduction plan is

Comprehensive

including

- Social assistance
- Health
- Good jobs
- Child care
- Education
- Equity
- Housing

Tell the Minister of Poverty Reduction
we need a comprehensive plan.

Visit ABCplan.ca to take action.

All On Board

(7) THE NEXT STOP IS

Solidarity for Affordable Transit #AllOnBoard

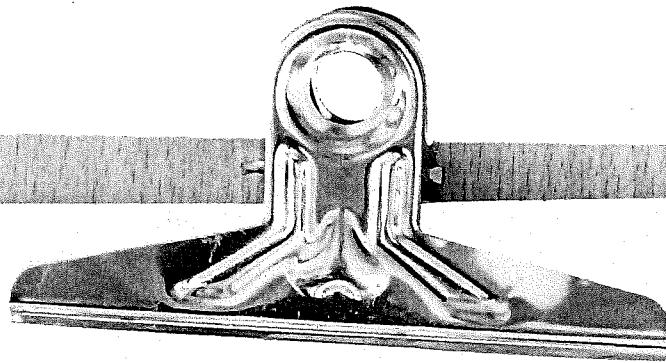
AllOnBoard.ca

stands for affordable and accessible transit based on income to ensure our communities can access public transit to live, work and thrive.

- Free transit for all children and youth 0-18
- Sliding scale monthly pass system based on income

Connect

- ▶ Join the call at ABCplan.ca
- ▶ FaceBook: BC Poverty Reduction Coalition
- ▶ Follow us on Twitter: @PovReductionBC
- ▶ Email me: trish@bcpovertyreduction.ca



An Effective Poverty Reduction Plan: It's as simple as ABC

First Steps for an Accountable, Bold and Comprehensive Poverty Reduction Plan for BC

Over half a million British Columbians live in poverty; from youth aging out of care to sleeping on the streets to seniors struggling to buy food; from low-wage workers having to commute hours every day to people on income assistance trying to survive day by day; from newcomers to indigenous people who we welcome and acknowledge with words but not with enough financial support; from the homeless to those living one paycheque away from joining them; and from people with disabilities facing a lifetime of poverty to families trying to give their children the lives they never had.

In a wealthy province like BC, we can do better.

And the good news is that British Columbians want to do better. The majority of voters in BC's 2017 provincial election voted for bold action on poverty; and with all three major political parties now publicly committed to a poverty reduction plan, British Columbians can finally look forward to action to tackle poverty and the increasing levels of homelessness and inequality that we see in our communities.

This is a crisis that requires urgent action. 4 people are dying every day in BC due to the opioid epidemic that the Provincial Health Officer of BC has declared a Public Health Emergency. Many more are sick from poverty with cancer, heart disease, diabetes, depression or other health issue; and the health of all of us is worse from living in such an unequal society.

A poverty reduction plan will save lives.

It will also save money. It's an economic investment in our province. Initial funding should be provided by restoring tax fairness. Then, over the long term, a poverty reduction plan that puts in place strong, preventative measures to tackle both the depth and breadth of poverty costs far less than the cost of poverty, at \$8 to 9 billion per year for health and criminal justice costs, as well as lost tax revenue. Let's stop mopping the floor and fix the roof.

An Accountable, Bold and Comprehensive poverty reduction plan for BC is the solution to save lives and promote equality.

So far, the government has undertaken a poverty reduction consultation from October 2017 to March 2018. They visited communities throughout the province and heard consistent themes about the issues and the necessary solutions. They now plan to table legislation in the fall and launch the full plan in February 2019.

Now British Columbians expect action with an accountable, bold and comprehensive poverty reduction plan that reflects those themes. A plan needs to tackle immediate affordability challenges but, more importantly, go upstream to enhance our universal basic services to prevent these challenges in the first place and ensure healthy people and healthy communities throughout our province.

The over-arching vision and first steps matter in leading in the right direction.

That is why the BC Poverty Reduction Coalition with over 400 supporting organizations recommend the following first steps for the government's legislation and plan:

A is for Accountable.

Embed strong accountability measures

- ◆ Ensure long-term sustainability through legislated targets, timelines and accountability measures:
 - ◆ Reduce BC's poverty rate by 30% within four years, and by 75% within 10 years.
 - ◆ Recognize that poverty is concentrated in particular marginalized groups and ensure concurrent declines in the poverty rates for these groups by 30% in four years, and by 75% in ten years.
 - ◆ Within two years, ensure that every British Columbian has an income that reaches at least 75% of the poverty line.
 - ◆ Within two years, ensure no one has to sleep outside, and end all homelessness within eight years (ensuring all homeless people have good quality, appropriate housing).
 - ◆ Commit to United Nations Sustainable Development Goal #1: "End poverty in all its forms everywhere" by 2030.
 - ◆ Create an independent, funded Office/Advocate to monitor the plan's implementation.
- ◆ Make sure all Ministries are working together, including:
 - ◆ Legislate a Poverty/Equity Lens at Treasury Board to ensure no Ministry can make decisions that will hurt people in poverty.
 - ◆ The Minister of Social Development and Poverty Reduction should present mandatory annual reports (including reports from all relevant Ministries) to the Legislature and to the public about actions taken, outcomes and advocacy to other levels of government.
- ◆ Embed strong fundamental principles in the legislation and plan:
 - ◆ Respect the human rights of people living in poverty.
 - ◆ Upstream approach focusing on the social determinants of health.
 - ◆ Poverty reduction as a social and economic investment for our province.

B is for Bold.

Take bold, immediate action

- ◆ Increase income supports, including raising welfare and disability rates to 75% of the poverty line (Market Basket Measure) immediately and to 100% of the MBM in 2 years.
The first step would cost \$365 million while lifting everyone on income assistance to the poverty line would cost \$1.16 billion, only 2% of the provincial budget
- ◆ Tie rent control to the unit (not the tenant), and build and protect affordable social and rental housing.
Affordable is defined as 30% of income. An appropriate percentage of the housing to be built should be at welfare shelter rates and another set target should be tied to the senior shelter level.

C is for Comprehensive.

Develop a comprehensive poverty reduction plan with short, medium and long-term actions in 7 policy areas:

- ◆ Income assistance: Provide adequate and accessible income support for the non-employed.
 - ◆ Increase and index income and disability assistance.
 - ◆ Increase earnings exemptions, and remove clawbacks and arbitrary barriers that discourage, delay and deny people in need.
- ◆ Employment: Improve the earnings & working conditions of those in the low-wage workforce.
 - ◆ Increase the minimum wage to \$15 an hour for all workers with no exemptions and index it to the cost of living.
 - ◆ Enhance and restore the coverage and enforcement of employment standards.
- ◆ Equity: Address the needs of those most likely to be living in poverty, including:
 - ◆ Restructure federal and provincial funding to better address the needs of all Indigenous people, including the large off-reserve population.
 - ◆ Guarantee access to income assistance for all regardless of citizenship status.
 - ◆ Provide free transit for children 0-18 years of age and a low-income transit pass for adults.
- ◆ Housing: End homelessness and adopt a comprehensive affordable housing and supportive housing plan.
 - ◆ Build 10,000 new social & co-op housing units per year that low income people can afford.
 - ◆ Introduce stronger tenant protections, including rent control on the unit (not the tenant), tighter limits on annual rent increases, adequately enforcing the Residential Tenancy Act (RTA) and the Manufactured Home Park Tenancy Act, and extending tenant rights to include all non-profit social housing currently exempt from the RTA.
- ◆ Child care: Provide universal, high quality, publicly-funded child care.
 - ◆ Improve the wages of early childhood educators.
 - ◆ Continue to increase the number of licensed spaces.
 - ◆ Prioritize expanding the fee reduction program so that the affordable child care benefit can be reduced over time, and ensure that low income families have access to free, high quality child care.
- ◆ Education and training: Enhance support for training and education for low-income people.
 - ◆ Reduce tuition fees by 50% and increase the availability of post-secondary grants for low-income students; allow welfare recipients to attend post-secondary education and get apprenticeships.
 - ◆ Adequately fund K-12 education to mitigate inequalities and to ensure adequate library staff and resources, and special needs assessment and support.
- ◆ Health and food security: Enhance community mental health and home support services, and expand integrated approaches to prevention and health promotion services.
 - ◆ Expand essential health services in the public system, such as dental and optical care and community mental health services.

More information and take action at ABCplan.ca

For more information, visit:

ABCplan.ca

The BC Poverty Reduction Coalition is a coalition that includes community and non-profit groups, faith groups, health organizations, indigenous organizations, immigrant service agencies, businesses, labour organizations, and social policy groups. We have come together around a campaign aimed at seeing the introduction of a bold and comprehensive poverty reduction plan from the government of British Columbia that would include legislated targets and timelines to significantly reduce poverty, inequality and homelessness. We have over 80 Coalition Members and over 400 supporting organizations that have joined the call for a poverty reduction plan.

Vancity



United Way
Lower Mainland
Changemakers Fund

vancouver
foundation

Vancity
Community Foundation

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: Amy Taylor
From: The Advocacy Centre

Summary of Legal Issue:

Beginning in October 2012, the Ministry of Social Development and Poverty Reduction had a policy that denied people on Persons with Persistent Multiple Barriers (PPMB) their earnings exemption if they did not receive a cheque the previous month, for example due to excess income. The Ministry cited the following section of the Employment and Assistance Regulation (my emphasis added):

Schedule B, Section 3(2):

If an application for income assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance under the Employment and Assistance for Persons with Disabilities Act for the calendar month immediately preceding that first calendar month

The legislation clearly indicates that only new applicants must wait one month before being eligible for the exemption. The Ministry was incorrectly applying the legislation by stating that recipients with ongoing files must have received a cheque the previous month to be eligible for the exemption.

Summary of Facts:

Between 2013-2016, The Advocacy Centre had five clients on PPMB who were denied the earnings exemption for the reason described above. In all cases, the families had:

- been on PPMB for over a year
- not received a cheque the previous month due to excess income.

Steps taken and outcome at each step:

In each case we:

1. Raised the issue with the Ministry to avoid Reconsideration – unsuccessful.
2. Submitted a Request for Reconsideration – successful.

When the third client approached us, we also raised the issue with the Regional Manager, Community Relations and Service Quality and the Moving Forward Steering Committee. The Ministry did not change the policy.

In February 2016, a client who had already successfully appealed the denial of the earnings exemption contacted us because she was denied again.

We helped the client make a complaint to the Ombudsperson on the grounds that it was procedurally unfair to require someone to appeal a decision they had already successfully appealed. Because of concerns around deadlines, the Ombudsperson directed the client to appeal the decision.

We were successful at Reconsideration. The Ombudsperson agreed to investigate the Ministry's policy. In May 2018, the Ombudsperson released a public report: *Working Within the Rules: Supporting Employment for Income Assistance Recipients* (attached). The report recommended that the Ministry:

- follow the law relating to earnings exemptions
- amend the relevant policy so it is consistent with the law
- reimburse everyone impacted by the incorrect policy (approximately 500 people/year since October 2012)
- develop guidelines for responding when the Reconsideration Branch identifies recurring or systemic legal errors in Ministry practice.

The Ministry accepted all four recommendations.

What was challenging about this case:

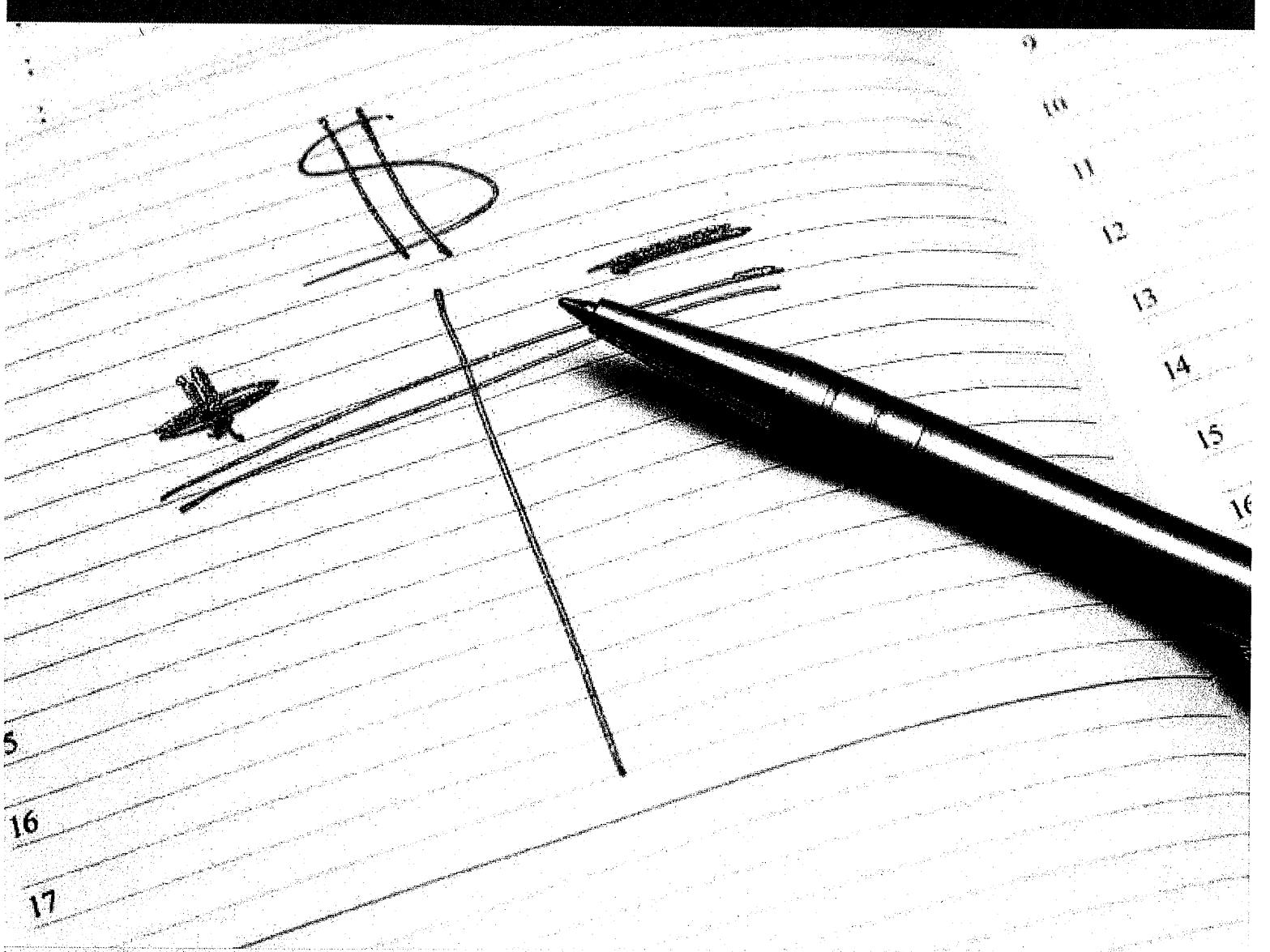
The clear disconnect between the legislation and the Ministry's policy and how difficult was to bring about change.

Lessons learned from this case:

Don't give up. Administrative processes such as Ombudsperson complaints can result in larger change.

WORKING WITHIN THE RULES:

Supporting Employment for
Income Assistance Recipients



The Office of the
ombudsperson
B.C.'s Independent Voice For Fairness

Special Report No. 41 | May 2018
to the Legislative Assembly of British Columbia

As an independent officer of the Legislature, the Ombudsperson investigates complaints of unfair or unreasonable treatment by provincial and local public authorities and provides general oversight of the administrative fairness of government processes. It conducts three types of investigations: investigations into individual complaints; investigations that are commenced on the Ombudsperson's own initiative; and investigations referred to the Ombudsperson by the Legislative Assembly or one of its Committees.

The Ombudsperson has a broad mandate to investigate complaints involving provincial ministries; provincial boards and commissions; Crown corporations; local governments; health authorities; colleges and universities; schools and school boards; and self-regulating professions and occupations. A full list of authorities can be found in the *Ombudsperson Act*. The Office of the Ombudsperson responds to approximately 8,000 inquiries and complaints annually.

For more information about the B.C. Office of the Ombudsperson and for copies of published reports, visit www.bcombudsperson.ca

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ombudsperson
B.C.'s Independent Voice For Fairness

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Victoria BC V8W 9A5

May 2018

The Honourable Darryl Plecas
Speaker of the Legislative Assembly
Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Speaker,

It is my pleasure to present the Ombudsperson's Special Report No. 41, *Working Within the Rules: Supporting Employment for Income Assistance Recipients*.

The report is presented pursuant to section 31(3) of the *Ombudsperson Act*.

Yours sincerely,



Jay Chalke
Ombudsperson
Province of British Columbia

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Contributors

Christina McMillan, Manager of Investigations (Social Programs)

Lisa Phillips, Ombudsperson Officer

Jaime Green, Ombudsperson Officer

FROM THE OMBUDSPERSON

Public administration occurs within a legal framework. The Legislature passes laws and may delegate subordinate legislative authority to other bodies, such as Cabinet. Together, legislation and regulation establish the legal structure within which administration of a particular program occurs.

However, in modern government, this legislative framework is insufficient to detail the breadth or depth of guidance that those charged with implementing and administering public programs require. This is where policy comes in.

Policy can, and does, play an important role in public administration by more fully describing the process, establishing criteria and assisting in answering the many questions that arise in large and complex systems and programs.

However, there is one important caveat. Policy is subordinate to the law, not the other way around. If there is a conflict between the law and the policy, the latter yields to the former. This is a well-accepted and widely understood foundation of public administration.

In this report we describe a situation in which that did not happen. The Ministry of Social Development and Poverty Reduction, in its administration of income assistance for a recipient we call Ms. Smith, favoured its own policy rather than following the law – even after its own internal Reconsideration section told the ministry on two occasions that its decisions were not consistent with the law. Furthermore, when the ministry finally did follow the law, it only did so for Ms. Smith and not the other income assistance recipients – roughly 500 every year – who were similarly impacted.

"Policy is subordinate to the law, not the other way around. If there is a conflict between the law and the policy, the latter yields to the former."

Ms. Smith's case is complex. It relates to the imposition of a one-month suspension of the ministry's earnings exemption in cases such as Ms. Smith where a recipient has a variable income pattern. However, it is this very complexity that makes the obligation on government to correctly apply the law even more important. Given the power imbalance between government and individual citizens – including disparate expertise, access to information and legal advice – the onus is on the ministry and not service recipients to ensure that its decisions are consistent with its legal authority.



From the Ombudsperson

We make four recommendations in this report, namely that the ministry follow the law relating to earnings exemptions, that it amend the relevant policy to accord with the law, that by October 1, 2018 it reimburse all persons whose income assistance was improperly calculated and, finally, that the ministry adopt new guidelines to respond effectively where its own Reconsideration section identifies recurring or systemic legal errors in ministry practice.

The very good news is that the ministry has accepted all four recommendations. This acceptance reflects a commitment by the ministry to address mistakes of the past and do better in the future.

We will monitor the ministry's implementation of these four recommendations and will report publicly.



Jay Chalke
Ombudsperson
Province of British Columbia

INTRODUCTION

An Ombudsperson investigation can begin in several ways. The Ombudsperson can initiate an investigation into any matter that falls within his authority. The legislative assembly can also refer matters to our office for investigation. However, the overwhelming majority of investigations we carry out come from individual complaints that we receive from members of the public about their dealings with various public authorities. These investigations into people's complaints are the backbone of our work. Many of them lead to resolutions that benefit the complainant. Some lead to the resolution of systemic problems and have a broader impact; this report is about one of those cases.

Our office has an investigative team that is dedicated to investigating complaints about authorities that administer provincial social programs, including the Ministry of Social Development and Poverty Reduction. The ministry fulfils an important function as the entity responsible for the delivery of the BC Employment and Assistance (BCEA) program, which includes the administration of income and disability assistance in the province. Over 190,000 adults in B.C. rely on income and disability assistance, and those individuals support over 38,000 children. Every day, the ministry makes decisions that determine whether people will receive assistance to obtain housing, food and other basic necessities. Its decisions can have profound effects on people.

This investigation arose from a complaint that we received from an individual, Ms. Smith¹, about a decision made by the Ministry of Social Development and Poverty Reduction that affected her eligibility for income assistance benefits.

In this report, we outline the background of the income assistance program as it

relates to Ms. Smith's complaint. We set out the nature of Ms. Smith's concerns and what we found through the course of our investigation. Finally, we make a series of findings and recommendations to address the problems that we identified in the ministry's decision-making process.

¹ The name of this complainant has been changed in this report.



BACKGROUND

The Ministry of Social Development and Poverty Reduction provides income assistance for low-income and impoverished British Columbians who have little or no other income to rely on. The ministry requires that applicants pursue all sources of income and take advantage of any assets before they will qualify for income assistance.

The income assistance program is established and governed by the *Employment and Assistance Act*² and the *Employment and Assistance Regulation*.³ The Act and its companion Regulation are the source of the ministry's authority to deliver income assistance.⁴

The ministry has also developed the *BC Employment and Assistance Policy and Procedure Manual*, which is intended to assist staff in making decisions about income assistance that accord with the legislation.⁵ The maximum rates of income assistance in British Columbia are prescribed by the Regulation. Between 2007 and 2017, income assistance rates remained static, with a single person receiving a maximum rate of \$610 per month. Effective October 1, 2017, government raised the current maximum rate of income assistance for a single person to \$710.⁶ In spite of this increase, British Columbians who live solely on income assistance are living in

relative poverty and often struggle to meet basic needs, like housing and food security.

Statistics Canada reports that "although there is no single agreed upon measure of poverty in Canada, it is well known that having low income is a major aspect of living in poverty." Statistics Canada uses the after-tax "low-income measure" (LIM) to determine what constitutes low income. In 2017, using tax data from 2015, Statistics Canada found that the LIM was \$22,133 for a single person.⁷

Generally, under the current income assistance framework, any income that a recipient earns from employment is considered "earned income" and deducted from the amount of income assistance that the person is otherwise eligible for.⁸ An earnings exemption, also established by the Regulation, creates an exception to the general rule that for every dollar a person earns through employment, a dollar is deducted from the person's income assistance rate. People who are eligible for the earnings exemption are permitted to keep some of the money they earn from employment, with no corresponding

² *Employment and Assistance Act*, S.B.C. 2002, c. 40.

³ *Employment and Assistance Regulation*, B.C. Reg. 263/2002.

⁴ There is a separate legislative framework for disability assistance under the *Employment and Assistance for Persons with Disabilities Act*, S.B.C. 2002, c. 41. This report does not address matters relating to disability assistance.

⁵ Ministry of Social Development and Poverty Reduction, BC Employment and Assistance Policy and Procedure Manual, 1 October 2017 <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual>.

⁶ B.C. Reg. 153/2017, effective October 1, 2017.

⁷ Statistics Canada, *Census in Brief: Children living in low-income households*, 13 September 2017 <http://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016012/98-200-x2016012-eng.cfm>.

⁸ *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 1 and 28.

deduction from their rate of assistance, up to a prescribed limit.

The ministry says that the purpose of the earnings exemption is to allow people to take advantage of part-time or temporary work and to better provide for themselves and their families:

Earnings exemptions provide clients who work with the ability to keep additional income over and above their monthly assistance payment, offering them an opportunity to build job skills and experience to increase employability, take advantage of part-time or temporary work, and better provide for their families while receiving assistance.⁹

Generally, nearly everyone who receives income assistance is eligible for an earnings exemption each month. The Regulation provides that there is a one-month waiting period after an individual submits an income assistance application (known as a Part 2 form) before the earnings exemption is applied.

The only class of people who are precluded from claiming the earnings exemption are people whom the ministry considers transient. "Transient" is defined in the Regulation as a person who "has no dependent children, no fixed address, and in the Minister's opinion, is not taking up permanent residence in the community in which the person submits an application for income assistance (part 2) form."¹⁰

There are four classes of earnings exemptions:

- People who have a dependent child or a supported child are eligible for an earnings exemption of \$600.
- People who have a dependent child or a supported child who has a physical or mental condition that prevents the recipient from leaving home to work more than 30 hours per week are eligible for an earnings exemption of \$700.
- People who qualify for the persistent multiple barriers to employment designation are eligible for an earnings exemption of \$700.
- All other recipients are eligible for an earnings exemption of \$400.¹¹

Effective October 1, 2017, government increased the amount of the earnings exemption by \$200, to the rates described above, for all eligible classes of recipients.¹² Thus, prior to October 1, 2017, the earnings exemption in each category was \$200 less.

⁹ *BC Employment and Assistance Policy and Procedure Manual*, Eligibility: Income Treatment and Exemptions – Policy – Earnings Exemptions <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/income-treatment-and-exemptions>.

¹⁰ *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 1.

¹¹ *Employment and Assistance Regulation*, B.C. Reg. 263/2002, Schedule B, s. 3.

¹² B.C. Reg 169/2017, effective October 1, 2017.



Background

In September 2017, in a parliamentary debate, the Minister of Social Development and Poverty Reduction described the importance of the earnings exemption – and of increasing the amount of the exemptions – to breaking the cycle of poverty:

The other thing that was announced in the budget and that you'll see as we announce more details is starting this October 1. We've increased the earning exemptions for persons on social assistance and persons with disabilities. What we have said is that we've increased them by \$200. That means for a person on social assistance, a \$200-a-month exemption has become \$400. For a person with disabilities, the \$9,600 annual exemption becomes \$12,000.

What that does is it allows people to at least work some and keep the money. It encourages people to show some initiative, to take an opportunity and to be rewarded for that when they do that and to know that it's not going to just get clawed back off their cheque. If they can make a few hundred extra dollars and ease their pressure a little bit, that's a good thing. We all know that part of breaking the cycle of poverty is finding ways to encourage and support people into work when that's an appropriate and available opportunity for them, with a little bit of help. Part of that is letting them keep a few of those extra dollars as they move forward. I'm very proud of that.¹³

The Minister of Energy, Mines and Petroleum Resources similarly commented on how the earnings exemption can help lift people out of poverty:

We are also increasing earnings exemptions, so that people with disabilities and people on income assistance are able to get their foot in the door with employment opportunities. They can get a part-time job and, eventually, maybe make that a full-time job.

I can't even begin to tell you the number of people I have heard where that would have made all the difference in their lives – just to be able to keep an extra \$200 a month, if they could keep that from a part-time job – what that would mean for their monthly expenses, how that would help to lift them out of poverty. There are so many stories along those lines.¹⁴

Among the classes of people eligible for the earnings exemption are people who qualify as having persistent multiple barriers to employment. People with the Persons with Persistent Multiple Barriers (PPMB) designation are eligible for a \$700 earnings exemption, which is the largest exemption the ministry offers to people on income assistance.

¹³ Hon. Shane Simpson, British Columbia Legislative Assembly, Hansard, 18 September 2017, 455, <https://www.leg.bc.ca/content/hansard/41st2nd/20170918pm-Hansard-n19.pdf>.

¹⁴ Hon. Michelle Mungall, British Columbia Legislative Assembly, Hansard, 20 September 2017, 551–2, <https://www.leg.bc.ca/content/hansard/41st2nd/20170920pm-Hansard-n22.pdf>.

To qualify for the PPMB designation, people must obtain a score of 15 on the ministry's employability screen¹⁵ and also have a medical condition that seriously impedes their ability to work or precludes them from working. In addition to the \$700 earnings exemption, people with the PPMB designation are eligible for a slightly higher rate of assistance than other recipients. Currently, the maximum rate for single people with the PPMB designation is \$757.92.

As of January 2018, 4,298 of the 68,091 people on income assistance qualified for the PPMB designation.¹⁶

The *BCEA Policy and Procedure Manual* describes the purpose of the PPMB designation:

The Persons with Persistent Multiple Barriers (PPMB) category provides assistance to clients who have long-term barriers to employment that are not expected to be overcome in the short term despite all reasonable steps by the client. PPMB clients are exempt from employment obligations.¹⁷

¹⁵ See *Employment and Assistance Regulation*, B.C. Reg. 263/2002, Schedule E.

¹⁶ Ministry of Social Development and Poverty Reduction, *BC Employment and Assistance Summary Report*, 28 February 2018, 2 <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/ministries-organizations/social-development-poverty-reduction/bcea-caseload.pdf>.

¹⁷ *BC Employment and Assistance Policy and Procedure Manual*, Employment Programs, Planning and Exemptions – Persons with Persistent Multiple Barriers – Overview <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eppe/persons-with-persistent-multiple-barriers>.



THE COMPLAINT

In March 2016, Ms. Smith, with the assistance of an advocate, made a complaint to our office about decisions that the ministry was making regarding her eligibility for the earnings exemption.

Ms. Smith was receiving income assistance from the ministry and she had the PPMB designation. She explained that she had a number of chronic injuries, resulting from previous accidents, which seriously impeded her ability to work. Ms. Smith lived in a remote community in British Columbia and often had to travel to attend medical appointments.

In spite of her injuries, Ms. Smith was employed as a casual staff member with a school district and she worked when she was able. Because her ability to work fluctuated as a result of her medical condition, her ability to earn income varied from month to month. Most months, Ms. Smith relied on income assistance to support herself. At the time she made her complaint, as a person with the PPMB designation, Ms. Smith's maximum rate of income assistance was \$657.92 and she was eligible for a \$500 earnings exemption.

In October 2017, the maximum rate of income assistance for people with the PPMB designation increased to \$757.92¹⁸, and the amount of the earnings exemption for those individuals was increased to \$700.¹⁹

Ms. Smith told us that in December 2014, she earned enough income from employment that she was ineligible for income assistance for a one-month period. Because of the way ministry reporting works, Ms. Smith reported her income from December 2014 to the ministry in January 2015, and it was applied to her February 2015 income assistance rate.

Ministry clients are obliged to report all sources of income to the ministry by the fifth day of each calendar month as a condition of ongoing eligibility. For example, income earned between January 1 and January 31 must be reported by February 5. The income received in January and reported in February is applied to the person's March income assistance and may affect their eligibility for assistance.²⁰

Ms. Smith agreed with the ministry's determination that she was ineligible for income assistance in February 2015 as a result of her earnings in December 2014. However, she said that in March 2015, the ministry determined that she was ineligible for the earnings exemption because she had not received any income assistance in the previous month. Because she was denied the earnings exemption, none of the income she had earned from her job was exempt in March, and her income assistance was reduced by a dollar for every dollar she had earned.

¹⁸ B.C. Reg 153/2017, effective October 1, 2017.

¹⁹ B.C. Reg 169/2017, effective October 1, 2017.

²⁰ *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 33(1).

With the assistance of an advocate, Ms. Smith appealed the ministry's denial of the earnings exemption to the ministry's Reconsideration and Appeals section. Among other things, the ministry's reconsideration process provides people with an opportunity to have a new decision made regarding their eligibility for, or their rate of, assistance.

Ms. Smith was successful on reconsideration. The Reconsideration officer who heard her case concluded that she met the eligibility criteria for the earnings exemption and was entitled to claim it for March 2015.

Then, in December 2015, the same circumstances arose again. Ms. Smith earned enough income that she was ineligible for income assistance for February 2016. In March 2016, she was eligible for income assistance, but the ministry denied her claim for the earnings exemption, again on the basis that she did not receive income assistance in the previous month. Ms. Smith said that she discussed the issue with her advocate, who told her that she should not have to seek a reconsideration of an issue she had already had successfully reconsidered. When she raised the issue with the ministry, she said that ministry staff informed her that "today is a different day."

Ms. Smith sought a reconsideration of the issue. A Reconsideration officer again concluded that she was entitled to the earnings exemption, on same basis as its previous decision.

When Ms. Smith complained to our office, she told us that it was unfair that she had to seek multiple reconsiderations of the same issue. She said staff at the ministry told her that if the same circumstances arose again, it would continue to find her ineligible for the earnings exemption in spite of the reconsideration decisions.

We also spoke with Ms. Smith's advocate, who had assisted her with the Reconsideration process. Her advocate told us that she was of the view that the ministry was misapplying its legislation, and that she had assisted multiple people in obtaining reconsiderations of the ministry's earnings exemption eligibility decisions in circumstances similar to Ms. Smith's.

The information Ms. Smith and her advocate provided to our office raised questions about whether the ministry had followed a reasonable procedure in assessing Ms. Smith's eligibility for the earnings exemption, and we notified the ministry that our office was commencing an investigation of that issue. As we obtained additional information from the ministry, our investigation broadened to include an assessment of whether the ministry was acting consistently with its legislative authority in determining the eligibility of claims for all of the earnings exemptions set out in the Regulation. Our investigation is described below.



INVESTIGATION

During the course of our investigation, we spoke with a number of ministry representatives about the earnings exemption and the ministry's eligibility criteria. We reviewed the Reconsideration section's decisions respecting Ms. Smith's eligibility for the earnings exemption. We also reviewed the regulatory framework for the earnings exemption and related ministry policy.

The decisions that the Reconsideration section made in relation to Ms. Smith's eligibility for the earnings exemption were very similar. In fact, both decisions were made by the same Reconsideration officer. In her reasons for both decisions, the Reconsideration officer noted that generally, the legislation provides that the monthly rate of a person's income assistance must be reduced by the person's net income. The officer noted that this general rule was subject to the amount of the earnings exemption, which at the time in Ms. Smith's case was \$500.

In both decisions, the officer found that the Regulation established a limit on eligibility for the earnings exemption – if a person submits an application for income assistance using the ministry's "Part 2" form, they are not eligible for the earnings exemption in the first calendar month in which they become eligible for assistance. The officer found that the ministry's decisions to deny Ms. Smith the earnings exemption in March 2015 and March 2016 were wrong because Ms. Smith did not submit a Part 2 form to the ministry on either occasion. As a result, there was no limit on her eligibility for the earnings exemption and she was entitled to claim it.

We reviewed the provision of the Regulation that sets out the eligibility criteria and the amount of the earnings exemption. The

relevant section is section 3 to Schedule B of the Regulation:

- 3 (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (2) *If an application for income assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance under the Employment and Assistance for Persons with Disabilities Act for the calendar month immediately preceding that first calendar month.*
- ...
- (6) The exempt amount for a family unit is the lesser of the family unit's total earned income in the calendar month of calculation and the following:
 - (a) \$400, if the family unit is not described in paragraph (b), (c) or (d);
 - (b) \$600, if the family unit
 - (i) includes a recipient who
 - (A) has a dependent child, or
 - (B) provides care to a supported child, and
 - (ii) is not described in paragraph (c) or (d);



- (c) \$700, if
 - (i) the family unit includes a recipient who
 - (A) has a dependent child, or
 - (B) provides care to a supported child,
 - (ii) the child has a physical or mental condition that, in the minister's opinion, precludes the recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week, and
 - (iii) the family unit is not described in paragraph (d);
 - (d) \$700, if the family unit includes a person who has persistent multiple barriers to employment.
- (7) A transient is not entitled to an exemption under this section.

Based on a plain reading of that section, we determined that the Reconsideration section had appropriately identified that the limit on eligibility for the earnings exemption was tied to submitting a Part 2 form to the ministry,

which Ms. Smith did not do – and was not requested to do by the ministry.

Next, we looked at the ministry's policy about eligibility for the earnings exemption. We found that the policy stated that eligibility for all four classes of the earnings exemption was contingent on receipt of income assistance in the previous month. At the time of our investigation, the ministry's policy described the restriction on eligibility for the earnings exemption as follows:

To be eligible for an earnings exemption, clients must have been in receipt of either income assistance or disability assistance for the previous month. If no assistance was issued in the previous month, a one month wait must be served before the family unit is eligible for the earnings exemption.²¹

We learned through our investigation that the application of the ministry's policy was automated: when a person reports earned income to the ministry and they did not receive income assistance in the previous month, the system automatically reduces their rate of income assistance dollar for dollar by the amount of their net income. In those circumstances, no amount of the person's income is sheltered through the earnings exemption.

²¹ BC Employment and Assistance Policy and Procedure Manual, Eligibility: Income Treatment and Exemptions – Policy – Earnings Exemptions <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/income-treatment-and-exemptions>.



ANALYSIS

Application and Publication of the Earnings Exemption Policy

Based on our review of the Regulation and the ministry's policy, we found that the policy purported to create and capture a broader group of people who were ineligible for the earnings exemptions than the Regulation authorized. Under the policy, anyone who did not receive assistance in the previous month was ineligible for the earnings exemption for a one-month period, while under the Regulation, only those who submitted an application for income assistance Part 2 form were required to wait for one month before claiming the earnings exemption. The ministry's automated system implemented the ministry's policy rather than the Regulation.

Ministry policy must be consistent with the law, and where there is a conflict between law and policy, the law must be observed. The ministry's BCEA Policy and Procedure Manual

offers a useful description of the relationship between law and policy:

Policy manuals set out the ministry's intent with respect to the Act and Regulations and are guidelines. Policy is not law. Policy provides guidelines to assist staff in making decisions. Staff must, however, make decisions based on the legislation. Where the policy and the legislation conflict, the legislation must be followed.²²

In this case, the legislation does not impose a one-month waiting period for the earnings exemption for people in Ms. Smith's circumstances. The ministry's authority flows from the legislation, and its application of the policy to people in Ms. Smith's circumstances is not authorized at law. The ministry's application of the policy is contrary to the plain language of section 3(2) of Schedule B to the Regulation. Accordingly, we have made the following finding and recommendation:

Finding 1: The ministry's application of its one-month waiting period policy for the earnings exemption to recipients who did not submit an income assistance application Part 2 form to the minister is contrary to law.

Recommendation 1: Immediately begin making eligibility decisions about the earnings exemption that are consistent with the *Employment and Assistance Regulation* and cease finding recipients ineligible for the earnings exemption only because they did not receive income assistance in the previous month.

²² BC Employment and Assistance Policy and Procedure Manual, Ministry Overview: Legislative Authority – Overview <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/ministry-overview/legislative-authority>.

The ministry's application of its policy to people in circumstances like Ms. Smith's can have real and harmful consequences. The practical consequence for Ms. Smith and others similarly situated is a denial of income assistance to which they are lawfully entitled. People who are eligible for income assistance are often vulnerable and living on very little, and denial of assistance can negatively impact their already precarious economic situation.

The facts in Ms. Smith's case illustrate the impact that the denial of the earnings exemption can have. As we noted earlier, Ms. Smith's rate of income assistance in 2015 was \$657.92. She was initially denied the earnings exemption in March because she didn't receive assistance in February. That meant when she reported her earnings of \$588.38, the ministry reduced her March assistance by that entire amount, leaving her with \$69.54 in assistance ($657.92 - 588.38 = 69.54$). If the ministry had found her eligible for the \$500 earnings exemption, \$500 of her income would have been exempt, and her rate of assistance would have been \$569.54 ($657.92 - 88.38 = 569.24$).

For Ms. Smith, denial of the earnings exemption meant living on \$657.92 for the month of March 2016, instead of \$1,157.92 ($588.38 + 569.54$) with the earnings exemption. Although Ms. Smith, with the help of her advocate, successfully sought a reconsideration of the ministry's decision, others in her situation did not pursue reconsideration and had to make do with considerably less income than they were entitled to.

The conflict between the policy and the Regulation has existed since October 1, 2012, when the language in section 3(2) of Schedule B to the Regulation took effect. The ministry, through the work of its Reconsideration section, has been aware of the conflict between its policy and the Regulation since at least March 2015. During that time, it took no

steps to resolve the conflict: it did not amend its policy to accord with the law, nor did it seek a regulatory change that would authorize its current practice.

All British Columbians can and should expect that government bodies will act in accordance with the law. In this case, the *Employment and Assistance Act* and the *Employment and Assistance Regulation* provide the legislative authority for the income assistance program. The ministry's authority to administer and make eligibility decisions about the earnings exemption flows from the provisions of the Regulation. As the body with expertise regarding the application of those provisions, the ministry has an obligation to provide accurate information to the public and its clients about how the rules apply.

The legislative framework governing the income assistance program is complex, and income assistance recipients rely on the ministry to provide them with information about their entitlements and to make eligibility decisions that accord with the rules. Ministry clients may not have the knowledge to determine when a ministry decision is not supported by law, or the resources or capacity to seek a reconsideration. Recipients of income assistance are in a particularly vulnerable position in relation to the ministry, not only because of the relative expertise of the ministry regarding income assistance rules, but because the denial of services can adversely impact their most basic needs. The denial of the earnings exemption has a significant impact on individuals because their rate of assistance is reduced by a dollar for each dollar earned. Therefore, the ministry has a duty to make eligibility decisions carefully, taking into account all of the relevant information, and in accordance with the relevant law.

Ministry staff told us that the ministry applies the earnings exemption policy "consistently and transparently" and that it is publicly



available. However, the policy does not accurately reflect the circumstances in which recipients are entitled to the earnings exemption and it does not provide information that recipients are entitled to know regarding their eligibility. The policy is not transparent because it provides people with information that is wrong.

While our investigation into Ms. Smith's complaint was ongoing, the ministry flagged her file and manually exempted her from the application of the one-month waiting period in its earnings exemption policy. However, the ministry continued to apply its policy to all other income assistance recipients, and only those who sought a reconsideration of its eligibility decisions received the exemptions they were entitled to. Individuals in similar factual circumstances to Ms. Smith who did not go through the reconsideration process were not treated in accordance with the law. Based on ministry estimates, we understand that since October 2012

the ministry has wrongfully denied the earnings exemption in circumstances comparable to Ms. Smith's to approximately 500 people per year.

The ministry's continued publication of the policy was misleading, and its continued application of the policy was ill-founded because it knew that its decisions were not in accordance with the Regulation. The ministry breached the duty it owed its clients to provide them with accurate information and to make well-founded eligibility decisions. Its actions were especially problematic because it was aware that these decisions can have negative consequences for affected individuals.

Further, it was unduly burdensome to require recipients to seek reconsiderations of decisions that the ministry knew were wrong from the outset. In addition, it is concerning that the ministry found it appropriate to exempt Ms. Smith from the application of its policy only because she raised the issue through our office.

Finding 2: The ministry acted improperly and in breach of its duty to its clients by continuing to publish and apply the earnings exemption policy at a time when it knew its interpretation of the *Employment and Assistance Regulation* was wrong.

Finding 3: The ministry acted unjustly and oppressively in requiring recipients who were denied the earnings exemption under the policy to seek reconsideration of its decisions in order to obtain the exemption.

Recommendation 2: Immediately revise the section of the *BCEA Policy and Procedure Manual* that relates to the earnings exemption to accord with and give effect to the language in the *Employment and Assistance Regulation*.

Recommendation 3: By October 1, 2018, identify all recipients who, from October 1, 2012, onward, were wrongly denied the earnings exemption because they did not receive income assistance in the previous month, and reimburse them for the amount of income assistance they were entitled to under the *Employment and Assistance Regulation*.

Recommendation 4: By October 1, 2018, develop guidelines for responding to systemic and/or repetitive legal errors that the Reconsideration section identifies regarding the ministry's application of its income and disability assistance legislation.



In relation to Finding 3, we have concluded that the ministry's conduct was oppressive because it unfairly overburdened ministry clients in the pursuit of their legal entitlements. The finding flows from the impact of the ministry's actions on vulnerable people, and not from any motive on the part of the ministry in applying its policy.

The ministry told us that despite the language in the Regulation, its intent was to impose a one-month waiting period for the earnings exemption whenever assistance was not received in the previous month, and not just when people made a fresh application for income assistance by way of the Part 2 form. However, in practice, the ministry does not require people who do not receive assistance for less than three months to submit the Part 2 form. Instead, the ministry requires that they submit a simpler monthly report to demonstrate their eligibility for assistance.

The ministry said it adopted this practice to make returning to income assistance easier for clients who are off assistance for a short time. Ministry clients may not receive income assistance for short periods for a variety of reasons, whether because, like Ms. Smith, they were able to earn enough income that they were ineligible for assistance for a month, or because of other temporary circumstances. The ministry held that not requiring people in these circumstances to make fresh applications was simpler and more convenient for clients, and also acknowledged that it was more efficient for the ministry because it reduced the administrative burden on its delivery of intake services.

The ministry has identified cogent and important public policy reasons for not requiring clients who briefly leave assistance to complete a fresh intake. However, in not requiring clients to submit a Part 2 form, the ministry then lacked authority to impose the one-month waiting period for the earnings exemption. The ministry has known for at least three years that its actions were unauthorized.

Although the ministry had sound reasons for not requiring the Part 2 form, this does not excuse its actions in going on to wrongfully deny people the earnings exemption.

In making representations to our office about this investigation, the ministry told us that it is of the view that its practice of allowing clients to return to assistance by filing a monthly report, and not a Part 2 form, is contrary to the Regulation. That issue did not arise from Ms. Smith's complaint and was not a focus of our investigation. As a result, we have made no findings about it. Nonetheless, the ministry assured us that it will be taking steps, as soon as possible, to codify its practice in the Regulation to ensure that its practice of not requiring a Part 2 application in instances of short interruptions in the receipt of income assistance has a clear legal foundation.

Imposing a Blanket One-Month Waiting Period for the Earnings Exemption

Above, we have recommended that the ministry immediately begin making eligibility decisions about the earnings exemption that accord with the Regulation. In practice, implementation of that recommendation will mean that people who leave income assistance for less than three months will not be required to wait for one month before they can claim the earnings exemption.

However, it is open to government to amend the Regulation in relation to the earnings exemption. The ministry has previously indicated that government may seek to codify the one-month waiting period for the earnings exemption. We note that in doing so, government must consider the objectives of the BCEA program generally, and whether a blanket one-month waiting period for the earnings exemption for people who did not receive assistance in the previous month is consistent with or furthers those goals.



Applying Ministry Policy and Regulations – Some Examples

Scenario A – Jane. Jane is a recipient of income assistance with a PPMB designation who has a medical condition that often impedes her ability to work. As a result of her individual circumstances her earnings fluctuate. Depending on whether the ministry's policy or the regulation are applied, different amounts of income assistance are paid to her.

| <i>Jane's circumstances – applying ministry policy</i> | | | | |
|--|--|--|---|---|
| | Money from Employment | Income Assistance (2015 rate) | Assistance + Earnings (money in pocket) | Earnings Exemption (maximum amount of money from employment that ministry will not deduct from rate of income assistance) |
| January | 1200 | 657.92 (maximum rate) | 1857.92 | 500 |
| February | 300 | 657.92 (maximum rate) | 957.92 | 500 |
| March | 300 | 0 (Jane earned so much in January that she is ineligible for assistance in March) | 300 | 500 |
| April | 200 | 357.92 (Jane is not eligible for the earnings exemption so the \$300 she earned in February is deducted from her maximum rate of assistance: 657.92 – 300 = 357.92) | 557.92 | 0 (Jane is ineligible for the earnings exemption under the policy, so all of her February earnings are deducted from her rate of assistance) |
| 4 Month Totals | 2000 (total from employment) | 1673.76 (total income assistance) | 3673.76 (total income) | |

Jane's circumstances – applying the Employment and Assistance Regulation

| | Money from Employment | Income Assistance (2015 rate) | Assistance + Earnings (money in pocket) | Earnings Exemption (maximum amount of money from employment that ministry will not deduct from rate of income assistance) |
|-----------------------|--|---|---|---|
| January | 1200 | 657.92 (maximum rate) | 1857.92 | 500 |
| February | 300 | 657.92 (maximum rate) | 957.92 | 500 |
| March | 300 | 0 (Jane earned so much in January that she is ineligible for assistance in March) | 300 | 500 |
| April | 200 | 657.92 (Jane is eligible for the earnings exemption so the \$300 she earned in February is not deducted from her maximum rate of assistance) | 857.92 | (Jane is eligible for the earnings exemption under the Regulation, so all of her February earnings are exempt from deduction from her rate of assistance) |
| 4 Month Totals | 2000 (total from employment) | 1973.76 (total income assistance) | 3973.76 (total income) | |

Scenario B – Bill. Bill has steady income from part-time employment. Because his earnings don't ever exceed his maximum rate of assistance, he is unaffected by the ministry policy of imposing a one-month waiting period for the earning exemption and can keep his earnings for employment.

Bill's circumstances – applying ministry policy or the Employment and Assistance Regulation

| | Monthly Earnings | Income Assistance (2015 rate) | Assistance + Earnings | Earnings Exemption (maximum amount of money from employment that ministry will not deduct from rate of income assistance) |
|---------------|--|---|----------------------------------|---|
| January | 500 | 657.92 | 1157.92 | 500 |
| February | 500 | 657.92 | 1157.92 | 500 |
| March | 500 | 657.92 | 1157.92 | 500 |
| April | 500 | 657.92 | 1157.92 | 500 |
| Totals | 2000 (total from employment) | 2631.68 (total income assistance) | 4631.68 (total income) | |

Although Jane earned the same amount of money from employment as Bill over a four-month period, she was able to keep less of it in her pocket than Bill was. This is because Bill was able to take full advantage of the earning exemption each month. This adversely impacts people who work sporadically, like people with medical conditions who work when they can.

The ministry describes the aims of the BCEA program as “helping people move from income assistance to sustainable employment” and “providing income assistance to those who are unable to fully participate in the workforce.”²³ It says “personal responsibility and active participation” are the key principles of the BCEA program, noting that “people receiving income assistance are expected to complete an Employment Plan, seek work and participate in employment programs, so they may reach their goal of self-reliance, where able.”²⁴

The earnings exemptions are intended to further the overall objectives of the BCEA program, particularly in relation to encouraging recipients to work. The ministry has stated that the earnings exemptions offer people the opportunity increase their employability, take advantage of temporary work, and better provide for their families.²⁵

The *BCEA Policy and Procedure Manual* specifically addresses the purpose of the earnings exemption for recipients with the PPMB designation:

An earnings exemption is available to encourage clients who want to work to try employment, gain experience, participate more fully in the community as they are able, and earn more income.²⁶

As noted earlier in this report, when discussing the increases to the earnings

exemptions that occurred in 2017, members of the legislative assembly, including the Minister of Social Development and Poverty Reduction, have described the importance of the exemptions to helping people on income assistance break the cycle of poverty.

It is not clear that, in circumstances like Ms. Smith’s, imposing a one-month waiting period for the earnings exemption furthers the objectives of encouraging recipients to keep a foothold in the workforce. To the contrary, a one-month waiting period for the earnings exemption penalizes people like Ms. Smith for working too much. The reason Ms. Smith did not receive assistance on a few occasions was that she was able to earn enough from employment that she was ineligible for assistance for one month. When she needed assistance the following month, she was denied the benefit of the earnings exemption because she had done the very thing that the ministry was trying to encourage her to do – work.

Imposing a one-month waiting period for the earnings exemption for people who did not receive assistance the previous month because they worked can give rise to a potential disincentive to work. For example, Ms. Smith is eligible for a \$700 earnings exemption; the one-month waiting period can mean losing access to the ability to make and keep \$700 over and above her rate of assistance. People like Ms. Smith may be in a better financial position overall if they work less to ensure that they receive some

²³ *BC Employment and Assistance Policy and Procedure Manual*, Ministry Overview: Overview of the BCEA Program <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/ministry-overview/overview-of-bcea-program>.

²⁴ *BC Employment and Assistance Policy and Procedure Manual*, Ministry Overview: Overview of the BCEA Program <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/ministry-overview/overview-of-bcea-program>.

²⁵ *BC Employment and Assistance Policy and Procedure Manual*, Eligibility: Income Treatment and Exemptions – Policy – Earnings Exemptions <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/income-treatment-and-exemptions>.

²⁶ *BC Employment and Assistance Policy and Procedure Manual*, Employment Programs, Planning and Exemptions – Persons with Persistent Multiple Barriers – Overview <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eppe/persons-with-persistent-multiple-barriers>.

assistance every month and maintain their eligibility for the earnings exemption.

Ms. Smith's case illustrates the point. If Ms. Smith had earned about \$210 less in December 2014 she would have received some income assistance in February, and under the ministry's policy she would have been eligible for the \$500 earnings exemption in March. That means that Ms. Smith would have been in a better financial position overall (by about \$290, assuming she received one dollar of assistance in February) if she had worked less and maintained her eligibility for the earnings exemption.

In its policy statement, the ministry notes that the earnings exemption is intended to allow recipients to take advantage of temporary work. Yet a one-month waiting period for the earnings exemption has a disproportionately negative impact on recipients like Ms. Smith with sporadic income, in contrast to recipients with regular part-time income. People who are able to find temporary or casual work are more likely to have an occasional month where they do not need to rely on income assistance and as result are more likely to be impacted by the one-month waiting period.

The ministry has said that its policies for clients who are not exempt from the requirement to look for work are focused on encouraging employment, and that is why it imposes one-month waiting periods for the

earnings exemption for all income assistance recipients. However, it is difficult to reconcile the ministry's position with the practical effect of a blanket one-month waiting period for the earnings exemption. Denying people a benefit because they worked may not encourage people to work more in the future.

Further, people with the PPMB designation, like Ms. Smith, are not expected to work. They are exempt from employment obligations because they have medical conditions that seriously impede their ability to work. The ministry's determination of that fact is fundamental to obtaining the PPMB designation. In our view, requiring people with the PPMB designation to wait for a month for the earnings exemption to encourage them to work is unfair given their exemption from work requirements and the ministry's determination that they have medical conditions that seriously impede their ability to work.

The ministry was unable to explain how a one-month waiting period for the earnings exemption for people who did not receive assistance in the previous month furthered or was consistent with its aim of encouraging participation in the workforce. To the contrary, it adversely impacts people like Ms. Smith, who work enough in one month that they do not need to rely on assistance, by denying them the earnings exemption when they return to assistance.

Finding 4: A waiting period for the earnings exemption for clients who did not receive assistance in the previous month because their net income exceeded their rate of assistance is unreasonable because it runs counter to the objectives of the BC Employment and Assistance program and the legislative objectives of the income assistance scheme.

Finding 5: A waiting period for the earnings exemption for people with the persistent multiple barriers to employment designation who did not receive assistance in the previous month because their net income exceeded their rate of assistance is unfair given the ministry's determination that they have medical conditions that seriously impede their ability to work.



CONCLUSION

The earnings exemptions provide a critically important avenue for people on income assistance to better provide for themselves and their families. The Minister of Social Development and Poverty Reduction has recently reiterated the benefits of higher earnings exemptions, including increased opportunities for people to improve their standard of living and to maintain connections with the workforce.²⁷

However, for the last five and half years, the ministry has denied people full access to the earnings exemption without the authority to do so. People who were unlawfully denied the

earnings exemption had their rate of income assistance wrongfully reduced as a result. If implemented, the recommendations in this report are intended to put a stop to that practice and, to the extent possible, make the people who were impacted financially whole. Our recommendation regarding ministry guidelines for responding to legal issues identified by the Reconsideration section, if adopted, is intended to promote more sound policy development and better decision making at the service delivery level going forward.

We thank Ms. Smith and her advocate for bringing this matter to our office's attention.

²⁷ Ministry of Social Development and Poverty Reduction, *British Columbia improving supports for people on assistance*, 19 September 2017 <https://news.gov.bc.ca/releases/2017SDPR0057-001597>.

APPENDICES

A. Findings

Finding 1: The ministry's application of its one-month waiting period policy for the earnings exemption to recipients who did not submit an income assistance application Part 2 form to the minister is contrary to law.

Finding 2: The ministry acted improperly and in breach of its duty to its clients by continuing to publish and apply the earnings exemption policy at a time when it knew its interpretation of the *Employment and Assistance Regulation* was wrong.

Finding 3: The ministry acted unjustly and oppressively in requiring recipients who were denied the earnings exemption under the policy to seek reconsideration of its decisions in order to obtain the exemption.

Finding 4: A waiting period for the earnings exemption for clients who did not receive assistance in the previous month because their net income exceeded their rate of assistance is unreasonable because it runs counter to the objectives of the BC Employment and Assistance program and the legislative objectives of the income assistance scheme.

Finding 5: A waiting period for the earnings exemption for people with the persistent multiple barriers to employment designation who did not receive assistance in the previous month because their net income exceeded their rate of assistance is unfair given the ministry's determination that they have medical conditions that seriously impede their ability to work.



B. Recommendations

Recommendation 1: Immediately begin making eligibility decisions about the earnings exemption that are consistent with the *Employment and Assistance Regulation* and cease finding recipients ineligible for the earnings exemption only because they did not receive income assistance in the previous month.

Recommendation 2: Immediately revise the section of the *BCEA Policy and Procedure Manual* that relates to the earnings exemption to accord with and give effect to the language in the *Employment and Assistance Regulation*.

Recommendation 3: By October 1, 2018, identify all recipients who, from October 1, 2012, onward, were wrongly denied the earnings exemption because they did not receive income assistance in the previous month, and reimburse them for the amount of income assistance they were entitled to under the *Employment and Assistance Regulation*.

Recommendation 4: By October 1, 2018, develop guidelines for responding to systemic and/or repetitive legal errors that the Reconsideration section identifies regarding the ministry's application of its income and disability assistance legislation.

Ombudsperson recommendations are aimed at improving administrative processes and ensuring that people are treated fairly. The Office of the Ombudsperson monitors the implementation status of recommendations for a period up to five years. Monitoring reports are available at www.bcombudsperson.ca.



C. Authority Response



Ref: 194530

February 19, 2018

Jay Chalke
 Ombudsperson
 Office of the Ombudsperson
 947 Fort Street
 Victoria, BC V8W 9A5

Dear Mr. Chalke

Thank you for your follow-up letter of February 2, 2018. I appreciate the opportunity to further clarify the outstanding issues and concerns raised in your letter of January 3, 2018.

I would also like to take this opportunity to provide comments on the findings and recommendations that you are considering making.

F1: The ministry's application of its one month waiting period policy for earnings exemptions to recipients who did not submit an income assistance application Part 2 form to the minister is contrary to law.

The ministry accepts this finding. We acknowledge that the practice of allowing people who are ineligible for short periods of time to reapply on the basis of a Monthly Report form does not have regulatory support. We recognize that individuals like Ms. [REDACTED] been impacted by this practice in a way that we did not intend. While the ministry's policy intent was for all persons reapplying for income assistance to wait one month before being able to utilize the earned income exemption, because of the specific language used in the October 1, 2012 amendment to section 3 (2) of Schedule B to the *Employment and Assistance Regulation*, anyone the ministry permitted to reapply without submitting an Application Part 2 Form should not have been required to wait a month after re-applying for income assistance to utilize the earned income exemption.

Notwithstanding our acceptance of this finding, I want to reiterate that the practice of permitting reapplication by Monthly Report is highly beneficial to clients. It makes return



to assistance for clients who are off for less than 3 months much easier. This is very important for clients who are off for short periods of time – such as short term hospitalization, mental health and addiction treatment, and short term incarceration.

R1: Immediately begin making eligibility decisions about the earnings exemption that are consistent with the Employment and Assistance Regulation and cease finding recipients ineligible for the earnings exemption only because they did not receive income assistance in the previous month.

The ministry accepts this recommendation and will begin making eligibility decisions about the earnings exemptions for recipients that are consistent with the *Employment and Assistance Regulation*.

R2: Immediately revise the section of the BCEA Policy & Procedure manual that relates to the earnings exemption to accord with and give effect to the language in the Employment and Assistance Regulation.

The ministry accepts this recommendation and will revise the BCEA Policy & Procedure manual with respect to eligibility for the earnings exemptions to give effect to the language of the *Employment and Assistance Regulation*.

R3: By October 1, 2018, identify all recipients who, from October 1, 2012 onward, were wrongly denied the earnings exemption because they did not receive income assistance in the previous month, and reimburse them for the amount of income assistance they were entitled to, but did not receive, under the Employment and Assistance Regulation.

The ministry accepts this recommendation, subject to obtaining all necessary Treasury Board approvals.

F2: The ministry is acting improperly and in breach of its duty to its clients by continuing to publish and apply the earnings exemption policy at a time when it knew its interpretation of the Employment and Assistance Regulation was wrong.

F3: The ministry is acting unjustly and oppressively in requiring recipients who were denied the earnings exemption under the policy to seek reconsideration of its decisions in order to obtain the exemption.

The ministry acknowledges that its actions with respect to earnings exemption eligibility for individuals who did not submit a Part 2 form were incorrect, resulting from a long-standing process that, while not supported by regulation, made reapplying for assistance easier for people who had been ineligible for short periods of time. In the event you decide to make a report or recommendations, the ministry requests that you consider amending your draft findings to recognize the intended benefits of that process so that the ministry's intent is accurately reflected.



R4: By October 1, 2018, the ministry develop guidelines for responding to systemic or repetitive legal errors that the Reconsideration branch identifies regarding the ministry's application of its income and disability assistance legislation.

The ministry accepts this recommendation, and will move forward to develop guidelines to respond to systemic or repetitive legal errors that the Reconsideration branch identifies. This will be completed by October 1, 2018.

F4 The one month waiting period for the earnings exemption for clients who are not making fresh applications for income assistance is unreasonable because it runs counter to the objectives of the BCEA program and the legislative objectives of the income assistance scheme.

F5 The one month waiting period for the earnings exemption for people with the PPMB designation who are not making fresh applications for income assistance is unfair given the ministry's determination that they have medical conditions which seriously impede their ability to work.

The ministry appreciates receiving your perspective and input on these issues, and will take this into consideration.

Sincerely,



Sheila Taylor
Deputy Minister
Ministry of Social Development and Poverty Reduction





February 28, 2018

Ref: 194679

Jay Chalke
Ombudsperson
Office of the Ombudsperson
947 Fort Street
Victoria, BC V8W 9A5

Dear Mr. Chalke

Thank you for your letter and follow-up question of February 23, 2018.

I appreciate receiving your clarification that your office has not investigated or made findings about the ministry's practice to allow people to reapply for assistance after a short absence without completing a Part 2 application form.

You have asked the ministry to clarify whether this practice is not codified in the Regulation, or if it is contrary to the express terms of the Regulation.

To clarify, the ministry views this practice as contrary to the express terms of the Regulation. The ministry's intent is to remedy this as soon as possible by recommending the appropriate amendments to the Regulation to provide full authority for allowing people to reapply for assistance after a short absence without completing a Application Part 2 Form.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheila Taylor".

Sheila Taylor
Deputy Minister
Ministry of Social Development and Poverty Reduction

**Ministry of Social Development
and Poverty Reduction**

Office of the Deputy Minister

Mailing Address:
PO Box 9934 Stn Prov Govt
Victoria BC V8W 9R2

Location:
7th Floor, 614 Humboldt St
Victoria BC V8W 1A4

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: *Daniel Jackson*
TAPS

Summary of Legal Issue:

Client denied PWD assistance and assessed an overpayment for failing to declare earned income, after client voluntarily provided updated declaration to Ministry. Ministry determined that all deposits into client's account were earned income, and that she had therefore exceeded her AEE. Legal issues include:

Sale of assets as (earned) income.

Reporting requirements (s.11 of the Act and s.29 of the Regulation).

Duty to accommodate.

Applicability of Regulation s.23(5) to underpayment reviews and reconsideration decision.

Summary of Facts:

Client voluntarily disclosed inaccuracies in income reporting for a six-month period. Client provided new, accurate reports, and explained that funds deposited into her bank account were from a combination of earned income and funds generated by selling recyclables and other personal assets that had been found or donated to her.

Ministry assessed an overpayment due to exceeding AEE, and cut client off assistance for remaining 4 months of year (until AEE reset).

Steps taken and outcome at each step:

1. Reconsideration of overpayment and ongoing denial of benefits – Partial success; overpayment cancelled, but referred back to PLMS for second inquiry. Benefits not reinstated.
2. Second investigation results – no overpayment, but no underpayment. Client determined to have been deficient in reporting.
3. Reapplication for Benefits – Successful, but only because of AEE Reset.
4. Underpayment investigation request – Unsuccessful. Ministry relied on sections 11 of the Act and s.29 of the Regulation and attempted to rely on Regulation s.23(5)

5. Underpayment Request for Reconsideration – Successful. Ministry determined it had no reasonable basis to deny client assistance for months in question.

What was challenging about this case:

Client had series of deposits into her account, sometimes of large amounts, with minimal to no documentation of these amounts. Client had ongoing difficulties with (accurate) reporting due to her disabilities. Client failed to report during investigation period, providing Ministry a fallback reason for denying assistance, even when the AEE calculations were corrected.

Lessons learned from this case:

1. Ensure clients continue reporting regardless of current file status when status is disputed.
2. Be very detailed in reconsideration/underpayment requests to ensure that the full issue is before the decision-maker.



The BC Employment and Assistance program provides assistance to eligible British Columbians. The ministry conducts reviews from time to time to ensure that the correct amount of assistance is being provided to recipients. Your file has been reviewed.

Based upon this review, the ministry believes that an overpayment may have occurred, that is, you may have received assistance for which you were not eligible.

The ministry believes the potential overpayment may have occurred due to not declaring employment income on monthly report.

The amount of the potential overpayment has been calculated at \$3,430.26. The enclosed chart shows the months in which the overpayment occurred, the reason for the overpayment, and the amounts for each month. Please note that this chart is not final and may change if new information is received, and that the overpayment calculated on the chart has not yet been added to your file. If you have any information related to the potential overpayment, you are encouraged to submit the information to the ministry for consideration.

If the ministry concludes that you have been overpaid, the debt will be added to your file, and deductions will be made from your future assistance payments until the debt is repaid. You will be notified of the overpayment decision in writing and you will have the right to request that it be reconsidered within 20 business days of receiving the notification.

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and *Regulations*, and the *Employment and Assistance for Persons with Disabilities Act* and *Regulations*.

Ministry of Social
Development and
Social Innovation

106 - VICTORIA EIA

908 PANDORA AVE.
PO BOX 9974 STN PROV GOVT
VICTORIA BC, V8V 3P3

Phone: (866) 866-0800
Fax: (655) 771-8771
www.myselfserve.gov.bc.ca

As a reminder, you are required to accurately and completely report your income, assets, and circumstances, including any changes, when you apply for assistance and on the monthly report form (HR0081, or "stub"). If an overpayment occurs due to inaccurate or incomplete reporting, a sanction may be applied. This sanction is a reduction of \$25 in the amount of your assistance for three months for the first occurrence of an overpayment due to inaccurate or incomplete reporting, six months for the second occurrence, and twelve months for the third or subsequent occurrences. You will be advised in writing if a decision to add a sanction is made, and you will have the right to request a reconsideration of the decision.

If you wish to arrange an appointment or if you have any questions about the overpayment, the repayment terms or about submitting additional information, please call me at 250-721-3213.

Sincerely,

Kirsten
Ministry Worker

Enclosure(s): Overpayment Chart
Reconsideration and Appeals brochure

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and Regulations, and the *Employment and Assistance for Persons with Disabilities Act* and Regulations.

Ministry of Social
Development and
Social Innovation

106 - VICTORIA EIA

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Fax: (855) 771-8771
www.myselfserve.gov.bc.ca



SECTION 1 and 2 TO BE COMPLETED BY WORKER

SECTION 1 REQUESTOR INFORMATION

SR NUMBER

| | |
|---------------------|-------------|
| REQUESTOR'S NAME | CASE NUMBER |
| [REDACTED] | [REDACTED] |
| REQUESTOR'S ADDRESS | |
| [REDACTED] | |

SECTION 2 DECISION TO BE RECONSIDERED

You are a single person in receipt of Persons with Disabilities assistance and your file is administered by a Third Party. You are requesting a reconsideration of the decision you have been overpaid benefits.

On September 11, 2017 you submitted a note stating your Annual Earnings Exemption (AEE) balance was incorrect. The ministry notifies clients when they have reached 75% of their Annual Earnings Exemption.

As per policy: A family unit's annual exemption limit is based on family unit size, composition and number of qualifying months in the calendar year. You are entitled to an annual exemption of \$9600. Each calendar year, AEE covers qualifying income received from January 1 to December 31, for March to February assistance months.

Under the AEE, there is only an annual exemptions limit—there is no monthly maximum. Once the family unit is eligible for earnings exemptions, the amount of a family unit's disability assistance is not impacted by earnings received up to the family unit's AEE limit. ONCE a family unit's AEE LIMIT IS REACHED, any additional EARNINGS received WILL BE DEDUCTED DOLLAR FOR DOLLAR from their disability assistance.

On September 14, 2017 you submitted your monthly report (HR0081) for October. You declared your income, however you did not provide financial documentation for verification. Your October benefits cheque was held for you to submit pay stubs, bank statements, money mart statements etc.

On September 25, 2017 you submitted receipts from your customers for cleaning and gardening work etc. You were advised again that the ministry wanted statements from a financial institution to verify your income and earnings.

On October 10, 2017 you submitted all bank statements as requested. After reviewing the documentation you had deposits into your Presidents Choice no fee bank account totalling \$20,975.44 from January 2nd until September 26, 2017. However, you had only declared \$1340.00 to the ministry for the same time period. Your income was adjusted and your AEE balance recalculated.

On October 1, 2017 the ministry increased the Annual Earnings Exemption limit by \$2400 so it was now \$12,000 per year.

The ministry determined you reached your \$12000 exemption limit in August with your June 2017 income. You were therefore overpaid \$933.44. You were not eligible for September assistance with July income of \$5477 or October assistance with August income of \$1366.

From January 2017 until September 2017 you received both disability assistance benefits and your income. When you have used up your AEE limit for the exemption year, any additional earned income is deducted dollar for dollar from your disability assistance. You were not eligible for full August benefits and you were not eligible for any benefits for September or October. According to the following legislation you have an overpayment of \$3216.28.

Employment and Assistance for Persons with Disabilities Regulations section

18 (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.





EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [reconsideration and appeal rights].

19 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be
(a) recovered in a court that has jurisdiction, or
(b) deducted, in accordance with the regulations, from any subsequent disability assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

Although you are no longer eligible for disability assistance you are eligible for Medical Services Only. Each calendar year is a new exemption year. Your AEE limit will reset to \$12,000 January 1, 2018 meaning your January earnings will be exempted from your March 2018 disability assistance benefits.

A Reconsideration package has been prepared for you as requested. The following attachments have been included which complete this reconsideration package:

- Request for Reconsideration (HR0100)
- All Documents Submitted with Your Original Request
- Decision Letter and/or Decision Summary
- Additional Information (if applicable)
- Relevant Legislation
- Reconsideration and Appeal Process Brochure
- Advocacy Information
- My Self Serve Brochure

PLEASE COMPLETE section 3 and sign and date section 4 of the HR100 and submit to the ministry before the due date indicated at the bottom of section 2.

PLEASE NOTE: You have the right to an advocate to help you with your reconsideration. Attached to this reconsideration is a list of advocates in your area. You can also contact the ministry at 1-866-866-0800 or go to your local ministry office.

IF YOU REQUIRE an extension to complete your reconsideration, you must submit your request in writing with a signed copy of this form (section 4) no later than the due date indicated on this form below. Generally a decision is mailed to you within 10 business days. A request for an extension can provide an additional 10 business days from the date you submit your signed Request for Reconsideration, therefore it is recommended that you submit your request just prior to the relevant due date, as the extension period may begin on the date the request for the extension has been submitted. If you request an extension of your reconsideration, please contact the ministry at 1 866 866 0800 after 48 hours to confirm if your extension was granted.

THE ACT AND / OR REGULATIONS THAT APPLY TO THIS DECISION ARE:

Employment and Assistance for Persons with Disabilities Act section 10, 11, 14.1, 18, 19.
Employment and Assistance for Persons with Disabilities Regulations section 28.1, 29, 74.

MONTH DECISION EFFECTIVE (YYYY-MMM-DD)

2017-Oct-01

DATE REQUESTOR INFORMED OF DECISION (YYYY-MMM-DD)

2017-Nov-03

RELEVANT DATES:

DATE REQUESTOR MUST SUBMIT FORM BY (YYYY-MMM-DD)

2017-Dec-04





302 – 895 Fort Street, Lekwungen Territories, Victoria, BC, Canada V8W 1H7
Tel: (250) 361-3521 Fax: (250) 361-3541 Web: www.tapsbc.ca

Request for Reconsideration:

Issue: Whether all deposits in Ms. Crocodile’s bank account from January 2017 to present are properly categorized as ‘earned income’ for the purposes of calculating Ms. Crocodile’s net income, her remaining annual earnings exemption, and her eligibility for assistance in June, July, August September, October, November, and December 2017.

Facts:

1. Ms. Crocodile receives PWD assistance.
2. Ms. Crocodile interfaces with the Ministry of Social Development & Poverty Reduction (“the Ministry) through the third-party liaison office, currently Pacific Assertive Treatment.
3. Ms. Crocodile struggles with significant mental health and emotional regulation issues, extensive documentation of which has been provided to the Ministry. Ms. Crocodile lives with autism spectrum disorder, severe attention deficit disorder, and an acquired brain injury. These conditions have severe negative impacts on Ms. Crocodile’s ability to manage her personal finances, and to report information completely, consistently, and accurately to the Ministry.
4. As a result of Ms. Crocodile’s disabilities, she has not been able to maintain stable work, which adds significant complexity to her work life.
5. Ms. Crocodile provides cleaning, landscaping and gardening services. She is paid directly by the client for her services either by e-transfer or direct deposit.
6. Ms. Crocodile is required to provide receipts to her clients for all of her services.
7. Ms. Crocodile struggled to provide complete and accurate reports to the Ministry through the first half of 2017. She consistently reported income from two of her jobs (Victoria Waterfront Vacations and one private cleaning job). Ms. Crocodile consistently reported

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The Law Foundation of British Columbia, United Way of Greater Victoria,
Province of British Columbia,
The Provincial Employees Community Services Fund,
and other generous donors.

receiving more money from this private cleaning job than she actually received each month.

8. On 8 September, 2017, Ms. Crocodile provided a letter to the Ministry detailing all earned income for 2017 through her third party office. She provided receipts for all employment carried out as well as contact information for all employers as verification of her earnings. Her net income from January through the end of August was calculated as \$9,228.
9. Ms. Crocodile also provided reasons for not declaring the remainder of her income, again informing the Ministry of the difficulties she had with financial management and monthly reporting because of her symptoms.
10. On September 14, 2017 Ms. Crocodile was informed that the Ministry required her to submit her pay stubs, bank statements, and MoneyMart statements from January 2017 to present.
11. On 25 September 2017, Ms. Crocodile submitted pay stubs and receipts. The Ministry requested she provide bank statements from all accounts for the year to date.
12. Ms. Crocodile submitted the requested bank statements on 6 October 2017.
13. The Ministry responded to this update with four letters, all dated October 10th. These were:
 - a. A letter stating that a potential overpayment in the amount of \$92.50 may have occurred due to Ms. Crocodile's failure to report \$240 in income. The letter encouraged Ms. Crocodile to submit any information she might have regarding the overpayment. The included chart indicated the overpayment resulted from Ms. Crocodile's reported income in December, 2016 exceeding her remaining earnings exemption for that year.
 - b. A letter stating that a potential overpayment in the amount of \$3,430.26 may have occurred. This letter also encouraged Ms. Crocodile to provide any relevant information. The overpayment chart included in the letter indicated that Ms. Crocodile had exhausted by June, 2017, and had therefore received three months of assistance for which she was not eligible (June, August, and September).
 - c. A letter stating that a potential overpayment of \$92.50 had occurred, either due to Ministry error, or due to Ms. Crocodile declaring income late. The included chart referenced the December, 2016 as the potential source of this overpayment.
 - d. A letter stating that Ms. Crocodile had received notice of a potential overpayment on October 10th, and had been asked to provide any relevant information. This letter went on to state that MSDPR had concluded that an overpayment had in fact occurred, and that a debt and a sanction had been applied to Ms. Crocodile's file.

This letter did not state the amount or source of the overpayment, and made no reference to any overpayment chart.

14. On 13 October, 2017, Ms. Crocodile met an advocate at TAPS. After obtaining proper permission, Ms. Crocodile's advocate requested that a Request for Reconsideration package for her overpayment be prepared.
15. On 26 October, 2017, the Request for Reconsideration package was forwarded to Ms. Crocodile's advocate. Her total overpayment was found to be \$5,557.10.
16. On 2 November 2017, the Ministry contacted Ms. Crocodile's advocate, and provided a re-calculated overpayment chart and an updated Request for Reconsideration package. This package applied the update AEE differently, resulting in an overpayment of \$3,216.28.

Submission

17. Ms. Crocodile submits that the Ministry has erred in assigning an overpayment of \$3,216.28 to her file for earned income above her annual earnings exemption as they erred in the calculation of her net income.
18. On 8 September, 2017, Ms. Crocodile re-calculated her annual income, by month, and submitted a letter to MSDPR outlining her earned income in each month of 2017, and the total.
19. Ms. Crocodile took this action of her own accord; no request had been sent to her.
20. In this letter, Ms. Crocodile clearly set out her employment income, which totalled \$9,228. This letter represents a complete accounting of her employment income to that date.
21. MSDPR responded to this letter by withholding Ms. Crocodile's next assistance cheque, pending the production of extensive documentation, primarily bank statements. This caused Ms. Crocodile extreme stress.
22. After receiving the requested documentation, MSDPR produced four letters, apparently on the same date, which assigned three different potential overpayments, for different reasons, requested any information Ms. Crocodile might have regarding these potential overpayments, and simultaneously informed her that the overpayment had been finalized, and it had been determined that it had occurred due to Ms. Crocodile's inaccurate reporting.
23. Because Ms. Crocodile had exceeded her earnings exemption, but was still working, this determination effectively meant that she would not be receiving any assistance for the remainder of the year.

24. Ms. Crocodile was at this point informed of her right to reconsideration, which she is exercising. Ms. Crocodile has been relying on limited income from work and gifts while this matter is resolved.

Income Sources

25. In assigning Ms. Crocodile's overpayment, MSDPR has calculated Ms. Crocodile's income by adding all deposits into her bank account together. MSDPR is therefore asserting that every deposit represents employment income.
26. This is not the case. Deposits in Ms. Crocodile's bank account represent a combination of the following:
- a. Employment income, paid by e-transfer
 - b. Employment income, paid in cash
 - c. Cash gifts from family members
 - d. Conversion of other personal assets into cash.
 - e. Cash deposits resulting from Ms. Crocodile exchanging recyclable bottles and cans for the cash deposit at the Return-It Depot.
27. We shall address each category of deposit in turn.
28. E-transfers from Dianna Winger, Rex Grant, and Vic Waterfront Vacations represent employment income. The total of all of these deposits from January through October is \$8,622.
29. Note that this is less than the income which Ms. Crocodile in the letter of 8 September (\$9,228 through end of August). This discrepancy is the result of category b, employment income paid in cash. Ms. Crocodile has accurately reported her in-cash employment income in the letter, accompanied by receipts.
30. These two categories represent the entirety of Ms. Crocodile's employment income in 2017.
31. The cash employment income was often deposited along with a mix of the remaining deposit categories, so it is not possible to discern from only the bank statement what Ms. Crocodile's employment income is. Ms. Crocodile has provided receipts for all employment income as proof of amounts.
32. Ms. Crocodile receives large gifts with relative frequency. These gifts are both of cash, and of bottles and cans for her to return for cash.
33. The included letter from Bonnie Crocodile, Ms. Crocodile's mother, lists several large cash gifts provided to Ms. Crocodile. The letter also states that additional, smaller gifts of cash and recyclable bottles and cans were periodically provided to Ms. Crocodile. These

gifts were provided to Ms. Crocodile by other family members; their names and contact information are provided in the letter.

34. Ms. Crocodile also generates funds by privately selling personal goods which she has been gifted, found, or purchased very cheaply on the second-hand market.
35. Lastly, Ms. Crocodile devotes a significant amount of time to gathering and returning recyclables for the deposit at the Return-It Depot.
36. Ms. Crocodile gathers some of these recyclables independently. She also receives large quantities from friends and family as gifts.
37. A particularly frequent provider of recyclable gifts is Mr. Tony Nicholls, who has confirmed in the included letter that he often provides large gifts of recyclables to Ms. Crocodile.
38. Cash obtained as a result of these recyclable returns accounts for the remainder of the deposits in Ms. Crocodile's account. Ms. Crocodile has retained receipts of many of these deposits. These receipts are extremely numerous and are therefore not included in this package, but are available upon request.

Recyclable Returns

39. In September, 2017, Ms. Crocodile asked the Ministry representative at PAT if she was required to report money she received from returning recyclables for deposit to the Ministry. This worker informed Ms. Crocodile that that was not necessary.
40. We submit that this advice was correct. By returning recyclable items for deposit, Ms. Crocodile is converting one asset type into another. This is not income, and need not be reported as such.
41. Ms. Crocodile further asked the Ministry representative whether she was required to report receiving gifts of bottles and cans to the Ministry on a monthly basis. Ms. Crocodile was again informed that she was not.
42. We submit that this advice is also correct. Bottles, cans, and other recyclables have no inherent value, and would not be commonly included in the calculation of a family unit's asset level. Ms. Crocodile was therefore not obligated to report gifts of cans, bottles, and other recyclables to MSDPR.
43. Even if this information was incorrect, and the Ministry requires all family units to report the gift or other acquisition of empty cans, bottles, and other recyclables, Ms. Crocodile acted in good faith and at the direction of a Ministry representative in failing to do so, and should not face any negative consequences as a result of this action.

Overpayment

44. In summary, Ms. Crocodile has reported her employment income to the best of her ability. The letter dated 8 September 2017 represents an accurate accounting of all employment income to that date. Ms. Crocodile has provided monthly reports and supporting documents for the following months.
45. MSDPR's position that all deposits into Ms. Crocodile's bank account are earned income is not supported by the evidence. There are no records of Ms. Crocodile earning employment income other than those she voluntarily provided to MSDPR. Ms. Crocodile has provided extensive documentation of the sources of these deposits in the form of receipts for employment income and detailed explanations for the other deposits.

Application of a Sanction

46. Ms. Crocodile has been advised that a sanction was applied to her file, though the Ministry was not able to verify whether this had occurred when contacted. Due to Ms. Crocodile's significant and documented mental health difficulties, we submit that a sanction is not appropriate in this case.
47. Ms. Crocodile has always attempted to report her income accurately.
48. Due to her mental health challenges, Ms. Crocodile's income reporting became out of date throughout 2017. Ms. Crocodile was aware that her reporting was not accurate, but was not able to complete the calculations and bookkeeping necessary to correct this. Ms. Crocodile also feared being punished for inaccurate reporting, so delayed updating the Ministry.
49. We submit that MSDPR failed to comply with its duty to accommodate in its dealings with Ms. Crocodile. As above, Ms. Crocodile faces significant mental health challenges, and has extreme difficulty with both bookkeeping and interfacing with MSDPR.
50. Ms. Crocodile was informed by the Ministry that she did not have to report the money she received from returning recyclables for deposit.
51. When Ms. Crocodile did report, her evidence regarding the specifics of her earnings was ignored, without explanation.
52. The information she was provided regarding her potential overpayment was extremely confusing, and provoked considerable stress in Ms. Crocodile.
53. Finally, Ms. Crocodile continues to refine her own processes, and believes that she has reached a point where her reporting will be accurate moving forward.

54. Ms. Crocodile has always provided the Ministry accurate information to the limit of her ability. We submit that a sanction for failure to report is not appropriate.

Conclusion:

55. We submit that MSDPR must re-calculate Ms. Crocodile's remaining annual earnings exemption amount based on the available evidence of her earned income.
56. We submit that this recalculation will result in an underpayment of Ms. Crocodile's assistance, as she has not received assistance since September, 2017.
57. We submit that Ms. Crocodile has reported her income to the best of her ability, and that a sanction is not appropriate; if one has in fact been applied, it should be refunded.

Sincerely,

Daniel Jackson – Legal Advocate
250-361-3521
Together Against Poverty Society



Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact your local Employment and Assistance Centre.

N

ION

You are requesting a reconsideration of the decision that you have an overpayment of \$3430.26 and must repay this amount to the ministry.

SUMMARY OF FACTS

The following is a summary of the key dates and information related to your Request for Reconsideration:

On November 3, 2017 you were advised of the ministry's decision.

On December 4, 2017 you submitted a Request for Reconsideration and were approved an extension to January 4, 2018.

On January 16, 2018 the minister completed the review of your Request for Reconsideration.

The ministry submits that section 72 of the Employment and Assistance for Persons with Disabilities Regulations is directory in nature and therefore, the ministry delivered its decision immediately after a thorough review of the reconsideration.

APPLICABLE LEGISLATION

Employment and Assistance for Persons with Disabilities Act – Section 11, 18 and 19
Employment and Assistance for Persons with Disabilities Regulation – Section 29

~ Please see the attached copy of the legislation in Appendix B ~

RECONSIDERATION DECISION

~ Please see the attached copy of the legislation in Appendix A ~

ENCLOSED: ALL DOCUMENTS CONSIDERED BY THE MINISTRY NOTICE OF APPEAL TO THE EMPLOYMENT AND ASSISTANCE APPEAL TRIBUNAL

| | | |
|---------------|---|---------------------------------|
| SIGNATURE | NAME AND TITLE D. Trenaman Reconsideration Officer | DATE (YYYY MMM DD) 2018JAN16 |
|---------------|---|---------------------------------|

If this decision is appealable to the Employment and Assistance Appeal Tribunal, and you wish to appeal this decision, you may complete the enclosed *Notice of Appeal to the Employment and Assistance Appeal Tribunal* form and return it to the Appeal Tribunal. This Reconsideration Decision and attached documents constitute the appeal record. A sealed copy of this appeal will be kept by the Ministry.

Pursuant to subsection 22(4) of the *Employment and Assistance Act*, a tribunal panel may admit as evidence only:
(a) the information and records that were before the minister when the decision being appealed was made, and
(b) oral or written testimony in support of the information and records referred to in paragraph (a).



January 16, 2018

RECON SR No:
CASE No:

SR [REDACTED]
EA [REDACTED]

[REDACTED]

Re: Employment and Assistance Reconsideration Decision

Your request for reconsideration of the decision that you have received an overpayment of \$3430.26 of disability assistance has been reviewed. Upon reconsideration of the information provided, the ministry finds that there is insufficient information at this time to determine you have an overpayment of assistance.

Enclosed is a copy of the Employment and Assistance Reconsideration Decision form, confirming this decision. If you would like a copy of the complete reconsideration decision package, which contains the documents that you provided with your Request for Reconsideration, and documents you received with the original decision, please contact the Reconsideration Branch at 778-698-7750.

If you have any questions, please contact your local Employment and Income Assistance Office. You may also contact an Employment Assistance Worker at 1-866-866-0800 or visit the ministry website at www.hsd.gov.bc.ca.

Sincerely,

D. Trenaman

D. Trenaman
Reconsideration Officer

Enclosure(s)

APPENDIX A – RECONSIDERATION DECISION

All the information relevant to your request has been reviewed. The minister has determined that there is insufficient information at this time to determine that you have received an overpayment totalling \$3,430.26 for receiving disability assistance for which you were ineligible to receive.

Background

You are a sole recipient with Persons with Disabilities (PWD) designation. As a recipient with PWD designation, you were eligible for a \$9600 earnings exemption from your employment earnings received between January 2017 to July 2017. The earnings exemption amount increased to \$12000 in September 2017 for the remainder of the year for employment earnings received between August 2017 to December 2017.

On October 10, 2017 the ministry noted after reviewing documentation you submitted you had earnings of \$20473 for 2017 up to and including Sept.26/2017. You had only declared \$1340.00 for the year. The ministry sent you a letter advising you that the ministry had calculated you had received an overpayment of assistance of \$3,430.26 as a result of failing to accurately report your earnings.

On December 4, 2017 the ministry received your Request for Reconsideration and you were approved an extension.

On December 13, 2017 the ministry received a written submission from your advocate. In part, your advocate notes:

- You struggle with significant mental health and emotional regulation issues, including autism spectrum disorder, severe attention deficit disorder, and an acquired brain injury. These conditions have severe negative impacts on your ability to manage your personal finances and to report information completely, consistently and accurately to the ministry.
- You provide cleaning, landscaping and gardening services and are paid directly by the client for your services either by e-transfer or direct deposit. You are required to provide receipts to your clients for all of your services.
- On September 8, 2017 you provided a letter to the ministry detailing all earnings for 2017. You provided receipts for all employment carried out as well as contact information for all employers as verification of your earnings. Your net income from January through the end of August was calculated at \$9,228. You provided reasons for not declaring the remainder of your income, informing the ministry of the difficulties you had with financial management.
- On October 26, 2017 a Request for Reconsideration package was forwarded to your advocate. The total overpayment was found to be \$5,557.10.
- On November 2, 2017 the ministry contacted your advocate and provided a recalculated overpayment chart and an updated Request for Reconsideration package. This package applied the update AEE differently, resulting in an overpayment of \$3216.28.
- By assigning your overpayment, the ministry has calculated your income by adding all deposits into your bank account together. The ministry is asserting that every deposit represents employment income.
- Deposits in your bank account represent a combination of the following:
 - Employment income paid by e-transfer
 - Cash gifts from family members
 - Conversion of other personal assets into cash
 - Cash deposits resulting from you exchanging recyclables for the cash deposit at the Return-It Depot.
- E-transfers from [REDACTED] and [REDACTED] represent employment income. The total of all of these deposits from January through October is \$8,622. Note that this is less than the income which you calculated in the letter and receipts totalling \$9,228 through to the end of August. This discrepancy is the result of employment income paid in cash. You have accurately reported your in cash employment income to the letter, accompanied by receipts.
- You include letters from [REDACTED], your mother, listing several large cash gifts provided to you. The letter also states additional smaller gifts of cash and recyclable bottles and cans were

periodically provided to you from other family members whose names and contact information are provided.

- You generate funds by privately selling personal goods which you have been gifted, found or purchased very cheaply on the second-hand market. In addition, you gather some recyclables independently and also receive large quantities from friends and family as gifts.
- Cash obtained as a result of these recyclable returns accounts for the remainder of deposits in your account. You have retained receipts of many of these deposits. These are extremely numerous and therefore have not been included but available upon request.
- You submit bottles, cans and recyclables have no inherent value and would not be commonly included in the calculation of a family's asset level. Therefore, you are not obligated to report gifts of cans, bottles and other recyclables to the ministry.

Decision

The minister determines that money deposited into your account from gifts of cash and recyclables are not considered employment earnings and should not be included in your net income calculation.

The minister also determines that money deposited into your account from selling personal goods are not considered employment earnings and should not be included in your net income calculation.

However, upon review of the receipts and the bank statements you provided, the minister finds there is not enough information at this time to determine the exact amount of employment income you have received. Specifically, the clients who pay by e-transfer into your bank account and the receipts you provide for those same clients do not match each month.

Accordingly, as there is not enough information to determine if the e-transfers are the only income you received from those clients for that month, or if the e-transfers AND the receipts together are the income for the month, the ministry finds there is insufficient information at this time to determine if you have an overpayment of assistance.

Please note that this does not mean that you do not have an overpayment, only that there is insufficient information at this time to determine that you do have an overpayment. You may be asked to provide additional information from the ministry in order to determine current or to audit past eligibility for assistance.



& Poverty Reduction

On [July 27, 2018] the ministry determined that you were not eligible for Disability Assistance.

You were notified of this decision on [July 27, 2018].

Please find a list of the relevant legislation, regulation, or policy cited and attached as well as the reasons for the ministry's decision.

REASON(S) FOR MINISTRY DECISION

[A review of your request for October 2017 - February 2018 disability assistance has been completed with the following findings:

Due to inaccurate & inconsistent income reporting, a file rvw was conducted and an overpayment assessed in Oct/17. You were found to be in O/P.

The O/P decision was overturned at recon & debt removed from the file.
"Reconsideration completed. There is insufficient information at this time to confirm that Kira has received an overpayment of assistance totaling \$3430.26".

PLMS did an extensive review of your 2017 income records and bank stmts with you and your advocate. Some of the findings were as follows:

1. Clint retains large sums of cash in her home sometimes making deposits up to 2 yrs later.
2. Some of the bank deposits are monetary gifts from family and are co-mingled with employment earnings.
3. Some of the deposits included the sale of bottles and/or the sale of personal household items.
4. Clint does several part time cleaning & gardening jobs (no formal pay stubs)
5. Clint maintains several bank accounts.
6. Clint does not deposit her earnings regularly or individually so it is extremely difficult to determine what her actual employment earnings were.

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and Regulation, and the *Employment and Assistance for Persons with Disabilities Act* and Regulation.



The IO concluded that careful calculations of the deposits and receipts shows she was 'very close to being at or over the AEE limit of \$12K for 2017' She also determined ... "There is insufficient evidence to support assessing an OP over the \$12K for the year 2017. IO also not able to determine any underpayment".

This clnt had and continues to have difficulties submitting accurate and timely monthly reports as required by legislation.

In 2017, clnt submitted reports up to April then not again until Sept13/17. Monthly reports for Nov2017 - Mar2018 were submitted on Feb16/18.

This worker concludes, regardless of the particularly difficult income records and inconsistent reporting, this file was reviewed correctly/fairly and has been unable to find any administrative errors.

Request denied on 2 pieces of legislation.

EAPWD Regs 29 Sec 11. To be eligible for disability assistance, clients are obligated to report income and changes in the manner and within the time specified by regulation.

EAPWD Regs 23 (5). A recipient is not eligible for any assistance before the calendar month in which the assistance is requested.

]

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and Regulation, and the *Employment and Assistance for Persons with Disabilities Act* and Regulation.

Ministry of
Social Development
and Social Innovation

[Office Name here]

Mailing Address:
[address here]

Telephone: #### #### ####
Facsimile: #### #### ####



302 – 895 Fort Street, Lekwungen Territories, Victoria, BC, Canada V8W 1H7
Tel: (250) 361-3521 Fax: (250) 361-3541 Web: www.tapsbc.ca

Request for Reconsideration – Ms. Crocodile

Issue

1. Whether Ms. Crocodile was entitled to assistance for the months of October 2017 through February 2018, which would result in a finding of an underpayment by the Ministry.

Background

2. In its decision of 27 July 2018, the Ministry denied Ms. Crocodile assistance for these months pursuant to section 11 of the *Employment and Assistance for Persons with Disabilities Act* (the “Act”), and sections 29 and 23(5) of the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”). The Ministry decision maker cited Ms. Crocodile’s historic and ongoing “difficulties submitting accurate and timely monthly reports as required by legislation.”

Submission

I. Overview

3. TAPS submitted a letter, dated 27 August 2018, along with the underpayment review request, which is included with this submission. That letter sets out our position regarding the closure of Ms. Crocodile’s file, the treatment of money deposited in Ms. Crocodile’s accounts, Ms. Crocodile’s needs for accommodation, and explains the delay in Ms. Crocodile’s completed reports. We rely on this letter as our submission on the issues already raised.
4. This submission will focus on the Ministry’s denial of an underpayment pursuant to the above-noted sections.

II. Earnings

5. We submit that the monthly reports and supporting documentation submitted by Ms. Crocodile on 13 Sept 2017, 16 February 2018, and through the investigation process demonstrate that Ms. Crocodile did not exceed her AEE in 2017.
6. We submit that the Ministry’s finding that Ms. Crocodile was “very close to being at or over the AEE limit of \$12K for 2017” (Decision letter 27 July 2018) is reasonable, but that this finding demonstrates that Ms. Crocodile was eligible for assistance throughout the period under review.

Supported by:
The Law Foundation of British Columbia, United Way of Greater Victoria,
Province of British Columbia,
The Provincial Employees Community Services Fund,
and other generous donors.

7. We further submit that the finding in the same decision letter that Ms. Crocodile was not eligible for assistance from October 2017 through February 2018 because she exceeded her AEE is not supported by the evidence before the Ministry. Ms. Crocodile's total income, as reported and documented, came close to exceeding the AEE, but it did not do so. Nor did it come close to doing so until December, 2017.

III. Reporting Requirements – Act s.11 and Regulation s.29

8. We submit that a denial of assistance under these sections is unreasonable, for two reasons.
9. First, Ms. Crocodile was informed on 4 December 2017 by the Ministry that she had exceeded her AEE and that her file had been switched to "MSO" status. This letter further advised that Ms. Crocodile could, should she wish, continue submitting monthly reports if she wished to benefit from an automatic reinstatement of her benefits in the new year.
10. The optional regime outlined in this letter is set out in s.4.4 of the *Act* and s.29.1 of the Regulation. These two sections provide that MSO recipients are not required by law to submit monthly reports, whether or not they receive income or other money.
11. Ms. Crocodile's failure to report in any income, beginning with her November income, was a direct result of being informed by the Ministry that she was under no obligation to do so.
12. While Ms. Crocodile disputed the Ministry's finding, her file was nonetheless in MSO status, and she was not obligated to report.
13. We further submit that a denial of assistance under s.11 for inaccurate reporting is an unreasonable and overly punitive application of the statute. The Ministry is specifically empowered by s.28.1 of the Regulation to apply a sanction to individuals who report inaccurately or incompletely. While punitive, a sanction is a far lesser penalty than a denial of eligibility. We submit that any concerns with the accuracy or completion of Ms. Crocodile's reporting could only reasonably be addressed by the application of s.28.1.

IV. Timing of Request – s.23(5)

14. Regulation s.23(5) reads:

"(5)A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested."

15. In their letter of denial, the Ministry paraphrases this section as reading:

"A recipient is not eligible for any assistance before the calendar month in which the assistance is requested."

16. We submit that Minister's interpretation of this section in this case is unsupportable. The balance of s.23 makes it clear that this section deals with initial eligibility determinations, and is therefore not applicable in the circumstances of this reconsideration.

17. We further submit that this section is irrelevant regardless of its interpretation. Ms. Crocodile had in fact requested assistance long before any of the events in question, and had been informed that she was no longer eligible. As above, Ms. Crocodile's failure to continue reporting to the Ministry was largely a result of being informed that she was under no obligation to do so.

V. Accommodation

18. We submit that Ms. Crocodile required and continues to require accommodation in order to submit her monthly reports in a timely and accurate way due to her diagnosed mental health impairments. Ms. Crocodile has struggled with this requirement for many years, as any examination of her file will show. Ms. Crocodile has occasionally received some support from both the Ministry, via Beacon Community Services, and community partners with this task.
19. During the period under review, Ms. Crocodile was not provided assistance with reporting. Beacon Community Services was no longer working with the Ministry, and the alternate Third Party Administrator, Pacific Assertive Treatment, was not able to provide assistance with reporting.
20. The Ministry has recently recognized Ms. Crocodile's need for accommodation. In response to a request by TAPS, they have initiated a process of identifying potential supports for Ms. Crocodile to assist her in reporting accurately (see included correspondence).
21. The Ministry has had significant information before it for many years regarding Ms. Crocodile's needs for accommodation, including a 2015 letter from Ms. McCliggott of the ACT team (attached) which very clearly outlines Ms. Crocodile's ongoing difficulties and needs. The Ministry's policy on accommodation requires it to be proactive in determining needs and offering accommodation. This does not appear to have occurred in Ms. Crocodile's case.
22. We submit that the Ministry's duty to accommodate Ms. Crocodile includes, at a minimum, a requirement of leniency in accepting late monthly reports, and allowing Ms. Crocodile to correct those reports, if and when the Ministry is not able to provide direct assistance in completing those reports.
23. We further submit that the Ministry did not offer or provide any assistance in reporting during the period in question, and that a denial of assistance which resulted from the Ministry's own failure to accommodate Ms. Crocodile is unreasonable.

Conclusion

Ms. Crocodile submits that she reported her earnings to the best of her ability, and in accordance with the legislated requirements. We submit that, when proper consideration is given to all the circumstances, including the information provided to Ms. Crocodile by the Ministry, the status of her file, and her accommodation needs,

Sincerely,



RECON SR No:
CASE No:

Dear

Re: Employment and Assistance Reconsideration Decision

Your request for reconsideration of the decision to deny you back dated assistance for the period of October 2017 to February 2018 has been reviewed. Upon reconsideration of the information provided, the ministry has approved your request.

Enclosed is a copy of the Employment and Assistance Reconsideration Decision form, confirming this decision. If you would like a copy of the complete reconsideration decision package, which contains the documents that you provided with your Request for Reconsideration, and documents you received with the original decision, please contact the Reconsideration Branch at 778-698-7750.

If you have any questions, please contact your local Employment and Income Assistance Office. You may also contact an Employment Assistance Worker at 1-866-866-0800 or visit the ministry website at www.hsd.gov.bc.ca.

Sincerely,

D. Trenaman
Reconsideration Officer

Enclosure(s)



Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact your local Employment and Assistance Centre.

REQUESTOR INFORMATION

| | | |
|------------|---------------------|-------------------------|
| [REDACTED] | | Recon Ser No [REDACTED] |
| [REDACTED] | | Postal Code [REDACTED] |
| [REDACTED] | Phone No [REDACTED] | [REDACTED] |

DECISION UNDER CONSIDERATION

You are requesting a reconsideration of the decision to deny you back dated assistance for the period of October 2017 to February 2018.

SUMMARY OF FACTS

The following is a summary of the key dates and information related to your Request for Reconsideration:

On August 3, 2018 you were advised that you were not eligible for back dated assistance.

On September 4, 2018 you submitted a Request for Reconsideration and were approved an extension.

On September 25, 2018 the minister completed the review of your Request for Reconsideration.

APPLICABLE LEGISLATION

Employment and Assistance for Persons with Disabilities Act – Section 10
Employment and Assistance for Persons with Disabilities Regulation – Section 28

~ Please see the attached copy of the legislation in Appendix B ~

RECONSIDERATION DECISION

~ Please see the attached copy of the reconsideration decision in Appendix A ~

ENCLOSED: ALL DOCUMENTS CONSIDERED BY THE MINISTRY NOTICE OF APPEAL TO THE EMPLOYMENT AND ASSISTANCE APPEAL TRIBUNAL

| | | |
|---------------|---|---------------------------------|
| SIGNATURE | NAME AND TITLE D. Trenaman Reconsideration Officer | DATE (YYYY MMM DD) 2018SEP25 |
|---------------|---|---------------------------------|

If this decision is appealable to the Employment and Assistance Appeal Tribunal, and you wish to appeal this decision, you may complete the enclosed *Notice of Appeal to the Employment and Assistance Appeal Tribunal* form and return it to the Appeal Tribunal. This Reconsideration Decision and attached documents constitute the appeal record. A sealed copy of this appeal will be kept by the Ministry.
Pursuant to subsection 22(4) of the *Employment and Assistance Act*, a tribunal panel may admit as evidence only:
(a) the information and records that were before the minister when the decision being appealed was made, and
(b) oral or written testimony in support of the information and records referred to in paragraph (a).

SECTION 1 and 2 TO BE COMPLETED BY WORKER

SR NUMBER

SECTION 1 REQUESTOR INFORMATION

REQUESTOR'S NAME

CASE NUMBER

REQUESTOR'S ADDRESS

SECTION 2 DECISION TO BE RECONSIDERED

You are requesting a reconsideration of a ministry decision to deny your request for an administrative underpayment of Employment and Assistance for Persons with Disabilities Benefits from October 2017 to February 2018.

A review of your request for October 2017 to February 2018 disability assistance has been completed with the following findings.

Due to inaccurate and inconsistent income reporting a file review was conducted and an overpayment assessed in October 2017. You were found to be in an overpayment.

You requested a reconsideration of the overpayment, which was overturned by the Reconsideration Branch, and the debt was removed from your file.

The Prevention and Loss Management Services (PLMS) did an extensive review of your 2017 income records and bank statements with you and your advocate. Some of the findings were as follows:

1. You retain large sums of cash in your home sometimes making deposits up to 2 years later.
2. Some of the bank deposits are monetary gifts from family and are commingled with employment earnings.
3. Some of the deposits included the sale of bottles and/or the sale of personal household items.
4. You do several part time cleaning and gardening jobs (no formal pay stubs).
5. You maintain several bank accounts.
6. You do not deposit your earnings regularly or individually, so it is extremely difficult to determine what your actual employment earnings were.

The Investigative Officer (IO) concluded that careful calculations of the deposits and receipts show that you were "very close to being at or over the Annual Earnings Exemption (AEE) limit of \$12,000.00 for 2017". The IO also determined, "There is insufficient evidence to support assessing an overpayment over the \$12,000.00 for the year 2017. IO also not able to determine any underpayment".

You had, and continue to have difficulties submitting accurate and timely monthly reports as required by legislation.

In 2017, you submitted reports up to April, then not again until September 13, 2017. Monthly reports for November 2017 to March 2018 were submitted on February 16, 2018.

The ministry worker reviewing your administrative underpayment request concluded that regardless of the particularly difficult income records and inconsistent reporting, your file was reviewed correctly and fairly and the worker has been unable to find any administrative errors.

ADVOCATE

You have the right to an advocate to help you with your reconsideration. Attached to this reconsideration is a list of advocates in your area.



REQUEST FOR RECONSIDERATION**NOTE**

This Request for Reconsideration form must be signed and returned by the date in Section 2, "Date requestor must submit form by".

If you can provide reasons and/or evidence why the Ministry's decision should be changed by this deadline, do so.

EXTENSION

1. If you need more time to provide reasons or evidence, you may ask for an extension (more time).

To ask for an extension, write on this form that you need an extension, then sign and return it to the Ministry by the date in Section 2, "Date requestor must submit form by". To maximize the amount of time you have to provide reasons or evidence, submit the form on or just before that date. You may contact the reconsideration office to confirm the extension was approved, 778-698-7750.

2. Once the Ministry receives your signed Request for Reconsideration form, it will write its reconsideration decision within 10 business days (if no extension is requested) or 20 business days (if an extension is requested).

3. The reconsideration decision will be mailed to you, sent by MySelfServe or available for pick up in a Ministry office.

Attachments:

Employment and Assistance for Persons with Disabilities Regulation, Sections 23 and 29
Letter from TAPS

Denial Letter for Administrative Underpayment

Request from TAPS for reconsideration

Consent for TAPS

Reconsideration and Appeals Brochure

List of advocates in your area



APPENDIX A – RECONSIDERATION DECISION

After full review of all of the information relevant to your Request for Reconsideration, the minister determines that you should not have been denied disability assistance for the period of October 2017 to February 2018 and therefore, your request for back dated assistance is approved.

Background

You are sole recipient of disability assistance.

On July 27, 2018 the ministry provided you a letter advising that your request for back dated assistance for the period of October 2017 to February 2018 had been denied. The minister noted that PLMS did an extensive review of your 2017 income records and bank statements and concluded that careful calculations of the deposits and receipts showed you were very close to being at or over your Annual Earnings Exemption (AEE) limit of \$12,000 for 2017. There was insufficient evidence to support assessing an overpayment over the \$12,000 for the year 2017. Additionally, PLMS was not able to determine any underpayment.

On September 14, 2018 the ministry received your Request for Reconsideration submission.

Legislation

"Earned income" is defined as any money received in exchange for work or the provision of a service.

Section 24 of the EAPWD Regulation states that a person's income (calculated under Schedule B of the Regulation), must be deducted from their disability assistance (calculated under Schedule A of the Regulation). Schedule B explains that all earned and unearned income must be deducted from disability assistance except that which meets the exemption criteria.

Schedule B of the EAPWD Regulation clarifies how net income is calculated for the purposes of determining eligibility for disability assistance. Section 3 of Schedule B clarifies the annual exemption for earned income. Prior to October 1, 2017 a sole recipient with Persons with Disabilities designation, had a base exemption rate of \$800. If the recipient had been in receipt of assistance for all of 2017 and had PWD designation all of 2017, they were eligible to receive the maximum earnings exemption limit of \$9600. However, effective October 1, 2017, the base exemption rate for a sole recipient changed to \$1000 per month and if the recipient had PWD designation all of 2017, they were eligible for an additional \$2400 earnings exemption beginning October 1, 2017 for the remainder of the 2017 calendar year (even if the recipient had already exhausted the \$9600 earnings exemption rate prior to October 2017.)

Schedule B section 4 of the EAPWD Regulation describes small business exemptions for a person participating in the self-employment program and is not applicable to you as you are not participating in the self-employment program.

Section 24 of the EAPWD Regulation states that a person's income (calculated under Schedule B of the Regulation), must be deducted from their disability assistance (calculated under Schedule A of the Regulation).

Section 9(2) of the EAPWD Regulation states a family unit is not eligible for assistance if the net income of the family determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit.

Decision

The minister finds that as PLMS had completed a review of your income records and bank statements for 2017 and concluded that your earnings had not reached the AEE limit of \$12,000 for the year 2017, you should not have been denied assistance from October 2017 to February 2018 for having income that exceeded the ministry's rate of assistance. (Your 2017 employment earnings should not have been

deducted from October 2017 to February 2018 as your earnings continued to be exempt because you had not reached the AEE limit of \$12,000).

Therefore, the minister finds you are eligible for back dated assistance for the period of October 2017 to February 2017.

I trust that this information will be useful in your understanding of the ministry's decision.

APPENDIX B – APPLICABLE LEGISLATION

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it;
- (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
- (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
- (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

(2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for disability assistance, hardship assistance or a supplement.

(3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(4) If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

Consequences of failing to provide information or verification when directed

28 (1) For the purposes of section 10 (4) [*information and verification*] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

- (a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and
- (b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Effective date of eligibility

23 (1) Except as provided in subsections (1.1), (3.11) and (3.2), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
 - (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.
- (1.1) The family unit of an applicant who applies for disability assistance while the applicant is 17 years of age and who the minister has determined will be designated as a person with disabilities on his or her 18th birthday
- (a) is eligible for disability assistance on that 18th birthday, and
 - (b) on that date, is eligible under section 4 and 5 of Schedule A for that portion of the month's shelter costs that remains unpaid on that date.
- (1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for
- (a) a support allowance under sections 2 and 3 of Schedule A on the disability assistance application date,
 - (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
 - (c) for disability assistance under sections 6 to 9 of Schedule A on the disability assistance application date. [B.C. Reg. 151/2018]
- (2) Subject to subsections (3.01) and (3.1), a family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.
- (3) Repealed. [B.C. Reg. 340/2008, s. 2.]
- (3.01) If the minister decides, on a request made under section 16 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of
- (a) the date the minister makes the decision on the request made under section 16 (1) of the Act, and
 - (b) the applicable of the dates referred to in section 72 of this regulation.
- (3.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (3.01).
- (3.11) If the minister decides, on a request made under section 16 (1) of the Act, to designate a person as a person with disabilities, the person's family unit becomes eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of
- (a) the date the minister makes the decision on the request made under section 16 (1) of the Act, and
 - (b) the applicable of the dates referred to in section 72 of this regulation.
- (3.2) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person with disabilities, the person's family unit is eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.11).
- (4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:
- (a) the date the family unit became eligible for disability assistance;
 - (b) 12 calendar months before the date of payment.
- (5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: Joyce Percey from Powell River Community Services Association –
Poverty Law Advocate

Summary of Legal Issue:

Request for Reconsideration – denial of Health Supplement – Custom made footwear.

Client was denied custom made footwear because the Ministry felt that he could wear “off-the-shelf” footwear. Also denied due to “device not the least expensive option; and not medically essential to achieve or maintain basic functionality”.

Legal issues revolved around the Ministry not accepting the client’s medical professional’s opinion. Further, the Ministry challenged the client’s medical opinion as per *their* medical professional’s opinion, and would not provide the report/statements referred to in the decision.

Summary of Facts:

Client is a 47 year old male who has cerebral palsy. He is 75% wheelchair bound, but transfers independently with the use of a walker. In 1999 client had custom made shoes provided by the Ministry. Had numerous repairs to those shoes. 2008 applied for replacement shoes and was provided off-the-shelf orthopaedic footwear. Off-the-shelf footwear was not successful: client’s mobility was restricted, risk of falls – this was communicated to the Ministry. Client continued to wear his old footwear. Feb 2017 applied for replacement. October 2017 and was denied, as “off-the-shelf” footwear was provided in past.

Steps taken and outcome at each step:

Client came to me after the denial. I was not part of the Request, nor the original Request for Reconsideration paperwork. Not enough time to deal with the original R4R, so I requested an extension of time. At the same time, I requested a copy of the Ministry’s physiotherapist report which was not in the reconsideration package.

Extension granted; voicemail left on my work phone from MSDPR that “the report is not available and all information made in regards to the decision was in the package.”

As a new advocate, I didn’t know that the Ministry did/did not have a group of medical professions that they consult with. I found it odd that they challenged the client’s physiotherapist; that they requested pictures of his feet; then requested a second set of pictures; challenged the original supplier (specialist who made the first pair of shoes); and did not accept the local supplier’s opinion.

I reached out to my supervising lawyer, and CLAS for some guidance on how to approach the situation.

I approached the local supplier of footwear and asked him to review the client's situation, sent the client down personally for a fitting, and asked the local supplier to provide a written account of the fact that he could not provide an adequate product commercially. I supported the family with a second professional opinion from a registered podiatrist (DPM) who provided a support letter that custom foot wear was required.

What was challenging about this case:

First, the request of the parents, not professionals, by the adjudicator for pictures in March (as per her notes). Who was going to look at them? Who determined that the client's feet were not "deformed". I followed up with the specialist who made the first pair, and he did not request pictures. Then a second set of pictures was submitted in September.

Secondly, was the push for commercial footwear even though the client's physio requested custom made, and the quote from the orthopaedic shoe manufacturer stated that custom shoes were "medically necessary". The local supplier has a small shoe store and was contacted by the Adjudicator on the phone, to whom he stated what he was able to supply. When actually seeing the client in person and assessing his needs, the local supplier agreed he could not meet the needs of the client. Again, why was the original paperwork not sufficient?

The file was in excess of over seven months old before the denial was given. This is an incredibly long amount of time with very poor, and often very upsetting and aggressive interactions between the family and the Ministry. Why did the family not contact this office for an advocate earlier? Was the family advised about advocacy?

Lastly, the numerous references to the "Health Assistance Branch's consulting physiotherapist". The decision actually says that the denial was made "in conjunction with the HAB's consulting physiotherapist". There was no report made to this effect, with no mention of the Ministry's professional's credentials. My request for the report to confirm validity of the medical opinion was not met.

Lessons learned from this case:

As a new advocate, I learned that any aspect referred to in a decision, **must** be made available to the client/advocate. If this information is not provided, it should be not part of the decision.

I learned the value of supporting a client/family early in the process and the value of having an advocate in dealing with Ministry issues, though my regret/upset that an advocate is needed and that the process was so difficult for the family members was heavily felt. I did not realize that the role of my office was not better known in the community, especially within the world of Community Living BC and developmentally challenged people and their families. More awareness is needed around this area. (Particularly offensive to the family, was the comments/demands of the adjudicator to "read the legislation/regulation to understand"....)

Lastly, I am reminded of the importance of professional, medical opinions, and feel this application was successful because we did the leg work of seeing other specialists, and getting

support letters from professionals, **in writing**, and not accepting the Ministry's discussions with the parties and the adjudicator's interpretation of those conversations.

Joyce Percy
MSPDRC RUR
Medical Equipment



Decision Letter

October 10, 2017

SR #:

Case #:

[REDACTED]

Dear [REDACTED]

Requested Health Supplements:

| Product | Description |
|----------------------|----------------------|
| Custom Made Footwear | Custom made footwear |

I am responding regarding your application for Health Supplements.

iii.) Is the medical equipment or device the least expensive appropriate available? No

Explanation:

This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. There are other commercially available devices that can address the medical needs of the client. The Ministry is not satisfied that custom made footwear are medically essential and the least expensive appropriate medical device for this particular case.

3.10 (2) The minister is satisfied that the orthosis is medically essential to achieve or maintain basic functionality? No

Explanation:

This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. The information contained in the assessment identifies the client is able to fit commercial footwear, therefore, the minister is not satisfied that custom made footwear is essential to achieve or maintain basic functionality.

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and *Regulations*, and the *Employment and Assistance for Persons with Disabilities Act* and *Regulations*.

Ministry of Social
Development and
Social Innovation

070 - HEALTH
ASSISTANCE BRANCH PO BOX 9971 STN PROV GOV
VICTORIA, BC V8W 9R5

Phone:
Fax: (855) 771-8785

(1)



After thorough and careful consideration of your application, I regret to inform you that the ministry has denied your request for Health Supplements. After reviewing your application, the ministry determined that you did not meet the eligibility criteria for this Health Supplement. Details of the reasons for the ministry's decision are attached.

The ministry recognizes that assessing eligibility can be a complex and sensitive issue and that differences in opinion may arise. If you disagree with this decision, you have the right to request reconsideration. You must file your written request for reconsideration with your local ministry office within 20 business days of receiving this letter. Please contact your local ministry office to obtain your request for reconsideration form. A reconsideration is your opportunity to submit any new information regarding your request. Attached is a reconsideration brochure. For more information about the reconsideration and appeal process, you may call your local ministry office or visit the ministry website at:

http://www.gov.bc.ca/meja/online_resource/decisions_reconsideration_and_appeal/

If you have any questions or require clarification, please contact your local Employment and Assistance office or call 1-866-866-0800.

Sincerely,

[REDACTED]
Adjudicator

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and *Regulations*, and the *Employment and Assistance for Persons with Disabilities Act* and *Regulations*.

Ministry of Social
Development and
Social Innovation

070 - HEALTH
ASSISTANCE BRANCH

PO BOX 9971 STN PROV GOV
VICTORIA, BC V8W 9R5

Phone:
Fax: (855) 771-8785

(2)

Appendix A

Request to HSDPR

Ministry of Social Development and Poverty Reduction
Health Assistance Branch
Via fax: 1-855-771-8785

November 20, 2017

Re: SR # [REDACTED]
[REDACTED] Request for Orthoses

Dear Sir or Madam:

[REDACTED] and his caregivers have approached this office for assistance with the above noted service request. [REDACTED] was denied his request for custom made orthoses.

At this time I am requesting a copy of the assessment of the Health Assistance Branch's consulting physiotherapist, as referred to in the Decision dated Oct 10, 2017, copy attached. There was no written report included in the package, nor credentials of the consulting physiotherapist which is required in order to address the validity of the professional opinion, and ultimately the denial of the request.

I am also requesting an extension in order to gather documentation for the Request for Reconsideration submission, namely, further medical evidence resulting from [REDACTED] appointment with a foot specialist on November 30th, 2017. As per the post date attached, the reconsideration package was received by [REDACTED] caregivers on Oct 23rd, 2017.

Thank you for your assistance.

Legal Advocate

Page 1 of 2

Attachments:

Signed Request for Reconsideration
Photocopy of Mailing date for Package
Ministry Decision – 4 pages
Consent to Disclosure of Information

MSDPC File Notes

| | |
|----------|------------|
| HC# | [REDACTED] |
| SR# | [REDACTED] |
| Facility | [REDACTED] |

| | |
|-----------|----------------|
| Diagnosis | Cerebral Palsy |
| Supplier | [REDACTED] |

Request for:

1. 1475.00 Custom made footwear

Previous Orthoses:

| | |
|--|------------|
| Custom made boots | March 1999 |
| Off the shelf orthopaedic footwear [REDACTED] - 190.00 | Aug 2008 |

Adjudicator overview:

- Prescription
- Physician confirms custom
- A, B, C, D has been confirmed
- Confirms hand cast mold
- Knee Brace - 6 Hours
- Knee Brace/AFO - assessed by an orthotist/prosthetist, physiotherapist or occupational therapist

2017-03-21 Phone call made to supplier; pictures requested.

2017-03-22 Message left with client

2017-03-22 Call received back from client's caregiver; very upset that pictures of feet are required. Client's last pair of shoes were off the shelf with orthotics about 10 years ago.

2017-03-30 Photos received and forwarded to HAB physiotherapist for review

2017-08-02 Phone call made to supplier and requested quote for off the shelf orthopaedic footwear. Supplier only provides custom-made footwear. Call made to client and he will obtain a new quote from another supplier for off the shelf orthopaedic footwear.

rs1

2017-08-28 Call received from care provider upset at denial of custom footwear. Caregivers feel client's feet are deformed and that client had custom shoes in the past that he is currently wearing. The off the shelf shoes client had previously did not work. They are adamant client should receive custom shoes and do not understand. Will ask HAB PT to speak with caregivers and go over foot mechanics to help them understand how off the shelf will work for client. Please call [REDACTED] please ask [REDACTED] or [REDACTED]



2017-09-20 Client advised that they are seeing a specialist ([REDACTED]) at the end of November. [REDACTED] was unsure of whether her husband is going to send photos prior to appointment in November.

2017-09-20 Another call received from [REDACTED], advising he would send photos to my email address. He advised client received custom footwear in 1999 and should be able to have new custom shoes. Suggested [REDACTED] read legislation/regulation to understand that if client is able to fit in to off the shelf shoes that he is not eligible for custom footwear. He stated he didn't care what legislation states as he would appeal any denial as he believes client should have custom footwear.



Physiotherapist Notes

Mar. 22, 2017.

File reviewed. 47 y.o. male with cerebral palsy. Request states shoes are 20 years old. Client's caregiver has indicated last footwear supplied was off the shelf plus orthotics. Request for custom made footwear for \$1475. Request has been made for photos.

Mar. 31, 2017.

Six photos received and reviewed. Custom footwear not justified. Tried to reach physiotherapist, [REDACTED] at [REDACTED]. PT not available.

(3)

May 3, 2017.

Tried to reach supplier. Clinic number remains busy only. Adjudicator to follow up and see if supplier would like to quote on orthopaedic shoes for this client.

May 31, 2017.

Call to supplier. They do not deal with commercial shoes but do recommend [REDACTED] on [REDACTED] Ave. which has a good selection of good shoes and excellent salespeople to fit shoes. Recommend working with caregiver to get shoes up to \$250.

July 5, 2017.

This supplier does not deal in commercial footwear. Recommend keeping this file open and encouraging caregiver to get a quote for commercial footwear.

Sept. 13, 2017.

→ This therapist called caregivers and left a message ([REDACTED]). Reiterated that client is not eligible for custom shoes as they fit commercial footwear as confirmed by the supplier. Supplier does not deal in commercial shoes but has recommended a good shoe store. File has been open for over six months. Encouraged to submit a quote for commercial shoes. Stated file would be closed in two weeks.

Sept. 13, 2017.

Call from caregiver. Stated the pictures were taken by his wife who is not qualified to take pictures. He has taken more pictures. States he is not qualified to take pictures either but that they are better pictures than his wife has taken. Asked if client fits commercial footwear he would not answer. Supplier has stated client can fit commercial footwear and has recommended a place for purchase. Caregiver would like to submit further photos despite information that clients who fit commercial footwear are not eligible for custom. Will wait for further photos as per the request of caregiver.

Sept. 20, 2017.

Caregiver has stated that he will appeal any denial. Caregiver left a message that they will not be sending further photos at this time but client has an appointment to see a podiatrist the end of November. Recommend denial. Nothing to support custom has been submitted. Client fits commercial footwear.

2017-09-14

Rec'd call from [REDACTED]-caregiver for client. Requesting custom shoes-so provided photos. Has had custom boots (1999) previously. Adj called client and was told feet do not justify custom. Made appt with Dr of Podiatry on Sept 20th. Also [REDACTED] took more pictures. Felt that orthopedic foot wear did not work.

Decision:

→ 2017-10-10 This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. Request for custom made footwear denied.

iii.) Is the medical equipment or device the least expensive appropriate available? No

Explanation:

→ This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. There are other commercially available devices that can address the medical needs of the client. The Ministry is not satisfied that custom made footwear are medically essential and the least expensive appropriate medical device for this particular case..

3.10 (2) The minister is satisfied that the orthosis is medically essential to achieve or maintain basic functionality? No

Explanation:

→ This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. The information contained in the assessment identifies the client is able to fit commercial footwear, therefore, the minister is not satisfied that custom made footwear is essential to achieve or maintain basic functionality.

Submission
to MSDPR

Poverty Law Advocacy Program

207 – 6975 Alberni Street
Powell River, B.C. V8A 2B8
Tel: 604-485-0950
Fax: 604-485-6168

Ministry of Social Development and Social Innovation
Reconsideration Branch

By Fax: 1-855-771-8785

December 6, 2017

Re: [REDACTED]

Request for Orthoses SR# [REDACTED]

Dear Sir or Madam:

Please accept [REDACTED]'s Request for Reconsideration.

[REDACTED] is designated as a "person with disabilities" under the *Employment and Assistance for Persons with Disabilities Act*. He recently requested coverage of orthoses from the Ministry of Social Development and Poverty Reduction (the Ministry)—specifically, coverage of his custom made footwear. In a decision dated October 10, 2017, the Ministry denied [REDACTED]'s request.

[REDACTED] submits that he meets all of the criteria under Schedule C of the *Regulations for the requested health supplements*, as set out below.

Criterion 1a, Section 3(1)(a): the family unit is eligible under Section 62 OR Section 69 of the Employment and Assistance for Persons with Disabilities Regulation.

The Adjudicator found that [REDACTED] is eligible for health supplements under Section 62 of the *Employment and Assistance Regulations for Persons with Disabilities*.

[REDACTED] therefore submits that he meets Criterion 1(a).

Criterion 1b, Section 3(1)(b)(i) the family unit has received the pre-authorization of the minister for the medical equipment or device requested; and

Section 3(1)(b)(ii) there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device; and

Section 3(1)(b)(iii) the medical equipment or device is the least expensive appropriate medical equipment or device.

██████████ has not received pre-authorization because he was denied under the requirement of the least expensive device.

██████████ submitted a quote from ██████████ dated Oct 14, 2016. This is the same company that supplied ██████████'s original custom made footwear in 1999. They are the only company that can provide this custom made footwear.

The adjudicator's explanation on page 1 of The Decision states that:

This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. There are other commercially available devices that can address the medical needs of the client.

Physiotherapist Consultation

Much of the decision appears to centre on the consultation of the Health Assistance Branch's (HAB) consulting physiotherapist. The following comments are all linked directly to the consulting physiotherapist:

- 1) This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist – Page 1 of The Decision, Explanation
- 2) This request was reviewed in conjunction with the Health Assistance Branch's consulting physiotherapist. The information contained in the assessment identifies the client is able to fit commercial footwear, therefore, the minister is not satisfied that custom made footwear is essential to achieve or maintain basic functionality. – Page 1 of The Decision, Explanation # 2
- 3) 2017-03-22 Photos received and forwarded to HAB physiotherapist for review. –
██████████ Page 1

4) Physiotherapist Notes

- Mar. 22, 2017 File reviewed. 47 y.o. male with cerebral palsy. Request states shoes are 20 years old. Client's caregiver has indicated last footwear supplies was off the shelf plus orthotics. Request for custom made footwear for \$1475. Request has been made for photos. ■■■■■
- Mar. 31, 2017 Six photos received and reviewed. Custom footwear not justified. Tried to reach physiotherapist, ■■■■■ at ■■■■■ (■■■■■). PT not available. ■■■■■

Numerous other notations, it appears from the HAB consulting physiotherapist "■■■■■", are found on ■■■■■ Page 2.

A fax was submitted to HAB on November 20th, 2017 requesting a copy of the HAB consulting physiotherapist's assessment, as referred to in the decision. (Please see Appendix A, attached).

On November 22, 2017, a voicemail was left at the Poverty Law office from a Ministry worker stating that "a fax had been received for the request for a report. The report is not available and all information made in regards to the decision was in the package. The decision was made by the HAB adjudicator. Your request for an extension has been granted. If you have further questions, please call 1-866-866-0800."

It is highly irregular that a client does not have access to a written professional opinion which weighs so heavily in the denial decision of a request. Based on a lack of proof of a medical opinion, and professional credentials, it is impossible to address the validity of the consulting physiotherapist's comments.

No consultation was made with the client's physiotherapist; nor the client's doctor, both of whom provided their professional request in the required format. That the client's supporting medical evidence which was done by a treating physiotherapist who examined the client in order to provide his opinion is overruled by HAB's consulting therapist is unjust.

Photographs

In the Adjudicator Overview, a notation is made that a "phone call was made to supplier: pictures requested". It is unknown why pictures were requested. In a phone call by this office on November 22, 2017, to Mr. ■■■■■, who quoted on ■■■■■'s prescription, Mr. ■■■■■ stated that he does not require photographs. He stated that he did not request photographs from the Ministry, or the client.

As per the Ministry's request, and despite [REDACTED]'s caregiver's distress about submitting photographs which they felt unqualified to do from a medical perspective, six photographs were submitted on March 30th, 2017. Mr. [REDACTED], and Ms. [REDACTED] did not receive any direction on how to take the photographs and they did not feel comfortable taking on this task, however, they complied. As a result of these initial six photographs, the Physiotherapist Notes of March 31, 2017 state

Six photos received and reviewed. Custom footwear not justified.

It is paramount to this Request for Reconsideration that the HAB physiotherapist provide an explanation as to why the footwear is "not justified". No explanation or medical opinion is available from the Ministry. The photos of the feet appear to show a severe deformity. It is again unclear how a diagnosis by a profession based on an in person assessment can be overruled by a professional reviewing amateur photographs.

[REDACTED] continued to be concerned about the six photographs that were submitted due to a phone conversation from the adjudicator that the pictures proved [REDACTED] did not require custom made footwear. There were statements made during the phone conversation with the adjudicator that [REDACTED]'s feet were "not deformed". Therefore, Mr. [REDACTED] approached the client's physiotherapist, [REDACTED], who guided him on the angles and perspective to show [REDACTED]'s condition more clearly. Mr. [REDACTED] then submitted eight additional photographs, and a video, on September 21, 2017. These new photographs, although acknowledged by the adjudicator and included in the Request for Reconsideration package, were not referred to in the decision. Again, no written opinion on this new evidence is available from the HAB consulting physiotherapist.

Off the Shelf Commercial Footwear

On 2017-08-02, five months after the photographs were submitted as requested, the adjudicator notes

Phone call made to supplier and requested quote for off the shelf orthopaedic footwear. Adjudicator overview [REDACTED] Page 1

In addition to the disregard for the client's physician and physiotherapist's request, the focus of the decision is that [REDACTED] is able to wear a cheaper, "off the shelf commercial shoe". This appears to be recommended by the HAB consulting physiotherapist who requested a quote for off the shelf commercial footwear from the

supplier (████████). The supplier indicates that they do not provide off the shelf commercial footwear and recommends ██████████ in Powell River.

Attached, Appendix B, is a letter from the owner of ██████████ stating that he is unable to service ██████████'s needs with his inventory.

It is true that ██████████ tried to replace his boots with off the shelf orthopaedic footwear (#2) in August 2008. This option was not successful for ██████████. The shoes and orthotics did not fit properly. In addition, the orthotic went up the back of his calf to just below his knees. This restricted his mobility and made him walk awkwardly, having to lift his feet higher than normal. He was at a greater risk of falls and the orthotics were removed from the shoes. ██████████'s caregivers made three complaints to Ms. ██████████, his physiotherapist at time. ██████████ then went back to wearing his original custom made footwear, and continues to wear them now. It is for these custom made boots replacement that ██████████ requested approval from the Ministry.

████████ therefore submits that he meets Criterion 1(b)(iii) that the custom made footwear is the least expensive option available.

Criterion 2, Section 3.10(2) the minister is satisfied that the orthosis is medically essential to achieve or maintain basic functionality

████████ was denied on this criterion.

████████, the client's physiotherapist describes the medical need for the boots in question #2 of the Request and Justification form.

Boot provides ankle support, tapered sole to assist with toe off medial arch support (for exceptionally flat feet), and extra wide and built up toe box for wide forefoot and occasional toe drag in gait.

In question #3.D., the physical therapist states that

this client lives with CP [cerebral palsy]. Mobility is improved by the very boots ██████████ wishes to replace.

This comment supports the requirement of improving physical functioning that has been impaired by a neuro-musculo-skeletal condition.

In the adjudicator's explanation of this denial, reference again is made to the decision being made in

conjunction with the Health Assistance Branch's consulting physiotherapist. The information contained in the assessment identifies the client is able to fit commercial footwear, therefore, the minister is not satisfied that custom made footwear is essential to achieve or maintain basic functionality.

There is no assessment provided by the consulting physiotherapist. There is only a note under Physiotherapist Notes, Mar. 31, 2017 that photos were received and reviewed and that custom footwear was not justified. A second note under Sept. 13, 2017 states that

The supplier has stated client can fit commercial footwear and has recommended a place for purchase

The supplier is not one of the prescribed professionals under the Employment and Assistance for Persons with Disabilities Regulation Schedule C, Sections 3 and 3.10 who are able to make a recommendation on the need for medical equipment or devices. The recommendation from the client's medical practitioner **and** his physical therapist, should not be overruled by the supplier.

On November 30, 2017, [REDACTED] was assessed by Dr. [REDACTED], Doctor of Podiatric Medicine. Attached is her medical opinion in support of [REDACTED]'s need for custom made footwear. Please review Appendix C.

[REDACTED] therefore submits he meets Criterion 2.

Criteria 3: there are no resources available to the family unit to pay the cost of or obtain the supplies

[REDACTED] receives disability assistance as a sole recipient. In other words, he is the only person in his family unit. His only source of income is his disability assistance.

[REDACTED] therefore submits he meets Criterion 3.

Summary

It is clear that [REDACTED]'s request has been in progress for an extraordinary amount of time. The requests made of [REDACTED] and his caregivers appear beyond the normal scope of evidence required in order to decide in his favor. It is unclear why medical



professional opinions were challenged and overturned by a Ministry consulting medical professional who does not provide a detailed written report with reasons for refuting the client's medical evidence. I note that he has been wearing the same footwear for 20 years and is desperately in need of a replacement if his mobility and quality of life are to be maintained.

Based on [REDACTED]'s submissions above, he submits that he is eligible for custom made footwear under Schedule C of the *Regulation* because he meets all of the criteria set out in Schedule C.

Sincerely,

Joyce Percy
Legal Advocate

Enclosures:

MSDSI Request for Reconsideration form

MSDSI Decision letter by [REDACTED], dated October 10, 2017

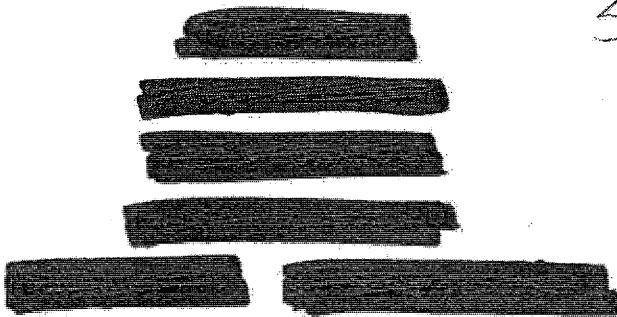
Appendix A – Letter to Reconsideration Branch requesting report, dated Nov 20, 2017

Appendix B - Letter from [REDACTED] of [REDACTED], dated Nov 22, 2017

Appendix C – Letter from [REDACTED], DPM, DABMSP, dated Dec 5, 2017

Appendix B

Supplier Support Letter



November 22, 2017

To Whom It May Concern:

I am offering my professional opinion regarding footwear for [REDACTED]

I do not feel I can meet the needs for [REDACTED] footwear requirements as per the physiotherapist prescription for:

- Boot with ankle support
- Tapered sole to assist with toe off
- Medial arch support (for exceptionally flat feet)
- Extra wide
- Built up toe box for wide forefoot and occasional toe drag in gait

I have also examined the boots that [REDACTED] is currently wearing and I am unable to replace them with a commercial, off the shelf boot.

I suggest that [REDACTED]'s footwear needs can best be met with a custom made boot.

Sincerely,

[REDACTED]
Owner

Appendix C

Specialist
Support
Letter

December 5, 2017

RE: [REDACTED]
DOB: [REDACTED]
PHN: [REDACTED]

To Whom It May Concern:

I had the pleasure of seeing [REDACTED] for a Podiatric Consultation in [REDACTED] on November 30, 2017.

[REDACTED] has a global diagnosis of Cerebral Palsy and Crohn's Disease, Autism Spectrum and is Legally Blind.

His Podiatric Diagnoses are:

1. Flat Foot Deformity
2. Hallux Abducto Valgus with Bunion deformity
3. Ankle Equinus
4. Drop Foot

He mobilizes primarily by wheel chair in which he frequently drags the front of his shoes causing excessive wear and unusual break-down pattern of the front (the "toe box") the shoe. This excessive wear and tear will destroy any athletic style or casual style leather/boot within weeks. When he does ambulate he needs a shoe with a stiff high back (Gusset) to help keep his ankle from flopping into a plantar-grade position. If this is not available, [REDACTED] will most likely sustained multiple falls and potentially lose any ability to ambulate.

[REDACTED] has tried modified Off-The-Shelf foot wear but this has proven to be ineffective at best, and at times, harmful.

It is my opinion that he requires a custom made boot with specialized reinforcement of the toebox and with a tall gusset (Upper). This is best for his mobility and his overall health as maintaining ambulation is vital to maintaining health and function. Additionally, this is best to prevent falls and further unnecessary injury/trauma for [REDACTED]. I believe given the longevity of a custom made boot and the potential fall risk without a custom made boot, this is a cost-effective item.

Respectfully submitted,

(15)

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: Jennifer Matthews
Together Against Poverty Society

Summary of Legal Issue:

The Ministry erred in recording an overpayment of \$35,000 for unreported earned and unearned income to Ms. Brandybuck's file for two reasons:

- (1) The Ministry miscalculated her total earned income in 2016 and 2017
- (2) The Ministry failed to consider the applicable limitation period outlined in s. 86.1 of the *Financial Administration Act* in applying an overpayment for child support received

Summary of Facts:

Ms. Brandybuck is a single recipient of PWD assistance. She provides fulltime care to her granddaughter, and has a couple casual jobs to supplement her PWD income.

Ms. Brandybuck left an abusive partner 15 years ago and was a single parent to her son. She filed for child support in 2005 and began receiving payments through the Family Maintenance Enforcement Program (FMEP) in 2008. She continued to receive child support arrears through FMEP even after her son moved out in 2011. Her payments were discontinued in 2017.

In the fall of 2017 the Ministry initiated a compliance review of Ms. Brandybuck's file and determined she received PWD assistance she was not entitled to for unreported earnings in 2016 and 2017 and unreported child support from 2008 to September 1, 2015. The alleged overpayment applied to her file totalled approximately \$35,000.00. Ms. Brandybuck disagreed with the Ministry's decision and requested a reconsideration.

Substantive Arguments:

- 1) The Ministry miscalculated Ms. Brandybuck's earnings in 2016 and 2017
 - Included deposits to her account that were not earnings, but rather gifts, therefore total earnings for purpose of annualized earnings exemption was miscalculated
- 2) The Ministry failed to apply limitation period outlined in s. 86.1 of the *Financial Administration Act* in attempting to collect on debt owed for child support
 - Limitation period established under the *Financial Administration Act* is applicable as neither the *Employment and Assistance for Persons with Disabilities Act* nor *Regulation* establish an alternative
 - S. 86.1 of the *Financial Administrative Act* sets out the government has 6 years from the date of discovery to make a claim against a debtor

- S. 8 of the *Limitation Act* sets out that the date of discovery is the first day the plaintiff knew or reasonably ought to have known about the loss
- Despite not reporting, the Ministry ought to have reasonably known it had a claim against Ms. Brandybuck through information shared between FMEP and the Ministry through monthly "FM Discrepancy Report" which highlighted any discrepancies between maintenance information on file with the Ministry and FMEP.
- As the limitation period commences on the day of discovery, and extends for 6 years from this date for government claims, submitted that any overpayment calculated in months prior to October, 31 2011 (6 years prior to the date the overpayment was determined) are no longer within the limitation period, and therefore cannot be enforced through judicial/non-judicial remedies as per the *Limitation Act*

Reconsideration Outcome:

Ministry stated was unaware of child support through FMEP; Ms. Brandybuck identified she experienced abuse from her previous partner, and as a practice the Ministry does not request clients pursue child support in these circumstances. Ministry stated she would have pursued child support through FMEP without its instruction, therefore Ministry would not have had access to her FMEP information.

Despite this, MSDPR found that \$20,000 of the \$35,000 debt would not be collected on, and cited the limitation period as the reason why.

Challenges and Lessons Learned from the Case:

- Working with unfamiliar legislation (*Limitation Act* and *Financial Administration Act*)



302 – 895 Fort Street, Lekwungen Territories, Victoria, BC, Canada V8W 1H7
Tel: (250) 361-3521 Fax: (250) 361-3541 Web: www.tapsbc.ca

2 January 2018

Request for Reconsideration: Ms. Estella Brandybuck

Issue: Ms. Brandybuck submits that the Ministry of Social Development & Poverty Reduction (the "Ministry") erred in recording an overpayment of \$35,000.00 to her file as it miscalculated her earnings in 2016 and 2017. She further submits that in making a claim based on undeclared child support payments from 2008, the Ministry failed to consider the applicable limitation period outlined in s. 86.1 of the *Financial Administration Act*. As such, Ms. Brandybuck requests the Ministry reconsider its decision to record the aforementioned overpayment to her file.

Relevant Legislation:

Employment and Assistance for Persons with Disabilities Regulation

1 (1) In this regulation:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

Schedule B

Annual exemption — qualifying income

3 (1) In this section:

"qualifying income" means

- (a) earned income, except the deductions permitted under section 2, and
- (b) unearned income that is compensation paid under section 29 or 30 of the Workers Compensation Act;

Financial Administration Act

Limitation period for government claims

86.1 (1) In this section:

"claim" has the same meaning as in the Limitation Act;

Supported by:

*The Law Foundation of British Columbia, United Way of Greater Victoria,
Province of British Columbia,
The Provincial Employees Community Services Fund,
and other generous donors.*

"government claim" means a claim in debt, or any other claim for payment or recovery of money in a specified or ascertainable amount, by

- (a) the government,

"limitation period" has the same meaning as in the Limitation Act;

(2) Subject to subsection (3), the Limitation Act applies to government claims, and, for that purpose,

- (a) a reference to a claim in that Act is deemed to be a reference to a government claim, and
- (b) the references in section 6 of that Act to 2 years and a 2 year limitation period are, when applied to the government claim, deemed to be references to 6 years and a 6 year limitation period respectively.

(3) Subsection (2) does not apply to a government claim for which a limitation period has been established under an enactment other than the Limitation Act.

Limitation Act

General discovery rules

8 Except for those special situations referred to in sections 9 to 11, a claim is discovered by a person on the first day on which the person knew or reasonably ought to have known all of the following:

- (a) that injury, loss or damage had occurred;
- (b) that the injury, loss or damage was caused by or contributed to by an act or omission;
- (c) that the act or omission was that of the person against whom the claim is or may be made;
- (d) that, having regard to the nature of the injury, loss or damage, a court proceeding would be an appropriate means to seek to remedy the injury, loss or damage.

Background:

1. Ms. Brandybuck has been designated a Person with a Disability ("PWD") by the Ministry. She suffers from post-traumatic stress disorder resulting from her experiences of long-term abuse by her former partner. As a single mother, Ms. Brandybuck received PWD assistance for both her and her son until his 19th birthday in July 2011. Ms. Brandybuck has continued to receive PWD assistance as a single recipient since her son was taken off her file.
2. In the fall of 2017 the Ministry conducted a compliance review of Ms. Brandybuck's file to determine past and present eligibility for PWD assistance. The Ministry reviewed Ms. Brandybuck's bank statements, pay stubs, and information supplied by the Family Maintenance Enforcement Program (FMEP).
3. On October 31, 2017 the Ministry recorded an alleged overpayment of \$35,000.00 to Ms. Brandybuck's file. The Ministry determined that this overpayment was in-part due to earnings that exceeded Ms. Brandybuck's annual earnings exemption (AEE) in 2016 and 2017, resulting in an overpayment of \$5,000.00. The remaining \$30,000.00 of the overpayment was calculated on the basis of child support payments/arrears Ms. Brandybuck received for her son between 2008 and 2016.

4. On October 31, 2017 the Ministry drafted two letters to Ms. Brandybuck. The first letter outlines the overpayment amount and includes the "Overpayment Notification" which advises Ms. Brandybuck that the overpayment amount is a debt to the government that will be repaid "by deducting a sum of money each month from assistance [she receives] from the government...[and] the minimum amount that will be deducted from [her] assistance to repay this debt is \$10.00 per calendar month" (para. 2).
5. The second letter from the Ministry advises Ms. Brandybuck that the Ministry has applied a \$25.00 sanction to her file in accordance with s. 28.1 "Consequences of providing inaccurate or incomplete information" of the *Regulation*. As this is the first occurrence on Ms. Brandybuck's file, the sanction was applied for 3 months. Ms. Brandybuck is not appealing the application of this sanction.
6. Ms. Brandybuck met with Jennifer Matthews, legal advocate at Together Against Poverty Society (TAPS), on November 24, 2017. Ms. Brandybuck did not have copies of the documents provided to the Ministry as part of her review. It was therefore suggested that she request a reconsideration of the Ministry's decision so the information could be reviewed to verify the overpayment amount.
7. Ms. Brandybuck's and her legal advocate attempted to call the general Prevention Loss Management Services (PLMS) on November 24, 2017 to request a reconsideration, but was disconnected from the line.
8. Ms. Brandybuck's advocate requested a reconsideration on her behalf on November 29, 2017. The request for reconsideration form was received November 30, 2017. The deadline on the request for reconsideration form had been incorrectly set to November 28, 2017. Ms. Brandybuck's advocate contacted the Acting Director of Reconsideration and Appeal, Melissa Bauer, regarding this error on the same day. A copy of the signed request for reconsideration form was submitted to the reconsideration branch the following day.

Submissions:

9. Ms. Brandybuck will address both of the aforementioned overpayments totalling \$35,000.00 in the below sections.

Overpayment for earnings over the AEE

10. Ms. Brandybuck submits that the Ministry erred in calculating an overpayment of \$5,000.00 for earnings that exceeded her AEE in 2016 and 2017 as the Ministry miscalculated her total earnings during each calendar year.
11. S. 1 of the *Employment and Assistance for Persons with Disabilities Regulation* (the "Regulation") sets out the definition of "earned income" for the purposes of calculating a family unit's income. This includes money or value received in exchange for work or the provision of a service, refunded pension contributions where the contributions are insufficient to create a pension, and money or value received from providing room and board or renting rooms.
12. In the calculation of Ms. Brandybuck's net earned income for 2016 the Ministry included a \$6000.00 deposit made to her bank account on April 16, 2016, which far exceeds her typical

monthly earnings.

13. Ms. Brandybuck advises that this money was a gift from a friend to help her and her granddaughter, who, until this fall, lived with Ms. Brandybuck fulltime.
14. It is submitted that this money does not meet the definition of earned income as per s. 1 of the *Regulation*. Schedule B s. 3(1) outlines that only earned income and compensation payment under s. 29 or 30 of the *Workers Compensation Act* are qualifying income for the purposes of the AEE. It is therefore submitted that this gift should not be included in the calculation of Ms. Brandybuck net earnings for 2016.
15. Without this deposit, Ms. Brandybuck's earnings for 2016 totalled \$9,200.00, well under her AEE of \$9,600.00.
16. It is therefore submitted that the Ministry erred in recording an overpayment of \$3,000.00 to Ms. Brandybuck's file for assistance received from October 2016 to February 2017, as her earnings had not exceeded her AEE.
17. Likewise, in the calculation of Ms. Brandybuck's total earned income for 2017, the Ministry included a deposit of \$2,500.00 made to her account on April 22, 2017. Ms. Brandybuck advises that this money was also a gift from a friend to assist her with the cost of securing counsel as Ms. Brandybuck has applied for guardianship of her granddaughter. She has provided a copy her statement from [REDACTED] dated April 30, 2017.
18. It is therefore submitted this deposit should also be excluded from the calculation of her net earnings in 2017 as it does not meet the definition of earned income.

Unreported child support

19. We submit that provisions in the *BC Limitation Act* and *Financial Administration Act* prevent the Ministry from collecting on the full overpayment recorded to Ms. Brandybuck's file for undeclared child support, as the overpayments calculated to her file in months prior to October 31, 2011 no longer fall within the 6 year limitation period for government claims set out in s. 86.1 of the *Financial Administration Act*.
20. We submit that the limitation period established under the *Limitation Act* and *Financial Administration Act* is applicable to the claim made by the Ministry against Ms. Brandybuck for undeclared child support as neither the *Employment and Assistance for Persons with Disabilities Act* nor *Regulation* establish an alternate limitation period.
21. As per s. 8 of the *Limitation Act*, the limitation period commences from the date of discoverability – the first day the plaintiff knew or reasonably ought to have known about the loss, the act or omission resulting in the loss, and that remedies available to rectify the loss.
22. We submit that the Ministry ought to have reasonably known it had a claim against Ms. Brandybuck for undeclared child support payments in February 2008, the month following her first child support payment. We further submit that for each month she received child support, the Ministry would have been made aware of the payment in the subsequent month.

23. Prior to the introduction of the child support exemption on September 1, 2015, the Ministry retained "the right to receive payment under" and "the right to enforce a maintenance agreement or maintenance order" under s. 18 of the *Regulation*. Due diligence on the part of the Ministry to exercise this right required the Ministry to obtain information about client's maintenance payments from the FMEP on a regular basis. The legislative authority for the regular sharing of client's maintenance information was outlined in s. 21(b) of the *Regulation*, which authorized the director of maintenance enforcement to provide the minister with "any information that affects eligibility for disability or hardship assistance" and "information about the payment, monitoring or enforcement of the assignor's maintenance order". Information from the FMEP was shared with the Ministry through the monthly "FM Discrepancy Reports", which highlighted any discrepancies between the maintenance information on file with the Ministry, and that on file with the FMEP.
24. The Ministry was aware that Ms. Brandybuck was a single mother, as she received PWD assistance for both her and her dependent son prior to 2011, and therefore would have had knowledge that she was likely entitled to child support payments. Ms. Brandybuck had also enrolled in the FMEP prior to February 2008, and therefore received all child support payments through FMEP.
25. It is therefore submitted that the Ministry ought to have reasonably known about Ms. Brandybuck's child support payments through the monthly "FM Discrepancy Report". Due diligence to act upon the right to receive payment from and enforce maintenance orders made necessary the collection and monitoring of client maintenance information. Had the Ministry acted diligently, it reasonably ought to have known of its claim against Ms. Brandybuck in February 2008, as well as for each subsequent month she received child support payment.
26. As the limitation period commences on the day of discovery, and extends for 6 years from this date for government claims, we submit that any overpayment calculated in the months prior to October, 31 2011 are no longer within the limitation period, and therefore cannot be enforced through judicial or non-judicial remedies as per the provisions in the *Limitation Act*.

Conclusion

27. As set out above, we submit that the Ministry has erred in both the calculation of the overpayment recorded to Ms. Brandybuck's file due to the inclusion of deposits into her bank account that do not meet the definition of earned income. We also submit that provisions in the *Limitation Act* and *Financial Administration Act* preclude the Ministry from making a claim and collecting on the overpayments incurred for child support received prior to October, 31 2011.
28. We therefore submit that the Ministry had erred in recording an overpayment of \$35,000.00.

Sincerely,

Jennifer Matthews – Legal Advocate
Together Against Poverty Society

SECTION 1 and 2 TO BE COMPLETED BY WORKER

SR NUMBER [REDACTED]

SECTION 1-REQUESTOR INFORMATION

REQUESTOR'S NAME [REDACTED]

CASE NUMBER [REDACTED]

REQUESTOR'S ADDRESS [REDACTED]

SECTION 2 DECISION TO BE RECONSIDERED

On October 31, 2017 the Ministry completed a review of your file and determined that you were provided Disability Assistance for which you were not eligible for. The decision was made that an overpayment had occurred due to undeclared earned income and undeclared unearned income.

On August 15, 2017 you submitted bank statements from your [REDACTED] account for the period of June 30, 2015 to August 9, 2017. Your bank statements show that you received employment income during this time period and the Minister has determined that you failed to accurately declare all employment income. You submitted pay stubs for two employers: 1) [REDACTED] and 2) [REDACTED] which correlate to deposits found in the [REDACTED] statements you submitted. You also informed the Ministry that you have been cooking food for an individual who deposits funds into [REDACTED] account for your services, which the Ministry determines is earned income. For the assistance months of [REDACTED] you exhausted your Annual Earnings Exemption of \$9,600 in October 2016, which resulted in an overpayment from October 2016 to February 2017. For the assistance months of [REDACTED] you exhausted your Annual Earnings exemption of \$12,000 in August 2017, which resulted in an overpayment from August 2017 to October 2017. The total overpayment for this period of time is [REDACTED].

On September 6, 2017 you submitted a statement of payments disbursed from Family Maintenance showing unearned income that you received for child support. You failed to declare that you were in receipt of this unearned income from [REDACTED] which resulted in an overpayment as income for child support was not exempt during this period of time. As per Ministry policy, child support is exempt as of September 1, 2015, meaning any child support income received from July 2015 to our current date is exempt. The total overpayment for this period of time is [REDACTED].

On October 31, 2017, the Ministry completed an overpayment appointment with you via telephone. Your total overpayment and all applicable charts and evidence were discussed. You were advised of your right to Reconsideration and the 20 business day time line (November 28, 2017) in order to pursue. You refused the Reconsideration at that time.

On November 29, 2017 your advocate Jennifer Matthews requested a reconsideration of this overpayment decision. Though outside the time line, this Reconsideration package has been prepared for you.

THE ACT AND / OR REGULATIONS THAT APPLY TO THIS DECISION ARE:

As per Section 11 of the Employment and Assistance for Persons with Disabilities Act, you failed to comply with sections (1) (a) (i) (ii) (b) (i) (ii) (2) as you have failed to accurately report income that you received.

As per Section 18, Subsection (1) of the Employment and Assistance for Persons with Disabilities Act, you are liable to repay to the government the amount or value of the overpayment which was incurred during the time period you received assistance that you were not eligible for.

As per Section 19, Subsection (1) of the Employment and Assistance for Persons with Disabilities Act, the amount that you are liable to repay under this Act is a debt due to the government. This may be deducted from any subsequent disability assistance for which you are eligible or from an amount payable to the person by the government under a prescribed enactment.

**EMPLOYMENT AND ASSISTANCE
REQUEST FOR RECONSIDERATION**

MONTH DECISION EFFECTIVE (YYYY-MMM-DD)

2017-Oct-31

DATE REQUESTOR INFORMED OF DECISION (YYYY-MMM-DD)

2017-Oct-31

RELEVANT DATES:

DATE REQUESTOR MUST SUBMIT FORM BY (YYYY-MMM-DD)

2017-Nov-28

APPENDIX A – RECONSIDERATION DECISION

All the information relevant to your request has been reviewed. The minister has determined that you have received assistance of [REDACTED] which you were not eligible to receive for August and September 2017 as a result of failing to declare employment earnings and [REDACTED] assistance which you were not eligible to receive for the period of [REDACTED] to August 2015 for failing to declare maintenance income. However, \$20,373.44 of this overpayment of assistance will not be collected.

You are a sole recipient with Persons with Disabilities (PWD) designation since October 1, 2004.

Your file re-opened on March 30, 2004.

On October 31, 2017 the ministry advised you that you received an overpayment of assistance totalling \$[REDACTED] for the period of [REDACTED] to [REDACTED] for failing to declare maintenance income that was not exempt from your disability assistance. You were also advised that you received an overpayment of assistance totalling \$[REDACTED] for the period of [REDACTED] 2016 to [REDACTED] 2017 for failing to declare employment income.

On December 1, 2017 you submitted a Request for Reconsideration and were approved an extension.

Legislation

The Employment and Assistance for Persons with Disabilities (EAPWD) Regulation defines "earned income" as any money received in exchange for work or the provision of a service.

"Unearned income" means any income that is not earned income, and includes without limitation, maintenance under a court order, a separation agreement or other agreement.

Schedule B of the EAPWD regulation clarifies how net income is calculated for the purposes of determining eligibility for disability assistance. Section 1(c) states all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4. Sections 1, 6, 7, 7.1 and 8 list the deductions and exemptions from unearned income that are permitted for the purposes of calculating net income. Prior to September 1, 2015, maintenance income was not included as an amount that may be deducted or exempted.

Schedule B section 3 of the EAPWD Regulation clarifies the annual exemption for earned income. Prior to October 1, 2017 a sole recipient with Persons with Disabilities designation, had a base exemption rate of \$800. If the recipient had been in receipt of assistance for all of 2016 and had PWD designation all of 2016, they were eligible to receive the maximum earnings exemption limit of \$9600. This exemption rate continued into the 2017 calendar year. However, effective October 1, 2017, the base exemption rate for a sole recipient changed to \$1000 per month and if the recipient had PWD designation all of 2017, they were eligible for an additional \$2400 earnings exemption beginning October 1, 2017 for the remainder of the 2017 calendar year (even if the recipient had already exhausted the \$9600 earnings exemption rate prior to October 2017.)

Section 24 of the EAPWD Regulation states that a person's income (calculated under Schedule B of the Regulation), must be deducted from their disability assistance (calculated under Schedule A of the Regulation).

Section 9(2) of the Regulation states a family unit is not eligible for assistance if the net income of the family determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit.

Section 11 of the Employment and Assistance for Persons with Disabilities (EAPWD) Act state for a family unit to be eligible for disability assistance, a recipient must submit a form and notify any change in circumstances or information that may affect the eligibility of the family unit and signed by the recipient.

Section 29 of the EAPWD Regulation states the report must be submitted on the 5th of each month and the information required includes changes in the family unit's assets, all income received and the source of the income.

Under section 18 of the EAPWD Act, if disability assistance is received by a person who is not eligible for it, that person must repay the government the amount or value of the overpayment provided for that period.

Under section 19 of the EAPWD Act, the amount that a person is liable to repay may be deducted from any subsequent disability assistance.

Decision

With the information provided with your Request for Reconsideration advising that the \$5000 deposit into your account on [REDACTED] the minister determines that this amount is considered "unearned income" and is exempt from your net income calculation. Therefore the minister has determined that you did not receive an overpayment of assistance in 2016 as a result of exhausting your AEE limit of \$9600. In fact at the end of 2016 you still had [REDACTED] remaining from your AEE limit.

However the minister finds you received an overpayment of assistance of [REDACTED] for receiving August and September 2017 which you were ineligible to receive because you had exhausted your \$9600 AEE limit. It is important to note that the minister did not include the \$2500 payment you received as a gift on [REDACTED] into your net income calculation. The minister calculates your eligibility for an earnings exemption for 2017 as follows:

In addition, the minister finds that you received an overpayment of assistance totalling \$3 [REDACTED] for failing to declare the maintenance income you received from [REDACTED] to [REDACTED]. Although your advocate notes the ministry should have been aware of your maintenance income through the "FMEP Discrepancy Report", it is important to note that the ministry was not aware you had obtained an order/agreement or that you had enrolled it with the Family Maintenance Enforcement Program. In fact, to date, the ministry has never seen a copy of the order/agreement. Since you had identified to the ministry that you had experienced abuse from your former partner, the ministry did not pursue maintenance as it is not the ministry's practice to do so when violence is a concern. Therefore, you would have acted on your own behalf to pursue an order and enforce it with the FMEP program without the ministry's involvement and as such, the ministry was unable to receive information from FMEP regarding payments because the ministry did not have the maintenance order/agreement information put into the ministry's system in order to link up with the FMEP's system. It was your responsibility to declare any changes that affected your eligibility for assistance to the ministry in accordance with Section 11 of the EAPWD Act and Section 29 of the EAPWD Regulation.

However, although you have received an overpayment of assistance totalling 3 [REDACTED] for failing to declare maintenance income from [REDACTED] to [REDACTED] the amount from [REDACTED] to [REDACTED] totalling \$20,373.44 will not be collected due to the limitation period.

Accordingly, you received assistance from [REDACTED] 2012 to [REDACTED] 2015 totalling \$9 [REDACTED] which you were ineligible to receive and \$2 [REDACTED] for August and September 2017 which your were ineligible to receive. Therefore you are required to repay \$11, [REDACTED] back to the ministry in accordance with Section 18 of the EAPWD Act.

I trust this information will be useful in your understanding of the ministry's decision.

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: *Annette Murray*
from Disability Alliance BC

Summary of Legal Issue:

Seventy-five year old man with stroke and arthritis on the Ministry's Medical Services Only was denied repairs to his motorized wheelchair.

Summary of Facts:

Man with stroke and arthritis, age 75 on Medical Services Only. During the time of the wheelchair damage, the client lived at a private care hospital; at the time of the reconsideration decision he had just moved into an assisted living facility. The client is very active following his medical care plan and relies on a motorized wheelchair to get around. The Ministry cited as a reason for denial the Ministry's belief that the client had misused his wheelchair and also that the client's wheelchair had needed a previous repair, a situation that the Ministry had also attributed to misuse of the wheelchair. The client won on the basis of two strong letters from his professional caregivers.

Steps taken and outcome at each step:

Enclosed please find:

- Decision to deny
- Letters I wrote to two of the client's professional caregivers to solicit support
- Reconsideration submission including argument and letters from two client caregivers
- Reconsideration decision - successful

What was challenging about this case:

Restraining my anger that the Ministry had chosen to believe the wheelchair vendor/repairer rather than consulting the client's care team about the client's use of the wheelchair. I wondered how many people have been bullied and not had there wherewithal to fight back.

Lessons learned from this case:

I believe the root of this case grows out of the long-standing retrogressive policy in BC of government failing to provide sufficient support for adults with disabilities to access medically essential equipment and devices.

The social services Ministry has not increased Schedule C coverage for most items, including motorized wheelchairs and repairs to them, for many years. Since 2002 I think. As a result, the profit margin for BC vendors of medical equipment has been negatively impacted they are taking action to reduce their losses and Ministry clients are feeling the pain. Only a few years ago, if a Ministry client's motorized wheelchair or scooter needed repairs, the Ministry agreement with the vendor provided that the vendor had to supply a loaner wheelchair or scooter to the Ministry client until their wheelchair or scooter was repaired. Repairs were done in a relatively timely fashion. Also until a few years ago, vendors kept some parts in their stores so repairs could be done faster, without the need to order replacement parts from China or elsewhere. Because Ministry coverage of these devices is now so low relative to before, the Ministry can no longer press vendors to provide loaner equipment to clients and vendors save money by not storing many parts on site but ordering them as needed. Clients fortunate to get replacement equipment during repairs often find the equipment is unsafe. Vendors have become very resistant to doing repairs and in the past several years there is a notable pattern of vendors trying to blame Ministry clients for not taking care of their equipment even when this is clearly not true, as in this case.

Not only Ministry clients but all BC citizens with disabilities are grappling with increasingly poor service and poor attitudes from vendors of medical equipment. The medical equipment industry is a cartel and there is no watchdog. And BC is the only province in Canada that does not assist low to moderate income families not otherwise covered with costs of medically necessary equipment and devices. BC ties the help to eligibility for PWD or PPMB or needing the equipment in order to work. Not everyone with a disability can work.

Most work-related insurance policies provide only one wheelchair, scooter or motorized lift per lifetime, for example. An advanced motorized wheelchair with lift can cost upwards of \$20,000. I'm sure we have all taken calls from low to moderate income adults of all ages with disabilities whose CPP or other income, perhaps from their spouse, is too high for them to be eligible for PWD benefits. Even if person's income is extremely low, their medical team may not be willing to state that their need for the wheelchair, scooter or lift, for example, meets the Ministry test of *direct and imminent life threatening health need*. The only alternative sources of coverage for most people (excluding Veterans or Status First Nations folks) are BC Rehab Foundation, MS Society and Muscular Dystrophy Canada and their grants are extremely small.

The cost of medical equipment is so high that many people purchasing equipment on their own have tried to save money by trialling equipment from vendors and then purchasing the equipment cheaper online. You can't blame the would-be purchasers as the equipment is extremely expensive. However, but vendors suffered significant financial losses from this "showrooming" because it's costly to trial equipment in people's homes.

Consequently, vendors in BC organized themselves into the Home Medical Equipment Dealers Association of BC (HMEDA for short), and now charge substantial deposits for in-home equipment trials. When asked what happens in other provinces, HMEDA reported BC is the only province in Canada where such arrangements are necessary because BC is the only province in Canada that does not assist with people with disabilities with coverage for the equipment. So people with disabilities can no longer access cheaper online equipment unless they are willing to risk purchasing the wrong equipment and doing themselves physical harm as a result. And repair service is increasingly very poor. There is no industry watchdog and people with disabilities needing medically essential equipment are at the mercy of an unregulated cartel selling something they cannot live without.



August 18, 2016

SR #: **[REDACTED]**

Case #: **[REDACTED]**

Dear [REDACTED]

Requested Health Supplements:

| Product | Description |
|-------------------------|--|
| Power Wheelchair Repair | Labour, 3 Hours, Walking Beam Kit (Right & Left), Lower Pivot Pivot Kit, Kit Hardware, Pivot Link, Cylinder Locking Gas and Mount Hardware |

I am responding regarding your application for Health Supplements.

After thorough and careful consideration of your application, I regret to inform you that the ministry has denied your request for Health Supplements. After reviewing your application, the ministry determined that you did not meet the eligibility criteria for this Health Supplement. Details of the reasons for the ministry's decision are attached.

The ministry recognizes that assessing eligibility can be a complex and sensitive issue and that differences in opinion may arise. If you disagree with this decision, you have the right to request reconsideration. You must file your written request for reconsideration with your local ministry office within 20 business days of receiving this letter. Please contact your local ministry office to obtain your request for reconsideration form. A reconsideration is your opportunity to submit any new information regarding your request. Attached is a reconsideration brochure. For more information about the reconsideration and appeal process, you may call your local ministry office or visit the ministry website at:

http://www.gov.bc.ca/mesa/online_resource/decisions_reconsideration_and_appeal/

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and *Regulations*, and the *Employment and Assistance for Persons with Disabilities Act* and *Regulations*.

Ministry of Social Development and Social Innovation 070 - HEALTH ASSISTANCE BRANCH PO BOX 9971 STN PROV GOV VICTORIA, BC V8W 9R5 Phone: (250) 412-2200
Fax: (855) 771-8785



If you have any questions or require clarification, please contact your local Employment and Assistance office or call 1-866-866-0800.

Sincerely,

JESTROM
Ministry Worker

The Ministry of Social Development and Social Innovation operates under the authority of the *Employment and Assistance Act* and Regulations, and the *Employment and Assistance for Persons with Disabilities Act* and Regulations.

Ministry of Social Development and Social Innovation 070 - HEALTH ASSISTANCE BRANCH PO BOX 9971 STN PROV GOV VICTORIA, BC V8W 9R5 Phone: (250) 412-2200 Fax: (250) 412-2250



MINISTRY OF SOCIAL DEVELOPMENT

HEALTH ASSISTANCE BRANCH

SR: [REDACTED]
Case [REDACTED]**DENIED****Medical equipment and devices decision summary****- Wheelchair Repair**

| | |
|---|---|
| 3 (6) | Not Applicable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| - For the requested replacement under subsection 3, or repairs under subsection (4) or (5); does the minister consider that the medical equipment or device was damaged through misuse? | |
| Explanation: The client received a Power Wheelchair in June 2013. The ministry provided a detailed letter highlighting the client's care and responsibility agreement with Ministry funded medical equipment with clear notice that future funding requests for repairs caused by misuse or abuse would not be funded. | |
| In December 2015, the Health Assistance Branch funded \$2,521.92 in repairs to the client's wheelchair, which included motor assemblies for left and right sides. The client has been sent warning letters, December 1, 2015 and June 7, 2016, regarding abuse of his wheelchair, stating future repairs due to abuse or neglect will not be covered by the ministry. Client was denied repairs to his power wheelchair in July 2016 due to misuse and not taking care when operating his power mobility device. Information provided to the ministry indicates that the client advised the supplier that he was "driving down the beach and something fell out from the left side of wheel/caster". This request has been denied as it does not appear that the client has taken any preventative steps to ensure that care is taken when operating his power mobility device. | |
| 3.2 (2) Is the item requested; | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| - a wheelchair; repair - an upgraded component of a wheelchair; - an accessory attached to a wheelchair. | |
| 3.2 (3) | Not Applicable <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| - Has it been greater than 5 years since the minister last provided the item being replaced? | |

DECISION

Have all criteria been met?

No

Provide decision rationale:

| |
|--|
| The information provided has not established that all the regulatory criteria have been met. |
|--|

Details on eligibility criteria can be found on the ministry's Online Resource Policy Manual
at: http://gov.bc.ca/mesa/online_resource

| | | | |
|-------------|---------|------|-----------------|
| ADJUDICATOR | JESTROM | DATE | August 18, 2016 |
|-------------|---------|------|-----------------|

SelfCare Home Health Products

CS-000740
 43 West 6 Avenue
 Vancouver, BC V5Y 1K2
 Phone 604-872-5800 Fax 604-872-8388
 Email: infovan@selfcarehome.com

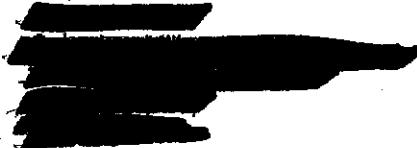
Attention:

Fax: 1-855-771-8785

QUOTATION

DATE: August 17, 2016
 FOR: Powerchair Repair

Ship to:



4

| DESCRIPTION | QTY | UNIT PRICE | TOTAL | DISCOUNT |
|--|-----|------------|-----------|-----------|
| Repair Labour | 3 | \$ 80.00 | N/A | \$ 240.00 |
| Walking beam kit, right | 1 | \$ 156.00 | \$ 156.00 | \$ 149.76 |
| Walking beam kit, left | 1 | \$ 156.00 | \$ 156.00 | \$ 149.76 |
| Lower pivot | 1 | \$ 125.00 | \$ 125.00 | \$ 120.00 |
| Pivot kit | 1 | \$ 125.00 | \$ 125.00 | \$ 120.00 |
| Kit hardware, pivot link | 2 | \$ 25.75 | \$ 51.50 | \$ 49.44 |
| Cylinder locking gas | 2 | \$ 332.00 | \$ 664.00 | \$ 637.44 |
| Cylinder locking gas - mounting hardware | 2 | \$ 18.00 | \$ 36.00 | \$ 34.56 |
| TOTAL | | | | 500295 |

TDX SP Powerchair, Purchased 07/07/13, S/N: 12AE002752

Client called needed an emergency repair. He was driving down the beach and something fell out from his left side wheel/caster. Not much details given. Upon further check of the chair, tech found that it needs extensive repair. Chair is temporarily fixed to be safely use, but no parts will be installed until this quote and the previous quote (sent July 6, 2016) is approved.

Above quote is in accordance with CS-000740.

If you have any questions concerning this quotation please contact Julie Carcha at 604-872-5800.



we are all
connected

tel 604.872.1278
toll Free 1.800.863.1278

Advocacy Access Program

October 4, 2016

Fax: 604-731-6056

[REDACTED]

Dear [REDACTED]

Re: [REDACTED] – Denied repair expenses for wheelchair

[REDACTED] has been denied coverage for wheelchair expenses by the Ministry of Social Development and Social Innovation. The MSDSI alleges that Rod has been misusing his wheelchair thus incurring exceptional repair expenses.

The ministry has sent [REDACTED] two letters warning him that they would not pay for further wheelchair repairs because he is damaging his wheelchair by jumping over curb lines and rocks. [REDACTED] says this is not true.

As you know [REDACTED] takes the bus and SkyTrain five days a week to use the Pearson Hospital pool for therapy. He says there has been a problem on the bus with the wheelchairs power-to-manual switch located on the right side of the wheelchair bumping into the inside wall of the bus when he situates himself in either of the wheelchair area of the bus. [REDACTED] says he requested that SelfCare Home Health make a slight alteration to the chair to shield that switch but SelfCare said that was not possible.

I am wondering if you can shed any light on this situation and would like to speak with you over the phone about it. I will phone you later today. I am out between 12 and 1 and leave at 4 pm.

Thank you for taking time to read this letter and consider this request.

Respectfully,

Annette Murray

Annette Murray, Advocate

Since 1977 | DABC is a registered non-profit society with charitable tax status
Feedback@disabilityalliancebc.org | www.disabilityalliancebc.org | Fax 604.875.9227
TTY 604.875.8835 | 204-456 West Broadway, Vancouver, BC V5Y 1R3
Follow us on Facebook and Twitter



**we are all
connected**

**tel 604.872.1278
toll free 1.800.663.1278**

Advocacy Access Program

October 4, 2016

Dear [REDACTED]

Re: [REDACTED] - Denied repair expenses for wheelchair

[REDACTED] has been denied coverage for wheelchair expenses by the Ministry of Social Development and Social Innovation. The MSDSI alleges that [REDACTED] has been misusing his wheelchair thus incurring exceptional repair expenses.

The ministry has sent [REDACTED] two letters warning him that they would not pay for further wheelchair repairs because he is damaging his wheelchair by jumping over curb lines and rocks. [REDACTED] says this is not true.

As you know, [REDACTED] takes the bus and SkyTrain five days a week to use the Pearson Hospital pool for therapy. He says there has been a problem on the bus with the wheelchairs power-to-manual switch located on the right side of the wheelchair bumping into the inside wall of the bus when he situates himself in either of the wheelchair area of the bus. [REDACTED] says he requested that SelfCare Home Health make a slight alteration to the chair to shield that switch but SelfCare said that was not possible.

I am wondering if you can shed any light on this situation and would like to speak with you over the phone about it. I will phone you later today. I am out between 12 and 1 and leave at 4 pm.

Thank you for taking time to read this letter and consider this request.

Respectfully,

Annette Murray

Annette Murray, Advocate



EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

SECTION 1 and 2 TO BE COMPLETED BY WORKER SECTION 1 REQUESTOR INFORMATION

| | | | |
|---------------------|-------------------------|----------------------------------|-------------|
| REQUESTOR'S NAME | SOCIAL INSURANCE NUMBER | SR NUMBER | CASE NUMBER |
| [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| REQUESTOR'S ADDRESS | [REDACTED] | | |
| WORKER'S NAME | WORKER NUMBER | EMPLOYMENT AND ASSISTANCE OFFICE | |
| CNANDERS | 1-866-866-0800 | 070 - HEALTH ASSISTANCE | |

SECTION 2 DECISION TO BE RECONSIDERED

The Ministry has reviewed your request and considered all of the factors relevant to the eligibility criteria for Medical Equipment & Devices (power wheelchair repairs). Based on the information provided, your request has been denied.

In order to receive medical equipment and devices, you must be found eligible under the following legislation:

- Section 62 or 69 of the Employment and Assistance for Persons with Disabilities Regulation as well as Sections 3 and 3.1 to 3.12 of Schedule C

The information provided has not established that all regulatory criteria have been met. Specific details regarding the reasons for denial can be found in the attached Decision Letter.

The following attachments have been included which complete this reconsideration package:

- Request for Reconsideration
- All Documents Submitted with Your Original Request
- Decision Letter and Decision Summary
- Relevant Legislation
- Reconsideration and Appeal Process Brochure
- Advocacy Information

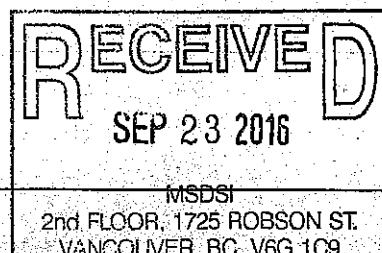
NOTE REGARDING EXTENSIONS: If you require an extension to complete your reconsideration, you must submit your request in writing with a signed copy of this form (section 4) no later than the due date indicated on this form below.

Generally a decision is mailed to you within 10 business days. A request for an extension can provide an additional 10 business days from the date you submit your signed Request for Reconsideration, therefore it is recommended that you submit your request just prior to the relevant due date, as the extension period may begin on the date the request for the extension has been submitted. If you request an extension of your reconsideration, please contact the ministry at 1-866-866-0800 after 48 hours to confirm if your extension was granted.

| | | | | |
|---------------------------------------|--|---------------------------------------|----------------------------------|--------------------------------------|
| ASSISTANCE / ELIGIBILITY HAS BEEN: | <input checked="" type="checkbox"/> DENIED | <input type="checkbox"/> DISCONTINUED | <input type="checkbox"/> REDUCED | <input type="checkbox"/> PWD RESCIND |
|---------------------------------------|--|---------------------------------------|----------------------------------|--------------------------------------|

THE ACT AND / OR REGULATIONS THAT APPLY TO THIS DECISION ARE:

- General Health Supplements – EAPWD Regulation, Section 62
- Wheelchairs - EAPWD Regulation Schedule C, Sections 3 and 3.2





Ministry of
Social Development
and Social Innovation

EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

MONTH DECISION EFFECTIVE (YYYY-MMM-DD)

2016-Aug-18

DATE REQUESTOR INFORMED OF DECISION (YYYY-MMM-DD)

2016-Aug-26

DATE REQUESTOR MUST SUBMIT FORM BY (YYYY-MMM-DD)

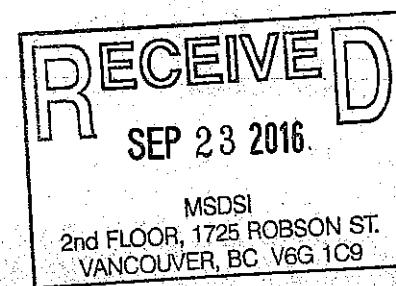
2016-Sep-26

DATE (YYYY-MMM-DD)

2016-Sep-23

EMPLOYMENT AND ASSISTANCE WORKER SIGNATURE

| | |
|--------------------|--|
| DATE (YYYY-MMM-DD) | EMPLOYMENT AND ASSISTANCE WORKER SIGNATURE |
| 2016-Sep-23 | |





SECTION 3 REASON FOR REQUEST FOR RECONSIDERATION

(TO BE COMPLETED BY THE REQUESTOR ONLY AFTER SECTIONS 1 AND 2 HAVE BEEN COMPLETED BY WORKER)

Oct 13, 2016 - Attached please find Section 3
argument + 2 letters from health professionals
Thank you.

SECTION 4 NOTICE OF REQUEST FOR RECONSIDERATION

(ATTACH ADDITIONAL PAGES IF REQUIRED)

(TO BE COMPLETED BY THE REQUESTOR)

IMPORTANT: The request to have the Ministry decision reconsidered must be submitted to your Employment and Assistance Office within 20 business days of when you receive the decision concerning eligibility. (see "Date Client Informed of Decision" box on page 1).

I hereby give notice that I am dissatisfied with the Ministry decision regarding my request for assistance or supplement and wish to exercise my right to request a reconsideration of this decision. I have attached all relevant documents I wish to have considered.

REQUESTOR'S SIGNATURE

DATE (YYYY-MMM-DD)

TELEPHONE

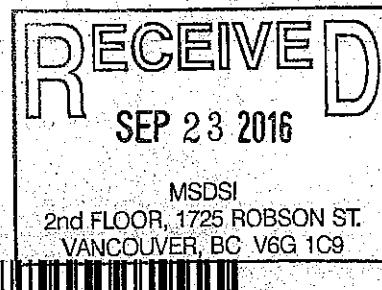
23 SEP 2016 (604) 733-7133

FOR MINISTRY USE ONLY:

REQUEST FOR RECONSIDERATION
TO BE REFERRED TO:

- Health Reconsideration Branch (HRB)
 Regional Office

Personal information on this form is collected under the authority of the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act* and the *Child Care Subsidy Act*. This information will be used to assess your request for a reconsideration of a decision. The disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. For more information about the collection, use and disclosure of this information, please contact your local Employment and Assistance Office.



[REDACTED] - Section 3 Reason for Request for Reconsideration

The Requestor submits that he did not misuse his wheelchair and therefore the ministry has authority to pay for the wheelchair repairs in the amount of \$1,500.96 per EA PWD Regulation Schedule C, Sections 3 and 3.2.

The 74 year old Requestor had a stroke and therefore must use a motorized wheelchair.

Attached please find two letters, one from his Case Manager at Three Bridges and the other from [REDACTED] Private Hospital where he lived from Nov 21, 2006 to August 2016 when he moved into assisted living at [REDACTED]. Both these parties know the Requestor well and have had ample opportunity to be involved with his care and observe him using the wheelchair.

[REDACTED] letter states that she has had no reports of the Requestor misusing his wheelchair and that she lived in the same neighbourhood as him and often saw him expertly navigating his wheelchair on and off the bus and around the neighbourhood.

[REDACTED], Director of Care at [REDACTED] hospital states in her letter that he has had problems with weight gain but does not abuse the chair in any way and uses it constantly.

The Requestor is a large man who uses his wheelchair a lot. For example, seven days a week he goes swimming at GF Strong Rehabilitation Centre's pool. Common sense dictates an expectation of wear and tear on a wheelchair used constantly by a big man. These two letters from health care professionals who know the Requestor well attest to his conscientious use of the wheelchair. The ministry should not take the word of Self Care Home Health Products over that of two medical professionals who have considerable knowledge of the Requestor's responsible use of the wheelchair.

Therefore, the Requestor did not misuse his wheelchair and the ministry has authority to pay for the wheelchair repairs in the amount of \$1,500.96 per EA PWD Regulation Schedule C, Sections 3 and 3.2.



Community Health Centre
Adult/Older Adult Program

Vancouver, BC Canada V [REDACTED]
Telephone: [REDACTED]
Facsimile: [REDACTED]

To: Ministry of Social Development and Social Innovation

Re: [REDACTED]

To whom it may concern,

I understand you are concerned about this clients use of his wheelchair and damaging it. I am currently the Nurse Case Manager of this client. I have had no reports of this client abusing his electric wheelchair. He has not accidentally hit others he lives with due to poor driving skills, and he is not erratic with his wheelchair in the dining room. He lives in a small space and is not damaging his unit.

I have also seen him out in the Community on many occasions. He used to live in my neighbourhood before he moved into the building I oversee. I saw him taking the bus in the early morning to swimming at G.F. Strong when I was on my way to work myself. He was always able to carefully navigate getting on the bus and position the chair easily. I also used to see him using his chair around the neighbourhood pool and beach area. I also observed him using his chair appropriately and safely. I have since seen him taking the bus back to his old neighbourhood to go to the beach and again he was using it appropriately.

This client is a big man and uses his electric wheelchair to go out in the Community on a regular basis. I hope you will be re-considering his repairs so he can remain independent and enjoy getting out in his Community.

Thankyou,

[REDACTED]
RN-Case Manager
Adult and Older Adult
[REDACTED]

www.vch.ca

Private Hospital

To whom it may concern:

September 7th 2016

[REDACTED] was admitted to [REDACTED] Private Hospital 11-21-2006 following a stroke.

Since then he has been in a motorized chair which has been his life line to his increasing independence.

He was transferred to Assisted living in August 2016 because of his ability to continue his independence.

Robert is not able to mobilize so has had problems with weight gain. He does not abuse the chair in any way and is very aware that rough treatment will results in expenses that he does not have. He uses it constantly up to 10-12 hours so there will be issues that arise with the chair as well as regular maintenance.

He has limited finances so anything to do with the chair causes undue pain and suffering that would affect his ability to be independent.

Please contact me if you require any information.

[REDACTED]
[REDACTED]

Sincerely

[REDACTED]
[REDACTED]

R.N.

Director of Care

Private Hospital

[REDACTED]
[REDACTED]

[REDACTED]



Ministry of
Social Development
and Social Innovation

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact your local Employment and Assistance Centre.

REQUESTOR INFORMATION

File No.

CERTIFIED TRUE COPY
MINISTRY OF SOCIAL DEVELOPMENT

Service Request No. (ICM)

Requestor Name

OCT 26 2016

RECONSIDERATION BRANCH

DECISION UNDER CONSIDERATION

(Summarize the request and original decision)

You have requested a reconsideration of the ministry's decision to deny repairs to your power wheelchair. The ministry had determined you did not meet the legislative criteria.

SUMMARY OF FACTS

(Summarize the relevant facts, based on the request and the evidence provided)

The following is a summary of the key dates and information related to your Request for Reconsideration:

On August 17, 2016 you requested funding for repairs to your power wheelchair.

On August 18, 2016 the ministry denied your request.

On September 23, 2016 you submitted a Request for Reconsideration and were granted an extension of time to submit information. Additional information was received on October 4 and 13, 2016.

On October 24, 2016 the ministry completed its review of your Request for Reconsideration.

APPLICABLE LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation Schedule C Sections 3 and 3.2



RECONSIDERATION DECISION

All documents submitted with your original application and Request for Reconsideration have been reviewed in making this decision, including the information provided in Section 3 of the Request for Reconsideration form.

BACKGROUND:

On September 17, 2016 you submitted a request for repairs to your power wheelchair. You submitted a quote from SelfCare Home Health Products for labour and parts totalling \$1,500.96. The quote included notes, stating that you were driving down the beach and something fell out from the left side wheel/caster and that upon further investigation, the tech found that the wheelchair needs extensive repair. This quote also states that 'no parts will be installed until this quote and the previous quote (sent July 6, 2016) is approved.'

- **Ministry Note:** The July 6, 2016 quote mentioned above is regarding a quote you submitted to the ministry for a Motor Gearbox and labour services (\$993.60) which was denied by the ministry on July 8, 2016 (copy of decision enclosed). The ministry argued that you are not eligible as the evidence demonstrates that the power wheelchair was damaged through misuse. You did not request a reconsideration of this decision.

A ministry worker reviewed your request and determined you do not meet the legislative criteria. Specifically, the ministry determined that you did not meet the requirements of Schedule C, Section 3(6) of the EAPWD Regulation. You were funded a power wheelchair by the ministry in June 2013. You were funded repairs for it in December 2015 (\$2,521.92) for motor assemblies for the left and right sides. You were sent two warning letters dated December 1, 2015 and June 7, 2016 regarding abuse of your wheelchair, stating future repairs due to abuse or neglect will not be covered by the ministry. You were denied repairs to your power wheelchair in July 2016 due to misuse. Information provided to the ministry indicates that the client advised that the supplier that he was driving down the beach and something fell out from the left side of wheel/caster. The ministry worker was not satisfied that you are eligible for repairs as it did not appear that you had taken any preventative steps to ensure that care is taken when operating your power mobility device.

You requested a reconsideration of that decision.

SUBMISSION

In your request for reconsideration, your advocate provides a letter and encloses letters from [REDACTED] RN and [REDACTED], RN.

[REDACTED] ([REDACTED]) explains that she is your Nurse Case Manager. She has had no reports of you abusing your wheelchair and she has observed you both indoors and in the community operating your wheelchair (including the beach area) and sees you using your chair safely and appropriately. She writes that you are a big man and use your wheelchair regularly and asks the ministry to reconsider funding the repairs to maintain your independence.

[REDACTED] ([REDACTED] Private Hospital) writes that you do not abuse the chair in any way and you are aware that rough treatment will result in expenses that you don't have. You use your wheelchair 'constantly' up to 10-12 hours a day so there will be issues that arise with the chair along with regular maintenance.



Ministry of
Social Development
and Social Innovation

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

DECISION:

The minister has determined that you are eligible for repairs to your power wheelchair in the amount of \$1500.96 (quote from SelfCare Home Health Products dated August 17, 2016). Although the quote states that you were 'driving down the beach and something fell out from his left side wheel/caster', the minister has determined that this information, in and of itself, does not confirm that your wheelchair was damaged through misuse, despite past allegations of misuse. Additionally, the minister has considered the letters from the registered nurses enclosed with your request for reconsideration. While this information does not necessarily confirm you did not misuse your wheelchair, the minister finds that the letters support the likelihood that the repairs required in the August 17, 2016 quote may not have been due to misuse.

As the minister is satisfied that you've met all the requirements of the *EAPWD Regulation*, your request for repairs to your power wheelchair in the amount of \$1500.96 is approved.

Ministry Note: It is recognized that the quote dated August 17, 2016 includes the statement '*...no parts will be installed until this quote and the previous quote (sent July 6, 2016) is approved*'. The quote dated July 6, 2016 is for labour and a motor gearbox for \$993.60. You requested that the minister fund this item and this request was denied. You were given the opportunity to request a reconsideration of that decision, *written note: Client said gear box already repaired* however you chose not to. This is considered separate from this decision and you are therefore not eligible for funding for that quote.

I trust this information is useful in your understanding of the ministry's decision.

| | | |
|------------------|---|--|
| ENCLOSED: | <input type="checkbox"/> ALL DOCUMENTS CONSIDERED BY THE MINISTRY | <input type="checkbox"/> NOTICE OF APPEAL TO THE EMPLOYMENT AND ASSISTANCE APPEAL TRIBUNAL |
| SIGNATURE | NAME AND TITLE (Please Print) L. Bolton, Reconsideration Officer | DATE Oct 24, 2016 |



Complex Medical Dental Pilot – BC Government Funded Project

The Ministry of Social Development and Poverty Reduction has requested the BCDA to administer a \$50,000 Complex Medical Dental (CMD) Pilot project to provide dental coverage for eligible ministry clients with complex medical conditions, who require essential dental treatment to address an urgent or severe medical need.

Project Timeline - CMD Pilot funding will be available on a pre-approval basis for applications submitted to the BCDA between June 21, 2018 to January 31, 2019. Exceptions may be made in urgent cases, to grant a dental services provider with post-authorization for the coverage described under *Funding Limit*. As this is a pilot, funding is limited and grants will end once the funding is exhausted.

Recipient Eligibility Criteria - An individual is eligible to be provided with dental coverage under the CMD Pilot if the BCDA determines that the individual meets all the following criteria:

1. The individual is eligible for coverage under the ministry's dental program by being one of the following:
 - a. a recipient of Income Assistance or Disability Assistance/Person with Disabilities (PWD) benefits
 - b. a dependent of a person under (a.) or
 - c. a child eligible for the Healthy Kids Program
2. The individual has a medical condition listed in *Medical Service Commission Payment Schedule: Dental Services-Schedule B: Oral and Maxillofacial – February 1, 2018 (Attached as Schedule A1)*
3. The individual requires essential dental treatment to address an urgent or severe medical need related to that medical condition, which cannot be adequately addressed by any dental coverage provided by the ministry.

Funding Limit - The BCDA may provide an individual that meets the above stated *Eligibility Criteria* with one-time coverage:

- i. to a maximum of \$1,000 for dental treatment; and/or
- ii. to a maximum of \$500 for necessary sedation or general anesthetic;

In extraordinary cases, BCDA may seek the Ministry's approval to exceed the stated amounts.

Accessing Funding -

Step 1 – All dental services providers must obtain pre-authorization from the BCDA for coverage under the CMD pilot by submitting a completed form (attached). BCDA's decision will be deemed final in all matters related to funding's approval, denial, pre-authorization and post-authorization.

Step 2 – Once the request has been reviewed by BCDA, a decision will be communicated to the service providers within five business days.

Step 3 – BCDA will pay dental services providers for treatment, after completion of the treatment and on receipt of a signed dental claim form from the dental services provider.

Please note-

- Any payment made by the BCDA under this pilot will be provided to supplement another source of funding available to cover an eligible individual's dental treatment, including any private dental insurance and any program funded by the Province.
- The total combined amount a dental services provider receives under the pilot and any other source of funding to cover an eligible individual's dental treatment will not exceed BCDA fee guide rates for dental services providers, with the exception of a 10% premium provided to certified dental specialists.

SCHEDULE A1

PRE-EXISTING MEDICAL CONDITIONS

Pre-existing medical conditions refers to serious and/or complex medical problems (usually under active treatment) which have a significant potential of increasing the risk of the dental procedure.

These pre-existing medical conditions include but are not limited to:

(a) Central Nervous System Disorders

- (i) significant disability due to cerebrovascular accident,
- (ii) epilepsy or seizures that are difficult to control,
- (iii) significant cerebral palsy, myasthenia gravis, muscular dystrophy,
- (iv) significant dementia such as Alzheimer's Disease,
- (v) other forms of active central nervous disorders where there is loss of sensory, motor, or autonomic function under medical treatment;

(b) Cardiovascular Disorders

- (i) significant disability due to myocardial infarction,
- (ii) unstable angina on active treatment,
- (iii) unstable, significantly elevated blood pressure on active treatment,
- (iv) significant congestive heart failure,
- (v) other forms of unstable cardiac disease under active treatment,
- (vi) other cardiovascular disorders under treatment, including situations requiring extractions prior to cardiovascular surgery;

(c) Respiratory Disorders

- (i) unstable pulmonary disease under active management;

(d) Renal Disorders

- (i) unstable renal disease under active management;

(e) Hematologic Disorders

- (i) leukemias under chemotherapy,
- (ii) hemophilias or other bleeding diathesis,
- (iii) anemia with hemoglobin less than 10 grams %,
- (iv) other unstable hematologic disorders under active management;

(f) Hepatic Disorders

- (i) hepatitis A, hepatitis B, hepatitis C under active management,
- (ii) other significant hepatic diseases under active management;

(g) Endocrine Disorders

- (i) hypothalamic and pituitary disorders requiring steroid therapy,
- (iii) other unstable endocrine disorders under active management;

(h) Neoplastic Disorders

- (ii) other unstable neoplastic disorders under active treatment;

(i) Viral, Non Viral, Bacterial, Infectious or Immune Deficiency

- (i) active herpes simplex,

- (ii) acquired immune deficiency syndrome,
- (iii) other unstable infectious disorders under active treatment;

(j) Metabolic Disorders

- (i) malignant hyperthermia,
- (ii) other significant metabolic disorders under active treatment;

(k) Other Disorders or Conditions

- (i) medically proven contra-indication (e.g. allergy) to local anesthesia,
- (iii) post radiation necrosis or sepsis,
- (iv) significant mental illness or incompetence,
- (v) significant disability due to age or infirmity;

Original Source: MSC Payment Schedule: Dental Services – Schedule B: Oral and Maxillofacial – February 1, 2018

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: Amy Taylor (for Becky Quirk)
from The Advocacy Centre, Nelson

Summary of Legal Issue:

- 1.) Should the client have received coverage for dentures in light of the complete extraction of his teeth for pain?
- 2.) When was the client advised of the decision to deny coverage for dentures for the purposes of his seeking reconsideration?

Summary of Facts:

Client has a brain injury. Client had all teeth extracted due to pain on April 24, 2017. Client was aware that there would be a gap between what the Ministry funded and what the dentist charged, so he saved up money. By the time funding was ironed out, the client was beyond the six months provided for in Schedule C, section 4(3)(a) which provides funding above usual limits "because of extractions made in the previous 6 months to relieve pain". The dentist was advised of the denial in mid-November 2017. The client was not advised. He was of the mistaken impression that more money would be available to him in the new year (January 2018). He went to his Ministry office and was advised there was no new funding available. He sought reconsideration.

Steps taken and outcome at each step:

- a) *Pre-reconsideration* – The Ministry required the Blue Cross denial paperwork to be brought to the office before a reconsideration packet would be prepared.
- b) *Reconsideration* – Successful at reconsideration. Argument that client was not informed of the decision until January 2018 permitted reconsideration request to go forward. Client's brain injury permitted an argument that there was no reasonable accommodation of his disability by the Ministry. Ministry applied a policy permitting an exemption to the "6 month extraction rule". (Attached – Ministry's "Decision to be reconsidered", our submission, Reconsideration decision)

What was challenging about this case:

It was challenging to be brought in to this case after the six-month deadline set out in Schedule C, section 4(3)(a) providing for additional funding for full extractions due to pain, and after the apparent due-date for a reconsideration request. The Ministry's "decision to be reconsidered" was indecipherable.

Lessons learned from this case:

I became aware of Schedule C, section 4 (3)(a) – which I had never focused on before. I learned about potential arguments for late-submitted reconsideration requests. Also critical is that the requestor must give to the Ministry the Blue Cross denial paperwork in order to get a reconsideration packet.



SECTION 1 and 2 TO BE COMPLETED BY WORKER

SR NUMBER

SECTION 1 REQUESTOR INFORMATION

REQUESTOR'S NAME

CASE NUMBER

REQUESTOR'S ADDRESS

SECTION 2 DECISION TO BE RECONSIDERED

You are requesting a reconsideration of a decision by Pacific Blue Cross to deny coverage.

Your dentist submitted a predetermination request to Pacific Blue Cross for initial exam, and 2 extractions, total cost = \$1186.50. Pacific Blue Cross determined that you are not eligible for C641D, as maximum coverage has been reached according to the details outline in your policy.

EOS01 - Dentures can only be considered over the participant's financial limit when the denture criteria, outlined in Part A of the currently Ministry of Social Development and Poverty Reduction Fee Schedule is met.

PB046 - this plan has a maximum dollar limit.

Please complete Section 3 and sign and date Section 4 of the HR0100 and submit it to the ministry before the due date indicated at the bottom of Section 2

PLEASE NOTE: If you require an extension to complete your reconsideration, you must submit your request in writing with a signed copy of this form (section 4) no later than the due date indicated on this form below. Generally a decision is mailed to you within 10 business days. A request for an extension can provide an additional 10 business days from the date you submit your signed Request for Reconsideration, therefore it is recommended that you submit your request just prior to the relevant due date, as the extension period may begin on the date the request for the extension has been submitted. If you request an extension of your reconsideration, please contact the ministry at 1 866 866 0800 after 48 hours to confirm if your extension was granted.

You also have the right to an advocate to help you with your reconsideration. Attached to this reconsideration is a list of advocates in the Nelson area.

Attachments:

Employment and Assistance for Persons with Disabilities Act, Sections 1, 2, and 5

Employment and Assistance for Persons with Disabilities Regulation, Sections 63, 63.1, 65, Schedule C, Sections 1, 4, 4.1 and 5

Denturist Supplement

Pacific Blue Cross Predetermination

Letter from ██████████ Denture Clinic

Reconsideration and Appeals Brochure

List of advocates in the Nelson area

My Self Serve Information





**EMPLOYMENT AND ASSISTANCE
REQUEST FOR RECONSIDERATION**

THE ACT AND / OR REGULATIONS THAT APPLY TO THIS DECISION ARE:

Employment and Assistance for Persons with Disabilities Act, Sections 1, 2, and 5
Employment and Assistance for Persons with Disabilities Regulation, Sections 63, 63.1, 65, Schedule C, Sections 1, 4, 4.1 and 5

MONTH DECISION EFFECTIVE (YYYY-MMM-DD)

2017-Nov-01

DATE REQUESTOR INFORMED OF DECISION (YYYY-MMM-DD)

2017-Nov-16

RELEVANT DATES:

DATE REQUESTOR MUST SUBMIT FORM BY (YYYY-MMM-DD)

2017-Dec-14





SECTION 3 REASON FOR REQUEST FOR RECONSIDERATION

(TO BE COMPLETED BY THE REQUESTOR ONLY AFTER SECTIONS 1 AND 2 HAVE BEEN COMPLETED BY WORKER)



Reconsideration request of

[REDACTED]
SR#1-[REDACTED]

[REDACTED] is receiving PWD income assistance because of a brain injury.

On April 24, 2017, Mr. [REDACTED] had his teeth removed due to the pain he was experiencing. He wanted and still wants dentures so that he can get the nutrients he needs and be able to function more fully on a social basis.

Mr. [REDACTED] was in contact with a denture clinic in May. Ministry rates do not cover the entire cost of the dentures needed by Mr. [REDACTED]. All Mr. [REDACTED] knew was that there was about \$500 that he had to cover to get his dentures. He did not realize that the \$500 figure represented the difference between what the Ministry would cover and what the denture clinic charged. He tried to save. His brain injury outreach worker also lined up some donations to cover that gap.

The denturist, [REDACTED] Denture Clinic, had been in communication with Mr. [REDACTED]'s brain injury outreach worker. In late October, when [REDACTED] contacted the Blue Cross regarding coverage for Mr. [REDACTED]'s dentures, the clinic was informed that the 'post extraction window' had closed and that Mr. [REDACTED] was no longer eligible for MSDPR/Blue Cross funding. On October 31, 2017, [REDACTED] Denture Clinic wrote a "to whom it may concern" letter on Mr. [REDACTED]'s behalf hoping that a way could be found for coverage of his dentures. The clinic had received leniency for other patients in the past, but it was not forth-coming for Mr. [REDACTED].

Blue Cross sent a document dated November 16, 2017 to [REDACTED] of the [REDACTED] Denture Clinic

concerning the perceived coverage available to Mr. [REDACTED].

Mr. [REDACTED] contacted the Ministry on January 8, 2018 to ask about funding for his dentures. He was advised orally that there was no funding for his dentures. He was surprised and upset. He contacted his brain injury outreach worker, [REDACTED]. At my suggestion, Ms. [REDACTED] and Mr. [REDACTED] contacted the Ministry together to ask for a reconsideration request packet. Ms. [REDACTED] was advised by the Ministry worker that she would have to bring in the document from Blue Cross before a reconsideration packet could be created. She brought it to the Ministry on 15 January 2018. (Please note the January 15, 2018 Province of British Columbia "RECEIVED" stamps on both of the documents.) A reconsideration packet was prepared and provided to Ms. [REDACTED] as Mr. [REDACTED]'s agent on 16 January 2018.

Date requestor informed inaccurate

Mr. [REDACTED]'s Request for Reconsideration asserts that he was "informed" of the Ministry's decision on November 16, 2017. That is inaccurate.

The only basis upon which I can find that the Ministry staff might take the position that Mr. [REDACTED] was "informed" on November 16 is because the Blue Cross document to his dentist clinic was dated November 16, 2017. Notification to someone other than Mr. [REDACTED] is not notification to him.

'Notification' includes not just receipt of a comprehensible written decision, but also of all evidence that the ministry relied upon in support of the decision. In this case, the documentation provided by the Ministry in the reconsideration packet includes documents that are date stamped 15 January 2018. If those documents were received by the Ministry on 15 January 2018, and were included in the packet as

evidence upon which Ministry staff relied, then the decision was made not on November 16, 2017 but on January 15, 2018. This submission is well within the 'twenty business days' that Mr. [REDACTED] is afforded to make a reconsideration request submission. Mr. [REDACTED] never received written notification from the Ministry that his request was denied until this month.

Objections to the Ministry's "Decision to be Reconsidered" explanation

The BC Ombudsman's checklist emphasizes that decisions made by a public body must be supported by reasons, that clients be given all the information they need, and that communication generally should be "understandable".

[<https://www.bcombudsperson.ca/complaints/fairness-checklist>]

This checklist echoes general principles of administrative fairness.

The decision set forth on Mr. [REDACTED]'s request for reconsideration form is not comprehensible and therefore makes it impossible for him to know what he is responding to.

For a person receiving Persons With Disabilities income assistance to receive denture funding from the Ministry beyond "basic dental services", the person needs to meet the requirements of Schedule C, section 4(3), which reads as follows.

4(3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

- (a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,
- (b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or

(c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.

Mr. [REDACTED] had all this teeth on April 24, 2017, due to pain. The Ministry's policy and procedure manual, discussed below, permits discretion to extend the "six month extraction rule".

Rather than discuss the schedule and the discretion permitted by the Ministry's manual, the reconsideration form refers to codes without explaining in what manner these codes are relevant to Mr. [REDACTED] or provide the authority to deny him coverage.

For example, the Ministry's decision says things like "you are not eligible for C641D as maximum coverage has been reached according to the details outline in your policy." C641D is a message code used by Blue Cross. The Blue Cross document dated November 16, 2017 in the record interprets the message codes at the bottom. C641D reads, "Coverage maximum has been reached according to the details outlined in your policy."

So, in essence, the Ministry's decision is saying "you are not eligible for coverage maximums having been reached according to your policy as maximum coverage has been reached according to the details outline in your policy." Thus, the "reasons" for the Ministry's decision are unintelligible.

The Ministry's "reasons" also state, "Dentures can only be considered over the participant's financial limit when the denture criteria, outlined in Part A of the currently Ministry of Social Development and Poverty Reduction Fee Schedule is met." The actual legal criteria for denture coverage in excess of the basic dental service limit are set out in the EAPD Regulation (not a fee schedule).

The Ministry's form does not set out reasons for the decision in an understandable way and does not provide Mr. [REDACTED] (or those trying to help him) with the information they need.

It is impossible to tell from the Ministry's decision what the reason for the refusal is. Was it refused because extractions were over 6 months ago? Was it refused because of the perception that the need for dentures was not due to extraction for relief of pain? Who knows?

Discretion requires more than rubberstamp "no".

If the Ministry's denial is based upon the fact that more than six months has passed since Mr. [REDACTED]'s extraction, then he would urge the exercising of an exception as spelled out on the Ministry's web site. The dental and orthotic services section of the Ministry's online policy manual states that an exception can be made to the "six month extraction rule".

From:

<https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/health-supplements-and-programs/dental-and-orthodontic-services>

| Dentures | |
|---|---|
| Complete dentures, initial placement (single or both) | <ul style="list-style-type: none">• All recipients (including those with emergency coverage only) if there have been extractions within the last six months that result in full clearance of the arch• The ministry's dental program contractor, Pacific Blue Cross, may make an exception to the six month extraction rule for providing dentures if the client has not received them within that time frame. |

Discretion is not properly exercised by a rubber-stamp "no". For proper exercise of discretion, the decision maker must consider the facts. No evidence has been provided that Mr. [REDACTED]'s situation was considered other than a possible application of the "six month extraction rule". (As stated in the earlier section, this was not clearly stated in the Ministry's decision, so I am speculating that this is the reason for the Ministry's decision.)

The BC Supreme Court case of Minhas vs. British Columbia (Superintendent of Motor Vehicles) 2016 BCSC 617 discussed the proper exercise of discretion. I am quoting the pertinent part here.

[23] The law regarding the improper fettering of discretion was conveniently summarized by Hinkson C.J.S.C. in *Trinity Western University v. The Law Society of British Columbia*, 2015 BCSC 2326 (CanLII) at paras. 97-99:

[97] Fettering of discretion occurs when, rather than exercising its discretion to decide the individual matter before it, an administrative body binds itself to policy or to the views of others: *Hospital Employees Union, Local 180 v. Peace Arch District Hospital* (1989), 1989 CanLII 2691 (BC CA), 35 B.C.L.R. (2d) 64 (C.A.). Although an administrative decision-maker may properly be influenced by policy considerations and other factors, he or she must put his or her mind to the specific circumstances of the case and not focus blindly on a particular policy to the exclusion of other relevant factors: *Halfway River First Nation v. British Columbia (Ministry of Forests)* (1999), 1999 BCCA 470 (CanLII), 129 B.C.A.C. 32 at para. 62 [*Halfway River*].

There is no evidence in this case that the specific circumstances of Mr. [REDACTED] were considered when the decision was made not to fund his dentures.

As mentioned in the opening sentence, Mr. [REDACTED] is on Persons with Disabilities income assistance because he has a brain injury. The Ministry must be aware of Mr. [REDACTED]'s brain injury because he is on Persons with Disabilities income assistance and would have had to explain his disability and its effects on his ability

to perform daily living activities in order to receive that benefit.

Case law establishes that the Ministry, as a service provider in BC, must make reasonable accommodations to Mr. [REDACTED] and his disability.

As stated on the BC Human Rights Clinic's web site, "The duty to accommodate is well-established in case law and requires employers and service providers to accommodate special needs short of undue hardship, including those of people with disabilities." [See: <http://www.bchrc.net/grounds of protection in bc#Disability>]

The Ministry's own website and policy manual also recognize this obligation. [See: <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/individual-case-management>]

The British Columbia *Human Rights Code* (the Code) protects British Columbians from discrimination. The Code prevails over ministry policy and practice, as well as other legislation. The ministry is committed to providing an environment that is inclusive and does not discriminate on the basis of race, colour, ancestry, place of origin, religion, marital or family status, physical or mental disability, sex, sexual orientation, gender identity and expression, or age of that person or class of persons.

Discrimination is contrary to the standards and values of the ministry. The ministry strives to abide by the Code in all activities and in particular the provision of services to clients. The ministry is committed to providing accommodation to clients for needs related to the grounds protected under the Code (for example, accommodating the needs of a client with disabilities).

Through its staff, the ministry has a legal duty to accommodate individual needs to the point of undue hardship where the need is based on a protected ground in the Code, as is consistent with current human rights law. Undue hardship in this context means the ministry may be excused from this obligation only where it has a reasonable justification, made in good faith, for not accommodating an individual's needs. Generally speaking, issues of cost, administrative difficulty or inconvenience will not be sufficient to excuse the ministry's duty to accommodate the individual

needs. Staff must review each case individually to determine the appropriate accommodation, which may vary depending on the individual circumstances.

The nature and extent of the accommodation will depend on the particular circumstances in which the need arises. To facilitate a need for accommodation, both the client in need of accommodation and the ministry have a shared responsibility to work together towards reasonable solutions. However, the ministry recognizes that some clients may not expressly communicate the need for accommodation or may not want to self-identify. Staff must be proactive and make reasonable inquiries in determining whether it may be appropriate to offer accommodation.

The ministry's duty to accommodate is at all points of contact with an applicant or recipient. For example, from assisting an applicant to complete the Application for Assistance to assisting with requests for crisis supplements or applying for the Persons with Disabilities designation.

Mr. [REDACTED] has been provided no evidence that a Ministry staff member has reviewed his case with an eye to his individual circumstances as required by the Ministry's policy manual.

Mr. [REDACTED]'s failed to understand the nature of the coverage provided by the Ministry for his dentures, and the time limitation involved. He did not grasp the significance of these issues despite the assistance of a brain injury outreach worker and the involvement of the denture clinic. Moreover, the Blue Cross document setting forth (in a cryptic fashion) the decision to deny his request for coverage for dentures did not go to Mr. [REDACTED] but rather to his denturist clinic.

Mr. [REDACTED] would not have understood the significance of that document but, regardless, it did not go to him so he did not have that opportunity.

In addition, Mr. [REDACTED] has not been dragging his feet; he did not demonstrate any lack of interest in getting his dentures covered. Mr. [REDACTED] was saving up to cover the cost of the dentures that he knew fell to him, and his brain injury worker was seeking other resources for covering the cost of his dentures.

If the Ministry's rates covered the entire cost of the dentures, he would not be in this situation because he would not have had to save and seek contributions from other sources.

Note, too, that the letter from ██████████ Denture Clinic asking for accommodation for ██████████'s situation is dated October 31, 2017 - which is roughly six months and one-week after Mr. ██████████'s extraction. Therefore, they acted promptly upon realizing ██████████'s predicament (and had been able to get leniency for previous patients).

Conclusion

Mr. ██████████ is asking that in reconsidering his situation, that the Ministry exercises discretion when applying the "six month extraction rule". When the discretion is exercised and his individual circumstances are considered, he is hopeful that the Ministry (by way of Blue Cross) will cover the substantial part of the funding needed for his dentures.

Signed this the 6th day of February, 2018



Becky Quirk
Advocate for ██████████

Statement of requestor, George Dyson

My name is [REDACTED] I get PWD income assistance because of a brain injury. Right now, I have a brain injury support worker named [REDACTED].

I had all my teeth extracted on April 24, 2017. Some teeth had come out before then, but everything came out on the 24th. Were they painful before the extraction? Oh, yes.

At the denture clinic, I was told I would have to pay \$470.00 plus tax that would be about \$535.00 I knew nothing about Blue Cross or any other money. At that time my brain injury worker said she would try to get money elsewhere. (This was the worker I had before [REDACTED].)

No one said anything to me that the Ministry money or that it was only available for six months.

I tried to save money to cover the cost. My brain injury worker tried to find other organization that would help pay for my dentures.

I thought the extraction of my teeth used up some of the money that the Ministry makes available to me for dental work. The Ministry's money, as I understand it, is available every two years. So, I thought I'd have more money available to me at the start of 2018.

When I went to the Ministry in early January 2018 to ask about getting my dentures funded, I was told there was no new money available for my teeth until January 2019. I was very unhappy.

I did not know that I should have gotten my money from the Ministry for my dentures within six months of having my teeth removed.

I did not receive anything in writing from Blue Cross. I did not receive any information from the Ministry about funding my dentures until I went to talk to the Ministry in January 2018. I only got something in writing (a form I do not understand) on January 16, 2018. Before that I did

not know the Ministry would not fund my dentures at all. No one told me in writing or by just telling me.

I am miserable without teeth. I am not getting enough food and have lost weight. I have lost ten pounds since the extraction. I had hoped to be gaining weight because I quit smoking and all my bad teeth were gone. But that's not what's happening.

Right now, I am eating spaghetti, stew and fruit. If I eat vegetables or fruit, I have to mush them up first.

Also, my speech is different. I kind of slur my words without teeth. I have no confidence. Now that I have no teeth, I don't have much of a social life.

I am also dealing with other health issues. I am applying for a scooter and a walker because of my difficulties with walking around. My back has become way worse.

My brain injury support worker and an advocate have been trying to get this all ironed out. The advocate talked to me to get information from me. She wrote up this statement for me to look at. She asked me to be sure everything in the statement is true because I will be signing it. She asked me questions and made some changes.

When I sign this statement, it is because everything in it is true.

Signed on this day Jan 30, 2018

A large black rectangular redaction mark covering a signature.

Statement of [REDACTED]
regarding the reconsideration request of [REDACTED]
SR [REDACTED]

I am a one-to-one rehabilitation outreach worker with the [REDACTED]
Brain Injury Association. [REDACTED] I am currently working with [REDACTED]
[REDACTED]

Before I can work with someone who has a brain injury, that person must have documented evidence of his or her brain injury and must need help with day to day functions like planning, organizing, abstract thinking and problem solving. Once the applicant is screened, that person can be assigned to me.

I support [REDACTED] through Interior Health contracted outreach services for those living with Acquired Brain Injury. [REDACTED] needs support with the paper work required for PWD and medical appointments, as this information can be confusing and overwhelming for him. [REDACTED] can be independent but requires support in times of crisis.

Years ago, [REDACTED] was severely injured during an assault through which he suffered a brain injury. [REDACTED] is a resilient man who has worked hard to get healthy and abstain from alcohol following the traumatic assault.

[REDACTED] returned for [REDACTED] BIA services after a few years away for a variety of reasons, including housing and dental needs.

[REDACTED] presents well but he doesn't always understand procedures despite stating he does.

As an outreach worker, I assist [REDACTED] with communication. For example, he becomes frustrated with Ministry of Social Development and Poverty Reduction and is unable to communicate effectively.

Outreach is a difficult job with minimal hours. My job is for 7.5 hours a week and I have 15 active clients (and 30 clients overall). Comprehending ministry regulations can use up these hours quickly.

I had to be away from my work for a few months. When I returned in October 2017, I became aware that [REDACTED] was having difficulties getting his dentures because the dentist was charging more than the Ministry of

Social Development and Poverty Reduction would fund. Mr. [REDACTED] was aware of that gap. Despite the fact that he receives Persons with Disabilities income assistance (and therefore lives below the poverty line in Canada), he was trying to save up money to address the gap. I also contacted the Dental Access Fund and was assured of a small contribution from them.

Through communication with the denturist clinic, I became aware that, generally speaking, Ministry funding for new dentures when teeth have been removed because of pain is available for six months after extraction. I told this to Mr. [REDACTED]. In light of how things have unfolded, I am certain he didn't understand that the funding from the Ministry should be accessed within six months of extraction. It is not unusual for someone with a brain injury not to understand information like this or to forget it rather immediately.

I was aware that [REDACTED] Denture Clinic made a request to the Ministry for more time for his request for denture funding. (Please see the letter from [REDACTED] dated October 31, 2017, that is part of the reconsideration request paper work.) I believed that request for the extension was the appeal process. I did not appreciate that there was an appeal or reconsideration process that could be done to the Ministry directly.

I know now that [REDACTED] was under the impression that new money would be available to him for his dentures in 2018. When he contacted the Ministry in January of 2018 and found this wasn't accurate, he was irate. He contacted me. I was not aware of that a request for reconsideration could be done directly to the Ministry until [REDACTED] contacted me in January with his unhappy surprise that there was no additional money available to him. I contacted advocate Becky Quirk who suggested I assist [REDACTED] in getting a reconsideration request from the Ministry. It was only then that I became aware of this possible step.

I contacted the Ministry twice about getting a reconsideration packet. The second time, I was told that I would have to bring in the notice from Blue Cross before a reconsideration packet could be prepared. I'd like to point out that that notice did not go to Mr. [REDACTED], but rather went to the denturist clinic.

Only after I delivered the Blue Cross notice (dated November 16, 2017) to the Ministry office was the Ministry worker able to prepare the reconsideration packet.

I am confident that Mr. [REDACTED] did not get any written notification from the Ministry concerning the decision not to fund his dentures until I picked up the reconsideration packet on January 16, 2017.

As long as I have known him, Mr. ██████████ has been a trim man. Without teeth or dentures, he has lost weight. The stress of trying to figure out the process by which he can get funding has taken its toll on him as well.

I am willing to swear to the accuracy of this statement. I ask the Ministry to take it in to consideration and, in light of the facts and Mr [REDACTED]'s condition, approve funding for his dentures.

Signed this the 30 of January, 2018,

Brain Injury Association

Becky Quirk

From: [REDACTED] Denture Clinic <[REDACTED]
Sent: January-29-18 2:35 PM
To: Becky Quirk
Subject: Re: Attention: [REDACTED] / Questions from The Advocacy Centre

Good afternoon Becky,

I tried to answer all your questions as directly as possible. Please feel free to let me know if you have any further questions.

[REDACTED] reports that his teeth were extracted on April 24, 2017. Is that consistent with your records?

Yes.

Did he require a full upper and lower denture because of the extraction that occurred on April 24? (If the answer to this is no, I'll have a follow-up question.)

Yes he requires complete upper and lower dentures because of the extractions he had on April 24, 2017.

According to [REDACTED], there was some discussion about cost with your office in April. Is that accurate? Does anyone remember what was discussed?

We discussed the cost of the proposed treatment plan, what Ministry may cover and that he needed to seek additional funding to help with his costs. We sent an email to [REDACTED] at the Dental Access Fund [REDACTED] to inquire about funding for [REDACTED] also. We also spoke with his previous case worker [REDACTED] on May 8, 2017 and May 24, 2017 about costs and funding options.

At some point, it was discovered that the Ministry of Social Development and Poverty Reduction (through Blue Cross) was denying coverage. Is that accurate? Do you know when that happened? Do you know why it happened at that time?

Yes, in November 2017 we received the official denial of coverage. We had last seen [REDACTED] in May 2017 and treatment had been postponed to sort out additional funding. In the first couple weeks of October we established contact with [REDACTED]'s new case worker to see what was going on, and if he was ready to move forward. [REDACTED] was approved for coverage up to \$1162.50 from the Ministry because they would be initial placement dentures, as long as the dentures were inserted within 6 months of his extractions. His 6 month window expired in October unfortunately.

What inspired the October 31 letter from your clinic to be written on October 31? (I assume the answer to this is connected with the answers above.)

We had been corresponding with [REDACTED]'s new case worker, about his coverage and funding. Once [REDACTED]'s 6 month post extraction window had expired we wrote a letter trying to advocate for him. It is an unfortunate situation because it was largely out of his control. He slipped through the cracks.

If I understand correctly, a reason Blue Cross denied the coverage is because the request came more than six months after the extraction. Is that your understanding? Is that an unusual reason to deny coverage? (Had you encountered it before?)

No, the request is not the issue. It is that he receives \$1000.00 every 2 years for dental coverage and his extractions used the entire limit. He was approved to exceed his limit because they would be initial placement dentures, as long as the dentures were inserted within 6 months of the extractions. Yes we have encountered this before but we received leniency in the past and did not this time.

October 31, 2017

To whom this may concern,

We would like to advocate on behalf of our patient [REDACTED] for an extension on his 6-month post extraction window to receive over limit funding for initial placement dentures. [REDACTED] suffers from a brain injury that limits him greatly. He was unable to complete his denture treatment due to issues related to his brain injury and lack of support. His case worker at the [REDACTED] Brain Injury Association moved to a new job in the middle of trying to sort out additional funding for this denture treatment. It took his new case worker several months to get up to speed on her new case load, and he was missed throughout the transition. This patient is unable to complete these tasks without the help of a case worker and this transitional period made it impossible for him to meet your 6-month requirement.

Unfortunately for this patient if this request is denied, he will need to wait until January 2019 to be eligible for any funding from you as his balance is currently at \$0 due to his extractions. We would like to urge you to please consider our request.

Thank you for your time and consideration,
[REDACTED] Denture Clinic

RECEIVED

JAN 15 2018

PROVINCE OF BRITISH COLUMBIA



SR 1-513860³⁴584

00760

Nov 16, 2017

Your Office Number
602D

Your ID Number

***** IMPORTANT NOTE: Predetermination is only valid for twelve (12) months. *****

Please refer to cover page for further details of this predetermination

Details

| Claim ID | Tooth No | Submitted | | | Deductible Amount | Percent Covered | Plan Approved | | Message Code |
|--|----------|-----------|----------|-----------------|-------------------|-----------------|---------------|--------|-------------------------------------|
| | | Procedure | Amount | Eligible Amount | | | Procedure | Amount | |
| Policy Number: 13139 ID Number: 9098792658 Patient Name: [REDACTED] | | | | | | | | | |
| 056960945 | | 10010 | 24.00 | 0.00 | 0.00 | 100% | 10010 | 0.00 | C641D, PB046, PB047 |
| 056960945 | | 31310 | 581.25 | 0.00 | 0.00 | 100% | 31310 | 0.00 | C641D, EOS01, PB046, PB047 |
| 056960945 | | 31320 | 581.25 | 0.00 | 0.00 | 100% | 31320 | 0.00 | C641D, EOS01, PB046, PB047 |
| Total | | | 1,186.50 | | | | | 0.00 | |

C641D - Coverage maximum has been reached according to the details outlined in your policy.

EOS01 - Dentures can only be considered over the participant's financial limit when the denture criteria, outlined in Part A of the current Ministry of Social Development Fee Schedule, is met.

PB046 - This plan has a maximum dollar limit. To ensure active coverage is in place, eligibility must be confirmed for all clients prior to proceeding with any treatment. Please also refer to the Ministry Dental Supplement Fee Guide Preamble for their maximum entitlements.

PB047 - Any questions pertaining to this claim should be directed to 604 419-2783 or 1 800 667-8801. Processed on behalf of BC Ministry of Social Development Dental Care Plan as administered by PBC.

RECEIVED

JAN 15 2010

PROVINCE OF BRITISH COLUMBIA



Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact your local Employment and Assistance Centre.

REQUESTOR INFORMATION

Reconsideration SR No.
[REDACTED]

Requestor Name
[REDACTED]

Requestor Address (Physical address documents should be delivered to)
[REDACTED]

City
[REDACTED]

Postal Code
[REDACTED]

Case No.
[REDACTED]

DECISION UNDER CONSIDERATION

(Summarize the request and original decision)

You are requesting a reconsideration of the decision to deny coverage of complete upper and lower dentures.

SUMMARY OF FACTS

(Summarize the relevant facts, based on the request and the evidence provided)

The Summary of Facts related to your Request for Reconsideration is set out under the heading "BACKGROUND" in the attached decision.

On February 14, 2018, the ministry completed its review of your Request for Reconsideration.

APPLICABLE LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation, sections 62 and 63
Employment and Assistance for Persons with Disabilities Regulation, Schedule C, sections 1, 4, and 5

Schedule of Fee Allowances – Denturist

~ Please see the attached copy of the legislation in Appendix B ~

RECONSIDERATION DECISION

~ Please see the attached decision summary in Appendix A ~

ENCLOSED: ALL DOCUMENTS CONSIDERED BY THE MINISTRY NOTICE OF APPEAL TO THE EMPLOYMENT
AND ASSISTANCE APPEAL TRIBUNAL

| | | |
|--------------------------|--|--|
| SIGNATURE R.S. | NAME AND TITLE (Please Print) R.S., Reconsideration Officer | DATE (YYYY MMM DD) February 14, 2018 |
|--------------------------|--|--|

If this decision is appealable to the Employment and Assistance Appeal Tribunal, and you wish to appeal this decision, you may complete the enclosed *Notice of Appeal to the Employment and Assistance Appeal Tribunal* form and return it to the Appeal Tribunal. This Reconsideration Decision and attached documents constitute the appeal record. A sealed copy of this appeal will be kept by the Ministry.

Pursuant to subsection 22(4) of the *Employment and Assistance Act*, a tribunal panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision being appealed was made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

Appendix A – Reconsideration Decision

The Ministry of Social Development and Social Innovation has determined you are eligible for coverage of complete upper and lower dentures *at the rates set out in the Schedule of Fee Allowances – Denturist*. Please note, the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule and you will be responsible for the difference.

The ministry has considered all documents submitted with your application and Request for Reconsideration in making this decision. The ministry has also reviewed your Claims History with Pacific Blue Cross (PBC). Copies of all documents reviewed at reconsideration are included.

BACKGROUND:

- On January 16, 2018, you submitted the following:
 - PBC Predetermination Summary (dated November 16, 2017)
 - Indicates no coverage for both complete upper and lower dentures (under fee codes 31310 and 31320).
 - Indicates no coverage for a “New Patient Exam” (under fee code 10010). Please note, as you reached your \$1,000.00 limit for coverage of basic dental services as of April 24, 2017, the ministry is unable to provide coverage for this service.
 - Letter prepared by [REDACTED] Denture Clinic” (dated October 31, 2017)
 - Requests an extension to the 6-month post extractions period for coverage of initial complete dentures. States you recently had a change of case workers with the [REDACTED] Brain Injury Association which led to delays in your request for denture coverage.
- On February 6, 2018, you submitted your complete Request for Reconsideration. You provide the following:
 - Statement written by Advocate B. Quirk (dated February 6, 2018)
 - Clarifies how and when you were notified that Pacific Blue Cross would not provide coverage, and requests an exemption to the 6-month post extractions period criterion in consideration of your personal circumstances.
 - Statement / Self-Report (dated January 30, 2018)
 - You describe your need for complete upper and lower dentures.
 - Statement written by Case Worker [REDACTED] (dated January 30, 2018)
 - Describes your medical condition and clarifies how and when you were notified that Pacific Blue Cross would not provide coverage.
 - Email written from [REDACTED] of [REDACTED] Denture Clinic” to Advocate B. Quirk (dated January 29, 2018)
 - States you require complete upper and lower dentures following extractions performed on April 24, 2017. Further states your request for coverage of dentures was postponed as you sorted out funding for the amount over and above the expected PBC funding.

DECISION:**Basic Eligibility**

As you are a recipient of disability assistance, you are eligible for dental supplements under section 63 and Schedule C, sections 4 of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation.

Eligibility for Coverage of Complete Upper and Lower Dentures

Your PBC claims history indicates that as of the date of this decision, the ministry had paid \$1,000.00 on your behalf for the period ending December 31, 2018. Therefore, you have \$0.00 remaining of your \$1000.00 limit for *basic dental services*.

Section 63 of the EAPWD Regulation stipulates that the ministry may provide health supplements set out in section 4 of Schedule C. The health supplements that may be provided under section 4, Schedule C are "*basic dental services*." A "*basic dental service*" is defined in Schedule C, section 1 of the EAPWD Regulation as a dental service that

- (b) if provided by a dentist
 - (i) is set out in the *Schedule of Fee Allowances – Denturist* that is effective April 1, 2010 and is on file with the office of the deputy minister, and
 - (ii) is provided at the rate set out for the service in that Schedule.

EAPWD Regulation, Schedule C, Section 4(2) sets out that dentures may be provided as a "*basic dental service*" for a person who has never worn dentures or whose dentures are more than 5 years old. Section 4(3)(a) sets out that the \$1,000.00 limit for basic dental services may be exceeded in order to provide dentures if a person requires a full upper denture, a full lower denture, or both, because of extractions made in the previous 6 months to relieve pain.

In a policy that applies to the provision of complete dentures, it states: "*The ministry's dental program contractor, Pacific Blue Cross, may make an exception to the six month extraction rule for providing dentures if the client has not received them within that time frame.*"

Based on the unique circumstances of your request, the ministry has applied the abovementioned policy exempting the "6 month extraction rule" for provision of initial complete dentures. Therefore, you are eligible for coverage of complete upper and lower dentures *at the rates set out in the Schedule of Fee Allowances – Denturist*. Please note, the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule and you will be responsible for the difference.

CONCLUSION:

You are eligible for coverage of complete upper and lower dentures *at the rates set out in the Schedule of Fee Allowances – Denturist*. Your dentist intends to charge fees in excess of the rates set out in the ministry's Schedule of Fee Allowances – Denturist. The ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule and you will be responsible for paying the difference.

I trust this information is useful in your understanding of the ministry's decision.

(pages of legislation provided
by Ministry not included)

Case 2.

2018 Provincial Advocacy Training Conference
Tuesday October 16, from 10:45 a.m. to 12:15 p.m..

Welfare Law for Senior Advocates

Presentation by: Amy Taylor for Becky Quirk
from The Advocacy Centre, Nelson

Summary of Legal Issue:

Is a person receiving PWD income assistance entitled to additional funding for dentures if he has had extractions to relieve pain within the last six months, and those extractions required a full upper denture, lower denture or both?

Summary of Facts:

Client contacted me in March 2018 to tell me that his teeth were due to be extracted in April. Extraction was due to pain.

Denturist's office put through a pre-authorization to find out how much the Ministry/PBC would cover. Answer – zero because client already used all his basic dental funds.

I asked the denturist's office about the extra funding for teeth extraction for pain (pursuant to Schedule C 4(3)(a)). Denturist's office says, 'never heard of it' and suggested we call PBC. We called Blue Cross and were told they could not advise us of coverage until the extraction had already occurred.

After extraction occurred, we called Blue Cross again. This time, the person answering the phone told us they "have a deal" with the Ministry that they don't have to talk to Ministry client's directly.

Consulted with the Advocate Client Enquiries (ACE) office at the Ministry. Was advised to fax in the Blue Cross denial of funding to the Ministry and ask for a reconsideration packet.

My fax produced a reconsideration packet and client sought reconsideration.

Steps taken and outcome at each step:

- a) Pre-Reconsideration – required to deliver documentation to the Ministry concerning the Blue Cross denial before a reconsideration packet could be created.
- b) Reconsideration – successful, (Funding for 'new patient exam' denied, but that was not the focus of our request.) (request for reconsideration packet, Ministry's 'decision to be reconsidered', and reconsideration decision attached)

What was challenging about this case:

The most challenging aspect of this case is that no one would tell us why my client was being denied the coverage. I see no reason why he should have to have gone through the reconsideration process on this question. I was willing to entertain that there was a reason why he was not getting the coverage, but no one would tell us what that reason was. Apparently, no one would tell us because the reason for denying him coverage did not exist.

Lessons learned from this case:

Once again, I learned (or re-learned) that to get a reconsideration packet, the client or advocate must deliver paperwork from Pacific Blue Cross to the Ministry establishing that the coverage was denied and, therefore, there has been a decision that can be reconsidered. In this case as well as Case #1, it was very helpful to have a dentist office willing to provide information or a memo to substantiate the client's position.

① Service request

My teeth were extracted on April 23, 2018 because of the pain they were causing me. My denturist sent in a pre-authorization to see how much of my dentures would be covered by Blue Cross. The answer came back zero.

I am asking that the Ministry reconsider this question. Please prepare a reconsideration packet. The packet can be mailed to me or picked up at the Nelson Ministry office by my advocate, Becky Quirk. Please let her know if she should pick it up.

Please see the memo from my advocate.

Thank you.

[REDACTED]

I am an advocate at The Advocacy Centre in Nelson, BC. I have been working with [REDACTED] [REDACTED] had his teeth extracted on April 23, 2018, because of the pain he was experiencing.

[REDACTED]'s dentist sent a pre-authorization to Blue Cross to see how much of his dentures would be covered. The response came back zero.

[REDACTED] and I called Blue Cross on August 2 to understand the complete denial of coverage. The man at Blue Cross said that Blue Cross has a "deal" with the Ministry that they will not talk to Ministry clients and, instead, the service provider must make the enquiry.

I sent an email message to the dentist that same day (August 2, 2018) asking whether the fact that [REDACTED]'s teeth were removed due to pain was considered in calculating the coverage. It is now August 10, and I have not heard back.

The dentist's office has been quite communicative up until now. I am concerned about time ticking away. I conversed with Danielle at the Ministry's Advocate Client Enquiry team. She suggested I fax the "remittance letter" (denial from PBC) to 1-855-771-8757 and ask for reconsideration paperwork. That is what [REDACTED] and I are doing now.

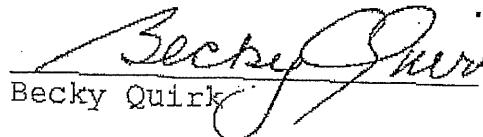
I have copied and pasted Section 4 of Schedule C of the Employment and Assistance Regulations below. Subsection (3)(a) appears to say that usual coverage limitations can be exceeded by an amount necessary to provide dentures if the teeth have been extracted within the last 6 months "to relieve pain".

[REDACTED] and I want to know if that section was considered in creating the "preauthorization", and if not, why not. We are pressing this matter because we want it to

be resolved before six months after his extraction have passed.

Thank you for your attention to this matter. If by any chance this can be resolved to [REDACTED]'s benefit without going through the reconsideration process, I'm sure he'd be willing to withdraw his reconsideration request.

In the alternative, if you would let me know if I need to pick up his reconsideration packet at the [REDACTED] MSDPR office, I would appreciate it. My phone number is 250-352-5777.


Becky Quirk

August 10, 2018

Dental supplements

4 (1) In this section, "period" means

(a) in respect of a person under 19 years of age, a 2 year period beginning on January 1, 2017, and on each subsequent January 1 in an odd numbered year, and [B.C. Reg. 161/2017]

(b) in respect of a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.

(1.1) The health supplements that may be paid under section 63 (*dental supplements*) of this regulation are basic dental services to a maximum of

(a) \$2 000 each period, if provided to a person under 19 years of age, and [B.C. Reg. 161/2017]

(b) \$1 000 each period, if provided to a person not referred to in paragraph (a).

(c) Repealed. [B.C. Reg. 163/2005, s. (b).]

(2) Dentures may be provided as a basic dental service only to a person

(a) who has never worn dentures, or

(b) whose dentures are more than 5 years old.

(3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

(a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,

- (b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or
 - (c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.
- (4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.
- (5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under
- (a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
 - (b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.
- (6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under
- (a) fee numbers 51101 and 51102 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
 - (b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.
- (7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.



Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

SECTION 1 and 2 TO BE COMPLETED BY WORKER

SR NUMBER

SECTION 1 REQUESTOR INFORMATION

REQUESTOR'S NAME

CASE NUMBER

REQUESTOR'S ADDRESS

SECTION 2 DECISION TO BE RECONSIDERED

The Ministry has reviewed your request and considered all of the factors relevant to the eligibility criteria for Dental and Orthodontic Services (dentures). Based on the information provided, your request has been denied.

In order to receive dental and orthodontic services, you must be found eligible under the following legislation:

- Sections 63, 63.1, 64 or 65 of the Employment and Assistance for Persons with Disabilities Regulation as well as Sections 1, 4, 4.1 and 5 of Schedule C

The information provided has not established that all regulatory criteria have been met.

This Reconsideration package includes the following documents:

- Request for Reconsideration, HR0100
- Request for Denture Coverage
- Letter from Advocate
- Pacific Blue Cross Pre-Determination
- Reconsideration and Appeal Process Brochure
- Relevant Legislation
- Advocacy Information
- MySS Information

1. This Request for Reconsideration form must be signed and returned by the date in Section 2, "Date requestor must submit form by".

a. If you can provide reasons and/or evidence why the Ministry's decision should be changed by this deadline, do so.

OR

b. If you need more time to provide reasons or evidence, you may ask for an extension (more time).

To ask for an extension, write on this form that you need an extension, then sign and return it to the Ministry by the date in Section 2, "Date requestor must submit form by". To maximize the amount of time you have to provide reasons or evidence, submit the form on or just before that date.

You may contact the reconsideration office to confirm the extension was approved, 778-698-7750.

2. Once the Ministry receives your signed Request for Reconsideration form, it will write its reconsideration decision within 10 business days (if no extension is requested) or 20 business days (if an extension is requested).

3. The reconsideration decision will be mailed to you, sent by MySelfServe or available for pick up in a Ministry office.





Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

THE ACT AND / OR REGULATIONS THAT APPLY TO THIS DECISION ARE:

Sections 63, 63.1, 64 or 65 of the Employment and Assistance for Persons with Disabilities Regulation
Sections 1, 4, 4.1 and 5 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation

| | | |
|--------------------------------------|-----------------|---|
| MONTH DECISION EFFECTIVE (MMMM YYYY) | RELEVANT DATES: | DATE REQUESTOR INFORMED OF DECISION (EEEE, MMMM DD, YYYY) |
| August 2018 | | Tuesday, August 14, 2018 |
| | | DATE REQUESTOR MUST SUBMIT FORM BY (EEEE, MMMM DD, YYYY) |
| | | Wednesday, September 12, 2018 |





BRITISH
COLUMBIA
Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE REQUEST FOR RECONSIDERATION

SECTION 3 REASON FOR REQUEST FOR RECONSIDERATION

(TO BE COMPLETED BY THE REQUESTOR ONLY AFTER SECTIONS 1 AND 2 HAVE BEEN COMPLETED BY WORKER)

Please see attached

PAGE WITH CLIENT'S SIGNATURE
NOT INCLUDED

Submission by advocate on the behalf of requestor
[REDACTED]

SR#1 [REDACTED]

[REDACTED] had his teeth extracted due to pain on April 23, 2018.

Please see my write-up of this situation that we submitted when requesting the reconsideration packet. In that write-up, we explained that we have been trying to determine whether Mr. [REDACTED] is eligible for amount discussed in Section 4 of Schedule C that permits exceeding the usual limits of coverage if the extraction of the teeth occurred to "relieve pain".

Unfortunately, the Ministry's "decision to be reconsidered" on Mr. [REDACTED]'s Request for Reconsideration does not address that question.

That form merely lists regulatory sections and then declares that the "regulatory criteria have not been met" without further discussion. This form does not provide the explanation we were hoping for, and thus, Mr. [REDACTED] and I are, once again, asking that the addition funding be made available to him because his extraction occurred to "relieve pain".

Here are the regulations that are listed in the "decision to be reconsidered" section of Mr. [REDACTED]'s "Request for Reconsideration" form

63. - Mr. [REDACTED] receives Persons with Disabilities income assistance and therefore he complies with this section

63.1 - Mr. [REDACTED] receives Persons with Disabilities income assistance and therefore he complies with this section

64 - Mr. [REDACTED] receives Persons with Disabilities income assistance and therefore he complies with this section

65 - Mr. [REDACTED] receives Persons with Disabilities income assistance and therefore he complies with this section (However, I don't believe Mr. [REDACTED] has made a request for orthodontic work as far as I know, so I am unclear why this section was cited. The citing of this section draws in to question the care with which the "decision to be reconsidered" was written.)

Schedule C, 1 - includes definitions including references to "Dental Supplement - Denturist" - portions of which are copied and pasted below my signature.

Schedule C, Section 4 - Section 4 (3)(a) is the section that appears to permit Mr. [REDACTED]'s coverage to exceed the limits stated in Sections 4 (1) and (1.1) if his teeth were extracted due to pain (which they were).

Schedule C, Section 5 states that the health supplements to be paid pursuant to section 64 (discussed above) are emergency dental services.

I have cut and pasted passages from the "Dental supplement/denturist" below. These passages also support the coverage of dentures when a PWD recipient has had teeth extracted due to pain.

I have attached to this submission a document from the office of the extracting dentist, Dr. [REDACTED], confirming that Mr. [REDACTED] had a "full clearance" and that it was "done for relief of pain".

The BC Ombudsperson's "fairness checklist" sets forth the requirements of fair treatment of citizens by

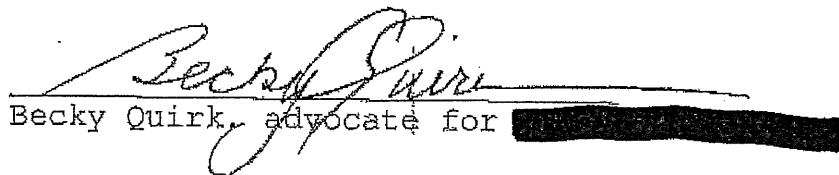
government bodies. One of the requirements is "reasons are given for decisions". [see:
<https://www.bcombudsperson.ca/complaints/fairness-checklist>] Listing regulatory sections schedule sections without any further explanation is not an explanation. We have a genuine desire to understand the denial of coverage. It is frustrating not to be given an explanation by the denturist, Blue Cross, or the Ministry. Therefore, we maintain our position that this additional funding should be available to him.

Mr. [REDACTED] has done everything he can to get this issue resolved within six months of the extraction of his teeth. I trust at this point, he will not be denied for going beyond the six months of extraction if the appeal process causes an additional delay.

Finally, if for reasons that have not been articulated so far, Mr. [REDACTED] does not have access to additional funding for dentures despite having a "full clearance" "for relief of pain", our next question would be whether he would have access to any funding for dentures in January 2019.

Thank you.

Submitted this the 23rd day of August 2018,



Becky Quirk, advocate for [REDACTED]

Denture Policy Initial Placement ~ Complete Denture(s)
All Ministry clients, including those with Emergency Dental Supplement coverage only, are eligible for a single complete denture (upper or lower), or complete dentures if the dentures are required as a result of extractions for the relief of pain resulting in full clearance of the arch/arches. This clearance must have

AUG/22/2018/WED 09:50 AM Dr [REDACTED]

FAX No. [REDACTED]

P. 002

Date: Aug 22, 2018 10:22:58

Family Claim Ledger
For [REDACTED]

Page 1

| Serv# | Date | Name | Sta | Prod | Code | Description | Pmt Amt | Ins Amt | Total |
|----------|----------|-------|-----|------|-------|--------------------------|---------|---------|---------|
| 103990 | Apr23,18 | James | C | D03 | 71211 | Req. Elevation of a Flap | 0.00 | 201.55 | 201.55 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| {070662} | May17,18 | PBC | | D03 | BIC | Bulk Insurance Cheque | 0.00 | 429.50- | 429.50- |
| | | | | | | Claim Balance : | 0.00 | 0.00 | 0.00 |
| | | | | | | Running Balance : | 0.00 | 0.00 | 0.00 |
| | | | | | | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| 103991 | Apr23,18 | James | C | D03 | 71109 | Comp Ext@Surg Flap 1Th | 0.00 | 130.27 | 130.27 |
| | Apr23,18 | James | C | D03 | 71201 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| {070662} | May17,18 | PBC | | D03 | BIC | Bulk Insurance Cheque | 0.00 | 312.63- | 312.63- |
| | | | | | | Claim Balance : | 0.00 | 0.00 | 0.00 |
| | | | | | | Running Balance : | 0.00 | 0.00 | 0.00 |
| | | | | | | Req. Elevation of a Flap | 0.00 | 201.55 | 201.55 |
| 103992 | Apr23,18 | James | C | D03 | 71211 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| | Apr23,18 | James | C | D03 | 71211 | Req. Elevation of a Flap | 0.00 | 201.55 | 201.55 |
| | Apr23,18 | James | C | D03 | 71109 | Ext 1+ Tth Uncomplicated | 0.00 | 45.59 | 45.59 |
| {070662} | May17,18 | PBC | | D03 | BIC | Bulk Insurance Cheque | 0.00 | 539.87- | 539.87- |
| | | | | | | Claim Balance : | 0.00 | 0.00 | 0.00 |
| | | | | | | Running Balance : | 0.00 | 0.00 | 0.00 |

Full Clearance - done for relief of Pain.

DC
GENERAL DENTISTRY
INC.

Canada

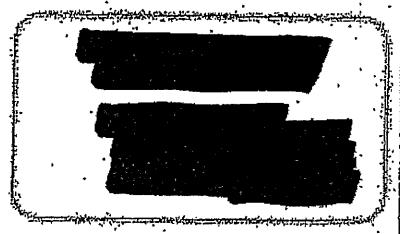
To whom it may concern,

John T. Smith

I am [REDACTED] a dentist. He had all of his teeth extracted on April 15, 2003 by [REDACTED] pain. He now requires a full upper and lower denture as a result. Pacific Blue Cross has denied all coverage for this, for reasons that are not clear. Mr. [REDACTED] currently has no teeth.

Sincerely,

[REDACTED]
Registered Dentist





2 of 2

00780

Jul 28, 2018

Your Office Number
X1GPYour ID Number
810201010

** IMPORTANT NOTE: Predetermination is only valid for twelve (12) months. **

Please refer to cover page for further details of this predetermination

Details

| Claim ID | Date Submitted | Eligible Amount | Deductible Amount | Percent Covered | Procedure | Plan Approved To Date | Message |
|---|----------------|-----------------|-------------------|-----------------|-----------|-----------------------|--|
| Policy Number: 13189 ID Number: 9091264814 Patient Name: [REDACTED] | | | | | | | |
| 067287001 | 10010 | 24.00 | 0.00 | 0.00 | 100% | 10610 | 0.00 C641D, PB046, PB047 |
| 067287001 | 31310 | 561.25 | 0.00 | 0.00 | 100% | 31310 | 0.00 C641D, EOS01, PB046, PB047 |
| 067287001 | 31320 | 561.25 | 0.00 | 0.00 | 100% | 31320 | 0.00 C641D, EOS01, PB046, PB047 |
| Total | | 1,186.50 | | | | | 0.00 |

C641D - Coverage maximum has been reached according to the details outlined in your policy.
EOS01 - Dentures can only be considered over the participant's financial limit when the denture criteria, outlined in Part A of the current Ministry of Social Development Fee Schedule, is met.
PB046 - This plan has a maximum dollar limit. To ensure active coverage is in place, eligibility must be confirmed for all clients prior to proceeding with any treatment. Please also refer to the Ministry Dental Supplement Fee Guide Preamble for their maximum entitlements.
PB047 - Any questions pertaining to this claim should be directed to 604-419-2793 or 1-800-667-8801. Processed on behalf of BC Ministry of Social Development Dental Care Plan as administered by PEC.



Ministry of
Social Development
and Poverty Reduction

EMPLOYMENT AND ASSISTANCE RECONSIDERATION DECISION

The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection, use and disclosure of this information, please contact your local Employment and Assistance Centre.

REQUESTOR INFORMATION

Reconsideration SR No. [REDACTED]

Requestor Name
[REDACTED]

Requestor Address (Physical address documents should be delivered to)
[REDACTED]

City
[REDACTED]

Postal Code
[REDACTED]

Case No.
[REDACTED]

DECISION UNDER CONSIDERATION (Summarize the request and original decision)

You are requesting a reconsideration of the decision to deny coverage of complete dentures and a "new patient exam."

SUMMARY OF FACTS (Summarize the relevant facts, based on the request and the evidence provided)

The Summary of Facts related to your Request for Reconsideration is set out under the heading "BACKGROUND" in the attached decision.

On September 5, 2018, the ministry completed its review of your Request for Reconsideration.

APPLICABLE LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation , sections 62, 63
Employment and Assistance for Persons with Disabilities Regulation, Schedule C, sections 1 and 4
Schedule of Fee Allowances – Denturist, Emergency Dental – Denturist, Crown & Bridgework

~ Please see the attached copy of the legislation in Appendix B ~

RECONSIDERATION DECISION

~ Please see the attached decision summary in Appendix A ~

ENCLOSED: ALL DOCUMENTS CONSIDERED BY THE MINISTRY NOTICE OF APPEAL TO THE EMPLOYMENT
AND ASSISTANCE APPEAL TRIBUNAL

| | | |
|--------------------------|--|---|
| SIGNATURE <i>R.S.</i> | NAME AND TITLE (Please Print) R.S., Reconsideration Officer | DATE (YYYY/MMM DD) September 5, 2018 |
|--------------------------|--|---|

If this decision is appealable to the Employment and Assistance Appeal Tribunal, and you wish to appeal this decision, you may complete the enclosed *Notice of Appeal to the Employment and Assistance Appeal Tribunal* form and return it to the Appeal Tribunal. This Reconsideration Decision and attached documents constitute the appeal record. A sealed copy of this appeal will be kept by the Ministry.

Pursuant to subsection 22(4) of the *Employment and Assistance Act*, a tribunal panel may admit as evidence only:
(a) the information and records that were before the minister when the decision being appealed was made, and
(b) oral or written testimony in support of the information and records referred to in paragraph (a).

Appendix A – Reconsideration Decision

The Ministry of Social Development and Poverty Reduction has approved coverage of complete dentures. However, coverage for a "new patient exam" is denied. The ministry is not authorized to provide coverage for basic dental services over the \$1000 limit except for dentures and emergency dental services.

All documentation submitted with your application and Request for Reconsideration was considered in making this decision, including your claims history with Pacific Blue Cross (PBC). Copies of all documents reviewed at reconsideration are included.

Coverage for the following services is requested:

| | Tooth No. | Fee Code | Description | Dentist Fees | PBC Coverage Provided |
|---------------------|-----------|----------|-----------------------------|---------------|-----------------------|
| Date: July 26, 2018 | | | | | |
| 1 | n/a | 10010 | New Patient Exam | \$24.00 | \$0.00 |
| 2 | n/a | 31310 | Complete Maxillary Denture | \$581.25 | \$0.00 |
| 3 | n/a | 31320 | Complete Mandibular Denture | \$581.25 | \$0.00 |
| | | | | TOTAL: | \$1,186.50 |
| | | | | | |

BACKGROUND:

- On August 10, 2018, the ministry received the following documents:
 - Statement / Self-Report (undated)
 - You state your teeth were extracted on April 23, 2018 due to pain. You further state PBC denied coverage of complete dentures. You request a reconsideration.
 - PBC Predetermination (dated July 26, 2018)
 - Summarizes PBC's assessment of coverage as outlined in the above table.
 - Statement written by Advocate B. Quirk (dated August 10, 2018)
 - Summarizes the denial of coverage for complete dentures.
- On August 23, 2018, the ministry received your signed Request for Reconsideration. You provide the following documents:
 - Statement written by Advocate B. Quirk (dated August 23, 2018)
 - Indicates how you meet the eligibility criteria for coverage of complete dentures.
 - Invoice prepared by the office of Dr. [REDACTED] (dated August 22, 2018)
 - Indicates multiple tooth extractions took place on April 23, 2018.
 - States: "Full clearance - done for relief of pain."

- On August 27, 2018, the ministry received the following document:
 - Letter written by Denturist [REDACTED] (dated August 27, 2018). He writes the following:
 - *"I am Mr. [REDACTED]'s denturist. He had all of his teeth extracted on April 23, 2018 to relieve pain. He now requires a full upper and lower denture as a result. Pacific Blue Cross has denied all coverage for this, for reasons that are not clear. Mr. [REDACTED] currently has no teeth."*

DECISION:

Ministry Note:

Please note, the *EAPWD Act, Section 25*, sets out that subject to the regulations, the minister may delegate to any person or category of persons any or all of the minister's powers, duties or functions under this Act (except the power to prescribe forms, and the power to enter into an agreement under section 21 (2) or (2.1), unless section 21 (2.2) applies in relation to the agreement). In the case of dental supplements, the minister's powers, duties or functions are delegated to Pacific Blue Cross (PBC).

Basic Eligibility

As you are a recipient of disability assistance, you are eligible for dental supplements under section 63, 63.1, and 64 and Schedule C, sections 4, 4.1 and 5 of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation.

Eligibility for Coverage of Complete Dentures (upper and lower)

The ministry has determined you are eligible for coverage of complete dentures up to the maximum ministry rates as set out in the Schedule of Fee Allowances - Denturist.

Eligibility for Coverage of a "New Patient Exam"

Your PBC claims history indicates that as of the date of this decision, you had \$0.00 of your \$1,000 limit for basic dental services for the period beginning January 1, 2017 and ending December 31, 2018.

Schedule C, section 4(1.1) of the EAPWD Regulation sets out that the health supplements that may be paid under Section 63 [*dental supplements*] are *basic dental services* to a maximum of \$1000 each period. Section 4(1) defines "period" as a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year. Your claims history with PBC indicates that as of the date of this decision, the ministry had paid \$1000.00 on your behalf for *basic dental services* during the current period (ending December 31, 2018).

The limit for basic dental services may be exceeded if the need for emergency dental services is identified and the services requested are set out in the Schedule of Fee Allowances - Emergency Dental - Denturist. However, a "new patient exam" (fee code 10010) is not set out for in the Schedule of Fee Allowances - Emergency Dental - Denturist.

The provision of *emergency dental services* is the only legislative option available to the ministry to exceed the \$1000 two-year limit for *basic dental services*, other than for the provision of dentures under Schedule C, subsection 4(3).

CONCLUSION:

The Ministry of Social Development and Poverty Reduction has approved coverage of complete dentures up to the maximum ministry rates as set out in the Schedule of Fee Allowances - Denturist. However, coverage for a "new patient exam" is denied. The ministry is not authorized to provide coverage for basic dental services over the \$1000 limit except for dentures and emergency dental services.



Information and Instructions

Canada Pension Plan Disability Benefit Application

What is the Canada Pension Plan disability benefit?

The Canada Pension Plan (CPP) disability benefit (also known as the disability pension) is a taxable monthly payment available to people who have made contributions to the CPP and are not able to work regularly at any job because of a disability.

A benefit may also be available to their children.

How do I qualify for the CPP disability benefit?

To qualify for the CPP disability benefit, 3 conditions must be met:

1. You must be under the age of 65.
2. You must have made the minimum amount of valid CPP contributions.

Contributions to the CPP are made while you are working.

Service Canada will review your contribution history to determine if you have made the minimum amount of valid CPP contributions to qualify for the CPP disability benefit.

The benefit amount you could qualify for is based on how long and how much you contributed to the CPP.

The information you provide in **Sections A and B** along with the information on your account will help us determine if you have made the minimum amount of valid contributions to the CPP.

3. You must have a mental or physical medical condition(s) that prevents you from regularly working at any job. The medical condition(s) must be found to be both severe and prolonged when you last met the minimum amount of valid CPP contributions to qualify, and you must have been unable to work continuously since then.

For the CPP:

- Severe means that you have a mental and/or physical disability that regularly stops you from doing any type of substantially gainful work.
- Substantially gainful work or occupation is considered to be any profession or work one might pursue to earn a living. If the total amount of earnings from this work is more than 12 times the maximum monthly CPP disability pension amount, a person is normally considered to be doing substantially gainful work.
- Prolonged means that the disability is long-term and of indefinite duration or is likely to result in death.

Service Canada will review the information you provide in **Sections C, D and E** along with the medical information we receive from your doctor, nurse practitioner, insurance company or provincial/territorial agency. This will help us determine how your medical condition(s) impacts your capacity to perform work-related activities.

Symbols used in this application

 Read this carefully

 Attach an extra sheet if needed

 Where to get help

If you have been diagnosed with a terminal illness

 If you have been diagnosed with a terminal illness by your doctor or nurse practitioner, you can fill out the Terminal Illness Application for a Disability Benefit under the Canada Pension Plan (ISP2530).

Service Canada will make a decision on your disability application within 5 business days of receiving a complete Terminal Illness Application.

 The Terminal Illness Application can be found online at www.canada.ca/esdc-forms.

If you have contributed to the Quebec Pension Plan

 The CPP operates throughout Canada, except in Quebec, where the Quebec Pension Plan (QPP) provides similar benefits.

If one of the following applies to you, please contact Retraite Québec.

- You worked in Quebec only.
- You worked in Quebec and at least one other province/territory and currently live in Quebec.
- You worked in Quebec and at least one other province/territory, you currently live outside of Canada, and your last province of residence in Canada was Quebec.

 Information can be found at www.retraitequebec.gouv.qc.ca/en.

If you have contributed to both the CPP and QPP, you must apply for the QPP if you live in Quebec or for the CPP if you live in another province or territory in Canada.

If you have applied for or been receiving a CPP retirement pension for the last 15 months

 The CPP cannot pay a disability benefit and a retirement pension at the same time. If you have been receiving your CPP retirement pension for 15 months or more at the time you applied for a CPP disability benefit, you cannot be granted the CPP disability benefit.

If you need time to complete the application

Past applicants have reported that it takes time to complete the application. Some have suggested that it was easier to complete it in multiple sittings. You may want to consider filling out one section at a time with breaks in between. Read each section carefully, as some parts may not apply to you.

 You must keep in mind that the date Service Canada receives your application is important as it could affect when your benefit starts.

If you need more information to complete the application

 The information and instructions you will need to apply for a CPP disability benefit can be found in this application. You can also find more information about the benefit online at www.canada.ca/cpp-disability. If you cannot find the information you are looking for or have any questions, contact Service Canada at our toll-free numbers.

In Canada or the United States: 1-800-277-9914 TTY: 1-800-255-4786

From all other countries: 613-957-1954 (we accept collect calls)

Please have your Social Insurance Number ready when you call.

If you need help

 You can give permission to another person to give or receive information from Service Canada on your behalf. To give permission, you must:

- ✓ complete the **Consent to Communicate Information to an Authorized Person (ISP1603)** form found at www.canada.ca/esdc-forms.

This consent does not provide authority for the person to apply for benefits on your behalf, change your payment address, or request/change a tax withhold.

 If you wish to have someone act on your behalf or you are no longer capable of managing your own affairs, you can appoint an authorized representative.

See page 19 of this application for more information on authorized representatives.

What we need from you

1. An application for a Canada Pension Plan disability benefit

The CPP disability benefit application is available in two formats. You can choose to complete a paper application or a fillable form that can be found online at www.canada.ca/esdc-forms.

Note: You can save the fillable form to your computer, but you cannot submit it electronically.

Be sure to:

- ✓ write/type your Social Insurance Number at the top of each page.
- ✓ provide as much detail as you can.
- ✓ sign in pen and mail the form to the Service Canada office nearest you. See a list of addresses on the next page. You can also drop off the completed application at a Service Canada Centre near you.

If you need more space:

- ✓ write/type the information on a blank sheet of paper and attach it to the application.
- ✓ write/type your Social Insurance Number at the top of each sheet.
- ✓ write/type the question number, then write the information you want to add.

2. A medical report

If you are currently receiving a disability benefit from an insurance company or a provincial/territorial agency:

- ✓ you can ask them to send us your most current medical report(s).

If you are not currently receiving a disability benefit from an insurance company or a provincial/territorial agency:

- ✓ complete **Sections 1 and 2** of the **Medical Report for a Canada Pension Plan Disability Benefit (ISP2519)**.
- ✓ write/type your Social Insurance Number at the top of each page.
- ✓ sign all areas that require your signature.
- ✓ ask your doctor or nurse practitioner to complete **Sections 3 to 9** and ask them to mail it to the nearest Service Canada office.

 **DO NOT WAIT** for your doctor or nurse practitioner to complete the **Medical Report** before sending your completed application to Service Canada. The date Service Canada receives your application could affect when your benefit starts.

Service Canada will help you pay for the cost of the **Medical Report** by paying up to \$85.00 directly to your doctor or nurse practitioner. Any money owing over this amount is your responsibility.



Service Canada Offices Disability

Mail your forms to the nearest Service Canada office listed below.

From outside of Canada, send your forms to the Service Canada office in the province/territory where you last lived.

Newfoundland and Labrador
Service Canada
PO Box 9430 Station A
St. John's NL A1A 2Y5
CANADA

Nova Scotia and Prince Edward Island
Service Canada
PO Box 1687 Station Central
Halifax NS B3J 3J4
CANADA

New Brunswick and Quebec
Service Canada
PO Box 250
Fredericton NB E3B 4Z6
CANADA

Ontario
Service Canada
PO Box 2020 Station Main
Chatham ON N7M 6B2
CANADA

Manitoba and Saskatchewan
Service Canada
PO Box 818 Station Main
Winnipeg MB R3C 2N4
CANADA

Alberta / Northwest Territories and Nunavut
Service Canada
PO Box 2710 Station Main
Edmonton AB T5J 2G4
CANADA

British Columbia and Yukon
Service Canada
PO Box 1177 Station CSC
Victoria BC V8W 2V2
CANADA

If you have any questions about completing this application, call us.

In Canada or the United States: 1-800-277-9914

For all other countries: 613-957-1954 (we accept collect calls)

TTY: 1-800-255-4786

Important: Please have your Social Insurance Number ready when you call.



Application for a Canada Pension Plan Disability Benefit

(Disability benefit refers to the disability pension)

Section A - Information about you

| | | | |
|---|--|--|--|
| A1 Social Insurance Number | | Preferred language <input type="radio"/> English <input type="radio"/> French | FOR OFFICE USE ONLY Date Stamp |
| Optional: <input type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Miss <input type="radio"/> Ms. | | | |
| First name | Middle name | Last name(s) | |
| Date of birth (YYYY-MM-DD) | Last name at birth (if different from above) | | |
| Home address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Mailing address (if different from home address) (no, street, apt., PO box, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| If you now live outside of Canada, in which Canadian province/territory did you last live? | Telephone number | Alternate telephone number | |
| The best time for Service Canada to call you | <input type="radio"/> Morning <input type="radio"/> Afternoon <input type="radio"/> Please don't call, send letters only | | |
| A2 Have you or your children ever applied for or received benefits under the Quebec Pension Plan? <input type="radio"/> Yes <input type="radio"/> No | | | |

Section B - Contributions to the Canada Pension Plan (CPP)

To help you meet the minimum amount of valid CPP contributions, Service Canada may consider certain provisions and/or agreements.

The information you provide in B1 to B3 will help us determine if any of the provisions or agreements apply to you.

B1 Dividing CPP contributions - Credit split provision

If you have been separated, divorced or in a common-law relationship that ended, the CPP contributions you and your former spouse or common-law partner made to the CPP during the time you lived together could be combined and equally divided.

We will review the information you provide below and let you know if a credit split could help you qualify for the CPP disability benefit.

| | | |
|------------------------------|--|--|
| What is your current status: | <input type="radio"/> Single <input type="radio"/> Common-law <input type="radio"/> Divorced | <input type="radio"/> Married <input type="radio"/> Separated <input type="radio"/> Surviving spouse or common-law partner |
|------------------------------|--|--|

If you are currently, or have ever been separated, divorced or in a common-law relationship that ended, please provide us with the dates you started and stopped living with your former spouse or former common-law partner.

| | | | |
|--|-----------|---|-----------|
| Date you started to live with your former spouse or common-law partner | (YYYY-MM) | Date of separation or end of common-law relationship | (YYYY-MM) |
|--|-----------|---|-----------|

For additional periods, please attach an extra sheet.

(B2) Living or working in another country - International social security agreements

If you have lived and/or worked in a country other than Canada, the credits you have accumulated in that country may help you qualify for the CPP disability benefit.

If Canada has an international social security agreement with the country(ies) you have indicated below, we will verify if it will help you qualify for the CPP disability benefit.

Have you ever lived or worked in another country? Yes No

If Yes, please fill out this table to help us determine if an international social security agreement could help you qualify for the CPP disability benefit.

| Name of Country | Your social identification number in that country | Dates lived in that country From (YYYY-MM) To (YYYY-MM) | | Dates worked in that country From (YYYY-MM) To (YYYY-MM) | | Have you asked for or received benefits from that country? |
|-----------------|---|--|--|---|--|--|
| 1. | | | | | | <input type="radio"/> Yes <input type="radio"/> No |
| 2. | | | | | | <input type="radio"/> Yes <input type="radio"/> No |

📎 For additional countries, please attach an extra sheet.

? Note: Your CPP contributions may also help you qualify for a benefit or pension from that country. For more information on international benefits go to www.canada.ca/pension-international.

(B3) If you worked less to care for young children - Child rearing provision

If you worked less or stopped working because you were the primary caregiver for one or more children under the age of 7, you may have contributed little or nothing to the CPP. For this reason, we may be able to apply the child rearing provision. This could help you meet the minimum amount of valid CPP contributions needed to qualify for a disability benefit, and/or could increase the benefit amount you receive.

For the CPP, the primary caregiver is the person who is/was most responsible for the daily needs of the child(ren) until the age of 7. Some things a primary caregiver does are: watch over the child(ren), prepare meals, go to school meetings and events, or take the child(ren) to doctors appointments.

To qualify for the child rearing provision, you must have been the primary caregiver and:

1. received the Family Allowance (available before 1993); and/or
2. been eligible for the Canada Child Benefit, even if you did not receive it (available since 1993).

Note: Only one person can be the primary caregiver at any time. Therefore, this provision can only be applied to one account for the same time period and child(ren).

Please provide your child(ren)'s information below, regardless of their current age.

| Child's full name | Social Insurance Number | Child's date of birth (YYYY-MM-DD) | If the child was born outside Canada, tell us the date the child entered Canada (YYYY-MM-DD) |
|-------------------|-------------------------|------------------------------------|--|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

📎 For additional children, please attach an extra sheet.

Note: If you do not provide the Social Insurance Number of the child(ren) and/or if the child(ren) was born outside of Canada, Service Canada will require a certified photocopy of an acceptable document confirming the child(ren)'s date of birth (e.g. birth certificate) and/or proof of the child(ren)'s date of entry into Canada (e.g. IMM 1000 or passport).

Social Insurance Number:

PROTECTED B (when completed)

A) Were you the primary caregiver for these children when they were under the age of 7? Yes No

B) If there were periods of time when you were not the primary caregiver for the child(ren) listed, please provide the dates and reasons:

| | | |
|----------------|--------------|---------|
| From (YYYY-MM) | To (YYYY-MM) | Reason: |
| From (YYYY-MM) | To (YYYY-MM) | Reason: |

? To help you determine how to complete the following questions, please see Annex A at the end of the application.

C) Did you or your current/former spouse or common-law partner receive the Family Allowance? Yes No

If Yes, please indicate who received the benefit: You Your current/former spouse or common-law partner

Did you or your current/former spouse or common-law partner receive, or were either of you eligible for the Canada Child Benefit? Yes No

If Yes, please indicate who received or was eligible for the benefit: You Your current/former spouse or common-law partner

D) If there were periods when you did not receive the Family Allowance or the Canada Child Benefit for the child(ren) listed above, please provide the dates and reasons:

| | | |
|----------------|--------------|---------|
| From (YYYY-MM) | To (YYYY-MM) | Reason: |
| From (YYYY-MM) | To (YYYY-MM) | Reason: |

E) Please read this section if you were the primary caregiver, but did not receive the Family Allowance (available before 1993).

The child rearing provision cannot be applied to both you and your current/former spouse or common-law partner's CPP benefit(s) for a child for the same time period.

If you were the primary caregiver, but did not receive the Family Allowance, we would not be able to apply this provision to your CPP benefit(s). However, your current/former spouse or common-law partner can choose to transfer their rights to the provision to you. They can do this by signing the waiver of rights below.

Waiver of rights to the child rearing provision

I declare that, for the child(ren) listed for this question and on any additional sheets, I have not and will not make any claims for the child rearing provision for the period(s) accredited to my current/former spouse or common-law partner. Once I give up my rights to the child rearing provision, the action cannot be reversed.

| | | |
|-----------|-------------------------|---------------------------------|
| Name | Social Insurance Number | Telephone number during the day |
| Signature | Date (YYYY-MM-DD) | |
| X | | |

 This is the end of the section of the application we are using to assess your contributions to the CPP.

Service Canada will review the information you provide in the next section along with the medical information provided by your doctor, nurse practitioner, insurance company or provincial/territorial agency. This will help us determine how your medical condition(s) impacts your capacity to perform work-related activities.

Section C - Information about your medical condition(s)

The information you provide in this section will help Service Canada understand how your medical condition(s) impact(s) your ability to perform work-related activities.

| | | |
|--|------------------------------|-----------------------------|
| C1 When did you feel you could no longer work because of your medical condition(s)? | | Date (YYYY-MM) |
| <p> This date is not always the same as the last day you went to work. It could be before or after you actually stopped working.</p> | | |
| C2 a) State your main medical condition(s) that prevents you from working. If you do not know the medical name(s), describe in your own words. | | |
| b) List any additional medical conditions that prevent you from working. | | |
| C3 a) I am: <input type="radio"/> right-handed <input type="radio"/> left-handed | | |
| b) List any aids you use to assist with your medical condition(s) and how often you use them. Some examples of aids include: crutches, cane, artificial limb, splints, braces, wheelchair, hearing aid, heart pacemaker, ostomy apparatus, CPAP or service animal. | | |
| C4 Provide the details of any hospitalizations you have had in the past related to your medical condition(s). | | |
| Name of hospital | City/Town | Province/Territory |
| Date admitted (YYYY-MM-DD) | Date discharged (YYYY-MM-DD) | Name of attending physician |
| Reason for admission: | | |

 For additional hospitalizations, please attach an extra sheet.

C5 List any medication(s) you are taking now.

 A printout of your medication from a pharmacy can be attached instead.

| Name of medication | Dosage | How often |
|--------------------|--------|-----------|
| 1. | | |
| 2. | | |
| 3. | | |

Social Insurance Number:

PROTECTED B (when completed)

(C6) List past, current and future treatments for your medical condition(s).

| Type of treatment | From (YYYY-MM) | To (YYYY-MM) | Where the treatment was/will be received |
|-------------------|-------------------|-----------------|--|
| 1. | | | |
| 2. | | | |
| 3. | | | |

List past, current and future tests for your medical condition(s).

| Type of test | Date (YYYY-MM) | Hospital/clinic and city where test was/will be done |
|--------------|-------------------|--|
| 1. | | |
| 2. | | |
| 3. | | |

📎 For additional treatments or tests, please attach an extra sheet.

(C7) If you are receiving any disability benefits from an insurance company or a provincial/territorial agency, including a workers' compensation program, please provide details in the table below.

| Name of insurance company, provincial/territorial agency | Claim number | Medical condition | Start of benefit (YYYY) |
|---|--------------|-------------------|----------------------------|
| 1. | | | |
| 2. | | | |

If you are receiving a disability benefit from an insurance company or a provincial/territorial agency, you can ask them to send us your medical information. If we receive this information, you do not need to submit the Medical Report for a Canada Pension Plan Disability Benefit (ISP2519).

Have you authorized the insurance company or the provincial/territorial agency to send us your medical information?

Yes No If yes, please provide the name of the company/agency:

Repayment of benefits to a private insurance company and/or a provincial or municipal agency

Service Canada may find that you qualified for a CPP disability benefit when you were receiving benefit payments from a private insurance company and/or a provincial or municipal agency. If we owe you a retroactive payment (up to 11 months) you may have to pay back the benefits you received from those organizations during that time.

Service Canada can reimburse a private insurance company and/or a provincial or municipal agency on your behalf. In order to do this, we need your written consent. The insurance company and/or a provincial or municipal agency will ask you to sign a consent form to allow us to pay them directly. If you choose not to do this, it is your responsibility to inform them.

C8 Functional assessment - assessing your abilities

In question C2, we asked you to state the medical condition(s) that prevents you from working regularly. With these next questions, we would like you to tell us how the medical condition(s) affects your ability to work. The answers and additional information you provide will be considered along with the medical information provided by your doctor, nurse practitioner, insurance company or provincial/territorial agency.

As you are answering the questions, think about all of your physical and mental limitations, regardless of what medical problem is causing them. Focus on what you can do, not how you feel.

Next, think about what it means to be a worker. All jobs are different, but working means you must be able to:

- get hired or create your own job;
- get ready for work;
- travel to and from work;
- deal with co-workers and clients;
- deliver a quality product or service; and
- follow a work schedule set by your employer and/or clients.

Then, compare your limitations to the demands of work, and provide your ratings on the next few pages based on your ability level most days. Assume you are using your aids such as crutches, cane, artificial limb, splints, braces, wheelchair, hearing aid, service animal or adaptive computer equipment.

If you do not have any limitations with the abilities being assessed, you can check the box at the top of each question block.

If you have any additional information about your abilities, you can provide the details in the area following each question block. The following examples could help you with the explanation/information you may want to provide in these areas.

Examples**Physical abilities**

It is very difficult for me to remain standing for more than 10 minutes at any given time because of my back pain, even on my good days (one or two days a week). Up until a year ago, I was able to do this without a problem. I am most comfortable lying down. Hot baths help, but only briefly.

Behaviours and emotional abilities

In the last few months, my depression has gotten worse. I have a hard time getting myself out of bed most mornings (four to six days a week) because I feel so down. I find myself crying for no reason and I am often irritable with others. On my good days, I can spend some time with other people, but on my bad days, I cannot get myself to leave my home. I stopped volunteering for my son's hockey league because it's too hard being around others.

Communication and thinking abilities

In the last year, my fibromyalgia has made it very hard to sleep at night. On my good days (one or two days a week), I am able to sleep up to four hours, but on my bad days, I cannot sleep at all. Medications for pain and sleep leave me drowsy and "spacey" the next day. Because of this, I have a lot of difficulty organizing my thoughts and finding my words when I talk to others. I cannot concentrate on what I am supposed to do most of the time. I used to read novels for pleasure, but now I can't focus my attention for more than a couple of pages.

Other daily abilities

Starting last year, my fatigue has been overwhelming. I used to constantly be "on the go" running my home-based bookkeeping business, seeing new clients and driving my kids to sports and other activities. That ended when my condition flared and I had to let go of all my clients because I couldn't keep up. Now, I am unable to finish doing household chores without having to sit or lie down every half hour. Even washing myself has become too hard. I cannot hold my arms up long enough to finish washing my hair because I get so tired.

A) Physical abilities

Check this box if you do not have physical problems that limit your ability to work. Otherwise, please answer the questions below by filling in the circles.

| How would you rate your ability to do the following? | Ability level most days | | | | |
|---|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Excellent | Very good | Good | Fair | Poor |
| 1. Remain on your feet for at least 20 minutes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Walk a block (about 100 metres) on flat ground | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Go up and down 12-15 steps | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Get down into a kneeling or squatting position and back up again | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Bend down to pick up coins from the floor | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Remove an item from your back pocket | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Change a light bulb in the ceiling above your head | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Sit for at least 20 minutes in a straight back chair | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Transfer to and from a bed, chair, toilet, or car | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Drive a car | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 11. Pull or push a heavy door to open it | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 12. Pick up two bags of groceries and walk a block (about 100 metres) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 13. Open a can with a manual can opener | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 14. Pound a nail with a hammer | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 15. Use your index finger to press the keys on a computer keyboard | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 16. Stare at a computer screen for at least 20 minutes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

If you have any additional information about your physical abilities, please provide details below.

Consider:

- (1) whether your abilities vary between good days and bad days; and,
- (2) whether your abilities have improved or worsened over time.

See page 6 of this application for an example of how to respond.

 If additional space is needed, please attach an extra sheet.

B) Behaviours and emotional abilities

Check this box if you do not have behavioural and emotional problems that limit your ability to work. Otherwise, please answer the questions below by filling in the circles.

| How would you rate your ability to do the following? | Ability level most days | | | | |
|---|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Excellent | Very good | Good | Fair | Poor |
| 1. Work in a team | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Change your usual work approach when asked to do so | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Keep at difficult tasks until you get them done | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Adjust easily to unexpected changes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Figure out what to do when you are stressed | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Ask for help from co-workers when needed | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Deal with people you do not know | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Control your temper when dealing with others | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Do what people in authority ask you to do | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Control emotions and impulses that others would probably consider inappropriate | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 11. Manage your anxiety | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 12. Handle being in public places or situations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

If you have any additional information about your behaviours and emotional abilities, please provide details below.

Consider:

- (1) whether your abilities vary between good days and bad days; and,
- (2) whether your abilities have improved or worsened over time.

See page 6 of this application for an example of how to respond.

 If additional space is needed, please attach an extra sheet.

C) Communication and thinking abilities

- Check this box if you do not have communication and thinking problems that limit your ability to work.
 Otherwise, please answer the questions below by filling in the circles.

| How would you rate your ability to do the following? | Ability level most days | | | | |
|---|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Excellent | Very good | Good | Fair | Poor |
| 1. Understand what people say in everyday conversations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Call to mind words that you want to use while talking to someone | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Remember to do important things, such as keeping appointments | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Find your way to a familiar place, such as the bank or grocery store | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Concentrate and focus your attention for at least 30 minutes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Keep track of what you are doing, even if you are interrupted | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Learn new things such as organizing files according to a system | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Prioritize and plan your day | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Decide between two options | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Put together a shopping list of 10 or more items | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 11. Add and subtract numbers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 12. Read a short message | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 13. Write an e-mail | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

If you have any additional information about your communication and thinking abilities, please provide details below.

Consider:

- (1) whether your abilities vary between good days and bad days; and,
- (2) whether your abilities have improved or worsened over time.

See page 6 of this application for an example of how to respond.

 If additional space is needed, please attach an extra sheet.

D) Other daily abilities

Check this box if you do not have problems performing your other daily activities. Otherwise, please answer the questions below by filling in the circles.

| How would you rate your ability to do the following? | Ability level most days | | | | |
|--|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Excellent | Very good | Good | Fair | Poor |
| 1. Take care of your personal hygiene, such as bathing, brushing your teeth, combing your hair, or shaving | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Take medication(s) as directed and handle medication(s) safely | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Dress yourself (including buttoning clothes and putting on shoes) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 4. Feed yourself | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Get to the bathroom in time | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Do housekeeping and home maintenance without frequent breaks, such as cleaning, laundry, meal preparation, shopping, or yard work | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 7. Answer the telephone | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 8. Open and sort mail arriving at your home | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 9. Manage your budget and pay bills | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Use public transportation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

If you have any additional information about your other daily abilities, please provide details below.

Consider:

- (1) whether your abilities vary between good days and bad days; and,
- (2) whether your abilities have improved or worsened over time.

See page 6 of this application for an example of how to respond.

 If additional space is needed, please attach an extra sheet.

Section D - Information about your doctor or nurse practitioner

Service Canada may need more information to better understand your medical condition(s). The information you provide in this section will identify the health care providers who will be reporting on your medical condition(s).

- D1** Provide the following information about the doctor or nurse practitioner who will be reporting on your medical condition(s).

Doctor's or nurse practitioner's full name

Family doctor

Nurse practitioner

Specialist (please specify) _____

Mailing address (no, street, apt., PO box, RR)

City/Town

Province/Territory

Country (if not Canada)

Postal code

Telephone number

When did you first see this doctor or
nurse practitioner about your medical
condition?

(YYYY-MM)

When did you last see this doctor or
nurse practitioner about your medical
condition?

(YYYY-MM)

- D2** List all other doctors, nurse practitioners, specialists or other health care providers you have seen in the last two years related to your medical condition(s).

a) Health care provider's full name

Specialty

Mailing address (no, street, apt., PO box, RR)

City/Town

Province/Territory

Country (if not Canada)

Postal code

Telephone number

When did you first see this
health care provider?

(YYYY-MM)

When did you last see this
health care provider?

(YYYY-MM)

What were the reasons for your visit(s)?

b) Health care provider's full name

Specialty

Mailing address (no, street, apt., PO box, RR)

City/Town

Province/Territory

Country (if not Canada)

Postal code

Telephone number

When did you first see this
health care provider?

(YYYY-MM)

When did you last see this
health care provider?

(YYYY-MM)

What were the reasons for your visit(s)?

 For additional health care providers, please attach an extra sheet.

Section E - Information about your work

The information you provide in this section will help Service Canada understand how your medical condition(s) and treatments affect your ability to work regularly at any job. Be sure to include work done in Canada and in other countries.

E1 Have you stopped working completely? Yes No

If Yes, select the reason why you stopped working.

- Shortage of work/contract ended Maternity/paternity Dismissed/quit Medical condition(s)/illness(es)
 Other (provide details): _____

When completing questions E2-E4, if you had/have two or more jobs, please include information about the main job where you spent/spend the most time.

| | | | | |
|---|------------------------------|--|---|-------------------------|
| E2 Title or position of current or last job | | First day on the job (YYYY-MM-DD) | Last day you went to work (YYYY-MM-DD) | |
| Name of your current or last employer | | Mailing address of your current or last employer (no, street, apt., PO box, RR) | | |
| City/Town | Province/Territory | Country (if not Canada) | Postal code | Telephone number |
| E3 Type of work in current or last job: | | <input type="radio"/> Full-time <input type="radio"/> Seasonal <input type="radio"/> Part-time <input type="radio"/> Volunteer <input type="radio"/> Self-employed | Number of hours per day | Number of days per week |
| E4 Describe your duties in your current or last job | | | | |
| E5 In the past 6 years, have you had any jobs other than the one listed in question E2? <input type="radio"/> Yes <input type="radio"/> No | | | | |
| If Yes, please provide the following information. | | | | |
| Job title/position | | From (YYYY-MM-DD) | To (YYYY-MM-DD) | |
| 1 | Type of work: | <input type="radio"/> Full-time <input type="radio"/> Seasonal <input type="radio"/> Part-time <input type="radio"/> Volunteer <input type="radio"/> Self-employed | Number of hours per day | Number of days per week |
| | Name and address of employer | | | |
| Job title/position | | From (YYYY-MM-DD) | To (YYYY-MM-DD) | |
| 2 | Type of work: | <input type="radio"/> Full-time <input type="radio"/> Seasonal <input type="radio"/> Part-time <input type="radio"/> Volunteer <input type="radio"/> Self-employed | Number of hours per day | Number of days per week |
| | Name and address of employer | | | |

 For additional work history, please attach an extra sheet.

(E6) If you are or were self-employed, what is/was your involvement with the business?

Self-employment opportunities include: sole-proprietors, partnerships, and contractors. Self-employment activities could include: professional activities, fishing, farming, commission sales, managing, desk-work and/or supervising involved in operating a business (profession, trade or manufacture).

Will you declare yourself a self-employed person for income tax purposes this year? Yes No

Are you still working for your self-employed business? Yes No

(E7) Because of your medical condition(s), do/did you have to do a lighter job or different type of work?

Yes No

If Yes, please describe.

| | | |
|---|-------------------|-----------------|
| (E8) Have you received regular Employment Insurance benefits in the last two years? <input type="radio"/> Yes <input type="radio"/> No If Yes, provide the periods. | From (YYYY-MM-DD) | To (YYYY-MM-DD) |
| | From (YYYY-MM-DD) | To (YYYY-MM-DD) |

📎 For additional times you received regular Employment Insurance, please attach an extra sheet.

(E9) Education - Indicate highest level completed

Primary school

Complete

Secondary school

Less than 2 years
 2 years or more
 Diploma

College

1 year
 2 years
 Diploma

University

1 year
 2 years
 3 years
 Degree
 Post-graduate

If you are currently attending, have attended or completed college or university, answer the following:

Field of study

Date last attended/completed
(YYYY-MM)

(E10) Have you had any technical, trade, or on the job training? Yes No

If Yes, provide the following details:

Title of training or program

Date completed
(YYYY-MM)

Certificate received

Yes No

Yes No

Section F - Benefits for children

If you qualify for a CPP disability benefit, the information you provide in this section will help us determine if any child(ren) may qualify for the disabled contributor's child's benefit. To qualify, the child(ren) must be under the age of 18, or 18 to 25 years old and attending school full-time.

F1 Do you have children? Yes No If No, please skip to Section G.

Who receives the payment?

- If you have custody and control of a child under the age of 18, we will send you the monthly payment.
- If you do not have custody and control of a child under the age of 18, we will send the monthly payment to the person or agency (custodian) that has custody and control of the child (consent to contact the person or agency is required - see question F3).
- If the child is 18 to 25 years old and attending school full-time, we will send the monthly payment to the child directly (consent to contact the child is required - see question F3).

For the purposes of the CPP, **custody and control** includes sole, shared, joint, etc., and formal and informal custody and control arrangements. More specifically, if you are sharing custody of a child, no matter how minimal, you are considered to have custody and control.

Note: If you do not provide the Social Insurance Number of the child(ren), Service Canada will require a certified photocopy of an acceptable document confirming the child(ren)'s date of birth (e.g. birth certificate).

F2 Please include information about your child(ren) in the space below.

| | | |
|--|---|--|
| a) First child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other (please specify): _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes <input type="radio"/> No | If No, provide the custodian's full name and address below. Custodian's full name |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| b) Second child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other (please specify): _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes <input type="radio"/> No | If No, provide the custodian's full name and address below. Custodian's full name |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |

Social Insurance Number:

PROTECTED B (when completed)

| | | |
|--|--|--|
| c) Third child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other (please specify): _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes <input type="radio"/> No | If No, provide the custodian's full name and address below. Custodian's full name |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| d) Fourth child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other (please specify): _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes <input type="radio"/> No | If No, provide the custodian's full name and address below. Custodian's full name |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |

📎 For additional children, please attach an extra sheet.

F3 Consent to contact the child(ren) or their custodial parent, guardian or agency

You can give your permission (consent) to allow Service Canada to contact the child(ren), or their custodial parent, guardian or agency to inform them about the disabled contributor's child's benefit.

We will not contact the child(ren), their custodial parent, guardian or agency, without your consent.

If you give your consent, we will contact them ONLY to inform them that the child(ren) may qualify for the disabled contributor's child's benefit. Service Canada will not share information about you or your medical condition.

- If you do not give your consent, we will not contact the child's custodial parent, guardian or agency (for children under the age of 18), and/or the child(ren) over the age of 18, to inform them about the disabled contributor's child's benefit. However, if we receive an application from the custodial parent, guardian or agency and/or the child(ren) over the age of 18, we will use the information on this application, if applicable, to determine if they qualify for the disabled contributor's child's benefit. We will not share information about your medical condition, but we will be required to use and disclose your status as a CPP disability pension beneficiary.

Do you give your consent to Service Canada to contact the child(ren) or their custodial parent, guardian or agency to inform them about the disabled contributor's child's benefit?

- Yes
 No

Section G - Payment information

G1 Direct deposit

If your application is approved, your monthly payments will be deposited into your account at your financial institution. The account must be in your name. A joint account is also acceptable.

To enroll for direct deposit banking, you must provide your banking information below.

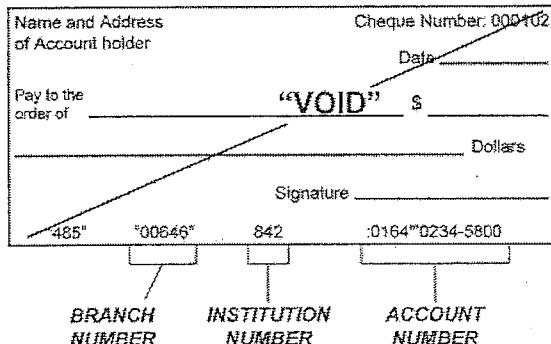
Branch number (5 digits)

Institution number (3 digits)

Account number (maximum of 12 digits)

Name(s) on the account

Telephone number of your financial institution



Sharing your direct deposit information with the Canada Revenue Agency (CRA)

Your direct deposit information can also be used by the CRA to deposit any income tax refunds, working income tax benefit advance payments, the Canada Child Benefit, the Universal Child Care Benefit, and GST/HST credit payments you may receive. If you agree, Employment and Social Development Canada (ESDC) can share your direct deposit information with the CRA.

For ESDC and the CRA to share your personal and direct deposit information, your permission (consent) is required.

By filling in the circle for "I agree", you agree with these two statements:

- I consent to ESDC sharing with the CRA my direct deposit information entered on this form for any payments I may receive from the CRA.
- I consent to ESDC sharing with the CRA my Social Insurance Number, last name, and date of birth so that the CRA can identify me correctly.

If you fill in the circle for "I do not agree", your information will not be shared. You may still update your banking information with the CRA by contacting them directly.

I agree I do not agree

Direct deposit outside Canada

For direct deposit outside Canada, please contact us at 1-800-277-9914 from the United States, and at 613-957-1954 from all other countries (collect calls are accepted). The form and a list of countries where direct deposit service is available can be found at www.directdeposit.gc.ca.

Section H - Consent for Service Canada to obtain personal information

Service Canada is authorized under Section 68 and 69 of the *Canada Pension Plan Regulations* to receive personal information (medical and non-medical) about you to determine if you qualify or continue to qualify for Canada Pension Plan (CPP) disability benefits. Your consent to permit Service Canada to obtain this information is necessary should Service Canada need this information from the persons and organizations listed below.

I give Service Canada my consent to obtain personal information about me that would help determine if I qualify or continue to qualify for CPP disability benefits. For this reason, Service Canada may contact any of the following persons and organizations if necessary:

- medical doctors, nurse practitioners, consultant specialists, or other health care professionals
- educational institutions or other vocational agencies
- my accountant or bookkeeper for information on self-employment
- federal, provincial, territorial, or municipal government departments and agencies
- provincial or territorial workers' compensation boards
- financial institutions (for address updates only)
- medical facilities or hospitals
- administrators of insurance plans
- employers, former employers
- voluntary organizations
- employees (for the cases of self-employed persons)

Note: Failure to check an option below could result in a delay in processing your application.

I give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above. I understand that this information may help determine if I qualify or continue to qualify for CPP disability benefits.

I do not give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above.

I understand that if I do not give my consent, Service Canada:

- will make a decision based on the available information on my file;
- may stop paying me the benefits if I am already receiving them; and
- can require that I provide the necessary information.

| | | |
|---|--|-------------------|
| Applicant's address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| Applicant's name (print) | Signature of applicant/authorized representative | Date (YYYY-MM-DD) |

| | | |
|--------------------------|--|-------------------|
| Applicant's name (print) | Signature of applicant/authorized representative | Date (YYYY-MM-DD) |
|--------------------------|--|-------------------|

 An authorized representative can act on your behalf. See information on authorized representative on page 19 of this application.

To be completed by a witness only if signed with a mark (e.g. X).

I have read the contents of this section to the applicant, who appeared to fully understand them and who made their mark in my presence.

| | | | |
|-------------------------------|-------------|--------------|-------------------|
| First name of witness (print) | Middle name | Last name(s) | Telephone number |
| Signature of witness | | | Date (YYYY-MM-DD) |

This signed consent is valid for up to 3 years unless you cancel it in writing. Service Canada requires your original signature, but we will use a photocopy and consider it as valid as the original when requesting personal information from the persons and organizations listed above.

Section I – Declaration and signature

Privacy Notice Statement

Read the following information before you sign your application:

Your personal information is collected under the authority of the *Canada Pension Plan (CPP)* and will be used to determine your, and if applicable, your child(ren)'s benefit eligibility and entitlement. The Social Insurance Number (SIN) is collected under the authority of section 52 of the *CPP Regulations*, and in accordance with the Treasury Board Secretariat Directive on the SIN, which lists the CPP as an authorized user of the SIN. The SIN will be used as a file identifier and to ensure your exact identification so that contributory earnings can be correctly applied to your record to allow benefits and entitlements to be accurately calculated.

Submitting this application is voluntary. However, if you refuse to provide your personal information, the Department of Employment and Social Development Canada (ESDC) will be unable to process your application. Your personal information may be shared within ESDC, with any federal institution, provincial authority or public body created under provincial law with which the Minister of ESDC may have entered into an agreement and/or with non-governmental third parties for the purpose of administering the CPP, other acts of Parliament and federal or provincial law. The information may be shared with the government of other countries in accordance with agreements for the reciprocal administration or operation of the foreign pension program and of the CPP and *Old Age Security Act*. The information you provide may also be used/disclosed for policy analysis, research and/or evaluation purposes but will not result in an administrative decision being made about you (such as a decision on your entitlement to a benefit).

Your personal information is administered in accordance with the CPP, the *Privacy Act*, the *Department of Employment Social Development Act* and other applicable laws. You have the right to the protection of, access to, and correction of your personal information, which is described in Personal Information Bank Canada Pension Plan Program (ESDC PPU 140 and 146). You can ask to see your file by contacting a Service Canada office. Instructions for requesting personal information are provided in the government publication entitled *Info Source*, which is available at the following web site address: www.canada.ca/infosource-ESDC. *Info Source* may also be accessed online at any Service Canada Centre.

You have the right to file a complaint with the Privacy Commissioner of Canada regarding the institution's handling of your personal information at: www.priv.gc.ca/en/report-a-concern.

Signature of applicant

I hereby apply for a disability benefit and, if applicable, a child's benefit under the Canada Pension Plan and declare that to the best of my knowledge and belief, all of the information herein is true and complete.

I agree to notify Service Canada of any changes that may affect my eligibility for benefits. These include: an improvement in my medical condition(s); a return to work (full-time, part-time, trial period or volunteer work); attendance at school or university; trade or technical training; any rehabilitation, or a change in custody of any child under the age of 18.

If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid.

| | |
|------------------------|-------------------|
| Signature of applicant | Date (YYYY-MM-DD) |
| X | |

To be completed by a witness if the applicant signs with a mark (e.g. X).

I have read the contents of this application to the applicant, who appeared to fully understand them and who made their mark in my presence.

| | | | |
|---|-------------------|--------------|------------------|
| First name of witness (print) | Middle name | Last name(s) | Telephone number |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Signature of witness | Date (YYYY-MM-DD) | | |
| X | | | |

To be completed ONLY by an authorized representative of the applicant

 See information on authorized representative below.

I hereby apply for a disability benefit and, if applicable, a child's benefit under the Canada Pension Plan on behalf of the applicant and I declare that to the best of my knowledge and belief, all of the information herein is true and complete.

I agree to notify Service Canada of any changes that may affect the applicant's eligibility for benefits. These include: an improvement in the medical condition(s); a return to work (full-time, part-time, trial period or volunteer work); attendance at school or university; trade or technical training; any rehabilitation, or a change in custody of any child under the age of 18.

I also agree to notify Service Canada if and when I cease acting as the representative of the applicant and/or of any changes in the applicant's condition whereby the applicant is able to act on their own behalf.

A false or misleading statement may result in an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or in the prosecution of an offence. Any benefits received or obtained to which there was no entitlement would have to be repaid.

| | | | |
|---|--|--------------|-------------------|
| First name of representative (print) | Middle name | Last name(s) | Telephone number |
| Address (no, street, apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Relationship to the applicant | Signature of authorized representative | | Date (YYYY-MM-DD) |
| |  | | |

Authorized representative

An authorized representative can act on your behalf. This person will have all of the rights and responsibilities that you would have as an applicant/beneficiary, such as signing the application and keeping Service Canada informed of any changes to your account. These could include changes to your telephone number, your medical condition(s) or a return to work.

An authorized representative could be any of the following:

- guardian
- lawyer
- curator
- trustee
- committee
- Power of Attorney (for CPP purposes, only POA for property is accepted)
- executor
- any other legal representative of that person

The authorized representative must be appointed under a law of Canada, a province or territory, or by the Minister, to manage your affairs. Legal documents must be submitted to support an authorized representative and could include:

- mandate
- trusteeship
- Power of Attorney documents (for CPP purposes, only POA for property is accepted)
- letterhead from a lawyer clearly stating they represent you
- an official CPP/Old Age Security program form. Contact us for more information.

An authorized representative cannot receive the paid benefits on your behalf unless it has been proven that you are not capable of managing your affairs.

This application contains information about the Canada Pension Plan disability benefit which is based on the *Canada Pension Plan* legislation. If there are any differences between what is in this application and the *Canada Pension Plan* legislation, the legislation is always right.

Annex A - Child rearing provision guide

For the Canada Pension Plan (CPP), the primary caregiver is the person who is/was most responsible for the daily needs of the child(ren) until the age of 7. Some things a primary caregiver does are: watch over the child(ren), prepare meals, go to school meetings and events, or take the child(ren) to doctors appointments.

Family Allowance (FA) - available before 1993

The FA program (once known as the baby bonus) sent monthly payments to parents or guardians of dependent children under the age of 18. For most families, payments were issued to the mother. The Canada Child Benefit replaced the FA program in 1993.

Canada Child Benefit (CCB) - available since 1993. Previously known as Child Tax Benefit and Canada Child Tax Benefit

The CCB is a monthly benefit based on your net family income level, the number of children you have, and the ages of your children. In most families, payments are/were issued to the mother.

If you were the primary caregiver of one or more children and did not receive the CCB only because your family income was too high, you are considered to have been eligible for the CCB.

| Were you the primary caregiver? | Did you receive the Family Allowance (before 1993)? | Did you receive or were you eligible for the Canada Child Benefit (since 1993)? | What do I complete in question B3? |
|---------------------------------|---|---|--|
| Yes | Yes | Yes | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | Yes | No | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | No | Yes | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | No, my current/ former spouse or common-law partner did | No | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Request that your current/former spouse or common-law partner complete the waiver of rights (E). |
| Yes | No | No, my current/former spouse or common-law partner received the payments | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E).- Provide a letter from the Canada Revenue Agency (CRA) indicating you would have been eligible for the CCB had you applied when you were the primary caregiver. Please contact the CRA for more information about obtaining this letter. |
| Yes | No, my current/ former spouse or common-law partner did | No, my current/former spouse or common-law partner received the payments | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Request that your current/former spouse or common-law partner complete the waiver of rights (E).- Provide a letter from the Canada Revenue Agency (CRA) indicating you would have been eligible for the CCB had you applied when you were the primary caregiver. Please contact the CRA for more information about obtaining this letter. |

If you are not sure of which situation applies to you, complete all questions in B3 and Service Canada will review.

Annex B - Certified photocopies of original documents

Please send certified true photocopies rather than original documents whenever submitting documents to Service Canada. If you must send your original documents, we suggest you send them by registered mail. We will return the original documents to you.

We can only accept a photocopy of an original document if it is readable and if you have someone certify that it is a true copy of the original.

How to get a certified true photocopy of an original document

Documents can be certified by Service Canada staff free of charge at any Service Canada Centre. If you cannot visit a Service Canada Centre, you can ask a member of one of the following professions to certify your photocopy:

- | | |
|---|--|
| - accountant | - member of a provincial legislature or their staff |
| - chief of First Nations band | - minister of religion |
| - commissioner for oaths | - municipal clerk |
| - employee of a Service Canada Centre acting in an official capacity | - official of a federal or provincial government department, or one of its agencies |
| - funeral director | - official of an embassy, consulate or high commission |
| - justice of the peace | - official of a country with which Canada has a reciprocal social security agreement |
| - lawyer, magistrate, notary | - police officer |
| - manager of a financial institution | - professional engineer |
| - medical and health practitioner: chiropractor, dentist, doctor, naturopathic doctor, nurse practitioner, ophthalmologist, optometrist, pharmacist, psychologist, registered nurse | - social worker |
| - member of parliament or their staff | - teacher |
| | - university professor |

Note: You cannot certify photocopies of your own documents and you cannot ask a relative to do it for you.

The person certifying the document(s) must:

- compare the original document to the photocopy;
- state their official position or title and sign and print their name;
- provide their telephone number;
- write the date they certified the document; and
- write the following statement on the photocopy: **This photocopy is a true copy of the original document which has not been altered in any way.**

Note: If your photocopy is missing any of the above elements, it will not be accepted and you will have to submit a new, properly certified photocopy. This could result in delays in processing your application.

If the document has information on more than one page, photocopy all pages. The person you ask to certify your photocopies can either certify each page, or only the first page as long as they indicate and attest to the total number of pages in the document, including any pages that are blank.

Please write your Social Insurance Number on any document or photocopy that you send to Service Canada.

Before you send your application - checklist

- Have you written your Social Insurance Number in the box at the top of each page and at the top of each sheet you have added?
- Have you provided your date of birth on page 1?
- Have you read and signed the Consent for Service Canada to obtain personal information on page 17?
- Have you read and signed the Declaration and signature on page 18?

If you are currently receiving a disability benefit from an insurance company or a provincial/territorial agency:

- Have you asked them to send your most recent medical report(s) to Service Canada?

If you are not currently receiving a disability benefit from an insurance company or a provincial/territorial agency:

- Have you completed Sections 1 and 2 of the Medical Report?
- Have you asked your doctor or nurse practitioner to complete Sections 3 to 9 of the Medical Report and mail it to Service Canada?

DO NOT WAIT for your doctor or nurse practitioner to complete the Medical Report before sending your completed application to Service Canada. The date your application is received by Service Canada could affect when your benefit starts.

- Have you removed the information and instructions pages from the application at the front and back? These contain general information and do not need to be submitted.

To mail your application to the Service Canada office nearest you, see the list of addresses on the page **Service Canada Offices** in the Information and Instructions pages at the front of the application. You can also drop off the completed application at a Service Canada Centre near you.

What to expect after you send your application

It could take Service Canada about four months to determine if you qualify for the disability benefit.

Once Service Canada receives your application, we will:

- ✓ call you to confirm that your application was received.
- ✓ ask you for more information or other documents if needed.
- ✓ answer any questions you may have.

Once we receive all the information and/or documents we need from you:

- ✓ Service Canada will determine if you have made the minimum amount of valid CPP contributions.

If you have made the minimum amount of valid CPP contributions:

- ✓ a CPP disability medical adjudicator will assess your medical condition(s) and its impact on your capacity to perform work-related activities.

If we ask for more information or ask you to see another doctor to evaluate your medical condition, the process may take longer than four months. If more than four months have passed and you have not heard from us, contact us to check the status of your application.

If you qualify, your benefit will start four months after your disability was found to be severe and prolonged (as defined by CPP legislation). You may receive up to 11 months of payments retroactive from the date your application was received.



Medical Report for a Canada Pension Plan Disability Benefit

Instructions for the applicant/patient - please read carefully

An application and a medical report are needed by Service Canada to determine if you qualify for a Canada Pension Plan (CPP) disability benefit.

You (the applicant) must:

- ✓ complete the Application for a Canada Pension Plan Disability Benefit (ISP1151). The application can be found at www.canada.ca/esdc-forms.
- ✓ fill out Section 1 and Section 2 of this Medical Report.
- ✓ write your Social Insurance Number at the top of each page of this Medical Report.

Your doctor or nurse practitioner must complete Sections 3 to 9 of the Medical Report, sign it, and send it to Service Canada.

DO NOT WAIT for your doctor or nurse practitioner to complete the Medical Report before sending your completed application to Service Canada. The date Service Canada receives your application could affect when your benefit starts.

Service Canada will help you pay for the cost of the Medical Report by paying up to \$85.00 directly to your doctor or nurse practitioner. Any money owing over this amount is your responsibility.

Section 1 - Information about you

| | | |
|--|--|-----------------------------------|
| Social Insurance Number | Preferred language <input type="radio"/> English <input type="radio"/> French | FOR OFFICE USE ONLY Date Stamp |
| Optional: <input type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Miss <input type="radio"/> Ms. | | |
| First name | Middle name | Last name(s) |
| Date of birth (YYYY-MM-DD) | Last name at birth (if different from above) | |
| Mailing address (No., Street, Apt., PO Box, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| Telephone number | Alternate telephone number | |
| The best time for Service Canada to contact you <input type="radio"/> Morning <input type="radio"/> Afternoon <input type="radio"/> Please don't call, send letters only | | |

Section 2 - Consent for Service Canada to obtain personal information

The consent for Service Canada to obtain personal information must be completed and returned with this Medical Report. Your doctor or nurse practitioner can make a photocopy of this consent for their records.

Service Canada is authorized under Section 68 and 69 of the *Canada Pension Plan (CPP) Regulations* to receive personal information (medical and non-medical) about you to determine if you qualify or continue to qualify for CPP disability benefits. Your consent to permit Service Canada to obtain this information is necessary, should Service Canada need this information from persons and organizations listed below.

I give Service Canada my consent to obtain personal information about me that would help determine if I qualify or continue to qualify for CPP disability benefits. For this reason, Service Canada may contact any of the following persons and organizations if necessary:

- medical doctors, nurse practitioners, consultant specialists, or other health care professionals
- educational institutions or other vocational agencies
- my accountant or bookkeeper for information on self-employment
- federal, provincial, territorial, or municipal government departments and agencies
- provincial or territorial workers' compensation boards
- financial institutions (for address updates only)
- medical facilities or hospitals
- administrators of insurance plans
- employers, former employers
- voluntary organizations
- employees (for cases of self-employed persons)

Note: Failure to check an option below could result in a delay in processing your application.

- I give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above. I understand that this information may help determine if I qualify or continue to qualify for CPP disability benefits.
- I do not give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above.

I understand that if I do not give my consent, Service Canada:

- will make a decision based on the available information on my file;
- may stop paying me the benefits if I am already receiving them; and
- can require that I provide the necessary information.

Signature of applicant / authorized representative

Date (YYYY-MM-DD)

X

To be completed by a witness only if the applicant signs with a mark (e.g. X).

I have read the contents of this section to the applicant, who appeared to fully understand them and who made their mark in my presence.

| | | | |
|-------------------------------|-------------|--------------|-------------------|
| First name of witness (print) | Middle name | Last name(s) | Telephone number |
| Witness signature | | | Date (YYYY-MM-DD) |
| X | | | |

This signed consent is valid for up to 3 years unless you cancel it in writing. Service Canada requires your original signature, but we will use a photocopy and consider it as valid as the original when requesting personal information from the persons and organizations listed above.

Sections 3 to 9 must be completed by a doctor or nurse practitioner**Instructions**

Your patient is applying for a Canada Pension Plan (CPP) disability benefit. To help us determine if they are eligible, please complete this form on their behalf. Note that we may contact you if we require additional information.

Under CPP legislation, Service Canada is responsible for deciding if a person is disabled. According to the legislation, a disability must be a mental and/or physical impairment(s) that is both **severe and prolonged**.

- Severe means that a person has a mental and/or physical disability that regularly stops them from doing any type of substantially gainful work/occupation; and
- Prolonged means that the disability is long-term and of indefinite duration or is likely to result in death.

The legal test for CPP disability is one of medical impairment and employability. In other words, does the severe and prolonged disability prevent the person from working at any job? To decide if the disability meets this legal test, Service Canada looks at the combined impact of:

- the objective medical findings;
- the functional limitations, as reported by both the patient and their health care professional; and
- the person's age, education, and work experience.

Access to personal information

Pursuant to the *Privacy Act*, upon written request, Service Canada is obligated to provide the applicant or their representative with any information or records, including medical reports, contained in their file (Personal Information Bank ESDC PPU 146). For more information regarding the *Privacy Act*, you can consult Info Source at www.infosource.gc.ca.

Compensation

To compensate you for completing the report, Service Canada will pay up to \$85 directly to you. To ensure prompt payment, submit the completed report and your invoice as quickly as possible.

Your invoice must include the patient's name, address, and identification number. For income tax purposes, your invoice must also include one of the following:

- your Business Number (BN); or
- your Goods and Services Tax (GST) / Harmonized Sales Tax (HST) number; or
- your Social Insurance Number (SIN).

Without the appropriate numbers, your medical invoice cannot be processed.

Without this information, you and/or Service Canada may be subject to a fine as noted in the *Income Tax Act*, paragraph 221(1).

Submitting the Medical Report

Please return the completed report directly to Service Canada. If you send us the report on your patient's behalf, please advise them.

A delay in the completion of this medical report may affect your patient's entitlement to benefits due to lack of medical information.

If you have any questions, contact Service Canada at 1-800-277-9914 (TTY users: 1-800-255-4786).

To retain a copy of the **Consent for Service Canada to obtain personal information (Section 2)** for your records, please make a photocopy and return the original with the completed **Medical Report**. If you require an original signature, the form (ISP2502) can be found at www.canada.ca/esdc-forms.

Section 3 - Duration of relationship with the patient

This information will help Service Canada confirm that we have the patient's complete medical history.

How many years has this patient been in your care?

- 1 year or less 1 to 2 years 3 to 4 years 5 years or more

Number of times this patient has visited your office in the past 12 months: _____

Date of last office visit (YYYY-MM-DD): _____

Date you first started treating this patient's primary medical condition (YYYY-MM-DD): _____

Section 4 - Expedited processing for terminal and grave conditions

This section should be completed **ONLY** if your patient has been diagnosed with a terminal illness or one of the 32 grave conditions listed in Annex A. If your patient does not have a terminal illness or a grave condition, skip to **Section 5 - Medical conditions, impairments, functional limitations and treatment**.

Applications from patients with a terminal illness or a grave condition receive priority handling. In these cases, once we receive a complete application, including the **Medical Report**, our goal is to determine the applicant's eligibility for CPP disability benefits within 5 business days for applicants with a terminal illness and 30 calendar days for those with a grave condition.

Does your patient have a medical condition that is:

- a) **Terminal** - for the purpose of CPP, terminal is defined as a disease state that cannot be cured or adequately treated and is reasonably expected to result in death within 6 months.
 Yes - (provide details below)

| Diagnosis | ICD-9-CM code (XXX.X) | Date of symptom onset (YYYY-MM) |
|-----------|--------------------------|------------------------------------|
| | | |

If the patient has other non-terminal medical conditions that prevent them from regularly working at any job, please provide details in **Section 5 - Medical conditions, impairments, functional limitations and treatment**. Otherwise, please skip to **Section 6 - Patient's employment situation**.

OR

- b) **Grave** - for the purpose of CPP, grave is defined as a condition that is included in the list of 32 severe and rapidly progressive medical conditions in Annex A.
 Yes (provide details in **Section 5 - Medical conditions, impairments, functional limitations and treatment**)

Section 5 - Medical conditions, impairments, functional limitations and treatment

This section collects information about the medical condition(s), the associated impact on the patient's functional abilities, and the expected course of illness.

See Annex B for examples of functional limitations and Annex C for examples on completing this section.

Social Insurance Number:

PROTECTED B (when completed)

Section 5 - Medical conditions, impairments, functional limitations and treatment

Please use one page per medical condition. List the medical conditions in order of greatest functional impact.

| Medical condition: | | | |
|--|--------------------------------------|-------------------------------------|--|
| ICD-9-CM code (XXX.X): | | | |
| Date of symptom onset (YYYY-MM): | | | |
| Impairment(s): | | | |
| Functional limitation(s): | | | |
| Prognosis Condition is likely to: <input type="radio"/> improve <input type="radio"/> deteriorate <input type="radio"/> remain the same <input type="radio"/> unknown* | | | |
| Expected duration: <input type="radio"/> less than 1 year <input type="radio"/> more than 1 year | | | |
| Frequency: <input type="radio"/> recurrent/episodic <input type="radio"/> continuous <input type="radio"/> unknown* | | | |
| Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |
| Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |

* If prognosis and/or frequency is unknown, please explain why in Section 7 - Other relevant information.

Section 5 - Medical conditions, impairments, functional limitations and treatment

| | | | |
|---|---|--|--|
| <p>Medical condition:</p> <p>ICD-9-CM code (XXX.X):</p> <p>Date of symptom onset (YYYY-MM):</p> <p>Impairment(s):</p> | | | |
| <p>Functional limitation(s):</p> | | | |
| <p>Prognosis</p> <p>Condition is likely to: <input type="radio"/> improve <input type="radio"/> deteriorate <input type="radio"/> remain the same <input type="radio"/> unknown*</p> | | | |
| <p>Expected duration: <input type="radio"/> less than 1 year <input type="radio"/> more than 1 year</p> | | | |
| <p>Frequency: <input type="radio"/> recurrent/episodic <input type="radio"/> continuous <input type="radio"/> unknown*</p> | | | |
| Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |
| Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |

* If prognosis and/or frequency is unknown, please explain why in **Section 7 - Other relevant information**.

Section 5 - Medical conditions, impairments, functional limitations and treatment

| <p>Medical condition:</p> <p>ICD-9-CM code (XXX.X):</p> <p>Date of symptom onset (YYYY-MM):</p> | | | |
|---|--------------------------------------|-------------------------------------|---|
| <p>Impairment(s):</p> | | | |
| <p>Functional limitation(s):</p> | | | |
| <p>Prognosis</p> <p>Condition is likely to: <input type="radio"/> improve <input type="radio"/> deteriorate <input type="radio"/> remain the same <input type="radio"/> unknown*</p> | | | |
| <p>Expected duration: <input type="radio"/> less than 1 year <input type="radio"/> more than 1 year</p> | | | |
| <p>Frequency: <input type="radio"/> recurrent/episodic <input type="radio"/> continuous <input type="radio"/> unknown*</p> | | | |
| Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |
| Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| | | | |
| | | | |
| | | | |

* If prognosis and/or frequency is unknown, please explain why in **Section 7 - Other relevant information**.

For additional medical condition(s), please attach an extra sheet.

Section 6 - Patient's employment situation

This section gathers information to assess current and future restrictions on the patient's ability to work.

1. Did you recommend to your patient that they stop working?

- Yes, I recommended that the patient stop working as of (date): _____
YYYY-MM-DD
 No
 Not discussed

If you have indicated that your patient has a terminal medical condition, skip the rest of this section.

2. From a strictly medical standpoint, do you expect your patient to return to any type of work in the future?

- Yes (please complete questions 3 and 4, below)
 No (skip to Section 7)
 Unknown (skip to Section 7)

3. If yes, please indicate when you expect your patient to return to work:

- In 6 to 12 months In 12 to 24 months In more than 24 months Unknown

4. If yes, please indicate what type of work you expect your patient will be able to do:

- Usual work Modified work Another type of work that will require training
 Other: _____

Section 7 - Other relevant information

To help us evaluate the applicant's current and future ability to work, please add any other information you feel is relevant (e.g. planned investigations and/or specialist consultations, reason for unknown prognosis and/or frequency, etc.).

Section 8 - Supporting documents

If you have supporting documents for any of the relevant medical conditions listed in **Section 4** or **Section 5**, please include copies of these reports with this **Medical Report**.

Please identify the type of report(s) you are including:

- longitudinal clinical notes
- medical investigation report(s)
- specialist's report(s)
- hospital discharge report(s)
- other (please specify): _____

Section 9 - Declaration

I confirm that, to the best of my knowledge all of the information I have provided in this report is accurate and complete.

I am a:

- general practice physician or physician certified in family medicine (CCFP)
- other physician specialist (please specify): _____
- nurse practitioner
- registered nurse in a geographically isolated community (not urban or rural)

| | |
|-------------------|---|
| Name | Address and telephone number (Please print or use a stamp) |
| Signature | |
| X | |
| Date (YYYY-MM-DD) | |

Where to send the completed Medical Report

Mail the completed **Medical Report** and supporting documents to the Service Canada location that serves the province/territory where your patient resides (see a list of addresses on the next page). Please remove the annexes before mailing the **Medical Report**.

For patients currently living outside Canada

Mail the completed **Medical Report** to the office serving the province/territory where the patient last lived. If unsure, please verify with the patient. Please remove the annexes before mailing the **Medical Report**.



Service
Canada

Service Canada Offices Disability

Mail your forms to the nearest Service Canada office listed below.

From outside of Canada, send your forms to the Service Canada office in the province/territory where you last lived.

Newfoundland and Labrador
Service Canada
PO Box 9430 Station A
St. John's NL A1A 2Y5
CANADA

Nova Scotia and Prince Edward Island
Service Canada
PO Box 1687 Station Central
Halifax NS B3J 3J4
CANADA

New Brunswick and Quebec
Service Canada
PO Box 250
Fredericton NB E3B 4Z6
CANADA

Ontario
Service Canada
PO Box 2020 Station Main
Chatham ON N7M 6B2
CANADA

Manitoba and Saskatchewan
Service Canada
PO Box 818 Station Main
Winnipeg MB R3C 2N4
CANADA

Alberta / Northwest Territories and Nunavut
Service Canada
PO Box 2710 Station Main
Edmonton AB T5J 2G4
CANADA

British Columbia and Yukon
Service Canada
PO Box 1177 Station CSC
Victoria BC V8W 2V2
CANADA

If you have any questions about completing this application, call us.

In Canada or the United States: 1-800-277-9914

For all other countries: 613-957-1954 (we accept collect calls)

TTY: 1-800-255-4786

Important: Please have your Social Insurance Number ready when you call.

Annex A - List of grave medical conditions

The following list of severe and rapidly progressive medical conditions was developed based on extensive research by Employment and Social Development Canada. These conditions with marked and severe functional limitations have a high probability of meeting the CPP disability benefit eligibility criteria, and may result in death. For that reason, applications from patients with any of these conditions receive expedited processing.

1. Acute Lymphoid Leukemia
2. Adrenal Cancer
3. Alzheimer's Disease: Early Onset (less than age 60)
4. Amyloidosis
5. Amyotrophic Lateral Sclerosis (ALS)
6. Anal Cancer
7. Brain Cancer
8. Chronic Kidney Disease (Stage 4 or later)
9. Chronic Liver Disease
10. Colorectal Cancer
11. Esophagus Cancer
12. Frontotemporal Dementia
13. Gallbladder Cancer and Cancer of the Bile Ducts/Malignant Neoplasm of the Gallbladder and Extrahepatic Bile Ducts
14. Huntington's Chorea Disease
15. Progressive Polyneuropathy
16. Idiopathic Pulmonary Fibrosis (IPF)/Idiopathic Fibrosing Aleveolitis/Idiopathic Interstitial Pneumonia
17. Kidney Cancer
18. Liver Cancer
19. Lung Cancer/Carcinoma of the Lung/Malignant Neoplasm of the Trachea, Bronchus and Lung
20. Malignant Melanoma
21. Malignant Tumours of Small Intestine, including Duodenum
22. Multiple Myeloma
23. Muscular Dystrophy (Adult Onset)
24. Ovarian Cancer
25. Pancreatic Cancer
26. Paranoid Schizophrenia, Chronic Undifferentiated
27. Parkinson's Disease
28. Post-inflammatory Pulmonary Fibrosis/Interstitial (Non-idiopathic) Pulmonary Fibrosis
29. Primary Cerebellar Degeneration/Unspecified Types of Cerebellar Ataxia
30. Stomach Cancer
31. Thymus Cancer
32. Vascular Dementia

Annex B - Examples of functional limitations

Physical abilities

Includes restrictions related to:

- changing body position (e.g. kneeling or squatting)
- maintaining body position (e.g. remaining seated or standing)
- fine hand use (e.g. turning a dial or knob)
- hand and arm use (e.g. throwing or catching an object)
- walking (forward, backward, or sideways)
- moving around (e.g. climbing or running around obstacles)
- using transportation (e.g. as a passenger in a taxi or on a bus or subway)
- using a computer (e.g. being able to look at a computer screen for at least 20 minutes)

Behaviours and emotional abilities

Includes restrictions related to:

- basic interpersonal interactions (e.g. showing respect and tolerance)
- complex interpersonal interactions (e.g. regulating emotions and impulses)
- maintaining formal relationships (e.g. with employers or service providers)
- handling stress and other psychological demands

Communication and thinking abilities

Includes restrictions related to:

- making conversation (e.g. with known individuals or strangers)
- acquiring new skills (e.g. learning to use a computer or tool)
- focusing attention (e.g. filtering out distracting noises)
- thinking (e.g. sequencing thoughts in a structured, logical manner)
- making decisions (e.g. identifying and choosing among several options)
- literacy
- numeracy

Other daily abilities

Includes restrictions related to:

- toileting
- dressing
- looking after one's health (e.g. taking medication as directed)
- using communication devices (e.g. using the telephone)
- acquiring goods and services
- maintaining economic self-sufficiency (e.g. managing money)
- doing housework
- preparing meals
- driving

Annex C - Examples for Section 5

Medical condition: The name of the disease or disease state, diagnosis.

ICD code: International Classification of Diseases diagnosis code (version ICD-9-CM).

Impairment: Any loss or abnormality of psychological or anatomical structure or function.

Functional limitation: Restriction in activities and social participation directly or indirectly due to the impairment.

| Example 1 | | | |
|--|--------------------------------------|-------------------------------------|---|
| Medical condition: Degenerative disc disease of lumbar spine with radiculopathy ICD-9-CM code (XXX.X): 722.5 Date of symptom onset (YYYY-MM): 2008-03 | | | |
| Impairment(s): <ul style="list-style-type: none">- Advanced disc degeneration (see attached imaging study)- Reduced range of motion- Decreased strength- Marked pain and fatigue | | | |
| Functional limitation(s): <ul style="list-style-type: none">- Inability to sit, stand, or walk for more than 20 minutes- Unable to lift more than 5 pounds | | | |
| Prognosis Condition is likely to: <input type="radio"/> improve <input checked="" type="radio"/> deteriorate <input type="radio"/> remain the same <input type="radio"/> unknown* | | | |
| Expected duration: <input type="radio"/> less than 1 year <input checked="" type="radio"/> more than 1 year | | | |
| Frequency: <input type="radio"/> recurrent/episodic <input checked="" type="radio"/> continuous <input type="radio"/> unknown* | | | |
| Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| Flexeril 10 mg BID | 2018-01 | 2018-02 | Discontinued due to GI upset and dizziness |
| Naprosyn 375 mg BID | 2018-02 | Ongoing | Limited pain relief for two hours |
| Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks |
| Surgery | 2017-06 | | Ineffective in resolving pain; refer to attached surgical and MRI reports |
| Referral to pain clinic in 2018-01 (18 month waiting list) | Pending | | |

Annex C - Examples for Section 5

| Example 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--------------------------------------|-------------------------------------|--|-------------------------------------|--------------------------------------|-------------------------------------|---|-------------------|---------|---------|--|---|---------|---------------|------------------------------------|---|---------|---------------|--|--|--------------------------------------|-------------------------------------|---|---|---------|---------|----------------------------------|--|---------|---------|--|---------------------------|--|--|--|
| <p>Medical condition: Major depression, recurrent</p> <p>ICD-9-CM code (XXX.X): 296.3</p> <p>Date of symptom onset (YYYY-MM): 2010-01</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Impairment(s):</p> <ul style="list-style-type: none"> - Severe mood disturbance - Labile emotions - Psychomotor slowing - Fatigue resulting from insomnia - Weight gain of 30 lbs. in the last 6 months | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Functional limitation(s):</p> <ul style="list-style-type: none"> - Difficulty maintaining focus on work task and in meeting deadlines | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Prognosis</p> <p>Condition is likely to: <input type="radio"/> improve <input checked="" type="radio"/> deteriorate <input type="radio"/> remain the same <input type="radio"/> unknown*</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Expected duration: <input type="radio"/> less than 1 year <input checked="" type="radio"/> more than 1 year</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Frequency: <input checked="" type="radio"/> recurrent/episodic <input type="radio"/> continuous <input type="radio"/> unknown*</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Medication(s), dosage and frequency</th> <th>Actual/proposed start date (YYYY-MM)</th> <th>Actual/estimated end date (YYYY-MM)</th> <th>Response (e.g. efficacy, side effects etc.) and other remarks</th> </tr> </thead> <tbody> <tr> <td>Cipralex 10-20 mg</td> <td>2017-06</td> <td>2017-12</td> <td>Started at 10 mg, increased to 15 mg, then 20 mg with no improvement</td> </tr> <tr> <td>Pristiq 50 mg OD, 2 month trial anticipated</td> <td>2018-01</td> <td>Trial ongoing</td> <td>Occasional dizziness and dry mouth</td> </tr> <tr> <td>Wellbutrin XL 150 mg, 2 month trial anticipated</td> <td>2018-01</td> <td>Trial ongoing</td> <td></td> </tr> <tr> <th>Type and frequency of other treatment(s)</th> <th>Actual/proposed start date (YYYY-MM)</th> <th>Actual/estimated end date (YYYY-MM)</th> <th>Response (e.g. efficacy, side effects etc.) and other remarks</th> </tr> <tr> <td>Psychotherapy (treated monthly by psychiatrist)</td> <td>2018-01</td> <td>Ongoing</td> <td>See attached psychiatrist report</td> </tr> <tr> <td>Addictions counseling (treated monthly by social worker)</td> <td>2018-01</td> <td>Ongoing</td> <td>See attached social worker's clinical assessment notes</td> </tr> <tr> <td>Electroconvulsive therapy</td> <td></td> <td></td> <td>If depression becomes resistant to other treatment</td> </tr> </tbody> </table> | | | | Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks | Cipralex 10-20 mg | 2017-06 | 2017-12 | Started at 10 mg, increased to 15 mg, then 20 mg with no improvement | Pristiq 50 mg OD, 2 month trial anticipated | 2018-01 | Trial ongoing | Occasional dizziness and dry mouth | Wellbutrin XL 150 mg, 2 month trial anticipated | 2018-01 | Trial ongoing | | Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks | Psychotherapy (treated monthly by psychiatrist) | 2018-01 | Ongoing | See attached psychiatrist report | Addictions counseling (treated monthly by social worker) | 2018-01 | Ongoing | See attached social worker's clinical assessment notes | Electroconvulsive therapy | | | If depression becomes resistant to other treatment |
| Medication(s), dosage and frequency | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cipralex 10-20 mg | 2017-06 | 2017-12 | Started at 10 mg, increased to 15 mg, then 20 mg with no improvement | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Pristiq 50 mg OD, 2 month trial anticipated | 2018-01 | Trial ongoing | Occasional dizziness and dry mouth | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wellbutrin XL 150 mg, 2 month trial anticipated | 2018-01 | Trial ongoing | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Type and frequency of other treatment(s) | Actual/proposed start date (YYYY-MM) | Actual/estimated end date (YYYY-MM) | Response (e.g. efficacy, side effects etc.) and other remarks | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Psychotherapy (treated monthly by psychiatrist) | 2018-01 | Ongoing | See attached psychiatrist report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Addictions counseling (treated monthly by social worker) | 2018-01 | Ongoing | See attached social worker's clinical assessment notes | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Electroconvulsive therapy | | | If depression becomes resistant to other treatment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |



Information and Instructions Terminal Illness Application for a Disability Benefit Under the Canada Pension Plan

Before you begin - Is this form for you?

The condensed Canada Pension Plan (CPP) disability benefit application and Terminal Illness Medical Attestation has been designed for individuals who have a terminal illness.

For the purposes of CPP, a terminal medical condition is a disease state that cannot be cured or adequately treated and is reasonably expected to result in death within 6 months.

Applications from patients with a terminal illness receive priority handling. Our goal is to make a decision within 5 business days of receiving your complete Terminal Illness Application.

If this does not apply to you, do not use this form. You will need to complete the form **Application for Canada Pension Plan Disability Benefit (ISP1151)** and related documents at www.canada.ca/esdc-forms.

What is the Canada Pension Plan disability benefit?

The Canada Pension Plan (CPP) disability benefit (also known as the disability pension) is a taxable monthly payment available to people who have made contributions to the CPP and are not able to work regularly at any job because of a disability.

A benefit may also be available to their children.

How do I qualify for the CPP disability benefit?

To qualify for the CPP disability benefit, 3 conditions must be met:

1. You must be under the age of 65.
2. You must have made the minimum amount of valid CPP contributions.

Contributions to the CPP are made while you are working.

Service Canada will review your contribution history to determine if you have made the minimum amount of valid CPP contributions to qualify for the CPP disability benefit.

The benefit amount you could qualify for is based on how long and how much you contributed to the CPP.

The information you provide in **Sections A and B** along with the information on your account will help us determine if you have made the minimum amount of valid contributions to the CPP.

3. You must have a mental or physical medical condition(s) that prevents you from regularly working at any job. The medical condition(s) must be found to be both severe and prolonged when you last met the minimum amount of valid CPP contributions to qualify, and you must have been unable to work continuously since then.

For the CPP:

- **Severe** means that you have a mental and/or physical disability that regularly stops you from doing any type of substantially gainful work.
- **Substantially gainful work or occupation** is considered to be any profession or work one might pursue to earn a living. If the total amount of earnings from this work is more than 12 times the maximum monthly CPP disability pension amount, a person is normally considered to be doing substantially gainful work.
- **Prolonged** means that the disability is long-term and of indefinite duration or is likely to result in death.

Service Canada will review the information you provide in **Sections C, D and E** along with the medical information we receive from your doctor, nurse practitioner, insurance company or provincial/territorial agency. This will help us determine how your medical condition(s) impact(s) your capacity to perform work-related activities.

Symbols used in this application

 Read this carefully

 Attach an extra sheet if needed

 Where to get help

If you have contributed to the Quebec Pension Plan

 The CPP operates throughout Canada, except in Quebec, where the Quebec Pension Plan (QPP) provides similar benefits.

If one of the following applies to you, please contact Retraite Québec.

- You worked in Quebec only.
- You worked in Quebec and at least one other province/territory and currently live in Quebec.
- You worked in Quebec and at least one other province/territory, you currently live outside of Canada, and your last province of residence in Canada was Quebec.

 Information can be found at www.retraitequebec.gouv.qc.ca.

If you have contributed to both the CPP and QPP, you must apply for the QPP if you live in Quebec or for the CPP if you live in another province or territory in Canada.

If you have applied for or been receiving a CPP retirement pension for the last 15 months

 The CPP cannot pay a disability benefit and a retirement pension at the same time. If you have been receiving your CPP retirement pension for 15 months or more at the time you applied for a CPP disability benefit, you cannot be granted the CPP disability benefit.

If you need more information to complete the application

 The information and instructions you will need to apply for a CPP disability benefit can be found in this application. You can also find more information about the benefit online at www.canada.ca/cpp-disability. If you cannot find the information you are looking for or have any questions, contact Service Canada at our toll-free numbers.

In Canada or the United States: 1-800-277-9914 TTY: 1-800-255-4786

From all other countries: 613-957-1954 (we accept collect calls)

Please have your Social Insurance Number ready when you call.

If you need help

 You can give permission to another person to give or receive information from Service Canada on your behalf. To give permission, you must:

- ✓ complete **Section I** on page 11.

This consent does not provide authority for the person to apply for benefits on your behalf, change your payment address, or request/change a tax withhold.

 If you wish to have someone act on your behalf or you are no longer capable of managing your own affairs, you can appoint an authorized representative.

See page 13 of this application for more information on authorized representatives.

What we need from you

1. A Terminal Illness Application for a Disability Benefit Under the Canada Pension Plan (ISP2530A)

The Terminal Illness Application is available in two formats. You can choose to complete a paper application or a fillable form that can be found online at www.canada.ca/esdc-forms.

Note: You can save the fillable form to your computer, but you cannot submit it electronically.

Be sure to:

- ✓ write/type your Social Insurance Number at the top of each page.
- ✓ provide as much detail as you can.
- ✓ sign in pen and mail the form to the Service Canada Office nearest you. See a list of addresses on the next page. You can also drop-off the completed application at a Service Canada Centre near you.

If you need more space:

- ✓ write/type the information on a blank sheet of paper and attach it to the application.
- ✓ write/type your Social Insurance Number at the top of each sheet.
- ✓ write/type the question number, then write the information you want to add.

2. A Terminal Illness Medical Attestation for a Disability Benefit Under the Canada Pension Plan (ISP2530B)

Be sure to:

- ✓ complete **Section 1** and **Section 2**.
- ✓ write/type your Social Insurance Number at the top of each page.
- ✓ sign all areas that require your signature.
- ✓ ask your doctor or nurse practitioner to complete **Section 3** and ask them to mail it to the nearest Service Canada office.

 **DO NOT WAIT** for your doctor or nurse practitioner to complete the Terminal Illness Medical Attestation before sending your Terminal Illness Application to Service Canada. The date Service Canada receives your application could affect when your benefit starts.

Service Canada will help you pay for the cost of the Terminal Illness Medical Attestation by paying up to \$85.00 directly to your doctor or nurse practitioner. Any money owing over this amount is your responsibility.



Service
Canada

Service Canada Offices Disability

Mail your forms to the nearest Service Canada office listed below.

From outside of Canada, send your forms to the Service Canada office in the province/territory where you last lived.

Newfoundland and Labrador
Service Canada
PO Box 9430 Station A
St. John's NL A1A 2Y5
CANADA

Nova Scotia and Prince Edward Island
Service Canada
PO Box 1687 Station Central
Halifax NS B3J 3J4
CANADA

New Brunswick and Quebec
Service Canada
PO Box 250
Fredericton NB E3B 4Z6
CANADA

Ontario
Service Canada
PO Box 2020 Station Main
Chatham ON N7M 6B2
CANADA

Manitoba and Saskatchewan
Service Canada
PO Box 818 Station Main
Winnipeg MB R3C 2N4
CANADA

Alberta / Northwest Territories and Nunavut
Service Canada
PO Box 2710 Station Main
Edmonton AB T5J 2G4
CANADA

British Columbia and Yukon
Service Canada
PO Box 1177 Station CSC
Victoria BC V8W 2V2
CANADA

If you have any questions about completing this application, call us.

In Canada or the United States: 1-800-277-9914

For all other countries: 613-957-1954 (we accept collect calls)

TTY: 1-800-255-4786

Important: Please have your Social Insurance Number ready when you call.



Terminal Illness Application for a Disability Benefit Under the Canada Pension Plan

(Disability benefit refers to the disability pension)

Section A - Information about you

| | | | |
|---|--|--|--|
| A1 Social Insurance Number | | Preferred language <input type="radio"/> English <input type="radio"/> French | FOR OFFICE USE ONLY Date stamp |
| Optional: <input type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Ms. | | | |
| First name | Middle name | Last name(s) | |
| Date of birth (YYYY-MM-DD) | Last name at birth (if different from above) | | |
| Home address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Mailing address (if different from home address) (no, street, apt., PO box, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| If you now live outside of Canada, in which Canadian province/territory did you last live? | Telephone number | Alternate telephone number | |
| The best time for Service Canada to contact you: | <input type="radio"/> Morning <input type="radio"/> Afternoon <input type="radio"/> Please don't call, send letters only | | |
| A2 Have you or your children ever applied for or received benefits under the Quebec Pension Plan? | | <input type="radio"/> Yes <input type="radio"/> No | |

Section B - Contributions to the Canada Pension Plan (CPP)

To help you meet the minimum amount of valid CPP contributions, Service Canada may consider certain provisions and/or agreements.

The information you provide in B1 to B3 will help us determine if any of the provisions or agreements apply to you.

(B1) Dividing CPP contributions - Credit split provision

If you have been separated, divorced or in a common-law relationship that ended, the CPP contributions you and your former spouse or common-law partner made to the CPP during the time you lived together could be combined and equally divided.

We will review the information you provide below and let you know if a credit split could help you qualify for the CPP disability benefit.

| | | | |
|------------------------------|-------------------------------|----------------------------------|---|
| What is your current status: | <input type="radio"/> Single | <input type="radio"/> Common-law | <input type="radio"/> Divorced |
| | <input type="radio"/> Married | <input type="radio"/> Separated | <input type="radio"/> Surviving spouse/common-law partner |

If you are currently, or have ever been separated, divorced or in a common-law relationship that ended, please provide us with the dates you started and stopped living with your former spouse or former common-law partner.

| | | | |
|--|-----------|--|-----------|
| Date you started to live with your former spouse or common-law partner | (YYYY-MM) | Date of separation or end of common-law relationship | (YYYY-MM) |
|--|-----------|--|-----------|

 For additional periods, please attach an extra sheet.

(B2) Living or working in another country - International social security agreements

If you have lived and/or worked in a country other than Canada, the credits you have accumulated in that country may help you qualify for the CPP disability benefit.

If Canada has an international social security agreement with the country(ies) you have indicated below, we will verify if it will help you qualify for the CPP disability benefit.

| | | |
|---|---------------------------|--------------------------|
| Have you ever lived or worked in another country? | <input type="radio"/> Yes | <input type="radio"/> No |
|---|---------------------------|--------------------------|

If Yes, please fill out this table to help us determine if an international social security agreement could help you qualify for the CPP disability benefit.

| Name of country | Your social identification number in that country | Dates lived in that country | | Dates worked in that country | | Have you asked for or received benefits from that country? | |
|-----------------|---|-----------------------------|-----------------|------------------------------|-----------------|--|-----------------------|
| | | From (YYYY-MM) | To (YYYY-MM) | From (YYYY-MM) | To (YYYY-MM) | Yes | No |
| 1. | | | | | | <input type="radio"/> | <input type="radio"/> |
| 2. | | | | | | <input type="radio"/> | <input type="radio"/> |

 For additional countries, please attach an extra sheet.

? Note: Your CPP contributions may also help you qualify for a benefit or pension from that country. For more information on international benefits go to www.canada.ca/pension-international.

(B3) If you worked less to care for your young children - Child rearing provision

If you worked less or stopped working because you were the primary caregiver for one or more children under the age of 7, you may have contributed little or nothing to the CPP. For this reason, we may be able to apply the child rearing provision. This could help you meet the minimum amount of valid CPP contributions needed to qualify for a disability benefit, and/or could increase the benefit amount you receive.

For the CPP, the **primary caregiver** is the person who is/was most responsible for the daily needs of the child(ren) until the age of 7. Some things a primary caregiver does are: watch over the child(ren), prepare meals, go to school meetings and events, or take the child(ren) to doctors appointments.

To qualify for the child rearing provision, you must have been the primary caregiver and:

1. received the Family Allowance (available before 1993); and/or
2. been eligible for the Canada Child Benefit, even if you did not receive it (available since 1993).

Note: Only one person can be the primary caregiver at any time. Therefore, this provision can only be applied to one account for the same time period and child(ren).

Please provide your child(ren)'s information below, regardless of their current age.

| Child's full name | Social Insurance Number | Child's date of birth (YYYY-MM-DD) | If the child was born outside Canada, tell us the date the child entered in Canada (YYYY-MM-DD) |
|-------------------|-------------------------|------------------------------------|---|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

☞ For additional children, please attach an extra sheet.

Note: If you do not provide the Social Insurance Number of the child(ren) and/or if the child(ren) was born outside of Canada, Service Canada will require a certified photocopy of an acceptable document confirming the child(ren)'s date of birth (e.g. birth certificate) and/or proof of the child(ren)'s date of entry into Canada (e.g. IMM 1000 or passport).

A) Were you the primary caregiver for these children when they were under the age of 7? Yes No

B) If there were periods of time when you were not the primary caregiver for the child(ren) listed, please provide dates and the reasons:

| | | |
|----------------|--------------|---------|
| From (YYYY-MM) | To (YYYY-MM) | Reason: |
| From (YYYY-MM) | To (YYYY-MM) | Reason: |

? To help you determine how to complete the following questions, please see Annex A at the end of the application.

C) Did you or your current/former spouse or common-law partner receive the Family Allowance? Yes No

If yes, please indicate who received the benefit:

You
 Your current/former spouse or common-law partner

Did you or your current/former spouse or common-law partner receive, or were either of you eligible for the Canadian Child Benefit?

Yes No

If Yes, please indicate who received or was eligible for the benefit:

You
 Your current/former spouse or common-law partner

D) If there were periods when you did not receive the Family Allowance or the Canada Child Benefit for the child(ren) listed above, please provide the dates and reasons:

| | | |
|----------------|--------------|---------|
| From (YYYY-MM) | To (YYYY-MM) | Reason: |
| From (YYYY-MM) | To (YYYY-MM) | Reason: |

E) Please read this section if you were the primary caregiver but did not receive the Family Allowance (available before 1993).

The child rearing provision cannot be applied to both you and your current/former spouse or common-law partner's CPP benefit(s) for a child for the same time period.

If you were the primary caregiver, but did not receive the Family Allowance, we would not be able to apply this provision to your CPP benefit(s). However, your current/former spouse or common-law partner can choose to transfer their rights to the provision to you. They can do this by signing the waiver of rights below.

Waiver of rights to the child rearing provision

I declare that, for the child(ren) listed for this question and on any additional sheets, I have not and will not make any claims for the child rearing provision for the period(s) accredited to my current/former spouse or common-law partner. Once I give up my rights to the child rearing provision, the action cannot be reversed.

| | | |
|-----------|-------------------------|------------------------|
| Name | Social Insurance Number | Telephone number (day) |
| Signature | Date (YYYY-MM-DD) | |

 This is the end of the section of the application we are using to assess your contributions to the CPP.

Service Canada will review the information you provide in the next section along with the medical information provided by your doctor, nurse practitioner, insurance company or provincial/territorial agency. This will help us determine how your medical condition(s) impact(s) your capacity to perform work-related activities.

Section C - Information about your medical condition(s)

The information you provide in this section will help Service Canada understand how your medical condition(s) impact(s) your ability to perform work-related activities.

| | | |
|-----------|--|----------------|
| C1 | When did you feel you could no longer work because of your medical condition(s)? ☞ This date is not always the same as the last day you went to work. It could be before or after you actually stopped working. | Date (YYYY-MM) |
| C2 | State your main medical condition(s) that prevent(s) you from working. If you do not know the medical names, describe in your own words. | |
| C3 | List any additional medical condition(s) that prevent(s) you from working. | |

- C4** If you are receiving any disability benefits from an insurance company or a provincial/territorial agency, including a workers' compensation program, please provide details in the table below.

| Name of insurance company, provincial/territorial agency | Claim number | Medical condition | Start of benefit (YYYY) |
|--|--------------|-------------------|-------------------------|
| 1. | | | |
| 2. | | | |

Repayment of benefits to a private insurance company and/or a provincial or municipal agency

Service Canada may find that you qualified for a CPP disability benefit when you were receiving benefit payments from a private insurance company and/or a provincial or municipal agency. If we owe you a retroactive payment (up to 11 months) you may have to pay back the benefits you received from those organizations during that time.

Service Canada can reimburse a private insurance company and/or a provincial or municipal agency on your behalf. In order to do this, we need your written consent. The insurance company and/or a provincial or municipal agency will ask you to sign a consent form to allow us to pay them directly. If you choose not to do this, it is your responsibility to inform them.

Section D - Information about your doctor or nurse practitioner

Service Canada may need more information to better understand your medical condition(s). The information you provide in this section will identify the health care provider who will be reporting on your medical condition(s).

- D1** Provide the following information about the doctor or nurse practitioner who will be reporting on your medical condition(s).

| | | |
|--|---|--|
| Doctor's or nurse practitioner's full name | <input type="radio"/> Family doctor | <input type="radio"/> Nurse practitioner |
| | <input type="radio"/> Specialist (please specify) _____ | |

| | |
|--|-----------|
| Mailing address (no, street, apt., PO box, RR) | City/Town |
|--|-----------|

| | | | |
|--------------------|-------------------------|-------------|------------------|
| Province/Territory | Country (if not Canada) | Postal code | Telephone number |
|--------------------|-------------------------|-------------|------------------|

| | | | |
|--|-----------|---|-----------|
| When did you first see this doctor or nurse practitioner about your medical condition? | (YYYY-MM) | When did you last see this doctor or nurse practitioner about your medical condition? | (YYYY-MM) |
|--|-----------|---|-----------|

Section E - Information about your work

The information you provide in this section will help Service Canada understand how your medical condition(s) and treatments affect your ability to work regularly at any job. Be sure to include work done in Canada and in other countries.

- E1** Have you stopped working completely? Yes No

If Yes, select the reason why you stopped working:

Shortage of work/contract ended Maternity/paternity Dismissed/quit Medical condition(s)/illness(es)

Other, provide details: _____

- E2** When completing this question, if you had/have two or more jobs, please include information about the main job where you spent/spend the most time.

| | | |
|--|--------------------------------------|--|
| Title or position of current or last job | First day on the job (YYYY-MM-DD) | Last day you went to work (YYYY-MM-DD) |
|--|--------------------------------------|--|

Name of your current or last employer

| | |
|--|-----------|
| Mailing address of your current or last employer (No., Street, Apt., PO Box, RR) | City/Town |
|--|-----------|

| | | | |
|--------------------|-------------------------|-------------|------------------|
| Province/Territory | Country (if not Canada) | Postal code | Telephone number |
|--------------------|-------------------------|-------------|------------------|

Section F - Benefits for children

If you qualify for a CPP disability benefit, the information you provide in this section will help us determine if any child(ren) may qualify for the disabled contributor's child's benefit. To qualify, the child(ren) must be under the age of 18, or 18 to 25 years old and attending school full-time.

F1 Do you have children? Yes No If No, please skip to Section G.

Who receives the payment?

- If you have custody and control of a child under the age of 18, we will send you the monthly payment.
- If you do not have custody and control of a child under the age of 18, we will send the monthly payment to the person or agency (custodian) that has custody and control of the child (consent to contact the person or agency is required – see question F3).
- If the child is 18 to 25 years old and attending school full-time, we will send the monthly payment to the child directly (consent to contact the child is required - see question F3).

For the purposes of the CPP, **custody and control** includes sole, shared, joint, etc., and formal and informal custody and control arrangements. More specifically, if you are sharing custody of a child, no matter how minimal, you are considered to have custody and control.

Note: If you do not provide the Social Insurance Number of the child(ren), Service Canada will require a certified photocopy of an acceptable document confirming the child(ren)'s date of birth (e.g. birth certificate).

F2 Please include information about your child(ren) in the space below.

| | | |
|----------------------------|----------------------------|-------------------------|
| a) First child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
|----------------------------|----------------------------|-------------------------|

Biological child Legally adopted Other, please specify: _____

Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months?

Yes No If Yes, please provide the child's address below.

| | | |
|---|---|-----------------------|
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes If No, provide the custodian's full name and address below. | Custodian's full name |
|---|---|-----------------------|

Address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code

| | | |
|-----------------------------|----------------------------|-------------------------|
| b) Second child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
|-----------------------------|----------------------------|-------------------------|

Biological child Legally adopted Other, please specify: _____

Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months?

Yes No If Yes, please provide the child's address below.

| | | |
|---|---|-----------------------|
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes If No, provide the custodian's full name and address below. | Custodian's full name |
|---|---|-----------------------|

Address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code

Social Insurance Number:

PROTECTED B (when completed)

| | | |
|---|--|-------------------------|
| c) Third child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other, please specify: _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes If No, provide the custodian's full name and address below. | Custodian's full name |
| Address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| d) Fourth child's full name | Date of birth (YYYY-MM-DD) | Social Insurance Number |
| <input type="radio"/> Biological child <input type="radio"/> Legally adopted <input type="radio"/> Other, please specify: _____ | | |
| Is this child 18 to 25 years old and attending full-time school, college or university now or within the past 11 months? | | |
| <input type="radio"/> Yes <input type="radio"/> No If Yes, please provide the child's address below. | | |
| If the child is under the age of 18, do you have custody and control? | <input type="radio"/> Yes If No, provide the custodian's full name and address below. | Custodian's full name |
| Address (no, street, apt, RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |

 For additional children, please attach an extra sheet.

(F3) Consent to contact the child(ren) or their custodial parent, guardian or agency

You can give your permission (consent) to allow Service Canada to contact the child(ren), or their custodial parent, guardian or agency to inform them about the disabled contributor's child's benefit.

We will not contact the child(ren), their custodial parent, guardian or agency, without your consent.

If you give your consent, we will contact them ONLY to inform them that the child(ren) may qualify for the disabled contributor's child benefit. Service Canada will not share information about you or your medical condition.

If you do not give your consent, we will not contact the child's custodial parent, guardian or agency (for children under the age of 18), and/or the child(ren) over the age of 18, to inform them about the disabled contributor's child's benefit. However, if we receive an application from the custodial parent, guardian or agency and/or the child(ren) over the age of 18, we will use the information on this application, if applicable, to determine if they qualify for the disabled contributor's child's benefit. We will not share information about your medical condition, but we will be required to use and disclose your status as a CPP disability pension beneficiary.

Do you give your consent to Service Canada to contact the child(ren) or their custodial parent, guardian or agency to inform them about the disabled contributor's child's benefit?

- Yes
 No

Section G - Payment information

G1 Direct deposit

If your application is approved, your monthly payments will be deposited into your account at your financial institution. The account must be in your name. A joint account is also acceptable.

To enroll for direct deposit banking, you must provide your banking information below.

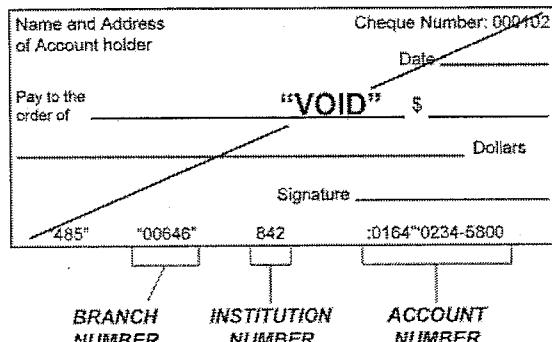
Branch number (5 digits)

Institution number (3 digits)

Account number (maximum of 12 digits)

Name(s) on the account

Telephone number of your financial institution



Sharing your direct deposit information with the Canada Revenue Agency

Your direct deposit information can also be used by the CRA to deposit any income tax refunds, working income tax benefit advance payments, the Canada Child Benefit, the Universal Child Care Benefit, and GST/HST credit payments you may receive. If you agree, Employment and Social Development Canada (ESDC) can share your direct deposit information with the CRA.

For ESDC and the CRA to share your personal and direct deposit information, your permission (consent) is required.

By filling in the circle for "I agree", you agree with these two statements:

- I consent to ESDC sharing with the CRA my direct deposit information entered on this form for any payments I may receive from the CRA.
- I consent to ESDC sharing with the CRA my Social Insurance Number, last name, and date of birth so that the CRA can identify me correctly.

If you fill in the circle for "I do not agree", your information will not be shared. You may still update your banking information with the CRA by contacting them directly.

I agree I do not agree

Direct deposit outside Canada

For direct deposit outside Canada, please contact us at 1-800-277-9914 from the United States, and at 613-957-1954 from all other countries (collect calls are accepted). The form and a list of countries where direct deposit service is available can be found at www.directdeposit.gc.ca.

Section H - Consent for Service Canada to obtain personal information

Service Canada is authorized under Section 68 and 69 of the Canada Pension Plan Regulations to receive personal information (medical and non-medical) about you to determine if you qualify or continue to qualify for Canada Pension Plan (CPP) disability benefits. Your consent to permit Service Canada to obtain this information is necessary should Service Canada need this information from the persons and organizations listed below.

I give Service Canada my consent to obtain personal information about me that would help determine if I qualify or continue to qualify for CPP disability benefits. For this reason, Service Canada may contact any of the following persons and organizations if necessary:

- medical doctors, nurse practitioners, consultant specialists, or other health care professionals;
- educational institutions or other vocational agencies;
- my accountant or bookkeeper for information on self-employment;
- federal, provincial, territorial, or municipal government departments and agencies;
- provincial or territorial workers' compensation boards;
- financial institutions (for address updates only);
- medical facilities or hospitals;
- administrators of insurance plans;
- employers, former employers;
- voluntary organizations;
- employees (for the cases of self-employed persons).

Note: Failure to check an option below could result in a delay in processing your application.

- I give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above. I understand that this information may help determine if I qualify or continue to qualify for CPP disability benefits.
- I do not give my consent to Service Canada to obtain medical and other personal information about me from all persons and organizations listed above.

I understand that if I do not give my consent, Service Canada:

- will make a decision based on the available information on my file;
- may stop paying me the benefits if I am already receiving them; and
- can require that I provide the necessary information.

| | | |
|---|--|-------------------|
| Applicant's address (No., Street, Apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | |
| Applicant's name (print) | Signature of applicant/authorized representative | Date (YYYY-MM-DD) |
|  An authorized representative can act on your behalf. See information on authorized representative on page 13 of this application. | | |

To be completed by a witness only if the applicant signs with a mark (e.g. X).

I have read the contents of this section to the applicant, who appeared to fully understand them and who made their mark in my presence.

| | | | |
|-------------------------------|-------------------|--------------|------------------|
| First name of witness (print) | Middle name | Last name(s) | Telephone number |
| Signature of witness | Date (YYYY-MM-DD) | | X |

This signed consent is valid for up to 3 years unless you cancel it in writing. Service Canada requires your original signature, but we will use a photocopy and consider it as valid as the original when requesting personal information from the persons and organizations listed above.

Section I - Consent to communicate information to an authorized person

The form allows you to name a person (such as your spouse, partner, other family member or friend) to communicate on your behalf with Service Canada regarding your Canada Pension Plan (CPP) and Old Age Security (OAS) benefits. It allows Service Canada to communicate to this authorized person your personal information concerning CPP/OAS benefits, payments, income, contributions and changes to your address (excluding the address where your cheque is mailed or the bank account where the payment is deposited). It does not provide authority for the person to apply for benefits for you, change your payment address or request/change voluntary tax withhold. If our records indicate that a legal representative, such as a Power of Attorney or Trustee, is authorized to act on your behalf, all communications will be made through that legal representative.

Note: Third parties are not currently authorized to use the CPP/OAS On-line Services.

I1 Your consent (you must complete and sign this section)

| | | | |
|--|---------|-------------|-------------------------|
| First name | Initial | Family name | Social Insurance Number |
| <p>I hereby give my consent for Service Canada to communicate personal information on my behalf and to act on information received from the authorized person, named in question I2, concerning CPP/OAS benefits, payments, income, contributions and changes to my address (excluding the address where my cheque is mailed or the bank account where the payment is deposited) on the programs below:</p> <p>Check applicable box(es): <input type="checkbox"/> Canada Pension Plan <input type="checkbox"/> Old Age Security</p> <p>The consent form does not provide authority to the person to apply for benefits on my behalf or to change my payment address (the address where my cheque is mailed or the bank account where the payment is deposited) or request/change voluntary tax withhold. I understand that this consent remains valid unless I cancel it in writing and that it is only valid if Service Canada receives this form within one year from the date I sign it. I also understand that this consent is revoked in the event of my death.</p> <p>Your signature _____ Date (YYYY-MM-DD) _____ X</p> | | | |

I2 The person you would like us to communicate with must complete and sign this section

| | | |
|---|---------|-------------|
| Relationship to client: _____ | | |
| First name | Initial | Family name |
| Telephone numbers: Home _____ Work _____ Other _____ | | |
| Complete mailing address (No., Street, Apt., PO Box, RR), City/Town, Province/Territory, Country, Postal code | | |
| <p>I understand that I can communicate with Service Canada on the program(s) checked off above to give and receive personal information on behalf of the person named in question I1. I also understand that I do not have the authority to apply for a benefit or to change the payment address (the address where the cheque is mailed or the bank account where the payment is deposited) or request/change voluntary tax withhold on this person's behalf.</p> <p>Signature _____ Date (YYYY-MM-DD) _____ X</p> | | |

Protection of your personal information

CPP and OAS cannot give your personal information to any person or organization without your written consent, except where authorized by CPP or OAS legislation. You (or your authorized legal representative) have the right to request a copy of the information in your file.

Section J - Declaration and Signature

Privacy Notice Statement

Read the following information before you sign your application:

Your personal information is collected under the authority of the *Canada Pension Plan (CPP)* and will be used to determine your, and if applicable, your child(ren)'s benefit eligibility and entitlement. The Social Insurance Number (SIN) is collected under the authority of section 52 of the *CPP Regulations*, and in accordance with the Treasury Board Secretariat Directive on the SIN, which lists the CPP as an authorized user of the SIN. The SIN will be used as a file identifier and to ensure your exact identification so that contributory earnings can be correctly applied to your record to allow benefits and entitlements to be accurately calculated.

Submitting this application is voluntary. However, if you refuse to provide your personal information, the Department of Employment and Social Development Canada (ESDC) will be unable to process your application. Your personal information may be shared within ESDC, with any federal institution, provincial authority or public body created under provincial law with which the Minister of ESDC may have entered into an agreement and/or with non-governmental third parties for the purpose of administering the CPP, other acts of Parliament and federal or provincial law. The information may be shared with the government of other countries in accordance with agreements for the reciprocal administration or operation of the foreign pension program and of the *CPP and Old Age Security Act*. The information you provide may also be used/disclosed for policy analysis, research and/or evaluation purposes but will not result in an administrative decision being made about you (such as a decision on your entitlement to a benefit).

Your personal information is administered in accordance with the CPP, the *Privacy Act*, the *Department of Employment Social Development Act* and other applicable laws. You have the right to the protection of, access to, and correction of your personal information, which is described in Personal Information Bank Canada Pension Plan Program (ESDC PPU140 and 146). You can ask to see your file by contacting a Service Canada office. Instructions for requesting personal information are provided in the government publication entitled *Info Source*, which is available at the following web site address: www.canada.ca/infosource-ESDC. *Info Source* may also be accessed online at any Service Canada Centre.

You have the right to file a complaint with the Privacy Commissioner of Canada regarding the institution's handling of your personal information at: www.priv.gc.ca/en/report-a-concern.

Signature of applicant

I hereby apply for a disability and, if applicable, a child's benefit under the Canada Pension Plan and declare that to the best of my knowledge and belief, all of the information herein is true and complete.

I agree to notify Service Canada of any changes that may affect my eligibility for benefits. These include: an improvement in my medical condition(s); a return to work (full-time, part-time, trial period or volunteer work); attendance at school or university; trade or technical training; any rehabilitation, or a change in custody of any child under the age of 18.

If you make a false or misleading statement, you may be subject to an administrative monetary penalty and interest, if any, under the Canada Pension Plan, or may be charged with an offence. Any benefits you received or obtained to which there was no entitlement would have to be repaid.

| | |
|------------------------|-------------------|
| Signature of applicant | Date (YYYY-MM-DD) |
| X | |

To be completed by a witness only if the applicant signs with a mark (e.g. X).

I have read the contents of this application to the applicant, who appeared to fully understand them and who made their mark in my presence.

| | | | |
|--|-------------|-------------------|------------------|
| First name of witness (print) | Middle name | Last name | Telephone number |
| Address (No., Street, Apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Signature of witness | | Date (YYYY-MM-DD) | |
| X | | | |

To be completed ONLY by an authorized representative of the applicant

 See information on authorized representative below.

I hereby apply for a disability benefit and, if applicable, a child's benefit under the Canada Pension Plan on behalf of the applicant and I declare that to the best of my knowledge and belief, all of the information herein is true and complete.

I agree to notify Service Canada of any changes that may affect the applicant's eligibility for benefits. These include: an improvement in the medical condition(s); a return to work (full-time, part-time, trial period or volunteer work); attendance at school or university; trade or technical training; any rehabilitation, or a change in custody of any child under the age of 18.

I also agree to notify Service Canada if and when I cease acting as the representative of the applicant and/or of any changes in the applicant's condition whereby the applicant is able to act on their own behalf.

A false or misleading statement may result in an administrative monetary penalty and interest, if any, under the *Canada Pension Plan*, or in the prosecution of an offence. Any benefits received or obtained to which there was no entitlement would have to be repaid.

| | | | |
|--|---|-----------|-------------------|
| First name of representative (print) | Middle name | Last name | Telephone number |
| Address (No., Street, Apt., RR), City/Town, Province/Territory, Country (if not Canada), Postal code | | | |
| Relationship to the applicant | Signature of authorized representative | | Date (YYYY-MM-DD) |
| |  | | |

Authorized representative

An authorized representative can act on your behalf. This person will have all of the rights and responsibilities that you would have as an applicant/beneficiary, such as signing the application and keeping Service Canada informed of any changes to your account. These could include changes to your telephone number, your medical condition(s) or a return to work.

An authorized representative could be any of the following:

- guardian
- lawyer
- curator
- trustee
- committeee
- Power of Attorney (for CPP purposes, only POA for property is accepted)
- executor
- any other legal representative of that person

The authorized representative must be appointed under a law of Canada, a province or territory, or by the Minister, to manage your affairs. Legal documents must be submitted to support an authorized representative and could include:

- mandate
- trusteeship
- Power of Attorney documents (for CPP purposes, only POA for property is accepted)
- letterhead from a lawyer clearly stating they represent you
- an official CPP/Old Age Security program form. Contact us for more information.

An authorized representative cannot receive the paid benefits on your behalf unless it has been proven that you are not capable of managing your affairs.

This application contains information about the Canada Pension Plan disability benefit which is based on the *Canada Pension Plan* legislation. If there are any differences between what is in this application and the *Canada Pension Plan* legislation, the legislation is always right.

Annex A - Child rearing provision guide

For the Canada Pension Plan (CPP), the primary caregiver is the person who is/was most responsible for the daily needs of the child(ren) until the age of 7. Some things a primary caregiver does are: watch over the child(ren), prepare meals, go to school meetings and events, or take the child(ren) to doctors appointments.

Family Allowance (FA) - available before 1993

The FA program (once known as the baby bonus) sent monthly payments to parents or guardians of dependent children under the age of 18. For most families, payments were issued to the mother.

The Canada Child Benefit replaced the FA program in 1993.

Canada Child Benefit (CCB) - available since 1993. Previously known as Child Tax Benefit and Canada Child Tax Benefit

The CCB is a monthly benefit based on your net family income level, the number of children you have, and the ages of your children. In most families, payments are/were issued to the mother.

If you were the primary caregiver of one or more children and did not receive the CCB only because your family income was too high, you are considered to have been eligible for the CCB.

| Where you the primary caregiver? | Did you receive the Family Allowance (before 1993)? | Did you receive or were you eligible for the Canada Child Benefit (since 1993)? | What do I complete in question B3? |
|----------------------------------|--|---|---|
| Yes | Yes | Yes | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | Yes | No | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | No | Yes | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E). |
| Yes | No, my current/former spouse or common-law partner did | No | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Request that your current/former spouse or common-law partner complete the waiver of rights (E). |
| Yes | No | No, my current/former spouse or common-law partner received the payments | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Skip the waiver of rights (E).- Provide a letter from Canada Revenue Agency (CRA) indicating you would have been eligible for the CCB had you applied when you were the primary caregiver. Please contact the CRA for more information about obtaining this letter. |
| Yes | No, my current/former spouse or common-law partner did | No, my current/former spouse or common-law partner received the payments | <ul style="list-style-type: none">- Answer questions A), B), C) and D).- Request that your (former) spouse/common-law partner complete the waiver of rights (E).- Provide a letter from Canada Revenue Agency (CRA) indicating you would have been eligible for the CCB had you applied when you were the primary caregiver. Please contact the CRA for more information about obtaining this letter. |

If you are not sure of which situation applies to you, complete all questions in B3 and Service Canada will review.

Annex B - Certified photocopies of original documents

Please send certified true photocopies rather than original documents, whenever submitting documents to Service Canada. If you must send your original documents, we suggest you send them by registered mail. We will return the original documents to you.

We can only accept a photocopy of an original document if it is readable and if you have someone certify that it is a true copy of the original.

How to get a certified true photocopy of an original document

Documents can be certified by Service Canada staff free of charge at any Service Canada Centre. If you cannot visit a Service Canada Centre, you can ask a member of one of the following professions to certify your photocopy:

- Accountant
- Chief of First Nations Band
- Commissioner for Oaths
- Employee of a Service Canada Centre acting in an official capacity
- Funeral Director
- Justice of the Peace
- Lawyer, Magistrate, Notary
- Manager of a Financial Institution
- Medical and Health Practitioner: Chiropractor, Dentist, Doctor, Naturopathic Doctor, Nurse Practitioner, Ophthalmologist, Optometrist, Pharmacist, Psychologist, Registered Nurse
- Member of Parliament or their staff
- Member of a Provincial Legislature or their staff
- Minister of Religion
- Municipal Clerk
- Official of a federal or provincial government department, or one of its agencies
- Official of an Embassy, Consulate or High Commission
- Official of a country with which Canada has a reciprocal Social Security Agreement
- Police Officer
- Professional Engineer
- Social Worker
- Teacher
- University Professor

Note: You cannot certify photocopies of your own documents and you cannot ask a relative to do it for you.

The person certifying the document(s) must:

- compare the original document to the photocopy;
- state their official position or title and sign and print their name;
- provide their telephone number;
- write the date they certified the document; and
- write the following statement on the photocopy: **This photocopy is a true copy of the original document which has not been altered in any way.**

Note: If your photocopy is missing any of the above elements, it will not be accepted and you will have to submit a new, properly certified photocopy. This could result in delays in processing your application.

If the document has information on more than one page, photocopy all pages. The person you ask to certify your photocopies can either certify each page, or only the first page as long as they indicate and attest to the total number of pages in the document, including any pages that are blank.

Please write your Social Insurance Number on any document or photocopy that you send to Service Canada.

Before you send your application - checklist

- Have you written your Social Insurance Number in the box at the top of each page and at the top of each sheet you have added?
- Have you provided your date of birth on page 1?
- Have you read and signed the Consent for Service Canada to obtain personal information on page 10?
- If you are giving permission to another person to give or receive information from Service Canada on your behalf, have you read and signed the Consent to communicate information to an authorized person on page 11?
- Have you read and signed the Declaration and signature on page 12?
- Have you completed **Sections 1 and 2** of the Terminal Illness Medical Attestation?
- Have you asked your doctor or nurse practitioner to complete **Section 3** of the Terminal Illness Medical Attestation and mail it to Service Canada?

DO NOT WAIT for your doctor or nurse practitioner to complete the Terminal Illness Medical Attestation before sending your completed Terminal Illness Application to Service Canada. The date your application is received by Service Canada could affect when your benefit starts.

- Have you removed the information and instructions pages from the application at front and back? These contain general information and do not need to be submitted.

To mail your application to the Service Canada office nearest you, see the list of addresses on the page **Service Canada Offices** in the Information and Instructions sheets at the front of the application. You can also drop-off the completed application at a Service Canada Centre near you.

What to expect after you send your application

Once Service Canada receives your application, we will:

- ✓ call you to confirm that your application was received.
- ✓ ask you for more information or other documents if needed.
- ✓ answer any questions you may have.

Once we receive all the information and/or documents we need from you:

- ✓ Service Canada will determine if you have made the minimum amount of valid CPP contributions.

If you have made the minimum amount of valid CPP contributions:

- ✓ the information you and your doctor or nurse practitioner provide will be reviewed by a CPP disability medical adjudicator.

If you qualify, your benefit will start four months after your disability was found to be severe and prolonged (as defined by CPP legislation). You may receive up to 11 months of payments retroactive from the date your application was received.

Provincial Training Conference for Legal Advocates

Accessibility Issues with the Ministry of Social Development and Poverty
Reduction (MSDPR)

October 17, 2018



Ministry of
Social Development
and Poverty Reduction

Service Delivery

Our Commitment to Service

- The ministry is committed to providing quality service, and is continually working to improve the way clients access and receive services.
- The ministry has updated its Service Commitment and Service Standards, as of September 30, 2018
 - To view Service Standards and Service commitments, visit:

www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/social-development-poverty-reduction/ministry-reports

Ministry of Social Development and Poverty Reduction
Service Standards

There are fluctuations with wait times, response, and decision times that can happen throughout the year (for example, cheque issue week).
The target is to meet service standards at least 80 per cent of the time.

Applying for Assistance
After you have applied for assistance, the ministry will contact you about the application within:

- **5 business days**, except as follows:
 - if you are fleeing abuse **1 business day**, or
 - if you have an immediate need for food, shelter or urgent medical attention **1 business day**

Access to Phone Service
Calls answered in **10 minutes or less**

Service Delivery Timelines
Once you submit all the required documentation to the ministry, decisions on the following services will be provided within:

- Persons with Disabilities (PWD) Designation Determination **45 business days**
- Persons with Persistent Multiple Barriers (PPMB) **10 business days**
- Required for Reconsideration (after a signed request has been submitted) **10 business days**
- 20 business days when an extension has been granted

We will work to meet these service standards and are committed to listening and addressing your service concerns. If you have a complaint about our service, please call toll free 1 866 866-0800.

Ministry of Social Development and Poverty Reduction
Our Commitment to Service

We commit to meeting your needs by providing you with service that is:

- reliable and accessible
- fair and impartial
- responsive and accurate
- respectful and courteous

The ministry provides a variety of options to citizens for accessing information, assistance and services, including online, in person and over the phone.

Online, 24 hours a day
Through My Self Serve (www2.gov.bc.ca/gov/serviceonline) you can:

- Apply for assistance
- Receive and reply to messages from the ministry
- Make and track service requests.
- Submit your monthly report

All offices have computers and free Wi-Fi available to access My Self Serve during office hours

In Person
Offices are open Monday – Friday (except statutory holidays) between 9 a.m. and 4 p.m., closed 12 p.m. to 1 p.m. Pacific Standard Time.

- Cheques are accepted in all ministry offices at three times a day at 11 a.m., 2 p.m. and 3 p.m.
- Clients attending a ministry office are acknowledged and informed of service request processing times
- All ministry offices are accessible

Phone
Information about ministry programs and services is available 24 hours a day, toll free at 1 866 866-0800.

- Phone lines are open Monday – Friday (except statutory holidays) between 9 a.m. and 4 p.m. Pacific Standard Time
- Clients calling the ministry are informed of service request processing times

Mail
The ministry is committed to providing responses to ministerial correspondence within 14 business days.

Our Commitment To Service

- The ministry plans on reporting out publicly on the Service Standards.
- As of May 31, 2018, the ministry has been posting a monthly report on the website. The Daily Contact Centre Wait Time Report including average daily speed of answer, longest call wait time, and shortest call wait time.
- As of October 1, 2018, the ministry has added the percent of calls answered within 10 minutes, for each day in the previous month.

www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/social-development-poverty-reduction/ministry-reports

| Ministry of Social Development and Poverty Reduction Daily Contact Centre Wait Times | | | |
|---|--------------------|-------------------|-------------------|
| August 2018 | | | |
| Date | Shortest Wait Time | Longest Wait Time | Average Wait Time |
| Wednesday, August 1, 2018 | 0:03:44 | 0:40:16 | 0:23:34 |
| Thursday, August 2, 2018 | 0:02:33 | 0:28:14 | 0:15:33 |
| Friday, August 3, 2018 | 0:03:01 | 1:09:48 | 0:44:31 |
| Monday, August 6, 2018 - STAT | - | - | - |
| Tuesday, August 7, 2018 | 0:04:43 | 0:26:45 | 0:23:21 |
| Wednesday, August 8, 2018 | 0:00:31 | 0:23:46 | 0:13:38 |
| Thursday, August 9, 2018 | 0:00:44 | 0:18:23 | 0:11:50 |
| Friday, August 10, 2018 | 0:05:05 | 0:28:54 | 0:22:43 |
| Monday, August 13, 2018 | 0:04:10 | 0:34:16 | 0:24:20 |
| Tuesday, August 14, 2018 | 0:00:56 | 0:20:19 | 0:11:02 |
| Wednesday, August 15, 2018 | 0:01:03 | 0:10:53 | 0:06:14 |
| Thursday, August 16, 2018 | 0:00:32 | 0:14:21 | 0:06:05 |
| Friday, August 17, 2018 | 0:14:02 | 0:45:05 | 0:28:17 |
| Monday, August 20, 2018* | 0:04:39 | 0:31:48 | 0:22:56 |
| Tuesday, August 21, 2018* | 0:00:13 | 0:11:36 | 0:05:31 |
| Wednesday, August 22, 2018* | 0:05:37 | 1:03:24 | 0:46:18 |
| Thursday, August 23, 2018* | 0:04:52 | 0:35:55 | 0:25:06 |
| Friday, August 24, 2018* | 0:04:21 | 1:18:17 | 0:57:43 |
| Monday, August 27, 2018 | 0:03:47 | 0:46:31 | 0:36:08 |
| Tuesday, August 28, 2018 | 0:00:15 | 0:16:09 | 0:06:32 |
| Wednesday, August 29, 2018 | 0:00:47 | 0:17:10 | 0:06:29 |
| Thursday, August 30, 2018 | 0:00:12 | 0:09:33 | 0:03:16 |
| Friday, August 31, 2018 | 0:02:42 | 0:23:34 | 0:14:39 |

*Cheque issue week

Access to Ministry Services

- Clients can access services in the way that best suits them,
 - in office (Service BC and Ministry offices),
 - By phone or
 - through My Self Serve
- And specialized services, including ministry liaisons, designated workers, integration teams, and outreach.

Specialized Services - Highlights

- Liaison
 - staff build relationships with community agencies
 - provide general program information and assistance with individual cases
- Integration
 - EAWs participate in multi-disciplinary case management teams
 - The teams provide holistic services to multi-barriered individuals (mental health, substance use, homelessness, and/or criminality)

Specialized Services – Highlights Con't

- Designated worker
 - Can be requested by a client or staff may identify a client and may assign a designated worker to the client.
 - Staff assess whether a designated worker is appropriate to meet the unique needs of the client.
- Outreach
 - EAWs provide both case management and one-off support/services to clients, often those who are homeless or at risk of homelessness, in the community either on the streets, at drop-in centres, or emergency shelters.
 - Often done in-person, but also virtually in some rural areas
 - Terrace outreach worker now provides support in other communities including: Merritt, Dawson Creek, Fort St John , Salmon Arm, Cranbrook, Prince Rupert and Revelstoke
 - Prince George outreach worker now provides support in other communities including: Quesnel

Third Party Administration (TPA)

- As of May 1, 2018, TPA contractors now communicate with the ministry using a secure government email address that they have been assigned.
- When contractors are requesting service on behalf of our TPA clients, they email the client's request to the ministry mailbox and requests go into the queue with other request (urgent are prioritized)

www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/individual-case-management

Duty to Accommodate

- The ministry has a duty to accommodate at all points of contact with an applicant or recipient.
- Duty to Accommodate Alert – provides a central location for all staff to document a client's specific accommodation needs. For example:
 - Client uses a wheelchair and requests contact be through MySS or phone to avoid travel to local office
 - Client requests in-person help completing monthly reports
 - Client may request additional time and help gathering required documents

www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/individual-case-management

Assistance vs. Accommodation

Our ministry policy supports us to assist all of our clients by:

- Assisting in obtaining documents
 - With the client's permission, we can contact organizations, and request that they send documents directly to the ministry
 - We can provide clients with local advocates or community agencies, should the client chose to do so
 - We can extend deadlines (unless legislated time frame) when client needs extra time to provide information
- Providing information or requests in writing
 - We can provide information, requests and responses in writing when asked to do so by client

Assistance vs. Accommodation

Policy also supports the ministry to assist those clients requiring accommodation with some specific forms of accommodation. Providing interpretation services for clients with language barriers who are unable to comprehend or communicate through written or spoken English, the ministry provides access to interpretation services by telephone and, on a case by case basis, in person.

Accessing Spoken Language Interpretation Services

- In communities where contracts exist, applicants and recipients may contact ministry-contracted interpretation services directly when they are engaged in ministry-related business
- When an immediate need for interpretation services is identified that cannot be met by contracted interpretation services, staff access other interpretation services to acquire an interpreter for applicants or recipients over the telephone or, on a case-by-case basis, in person
- Staff also add an Information Alert to the Contact Summary if interpretation services are required.

Accessing Sign Language Interpretation Services

- If an applicant or recipient approaches an office for service and they require a sign language interpreter, the ministry will book an appointment with the applicant or recipient and a sign language interpreter.
- If an applicant or recipient calls through the teletypewriter (TTY), ministry staff will provide service at that time. If the applicant or recipient requests an appointment, then the worker should call the appropriate office for an appointment and arrange for a sign language interpreter to be at the appointment.

Assistance vs. Accommodation

Accessing Interpretation Services for Literacy Issues

- In cases where the *applicant* has literacy or cognitive barriers, or where an immediate need for food, shelter, or urgent medical attention has been identified, staff may need to communicate the content of the information provided in the orientation directly to the applicant.
- For clients with language barriers who are unable to comprehend or communicate through written or spoken English, the ministry can provide access to contracted interpretation services by telephone and, on a case-by-case basis, in person.

www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/application-and-intake/orientation

Applying for Assistance

3 Ways to Apply:

- Online – Self Directed (with MySS account)
- Online – Without MySS account in a Ministry or Service BC office
 - Applicants who do not have an email (and are not able get one) can speak to a staff member, and complete the application at a ministry kiosk or a Service BC terminal without creating an email
- Staff Assisted
 - **Client can contact the ministry via phone or in person to initiate their application**
 - Within 5 business days, **intake worker does walk-through by phone** (without BCeID or MySS registration)

Note: The ministry has a specialized team who facilitate intakes for Hospitals, Corrections, Drug and Alcohol Facilities, Long Term Care Facilities and Youth Transitioning to PWD

Complaint Resolution Processes

- The ministry has a complaint resolution processes.
- If clients are dissatisfied with the service they receive either at a local Employment and Assistance office or over the phone, they can:
 - Ask to speak to a supervisor to discuss their concerns
 - If the situation remains unresolved, they can also speak to a Community Relations and Service Quality Manager.

[www2.gov.bc.ca/gov/content/governments/organizationa
l-structure/ministries-organizations/ministries/social-
development-poverty-reduction/ministry-reports](http://www2.gov.bc.ca/gov/content/governments/organizationa-l-structure/ministries-organizations/ministries/social-development-poverty-reduction/ministry-reports)

Complaint Resolution Process

We are committed to listening and addressing your service concerns at the first point of contact.

If you have a complaint about the service, we want to help!

You can ...



Using this complaint resolution process does not affect your right to use the Reconsideration and Appeal Process.

Ministry staff are committed to providing consistent and high quality services that support our ministry's Service Code, the professional values of the BC Public Service and Service Standards. Details for all of these can be found online at: www.gov.bc.ca

For more information, please call toll-free: 1 866 866-0800

Community Relations & Service Quality Managers(CRSQs)

| STREAM | CRSQ Manager | PHONE | GEOGRAPHIC AREA |
|--|--|-------------------------|---|
| INTAKE (Applications general) <i>(Kellie: PLMS Liaison)</i> | Marilyn Sigouin Marilyn.Sigouin@gov.bc.ca | Mobile: 604 302-5217 | Lower Mainland, Fraser & Vancouver Coastal Lowermainland.MCRSQ@gov.bc.ca |
| | Kellie Vachon Kellie.Vachon@gov.bc.ca | Mobile: 604 999-6476 | Interior and Northern |
| CRSQ ISSUES SUPPORT SDSI.IssuesSupport.CommunityRelationsandServiceQuality@gov.bc.ca a | John Bethell John.Bethell@gov.bc.ca | Mobile: 604 512-5487 | Lower Mainland, Fraser & Vancouver Coastal Lowermainland.MCRSQ@gov.bc.ca |
| | Michele Lauzon Michele.Lauzon@gov.bc.ca | Mobile: 604 760-4471 | Lower Mainland, Fraser & Vancouver Coastal Lowermainland.MCRSQ@gov.bc.ca |
| CONTACT CENTER (includes ACE & Bus Pass) Specialized Services*: *EPs & Reconsiderations | Nadia Boukhouali Nadia.Boukhouali@gov.bc.ca | Mobile: 250 507-4502 | Vancouver Island |
| SPECIALIZED SERVICES: Funeral Assistance, Special Care Facilities, Case Review Team, etc. | Ian Harrower Ian.Harrower@gov.bc.ca | Mobile: 250 961-5501 | Interior and Northern |
| HA, HEALTH SUPPLEMENTS MED TRANS | Jeannine Bousquet Jeannine.Bousquet@gov.bc.ca | Mobile: 250 619-2811 | Vancouver Island |
| | Harleen Price Harleen.Price@gov.bc.ca <i>A/Manager, Stakeholder & Client Engagement</i> | Mobile: 250 572-5932 | |

Reconsideration

Reconsideration

Duty to Accommodate – Accessibility

- Reconsiderations may be requested & submitted via MySelfServe
- Revised HR0100 wording provides the reconsideration office's direct phone #, 778-698-7750
- When reviewing reconsideration packages, reconsideration officers contact clients to clarify information & remind of extension deadlines
- Plain language training for reconsideration officers

www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/decisions-reconsideration-and-appeal/reconsideration

Reconsideration

Duty to Accommodate – Substantive

- When reviewing the reconsideration package, reconsideration officers consider the legislation as well as the duty to accommodate when making decisions
- Reconsideration decisions include substantive reasons why the duty to accommodate does/does not apply
- Feedback is provided to original decision makers regarding the duty to accommodate

Reconsideration

When a Human Rights and/or service quality issue is identified....

- Reconsideration decisions acknowledges the client's mention of the issue and advises it is outside a reconsideration decision's scope
- Advise the Reconsideration Manager and/or the Community Relations Service Quality Manager

Thank you



WEDNESDAY, OCTOBER 17, 2018 – DAY 2

No Materials/Materials at session

Prevention loss management services: Jen Matthews - advocate, TAPS
Sam Turcott - ED, DABC; Dana Jensen, Melissa Bauer, Jody Mogenson, MSDPR

A discussion with experienced advocates and Ministry staff about issues connected with prevention loss management services.

THURSDAY, OCTOBER 18, 2018 – DAY 3

No Materials/Materials at session

EAAT: Checking in with the new chair: Emily Drown - chair, Employment and Assistance Appeal Tribunal

An opportunity to hear from the Chair of the Employment and Assistance Appeal Tribunal as she enters her new position.

7. Other

- **Mental health, substance use and poverty (Day 1)**
 - Mental health, substance use and poverty
- **Common legal issues affecting seniors (Day 2)**
 - Common Legal Issues Affecting Seniors
- **Legal advocacy and social change (Day 2)**
 - The movement for a \$15/hr minimum wage
- **Nuts and bolts in the human rights complaint process (Day 2)**
 - Nuts and Bolts of Human Rights in BC
- **Access to justice for transgender clients (Day 3)**
 - Information sheets
 - Solidarity Includes Everyone
- **Making complaints against the police in BC (Day 3)**
 - No Materials/Materials at Session
- **Group consultation on helping clients deal with police (Day 3)**
 - Helping Clients Deal with Police
- **Advocating for client with pets (Day 3)**
 - Tenancy and Animals

Mental health, substance use and poverty

Kendra Milne & Amelia Hamfelt
October 16, 2018



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[http://www2.moa.ubc.ca/musqueamteaching
kit/delta.php](http://www2.moa.ubc.ca/musqueamteachingkit/delta.php)



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Introduction to the project

Why does it matter?



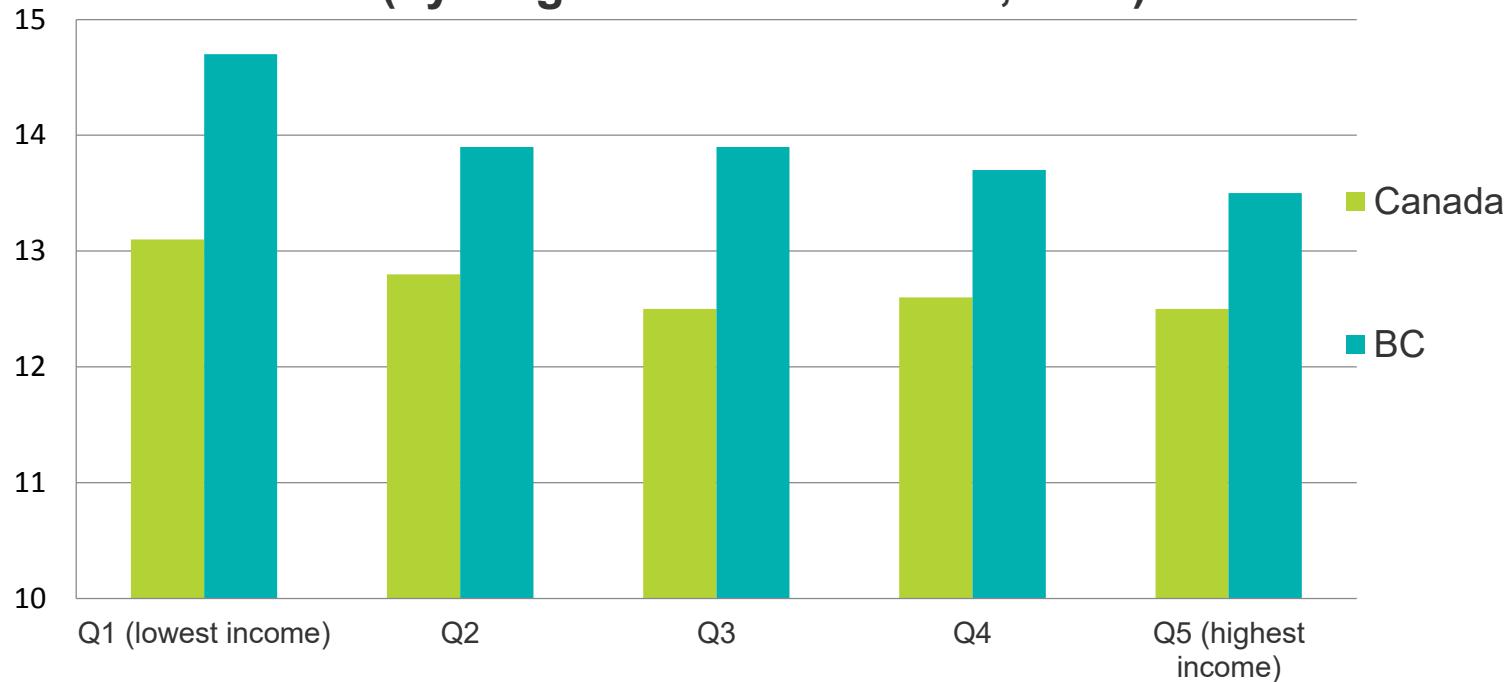
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Why does it matter?

- Over 50% of people designated as a “persons with disabilities” under the *Employment and Assistance for Persons with Disabilities Act* have a mental health or substance use-related diagnosis. Many more are likely relying on regular income assistance.
- As many as 90% of people with serious mental illness are unemployed despite the fact that vast majority want to work.
- Nearly 40% of people with mental health issues report experiencing stigma, almost three times the rate of stigma experienced by those without mental health issues and people with substance use problems experience higher rates of stigma than those with any other health condition.
- People experiencing mental health or substance use-related health problems are incredibly overrepresented among the homeless population in BC, which places them at increased risk for premature death.

Why does it matter?

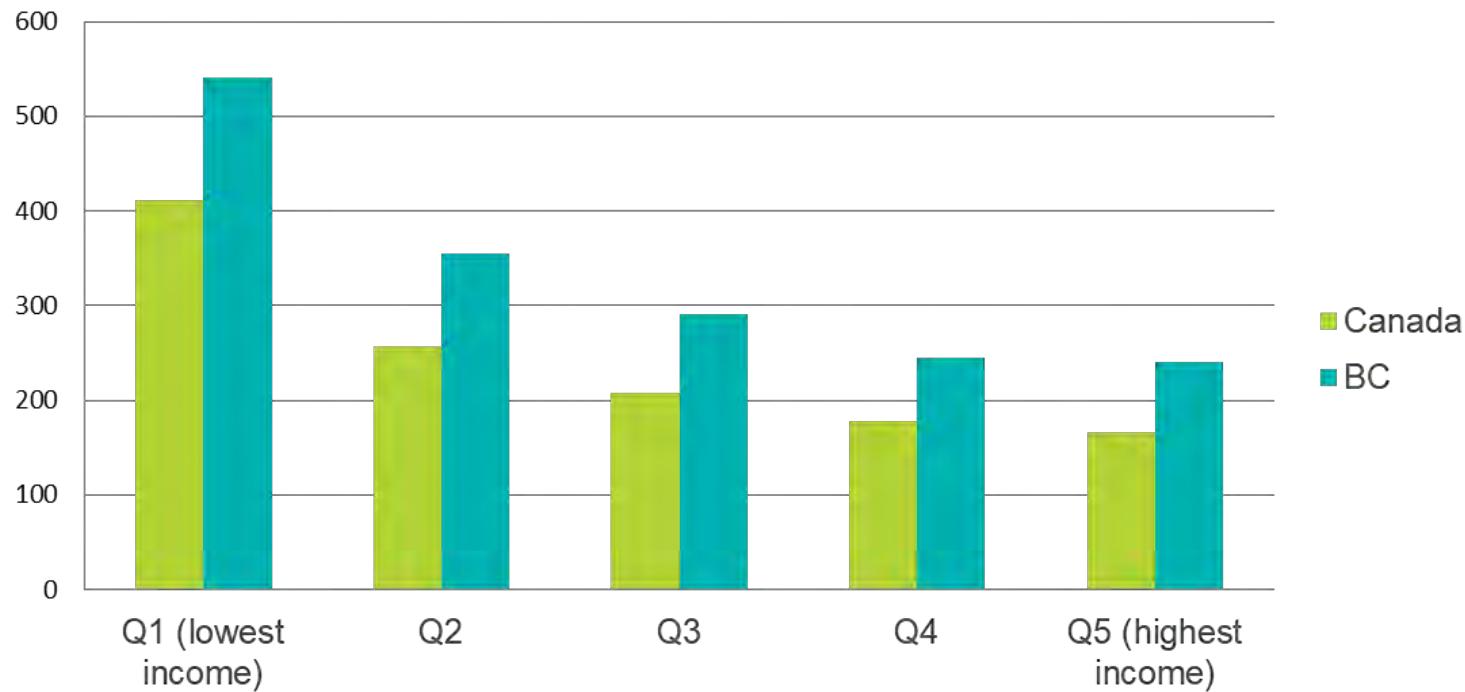
**30 Day Mental Health Rates
(by neighbourhood income, 2016)**



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Why does it matter?

Hospitalization Caused By Alcohol (by neighbourhood income, 2015-16)



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The alcohol harm paradox

2X

Canadians with the **lowest incomes report less heavy drinking but are more than 2X as likely to be hospitalized for conditions entirely caused by alcohol**



Possible reasons for this are

- Higher stress levels
- Limited social supports
- Poor diet and physical inactivity

Lowest income

Highest income

Hospitalizations per 100,000 people



Report heavy drinking



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Why does it matter?

The alcohol-harm paradox

Canadians with the **lowest incomes report less heavy drinking but are more than 2X as likely to be hospitalized for conditions entirely caused by alcohol**

Possible reasons for this are

- Higher stress levels
- Limited social supports
- Poor diet and physical inactivity



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WHAT MAKES CANADIANS SICK?

50%

YOUR LIFE

- INCOME
- EARLY CHILDHOOD DEVELOPMENT
- DISABILITY
- EDUCATION
- SOCIAL EXCLUSION
- SOCIAL SAFETY NET
- GENDER
- EMPLOYMENT/WORKING CONDITIONS
- RACE
- ABORIGINAL STATUS
- SAFE AND NUTRITIOUS FOOD
- HOUSING/HOMELESSNESS
- COMMUNITY BELONGING

25%

YOUR HEALTH CARE

- ACCESS TO HEALTH CARE
- HEALTH CARE SYSTEM
- WAIT TIMES

15%

YOUR BIOLOGY

- BIOLOGY
- GENETICS

10%

YOUR ENVIRONMENT

- AIR QUALITY
- CIVIC INFRASTRUCTURE

THESE ARE CANADA'S SOCIAL DETERMINANTS OF HEALTH #SDOH



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Defining Health Equity

Health equity is a social justice goal focused on pursuing the highest possible standard of health and healthcare for all people, paying special attention to those in the context of greater risk of poor health, and taking into account broad social, political, and economic influences and access to care.

It is defined as the **absence of avoidable or remediable differences** among groups of people, ensuring that all people have **full access** to opportunities that enable them to lead healthy lives, such as:

Quality affordable healthcare

Education

Safe housing

Environmental quality

Social support networks

Public policies

Stable income & job security

Food security



EQUIP Health Care

Research to Equip Health Care for Equity

What does research tell us?

Key difference between determinants of physical health and mental health = SOCIAL INCLUSION

Housing
Income
Food Security
Employment



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What does research tell us?

Key determinants of mental wellness:

- Inequality (not about whether you can meet your needs, but about where you sit in the hierarchy)
- The ability to participate socially (bring food to a party, going out to eat, paying for a movie)
- The stress and chaos of not being able to meet your basic needs
- **The stigma around continually having to ask for help and being rejected; shame around not being self-sufficient**



Implications for your services

- Providing services can intentionally or unintentionally cause or exacerbate feelings of exclusion and shame and impact self-worth
- You can have a role in making sure your advocacy services don't have that impact, and instead support increased equity, dignity and wellness



Implications for your services



EQUIP Health Care

Research to Equip Health Care for Equity

TOP 10 THINGS

Your Clinic, Practice or Department Can Do

To Create a Welcoming Environment



Display words or phrases in local languages & dialects



Begin and end every phone call with "Thank you for calling"



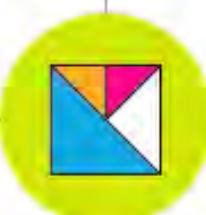
Provide coffee, water or snacks to clients while they wait



Create a separate waiting area for families, women and/or Elders



Display posters and signs conveying that clients deserve to feel welcome and respected



Display local art



Ask patients about basic resources like food, clothing and shelter



Have a support person, Elder, or therapy dog present in your waiting room



Seek feedback from clients with a survey, comment box, or client advisory committee



Tell returning clients
"It's nice to see you again"

How to cite this document

EQUIP Health Care. (2017). Top 10 things your clinic, practice, or department can do to create a welcoming environment. Vancouver, BC. Retrieved from www.equiphealthcare.ca

Version 1 December 2017

Implications for your services

Some resources:

- Top things a service provider can do to create a welcoming environment
- Equity walk-through for your space
- Top things service providers can do to support people who have experienced violence



Implications for your services

Table discussion:

- Can you make one commitment to make your services or your organization more accessible?

Implications for public services your clients need to access

- The way that we deliver services that are intended to help people meet their basic needs can in fact be harmful
- Continually having to ask for help, continually being rejected can have serious impacts on self-worth and the ability to be healthy
- Providing services in this way creates systemic discrimination and inquietude about who gets the services and who has the right to be healthy



Next steps for project

- Engagement with people who have direct experience of mental health or substance use-related health issues and front-line workers
- Our goal is to understand *how* the way services are delivered impacts mental wellness, and human rights by extension
- You → engagement #1!



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Tell us about your experiences: picture a specific client

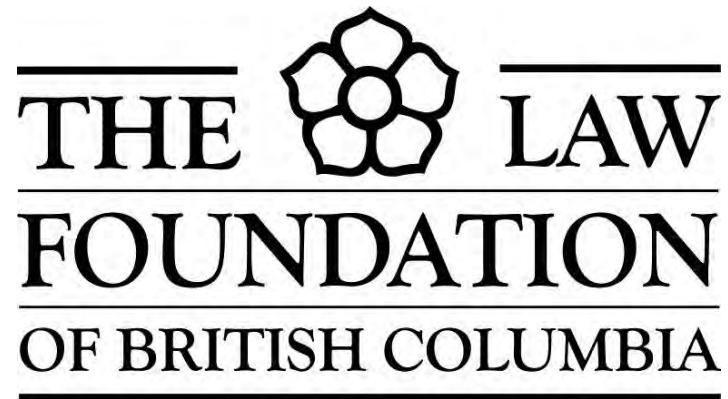
#1: Create a timeline of the client's interaction(s) with public services that impacted their mental wellness or substance use

#2: List the + and – impacts on health for each timeline entry

#3: Tell us how you think the interactions impacted the client's human rights



Thanks



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Questions?



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Health Association
British Columbia
Mental health for all

Common Legal Issues Affecting Seniors

Law Foundation/LSS Provincial Advocates Training
Conference
October 17, 2018

Nighat Afsar, Legal Advocate
Sarah Khan, Lawyer
Seniors First BC

Presentation outline

- * Overview of Seniors First BC services
- * Canada Pension Plan
- * Old Age Security
- * Guaranteed Income Supplement
- * Canada Caregiver Credit
- * Disability Tax Credit
- * Shelter Aid for Elderly Renters
- * Home Adaptation for Independence

Seniors First BC Services

- * Seniors First BC offers the following programs:
 - * Elder Law Clinic
 - * Legal Advocacy Program
 - * Seniors Abuse and Information Line
 - * Victim Services Program
 - * Outreach/Workshop Services
- * Located in Vancouver but can provide many of our services province-wide:

Seniors First BC Legal Services Elder Law Clinic

Elder Law Clinic



- * Seven monthly legal consultation clinics in Vancouver, Burnaby, Surrey, New Westminster, North Vancouver and Richmond. To book, call 604-336-5653
- * Legal consultations over the phone
 - * To speak to our lawyers, contact the Seniors Abuse and Information Line at 604-437-1940 or toll-free 1-866-437-1940 and one of our lawyers may be able to assist.
 - * For older adults 55+ and people who care about them
 - * Targeted at older adults who cannot afford to hire a lawyer

Seniors First BC Legal Services Elder Law Clinic

Common issues that ELC lawyers can assist with:

- * Advance planning instruments:
 - * Simple wills, powers of attorney, representation agreements
 - * BC Supreme Court and Small Claims Court cases that don't involve family or criminal law (so long as we have time and expertise)
 - * For example – debt collection, declaration of interest in property
 - * Elder abuse, including physical, emotional and financial abuse

Seniors First BC Legal Services Elder Law Clinic

Common issues that ELC lawyers can assist with (continued)

- * Patients Property Act committeeships
- * Adult Guardianship Act issues
- * Human rights complaints
- * Advocating for better care in residential care facilities

If in doubt, refer to SAIL for intake and SAIL staff will refer legal calls to Seniors First BC lawyers or legal advocate

Seniors First BC Legal Services Elder Law Clinic

Our legal services include:

- * meeting with one of our lawyers,
- * receiving summary advice in person or over the phone,
- * receiving unbundled services such as drafting of documents,
- * receiving full legal representation, and/or
- * getting connected to other useful community resources

Our legal services do not include

- * Our lawyers do not give advice about criminal law or family law matters.

Seniors First BC Legal Services Legal Advocacy Program

Our Legal Advocate can assist seniors with the following issues:

- * Residential tenancy disputes, including representing seniors at hearings and assisting seniors to remove unauthorized people from their rental units
- * Transition from independent living to care homes
- * Access to CPP, OAS and GIS
- * Debt issues

Seniors First BC Services

Seniors Abuse and Information Line

- * SAIL is a safe place for seniors, and those who care about them, to talk to someone about situations where they feel they are being abused or mistreated, or to receive information about elder abuse prevention
- * Call: 604-437-1940 or Toll Free: 1-866-437-1940
- * SAIL is staffed 7 days a week (excluding holidays)



Seniors First BC Services

Seniors Abuse and Information Line

- * Intake workers provide emotional support, practical advice, internal and external referrals, assisted referrals and resources to callers.
- * Intake workers collaborate with Seniors First BC's legal advocate, lawyer and victim services worker, and external agencies, to provide a coordinated response to the older adult and family members assisting the older adult.

Seniors First BC Services

Victim Services

- * SFBC's Victim Services Worker provides assistance to victims of crime and abuse aged 50 and over.
- * We also provide emotional support to family members who have witnessed abuse of an older adult.
- * The Victim Services Worker collaborates with Seniors First BC's legal advocate and lawyers when additional information and assistance is required for legal issues that are related to the crime and abuse.

Seniors First BC Services

Victim Services

The Victim Service Worker can also assist with:

- * Safety planning
- * Applications to the Crime Victim Assistance Program
- * Assistance to complete Victim Impact Statements
- * Assistance reporting to police
- * Information about the status of the criminal investigation, charges laid, protective orders, custodial status of the convicted offender and parole
- * Information about programs available to victims of crime
- * Advocacy and assisted referrals to police Elder abuse teams

Seniors First BC Services Workshops and Community Outreach

- * Our workshop coordinator presents workshops in Metro Vancouver and around the province on various topics, including:
 - * Elder abuse and how to prevent it
 - * Powers of attorney, joint bank accounts and representation agreements
 - * Frauds and scams
 - * Bullying between older adults in communal settings

Canada Pension Plan Retirement Pension Eligibility

- * The Canada Pension Plan (CPP) retirement pension provides a monthly benefit to eligible applicants.
- * The CPP retirement pension does not start automatically. Applicants must apply for it. Before applying, an applicant must:
 - * be at least a month past their 59th birthday;
 - * have worked in Canada and made at least one valid contribution to the CPP; and
 - * want their CPP retirement pension payments to begin within 12 months.

CPP Amount

The amount of pension benefits depends on:

- * How much has been contributed
- * How long the contributions were made into CPP plan.
- * Contributions determine the benefits for contributor and also to the family.
- * Annual minimum earnings of 3500 has to contribute in CPP.
- * The contribution rate is 9.9 % which is split half and half between employer and employee.

Age Affecting the Amount of CPP

- * The standard age is 65 however the contributor may choose to get pension as early as at the age of 60.
- * If the contributor wants to take CPP at age 60 there will be 36% reduction in the amount which he/she could receive at age 65. The amount of pension is reduced at the rate of 0.6% each month before 65th birthday.
- * If contributor wants to take CPP after age 65, the monthly amount will increase 0.7% for each month after age 65 which means the retirement pension at age 70 will be 42% more than the one if receiving at age 65.

International Security Agreement and CPP

- * If a contributor has worked in another country which has a social security agreement with Canada then the pension credits from the partner country could help the contributor to get combined benefits to meet the minimum eligibility requirements under CPP legislation (Canada Pension Plan Disability and Old Age Security).
- * A contributor's family members may also qualify for other CPP benefits such as Post-Retirement Benefits, CPP Survivor's Pension, Death Benefits and Children's Benefits).



CPP - General Drop Out Provisions

- * In the employment history, if the contributor has low or zero earnings periods (going to school, became unemployed or left the workforce to provide care to a family) then general drop out provisions protects when Service Canada calculates the amount of CPP. This provision could affect 17% of contribution period.

CPP - Child Rearing Provision

- * If the contributor stopped working or received lower earnings to raise children then the contributor can use the child rearing provision to increase the amount of CPP retirement benefits.

What Happens with CPP Amount if Contributor Dies

- * If the contributor dies after turning 70 and never applied for CPP benefits, then the estate can submit an application within one year of the contributor's death and Service Canada can pay up to 12 months of the contributor's retirement benefits to the estate of the deceased contributor.
- * If the deceased contributor has made valid contributions to CPP and dies either while receiving CPP or prior to receiving CPP, the spouse or common law partner can apply for a CPP Survivor's Pension or Allowance for Survivors and the children under age 18 can also apply for CPP Children's benefits.

Allowance

- * The Allowance is a benefit available to low-income individuals aged 60 to 64 who are the spouse or common-law partner of a Guaranteed Income Supplement recipient.
- * Recipients of the Allowance must be Canadian citizens or Permanent Residents and must have lived in Canada for at least 10 years and not be under an immigration sponsorship agreement.

CPP Survivor's Pension

- * The CPP Survivor's Pension is paid to the person who, at the time of the CPP recipient's death had been living for the previous year with the deceased.
- * If the contributor has a separated spouse and was cohabiting with a common-law partner then it will be the common-law who could qualify for Survivor's Pension.
- * Only one Survivor's Pension will be paid if someone is widowed more than once

Rates for the CPP Survivor's Pension

If the survivor is

- * Age 65 or more, the survivor will get 60% of the surviving spouse is not receiving CPP.
- * Age 45 to 64, a flat rate (could be between \$424 to \$614) depends on situation
- * Under age 45, 37.5 % of the contributor's retirement pension if the surviving spouse or common law is not receiving CPP and is either disabled or raising a dependent child.
- * 1/120 for each month, the spouse or common-law partner is under age 45 and is not disabled and not raising a dependent child.
- * Under age 35, not paid until the spouse or common law partner has reached the age of 65, but could receive Survivor's Pension if either disabled or raising a dependent child.

How CPP Survivor's benefits affects payment of other CPP Benefits

- * The amount of CPP and Survivor's Benefit is combined and paid as a single payment.
- * If receiving Disability Pension then the amount of surviving pension is adjusted to the maximum amount of disability pension (which is \$1335)
- * The total amount of benefits is adjusted based on survivor's age and other benefits received.

Living Outside Canada

- * For recipients living outside of Canada, a non resident tax is withheld from CPP benefits and Old Age Security benefits. The tax rate is 25% unless exempted by a tax treaty between Canada and your country of residence. The non-resident tax will be deducted from your benefit payments.

CPP Death Benefits

- * The CPP Death Benefit is a lump sum amount paid after the death of a contributor either to his or her estate or to the person who was responsible for funerals of the deceased (depends on available evidence produced by parties to Service Canada).
- * The Death Benefit is non taxable income.

Old Age Security

- * The Old Age Security (OAS) pension is a monthly payment available to seniors aged 65 and older who meet the Canadian legal status and residence requirements. People may need to apply to receive it.

OAS Outside Canada

OAS is paid to people residing outside of Canada only if:

- * The contributor lived in Canada for at least 20 years after your 18th birthday.
- * The contributor lived and worked in a country that has a social security agreement with Canada and still meets the 20 years residency requirements under the provisions of that agreement.

If the recipient does not meet either of the above requirements, OAS pension payments will only be paid outside Canada for the month the recipient left and for six months after that. If the recipient decides to return to Canada after an absence of more than six months, every additional year in Canada will be counted in order for the recipient to reach 20 years of residence needed to receive the OAS pension outside of Canada.

Claw back of OAS

- * The government claws back OAS if a recipient's net income exceeds \$72,809.
- * The amount of the clawback is equal to a recipient's OAS payments or 15% of the amount by which the recipient's net income exceeds the threshold, whichever is less.

Example:

If income is \$80,000 then
80,000 minus 72,809=7,191
 $7191 \times 0.15=1078.65$

Guaranteed Income Supplement

- * The Guaranteed Income Supplement (GIS) provides a monthly non-taxable benefit to Old Age Security pension recipients who have a low income and are living in Canada.

Threshold to Receive GIS

- * Applicants qualify for the GIS if they meet all of the following conditions:
 - * they are receiving an Old Age Security pension; and
 - * their annual income (or in the case of a couple, their combined income) is lower than the maximum annual threshold.
- * For a single person, if the yearly income, not including OAS pension exceeds \$17,543.99, then the person will not qualify for the GIS.

Income Affecting GIS

The income from these sources will affect

- * Retirement Pension
- * Superannuation
- * Rental Income
- * RRSP if you cash during the year receiving GIS
- * Capitals Gains and taxable Savings
- * Alimony
- * WCB income
- * Employment Insurance
- * Returning to work (exemption could apply up to \$3500 on earned income)

The income from these sources will not affect

- * War Veterans Allowance
- * Death Benefits
- * Inheritance
- * GST credits
- * Welfare Payments
- * Registered Disability Saving Plan
- * Universal Child Tax Benefits
- * Lottery Winning

Involuntary Separation and GIS

- * If one spouse or common-law partner is moving to long term care and they are no longer living together as a couple, then the partner not moving into long term care needs to submit the involuntary separation form with Service Canada to receive a higher rate of GIS and Allowance.

GIS and Sponsored Immigrants

- * Sponsored immigrants who have resided in Canada less than 10 years after age 18 are not eligible to receive an OAS income-tested benefit (i.e. GIS, the Allowance or the Allowance for the Survivor) during the sponsorship period unless the sponsor:
 - * suffers personal bankruptcy;
 - * is imprisoned for more than six months;
 - * is convicted of abusing the sponsored immigrant; or
 - * dies.

Canada Caregiver Credit

- * The Canada Revenue Agency can grant a non taxable tax credit on income tax returns if someone has provided regular care to their spouse or common-law partner who has a physical and mental impairment. This claim can be made for up to \$6,883 on line 304 of the tax return.
- * This credit can be claimed for other listed people who have been approved by CRA for the Canada Caregiver credit.

Disability Tax Credit

- * The Disability Tax Credit (DTC) is a non-refundable tax credit that helps persons with disabilities or their supporting persons reduce the amount of income tax they may have to pay. An individual may claim the disability amount once they are eligible for the DTC.
- * Being eligible for the DTC can open the door to other federal, provincial, or territorial programs such as the registered disability savings plan, the working income tax benefit, and the child disability benefit.

Eligibility for DTC

- * Applicants can be eligible for the DTC if CRA approves Form T2201, the Disability Tax Credit Certificate. A medical practitioner has to fill out and certify in Part B of Form T2201E that the applicant has a severe and prolonged impairment and must describe its effects.

Sponsorship and Shelter Aid for Elderly Renters

- * Lower income seniors in BC who are renting in the private market may be eligible for a rent supplement through the Shelter Aid for Elderly Renters (SAFER).
- * Seniors who are permanent residents or Canadian citizens are not eligible for SAFER if they are still under a sponsorship undertaking.

Home Adaptation for Independence

- * The HAFI program provides financial assistance for home modifications for eligible low-income British Columbians with mobility or health issues.
- * HAFI applications for the current fiscal year are now closed as the funding has been fully allocated for 2018/2019 fiscal year.
- * BC Housing is currently reviewing the program and will post revised program information and forms on this page when available.
- * The earliest new applications will be accepted is April 2019.
- * Existing applicants who have received an approval letter will not be impacted, as long as the adaptations are completed on time and within the approved amount.



Questions and thank you!

The movement for a \$15/hr minimum wage





**HIGHEST
RENT**

**LOWEST
WAGE**

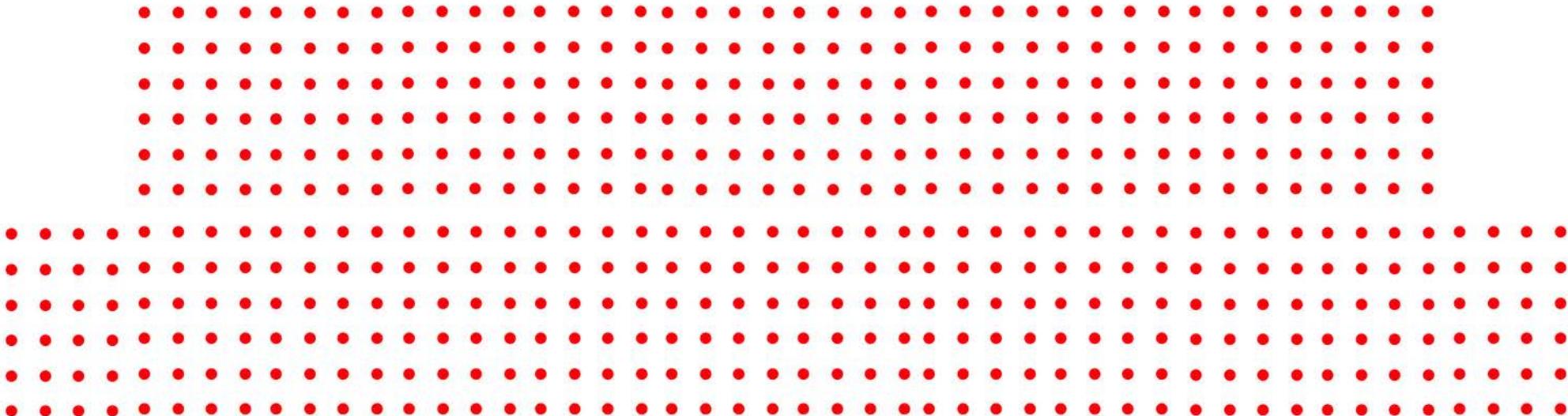


FIGHT FOR 15
fightfor15bc.ca



HALF A MILLION

EARN LESS THAN \$15 PER HOUR



50% of single
parents
in poverty



**“Poverty kills – it’s
as simple as that.”**

– Grand Chief Phillip

FIGHT FOR 15 fightfor15bc.ca











This holiday,
Christy Clark and
her friends have
scooged low-wage
workers.

Tell Clark it's time
to lose the **Grinch**
act and raise BC's
minimum wage to
\$15/hr.

fightfor15bc.ca

FIGHT FOR 15





We are one step
closer to fair wages
for everyone.

BC New Democrats
endorse a \$15/hr
minimum wage.



FIGHT FOR 15

Fair wages Commission

Fair Wages Commission

- How and when to get to \$15 per hour
- What to do about exemptions to the minimum wage
- What happens after \$15/hr, and living wage

Coordination

- Community groups
- Advocates
- Unions
- Labour councils
- Individuals with lived experience
- BCFED Equity Reps

Regional Representation

| | |
|---------------|--------|
| Abbotsford | Nov 16 |
| Nanaimo | Nov 17 |
| Kelowna | Nov 21 |
| Vancouver | Nov 23 |
| Prince George | Nov 28 |
| Victoria | Nov 29 |
| Surrey | Nov 30 |
| Cranbrook | Dec 7 |



What it Took to Get Here



It Took All Of Us



NUTS AND BOLTS OF HUMAN RIGHTS IN BC

Presented by Laura Track
Lawyer with the BC Human Rights Clinic at the Community Legal Assistance Society (CLAS)



BC Human Rights Clinic



Forms Search Watch Now

• Free legal services for people with human rights complaints
• Information, advice, representation
• Monday drop-in clinic
• Education workshops



Anatomy of a Human Rights Complaint

Forms

Some of the forms you need as referred to in the BC Human Rights Tribunal Rules of Practice and Procedure. Forms can be downloaded by email, regular mail, fax, facsimile or hand delivery. If mailing a form, only one PDF attachment is permitted.

You must submit the form by 4:30 pm on the day it is due.

File a Complaint

- ✓ File your own complaint
[Online version \(Form 1.1\)](#) [Help Information \(for print version\)](#)
- ✓ File a complaint for another person
[Online version \(Form 1.2\)](#) [Help Information \(for print version\)](#)
- ✓ File a complaint for a group or class of persons
[Online version \(Form 1.3\)](#) [Help Information \(for print version\)](#)
- ✓ File a resolution complaint
[Online version \(Form 1.4\)](#) [Help Information \(for print version\)](#)



The Complainant

• Individual Complaints

- May bring complaint on behalf of someone else
- May result in both individual and systemic remedies

• Group Complaints

- A number of specific, identifiable individuals
- For example, people who work for the same employer, or people who are members of the same society or association

• Class Complaints

- A number of individuals who can be identified by characteristics they share
- For example, residents of Vancouver who are visually impaired



WHO may be responsible for discrimination?

- Employers
- Landlords
- Business owners
- Government ministries
- Unions
- Trade associations
- Other service providers
 - E.g., doctors, nurses, health care staff

RESPONDENTS



WHO may be responsible for discrimination?

- Individuals?
 - If personally responsible for what happened
 - Acting outside their duties
 - High degree of personal culpability
 - "The aspirational purposes of the Code require that individual perpetrators of discrimination be held accountable for their actions"; *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62 at para. 56
- Institutional respondent generally held liable for actions of their employees: *Code* s. 44(2)



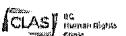
WHO may be responsible for discrimination?

- Employees acting within the scope of their employment duties are not liable for discrimination
- A shift supervisor calling someone to let them know they've been fired
versus
- A co-worker sexually harassing another staff person



WHO may be responsible for discrimination?

- Employers have a duty to provide a discrimination-free workplace
 - Even if they're not the ones doing the discriminating, if they know about it and don't do anything about it, they can be liable
- Same goes for landlords and other service providers



WHO may be responsible for discrimination?

- Factors** (from *Daley v. BC (Ministry of Health)*, 2006 BCHRT 341)
- Does employer/institution have the capacity to fulfill remedies the Tribunal might order?
 - Has institutional respondent acknowledged the acts and omissions of the individual as its own, and agreed it can satisfy any remedies awarded?
 - Nature of the conduct alleged against the individual, including whether:
 - their conduct took place within the regular course of their employment;
 - the person is alleged to have been the directing mind behind the discrimination or to have substantially influenced the course of action taken;
 - the conduct alleged against the individual has a measure of individual culpability, such as an allegation of discriminatory harassment.



| STEP 1: NAME THE RESPONDENT(S) | | |
|--|------------------|---------------------|
| Respondent 1: | | |
| Name: | | |
| Relationship to the person you represent: | | |
| Mailing Address: | | |
| City: | Province: | Postal Code: |
| Tel: () | Fax: () | Cell: () |
| Email: | | |
| Respondent 2: (If applicable) | | |
| Name: | | |
| Relationship to the person you represent: | | |
| Mailing Address: | | |
| City: | Province: | Postal Code: |
| Tel: () | Fax: () | Cell: () |
| Email: | | |
| Respondent 3: (If applicable) | | |
| Name: | | |
| Relationship to the person you represent: | | |
| Mailing Address: | | |
| City: | Province: | Postal Code: |
| Tel: () | Fax: () | Cell: () |

Areas of Protection

- Employment
- Accommodations, services and facilities that are "customarily available to the public"
- Tenancy
- Membership in a trade union or occupational association
- Purchase of property
- Publications

 BC Human Rights
Clinic

"Accommodation, service or facility" means an accommodation, service or facility that is customarily available to the public. Examples are hotels, stores, restaurants, schools, government programs, community recreation programs, and streets.

"Employment" is about work at a job.

- Volunteer jobs can be included.
- Work as a contractor can be included depending on your relationship with the company you work for, including the amount of contact they have over your work.
- Employment covers all parts of work, including hiring, firing, wages, benefits, and work environment.

"Employment advertisement" is an ad for a job.

"Publication" includes something made public, such as a newspaper article or a sign or a symbol in a public place. It must show discrimination or an intention to discriminate, or be likely to expose a person or group or class of persons to hatred or contempt.

"Purchase of property" refers to buying property, such as land, a building or a condo.

"Tenancy" refers to renting an apartment, office or other space. It includes an application to rent a space, terms of a tenancy agreement, how you are treated by a landlord, and eviction.

"Unions and occupational associations" are organizations or associations that represent workers or employees in the workplace. It covers applying for membership, being suspended or expelled, and how you are treated by your union or occupational association.

"Wages" means lower pay for men or women for similar or substantially similar work. Complaints about discrimination in wages on grounds other than sex may be filed in the area of employment.

Prohibited Grounds of Discrimination

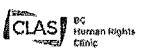
- Race
- Colour
- Ancestry
- Place of origin
- Religion
- Marital status
- Family status
- Physical or mental disability
- Sex
- Sexual orientation
- Gender identity or expression
- Age (19 and over)
- Lawful source of income (tenancy only)
- Criminal conviction (employment and unions only)
- Political belief (employment and unions only)



| Protected Grounds | Protected Areas | | | |
|---|-----------------|---------------------------------|------------------------|---------|
| | Employment | Public Services & Accommodation | Possession of Property | Tenancy |
| Race | ✓ | ✓ | ✓ | ✓ |
| Colour | ✓ | ✓ | ✓ | ✓ |
| Ancestry | ✓ | ✓ | ✓ | |
| Place of Origin | ✓ | ✓ | ✓ | ✓ |
| Political Belief (as long as it does not cause harm to others) | ✓ | ✗ | ✗ | ✗ |
| Religion | ✓ | ✓ | ✓ | ✓ |
| Marital Status (includes protection for those married, single, widowed, divorced, separated, or living common-law) | ✓ | ✓ | ✓ | ✓ |
| Family Status (includes having children or not having children) | ✓ | ✓ | ✗ | ✓ |
| Physical or Mental Disability | ✓ | ✓ | ✓ | ✓ |
| Sex (includes protection for males & females, sexual harassment, pregnancy discrimination & transgendered discrimination) | ✓ | ✓ | ✓ | ✓ |
| Sexual Orientation (includes protection for heterosexuals, bi-sexual, gay men & lesbian women) | ✓ | ✓ | ✓ | ✓ |
| Age (between 19 & over) | ✓ | ✓ | ✗ | ✓ |
| Gender Identity or Expression | ✓ | ✓ | ✓ | ✓ |
| Colour or Stereotype Condition | ✓ | ✗ | ✗ | ✗ |
| Source of Income | ✗ | ✗ | ✗ | ✓ |

A few notes on grounds

- Aka “protected characteristics”
- Real or perceived
- Can list more than one
- “Sex” includes sexual harassment, breastfeeding and pregnancy
- “Family status” includes child care obligations
- “Disability” = serious, persistent/permanent
- Addiction is a disability



Anatomy of a Human Rights Complaint

- What is the complainant's protected characteristic?
- What did the respondent do?
- What was the adverse impact on the complainant?
- How is that impact connected to their protected characteristic?
- How was the prohibited ground of discrimination a factor in the adverse impact?



Anatomy of a Human Rights Complaint

- Tell the story
- Chronology of events
- Write "see attached" and attach narrative
- Make sure to address three things:
 - Complainant's protected characteristic
 - Adverse Impact
 - Connection ("nexus") between protected characteristic and adverse impact



What the heck is a "nexus"?

- Not sufficient to have a protected characteristic and experience adverse treatment. There must be a connection between the two.
- Must take allegations beyond "speculation and conjecture"
- Requires evidence
- Proof on a balance of probabilities that protected characteristic was a factor in the negative treatment/impact
- Not necessarily the only, or even the most important factor
- Intention not to discriminate does not matter



Evidence of Discrimination

- Sometimes obvious
 - The respondent identifies the personal characteristic.
 - *For example: A manager uses insults based on a personal characteristic, or gives the characteristic as a reason for the poor treatment.*



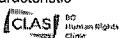
Evidence of Discrimination

- Sometimes, less obvious
 - The respondent's actions may affect the complainant because of a personal characteristic.
 - *For example: Someone is fired because they have been on sick leave due to a disability.*



Evidence of Discrimination

- Often, even less obvious
 - Must look to circumstantial evidence
 - The circumstances show the characteristic is a factor
 - The facts support a "reasonable inference"
- For example:*
- A person aged 60 is equally or more qualified for a job, but the job is offered to a person aged 25.
 - A person who is Black is disciplined more harshly than others for conduct that is similar.
 - A woman is fired shortly after telling her boss she is pregnant.
- This is enough to file a complaint. However, the respondent may have an explanation. At a hearing, a complainant must prove the characteristic was a factor in the negative effect.



Evidence of Discrimination

- Circumstances that may justify drawing an inference of discrimination:
 - Timing of events
 - Statistics
 - Experiences of others
- Must convince the Tribunal that the inference of discrimination is more likely than the respondent's explanation



Evidence of Discrimination

• Witness testimony is evidence!!!

Factors considered when assessing credibility:

- ability and opportunity to observe events;
- powers of recollection;
- appearance and manner while testifying;
- probability of testimony;
- whether a witness has a motive to lie;
- how the evidence fits into the general picture of the case
- whether the evidence is in "harmony with the preponderance of the probabilities which are practical and which an informed person would readily recognize as reasonable in that place and in those conditions".



Human Rights Complaints - Deadline

- Must file complaint within 6 months of incident
- Continuing contravention may extend timeline for filing and bring in earlier events of the same nature
- Two kinds of continuing contraventions
 1. Repeated acts of similar character (e.g., harassment)
 2. Continued state of affairs (e.g., discriminatory policy)
 - Must be one instance of discrimination within last 6 months to anchor older events
 - Mere repetition of a previous request, which elicits the same denial, does not constitute a continuing contravention



Human Rights Complaints - Deadline

- Tribunal also has discretion to accept late-filed complaints
- Factors it will consider:
 - Length of delay
 - Reasons for delay (e.g., disability-related factors)
 - Public interest in complaint itself
 - Unique, novel, unusual issues
 - Vulnerable complainant
 - Gaps in jurisprudence
 - No prejudice to respondent



Other Proceedings & Deferrals

- Employment standards? Union Grievance? Wrongful dismissal? Residential Tenancy Branch?
- The Tribunal may defer (pause) a complaint if another proceeding is capable of appropriately dealing with the substance of the complaint
 - Other forum must have authority to deal with human rights issues
 - ✓ Union grievance
 - X Employment standards, RTB
 - It will address human rights issues
 - Fairness considerations (e.g., stage of the process)



Remedies

- Order to cease the contravention
- Order to refrain from committing the same or a similar contravention
- Declaratory order that the conduct is discrimination
- Order to take steps to ameliorate the effects of the discriminatory practice
- Order to adopt and implement an employment equity program or other special program to ameliorate the conditions of disadvantaged individuals or groups



Remedies

- Make available to the person discriminated against the right, opportunity or privilege that the person was denied
- Compensate for wages or salary lost, or expenses incurred
- Compensate for injury to dignity, feelings and self respect



Retaliation

43 A person must not evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on, deny a right or benefit to or otherwise discriminate against a person because that person complains or is named in a complaint, might complain or be named in a complaint, gives evidence, might give evidence or otherwise assists or might assist in a complaint or other proceeding under this Code.



Retaliation

- Respondent was aware of complaint
- Respondent treated the Complainant adversely
- Respondent intended to retaliate
(or could reasonably be perceived to have intended to retaliate)



What happens next?

- Complaint filed → Complaint accepted (~1 month)
- Complaint accepted → Early Settlement Meeting (3-4 months)
- No settlement → Response due (35 days)
- → Complainant's disclosure (35 days)
- → Respondent's disclosure AND Application to Dismiss, if any (35 days)
- Decision on Application to Dismiss ~6 months (or more)
- Hearing scheduled (6-8 months)
- Decision (6-8 months)



TRANSGENDER RIGHTS ARE HUMAN RIGHTS

A SHORT INTRODUCTORY GUIDE TO MAKING CHANGE

BE AN ALLY EVERY DAY

Trans people are disproportionately victims of violence and social ostracism. They face discrimination and harassment in housing, education, health care, employment, and daily life.

BE A GOOD HUMAN

- **Use your privilege for good!** Stand up for us; call people on their remarks and jokes.
- Remember that transgender women are women and transgender men are men.
- Remember some people prefer to exist somewhere in between or outside of the gender binary.
- **Don't assume anything** — gender, pronoun, orientation, bathroom preference, surgical plans, legal matters, etc.
- Work in your practice to make room for all genders, in space and in language.
- Include trans people in crafting policies that affect them.
- Respect privacy and safety! Someone's trans status is not your news to tell.
- **Educate yourself.** (Google it!)
- Recognize barriers.
- See trans people as people rather than as objects or oddities. It is not a trans person's job to explain themselves to you.

ACCEPT TRANS PEOPLE FOR WHO THEY SAY THEY ARE, including their name and pronoun, and if you don't know, respectfully ask.



TRANS INCLUSION IN THE WORKPLACE

A TO-DO LIST

Unions have special obligations to protect members, and solidarity includes EVERYONE!

- Use appropriate pronouns.
- Create accessible offices and activities.
- Give someone their privacy and show them respect.
- Don't require legal name changes before you will use a person's name.
- Don't ask about sex or gender on forms.
- Don't charge an unnecessary user fee, announce people's names, or require a key or ID for access to basic services.
- Change workplace policies to make:
 - ✓ spaces more accessible,
 - ✓ signage more inclusive,
 - ✓ gender-neutral language standard,
 - ✓ gender-segregated spaces (bathrooms, change rooms) into all-gender spaces.

OTHER INCLUSION EFFORTS THAT START WITH THE UNION

- Describe union activities without gendering them.
- Include trans women explicitly in women-activist committees and events, and elect them to positions for women's officers.
- **Don't assume any member's gender.**
- Hold trans Day of Remembrance events each year on November 20.
- Organize International Day against Homophobia & Transphobia actions each year on May 17.
- **Support legislative change to protect trans workers.**
- Pay an honorarium rather than expecting a trans person to provide free education such as workshops.
- **Hold employers accountable for including trans workers.**
- Bargain more inclusive collective agreements. (See CUPE's checklist for inclusive collective agreement language: cupe.ca/sites/cupe/files/checklist_bargaining_lgbtti_rights_en.pdf)

SUPPORTING A MEMBER: You are a shop steward. A member approaches you for help: "Michael" would like her boss to call her Melanie, and she would like to change in the women's change room. How would you help Melanie?

ELECTIONS AT YOUR LOCAL: Your union has a women's representative, and elections are happening at your next meeting. Pavan, a member who has served as treasurer for the last two years, asks you if you will nominate them for the position. You think they would do a great job, but you are not sure whether they count as a woman. What do you do?



Some Scenarios to Think About

With thanks to Adrienne Smith and the CLC for allowing us to excerpt and adapt the above material from their presentation *Solidarity Includes Everyone*.

IT ALL STARTS WITH THE LANGUAGE WE USE

- Ask someone what their pronouns are. (See this video by CUPE BC featuring Adrienne Smith: cupe.bc.ca/cupe_bc_launches_video_on_appropriate_pronoun_use)
- If you misgender someone, apologize gracefully and graciously.
- Instead of saying "born a boy" or "born a girl," say "**assigned male or female at birth.**"
- Don't use offensive terms or prefixes such as "real" or "biological" when describing someone who is not trans. Although trans people may use these terms in self-reference, cisgender people should avoid this language. It's best to use the prefix "**cis**" when needed.
- **If you don't know, respectfully ask.**
- Instead of using gendered language use gender-neutral alternatives such as these:
 - ✓ Instead of the pronouns "he/him/his" and "she/her/her" use "**they/them/their**" to refer, in general, to a person in the singular. When speaking to or about a particular person, ask them what their pronouns are.
 - ✓ Instead of "brothers and sisters" or "ladies and gentleman" use "**everybody**" or "**folks**" or "**friends.**"
 - ✓ Instead of "Mr/Mrs/Miss/Ms" use "**Mx**" (usually pronounced "Mix" or "Mux").
 - ✓ Instead of "Latino/Latina" use "**Latinx**" (usually pronounced "La-teen-ex").
 - ✓ Instead of "waiter/waitress" use "**server,**" and so on, when referring to job titles.

* English is moving away from gendered language and towards gender-neutral language, but since language is alive and always in flux, remember the above terms represent just some of the possibilities and will likely change, too.

MINI-GLOSSARY

CISGENDER

Someone who is cis or cisgender identifies with the gender that they were assigned at birth. Typically, cis men are men who were assigned male at birth and feel that the words “man” and “male” accurately describe their gender. Likewise, cis women are typically women who were assigned female at birth and feel that the words “woman” and “female” accurately describe their gender. (AVP)

GENDERFLUID/GENDERQUEER/GENDER NON-CONFORMING/GENDER VARIANT

Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. They may identify and express themselves as “feminine men” or “masculine women” or as androgynous, outside of the categories “boy/man” and “girl/woman.” People who are gender non-conforming may or may not identify as trans. (519)

GENDER BINARY

The most common classification system used in our society to categorize sex and gender. The model asserts a binary in that there are two distinct and opposite labels (female/male), qualifiers (vagina/penis), and behavioural expectations (e.g., caretaker/provider, emotional/rational). (AVP)

LGBTQIA2S+

Lesbian, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual, Two-Spirit, with the + referring to many more ways people choose to self-identify. (You may see variations of this acronym. Individuals and organizations may change the order within the acronym or insert different letters depending on, for example, whom they wish to foreground.)

TRANS BIPOC/QTBIPOC

Black and Indigenous people and other People of Colour who are trans. The acronym "QTBIPOC" refers to those who are trans and/or queer.

TRANS/TRANSGENDER

This term has many definitions. It is frequently used as an umbrella term to refer to all people who do not identify with their assigned gender at birth or the binary gender system. Some transgender people feel they exist not within one of the two standard gender categories, but rather somewhere between, beyond, or outside of those two genders. (AVP)

TRANSITION

Refers to a host of activities that some trans people may pursue to affirm their gender identity. This may include changes to their name, sex designation, dress, the use of specific pronouns, and possibly medically supportive treatments such as hormone therapy, gender-affirming care, gender-confirming surgeries or other procedures. There is no checklist or average time for a transition process, and no universal goal or endpoint. Each person will decide what meets their needs. (519)

(For many trans people, medical or surgical transition is not accessible or desired.)

TRANS MAN (FTM)/TRANS WOMAN (MTF)

A person whose sex assigned at birth is “female” and identifies as a man may also identify as a trans man (female-to-male, or FTM). A person whose sex assigned at birth is “male” and identifies as a woman may also identify as a trans woman (male-to-female, or MTF). (519)

TWO-SPIRIT

A word for non-heterosexual and/or non-cisgender Indigenous people that is used to refer to identity, roles, and responsibility. Not everyone chooses to use this word and instead chooses to use words like gay, lesbian, trans, queer, genderqueer, gender-fluid, gender creative instead, or in combination. (For more information see twospiritmanitoba.ca). This word is not for non-Indigenous folks to use. (AVP)

Where noted, the definitions above, which are just some of many valid ways of interpreting these concepts, were developed by folks at the 519 Community Centre (519) in Toronto or by folks from the Anti-Violence Project (AVP), the on-campus sexual assault centre at the University of Victoria. Thanks to Rebecca Rose for pointing us to these resources. You can find more great info online at antiviolenceproject.org and the519.org.

Solidarity Includes Everyone



September 2018

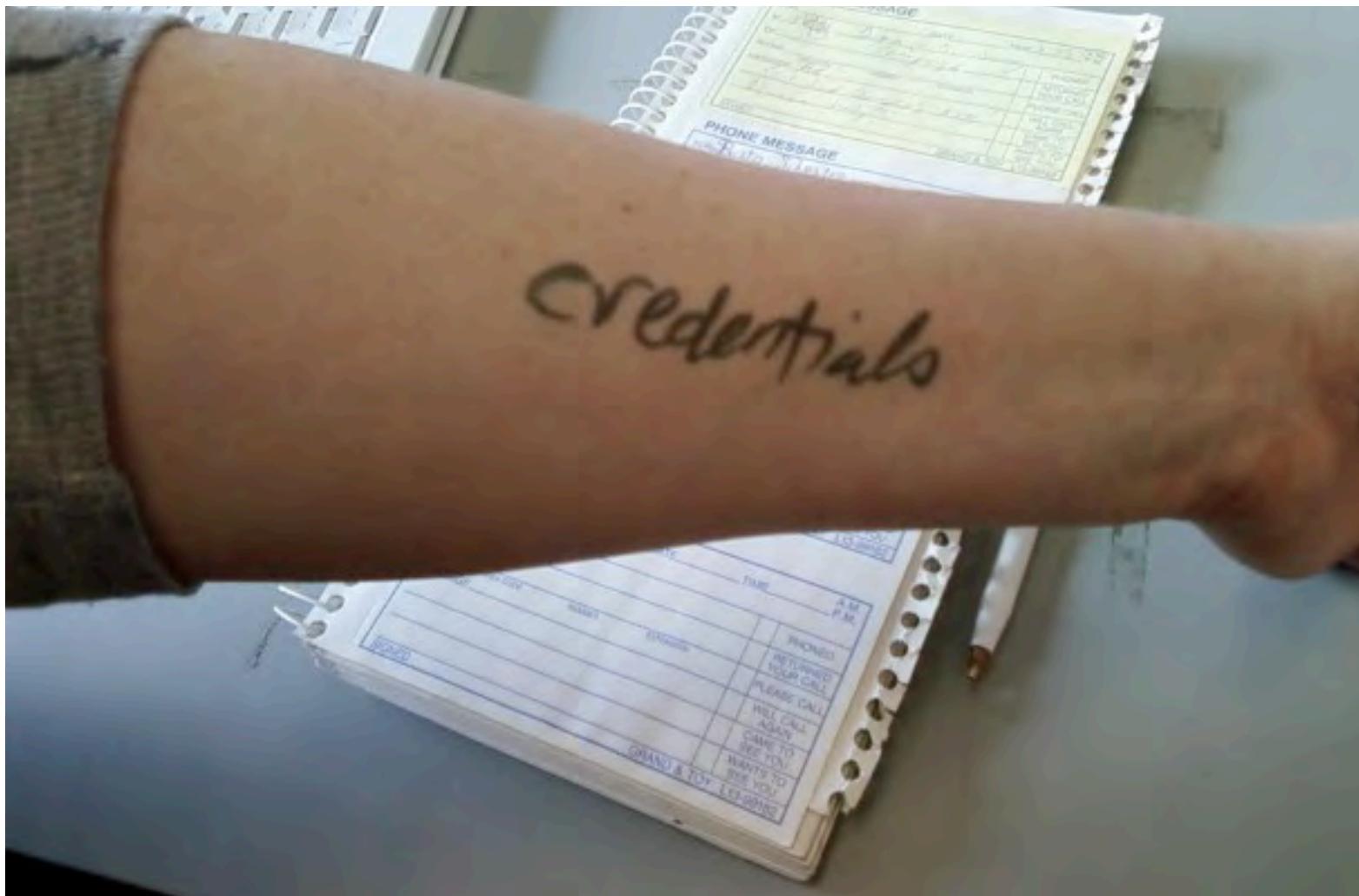


@VanAlias

asmith@clcctc.ca



credentials





Overview

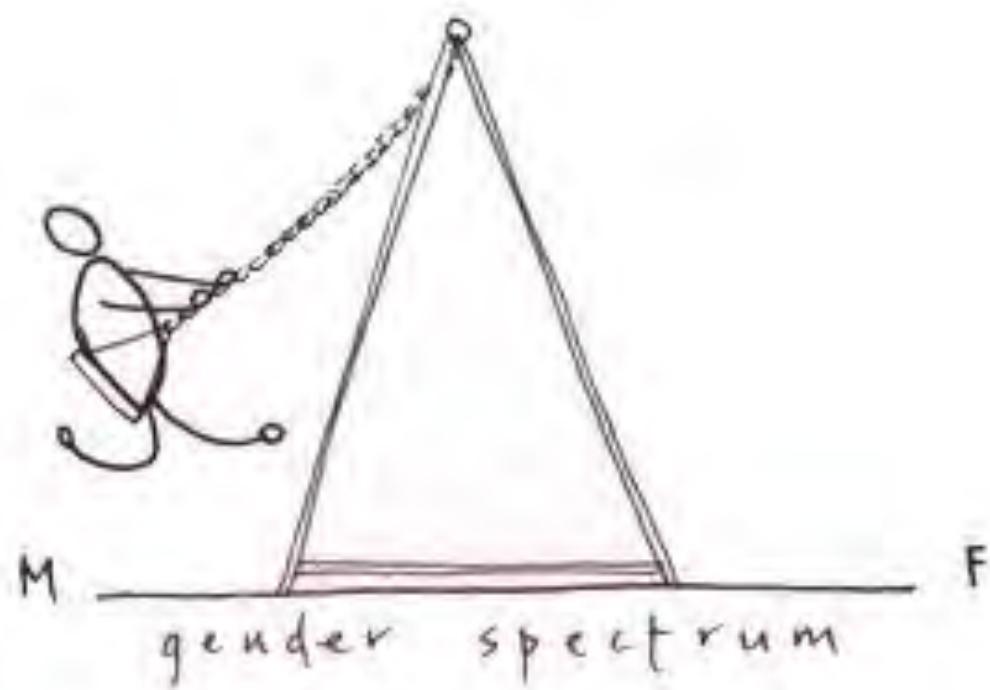
- Trans 101 (Who are trans people? Common terms and words not to say)
- Types of challenges, legal and otherwise, that trans people face
- The law
- Safer-space strategies like using appropriate pronouns, and increasing safety and inclusion for trans people.



Trans 101



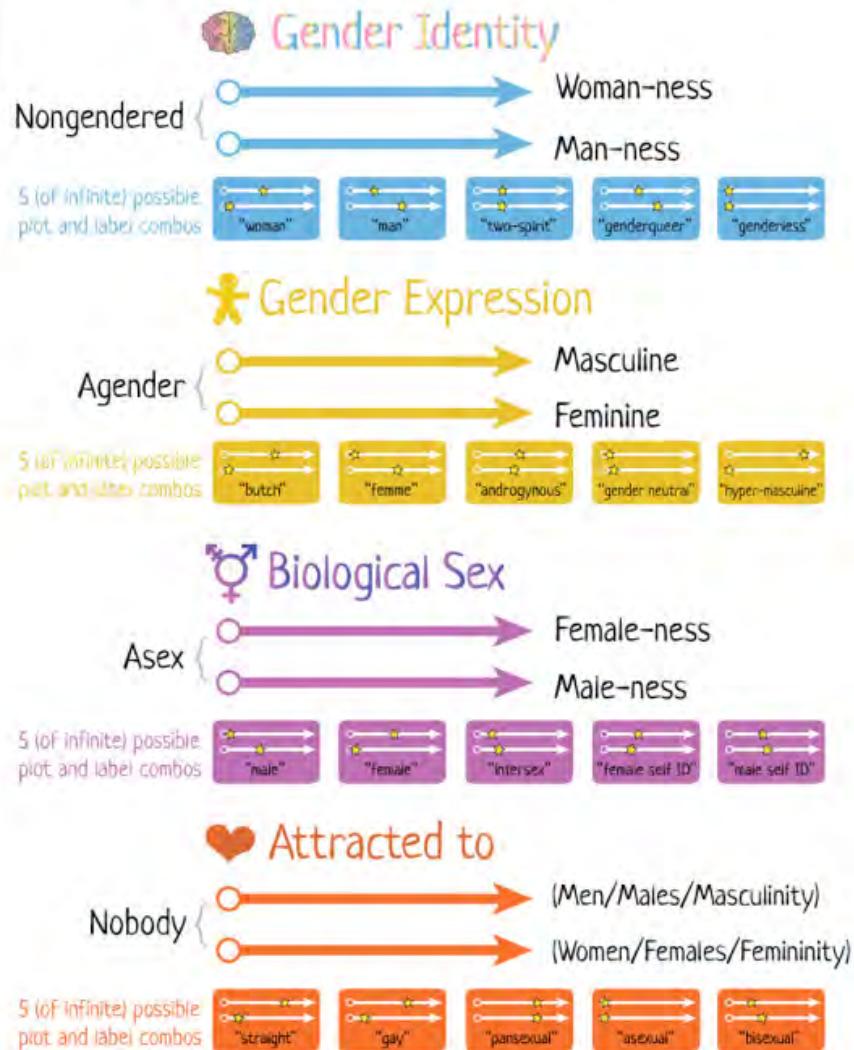
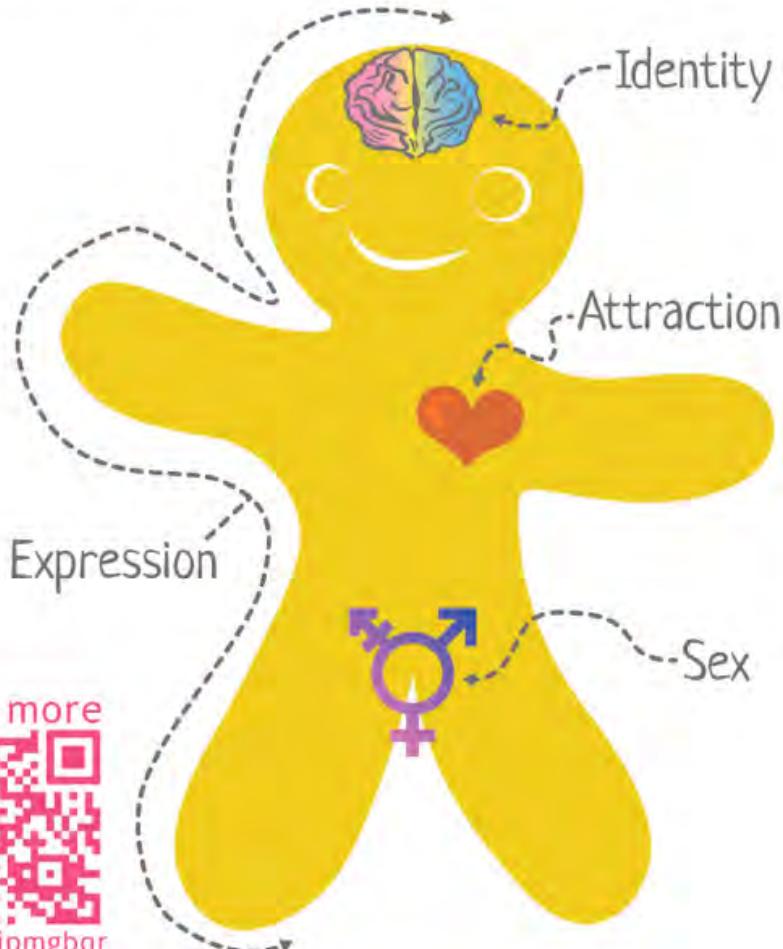




The Genderbread Person v2.0

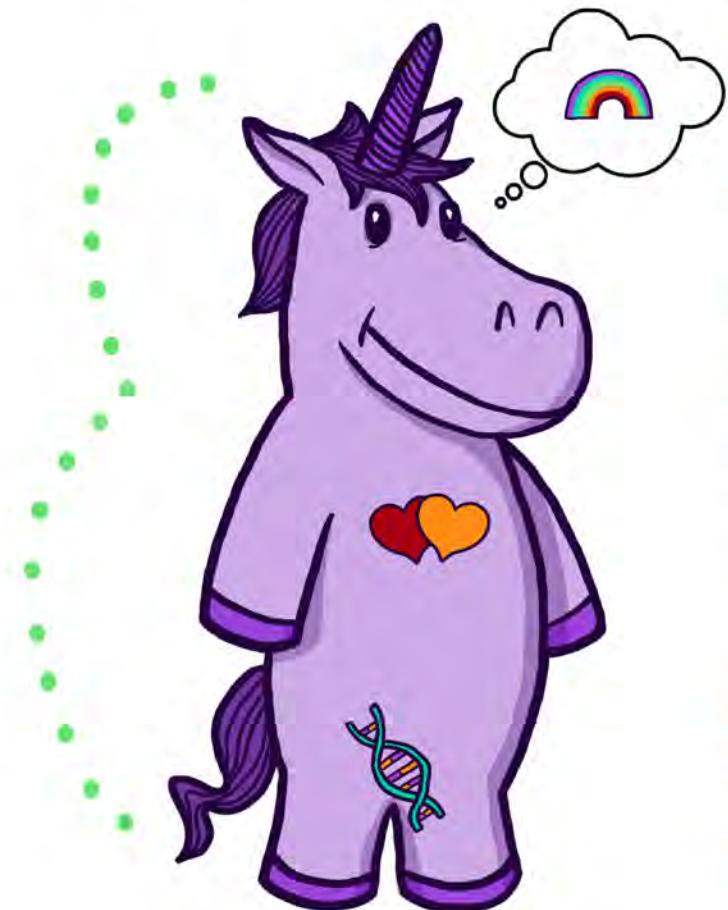
it's pronounced METROsexual

Gender is one of those things everyone thinks they understand, but most people don't. Like *Inception*.
Gender isn't binary. It's not either/or. In many cases it's both/and. A bit of this, a dash of that.
This tasty little guide is meant to be an appetizer for understanding. It's okay if you're hungry for more.

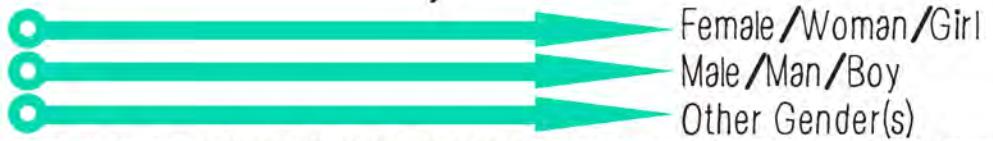


The Gender Unicorn

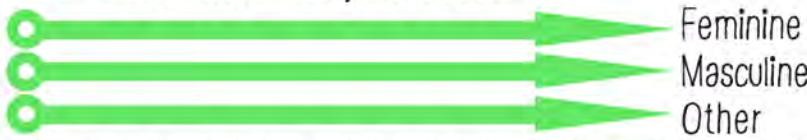
Graphic by:
TSER
Trans Student Educational Resources



Gender Identity



Gender Expression



Sex Assigned at Birth



Physically Attracted to



Emotionally Attracted to



To learn more, go to:
www.transstudent.org/gender

Design by Landyn Pan and Anna Moore

Important Terms

- Sex and gender
- The gender binary
- Transgender
- Transexual
- Cross-dresser
- Intersex
- Non-binary
- Gender-non-conforming, gender creative
- Two-spirit
- cisgender

Terms

- Biological sex
- Assigned sex
- Sexual orientation
- Gender identity
- Gender expression
- MTF Transition
- FTM Transition
- Gender Affirming medical care
- Transphobia

Offensive terms



Transition

- Surgical
- Medical
- Social
- Best practice: self-identification
- No requirement for medical intervention or certificate

Famous transwomen:



GLEN BAGLO/VANCOUVER SUN

Famous transmen



Famous non-binary people



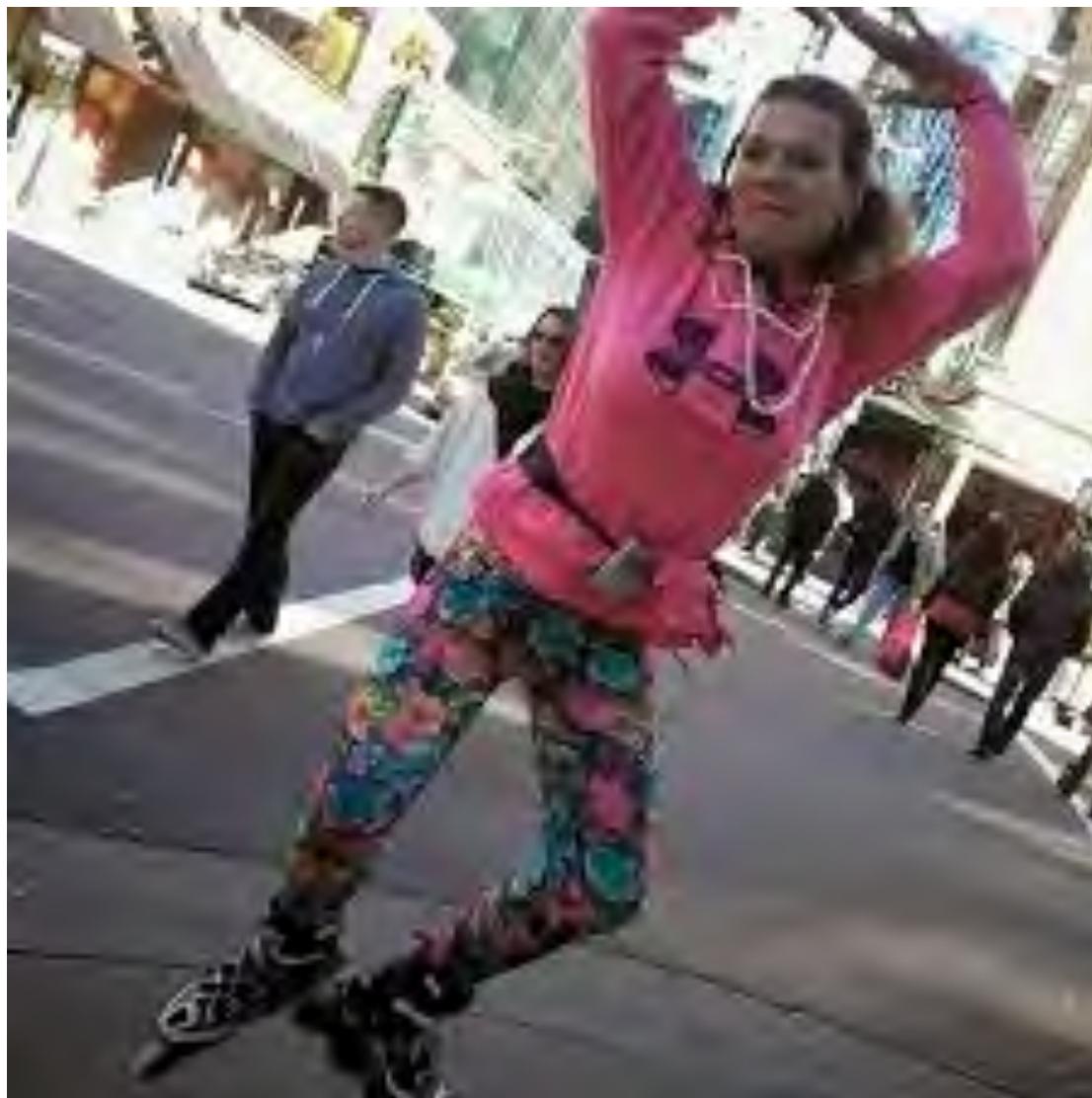


Sylvia Rivera (holding the banner) and Marsha P. Johnson (with cooler) of the Street Transvestite Action Revolutionaries (S.T.A.R.) at the Christopher Street Liberation Day, Gay Pride Parade, NYC (24 June 1973). Photographer Leonard Fink.
Reprinted, by permission, from National History Archives of the Lesbian, Gay, Bisexual & Transgender Community Center.









Dawson v. Vancouver Police Board (No. 2), 2015 BCHRT 54

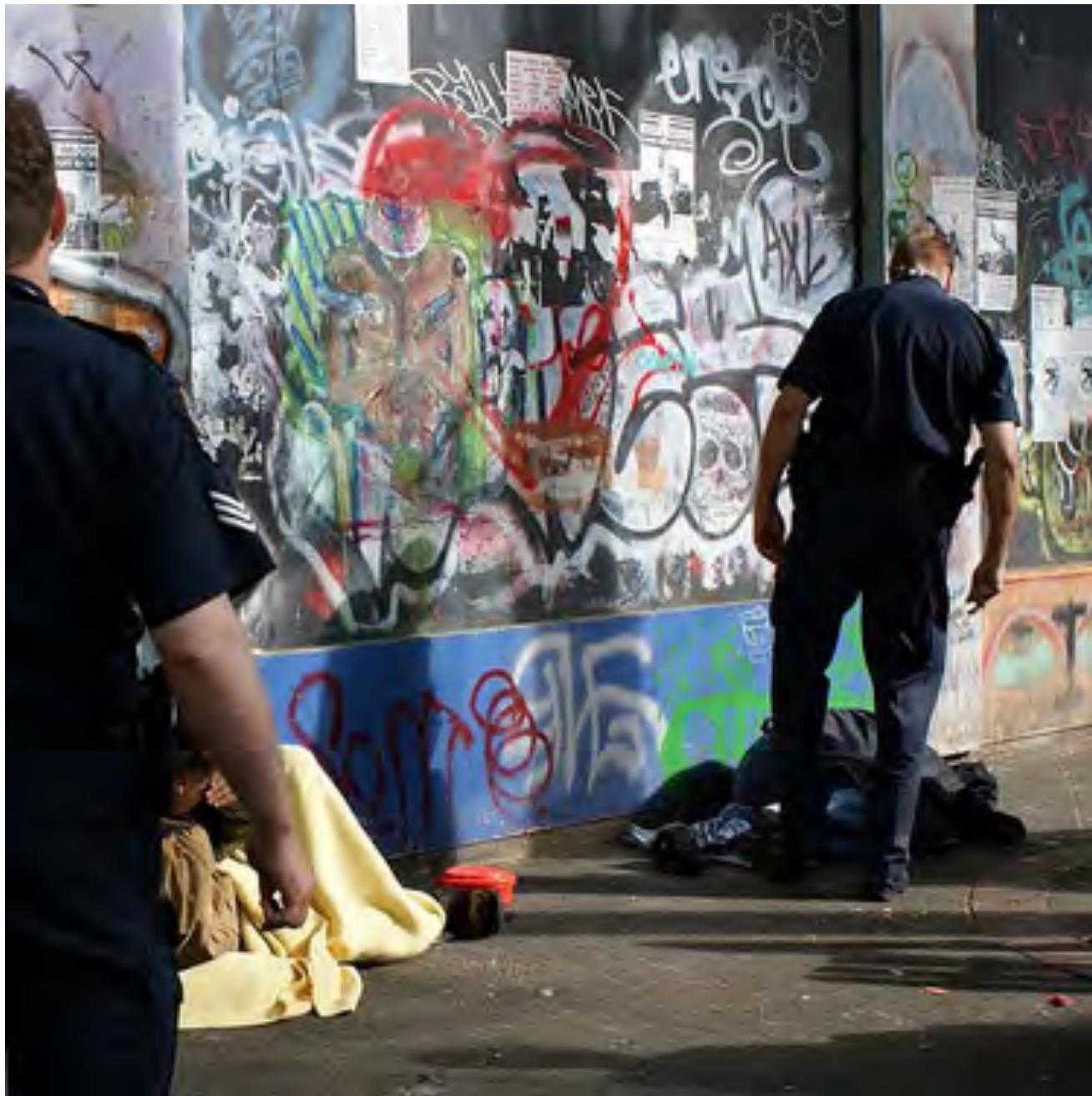
Barriers



Legal Barriers

- Discrimination and Harassment in:
- Housing,
- Education,
- Health care,
- Employment,
- Services,
- Daily life.







GET
YELLED
AT

GET
BEAT
UP

GENDER

| | |
|--------------------------|---|
| <input type="checkbox"/> | M |
| <input type="checkbox"/> | F |

DAYTIME TELEPHONE NUMBER

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

PROV**POSTAL COD****PROV****POSTAL COD****OTHER - Work or Study Permit, etc.**

you?)

Van

Gender



Female



Male

This field is required.

Age

41

y/o

Height

ft + in

cm

5 ft

2 in

Weight

lbs

kg

173

Ontario



Health • Santé

ANITA JEAN WALKER



5584 - 486 - 674 - YM

BORN/ NÉ(E)

1981 - 12 - 15

YEAR MONTH DAY



a J Walker

a J Walker

ISSUED

EXPIRED

2012 - 12 - 15

2017 - 12 - 15

YEAR MONTH DAY

YEAR MONTH DAY



WELCOME TO

inSite



OPEN DAILY

10:00AM - 4:00AM

Front door closes at 3:15 am daily

Ph: 604.OUR.SITE

139







MY WORK
SHOULD NOT
COST ME MY
LIFE

THE HEART HAS

IN HONOR OF THE SPIRIT OF THE PEOPLE
MURDERED IN THE DOWNTOWN EASTSIDE.
MANY WERE WOMEN AND MANY WERE NATIVE
ABORIGINAL WOMEN. MANY OF THESE CASES
REMAIN UNSOLVED. AT MY RELATIONS.

ITS OWN MEMORY

DEDICATED JULY 29 1997





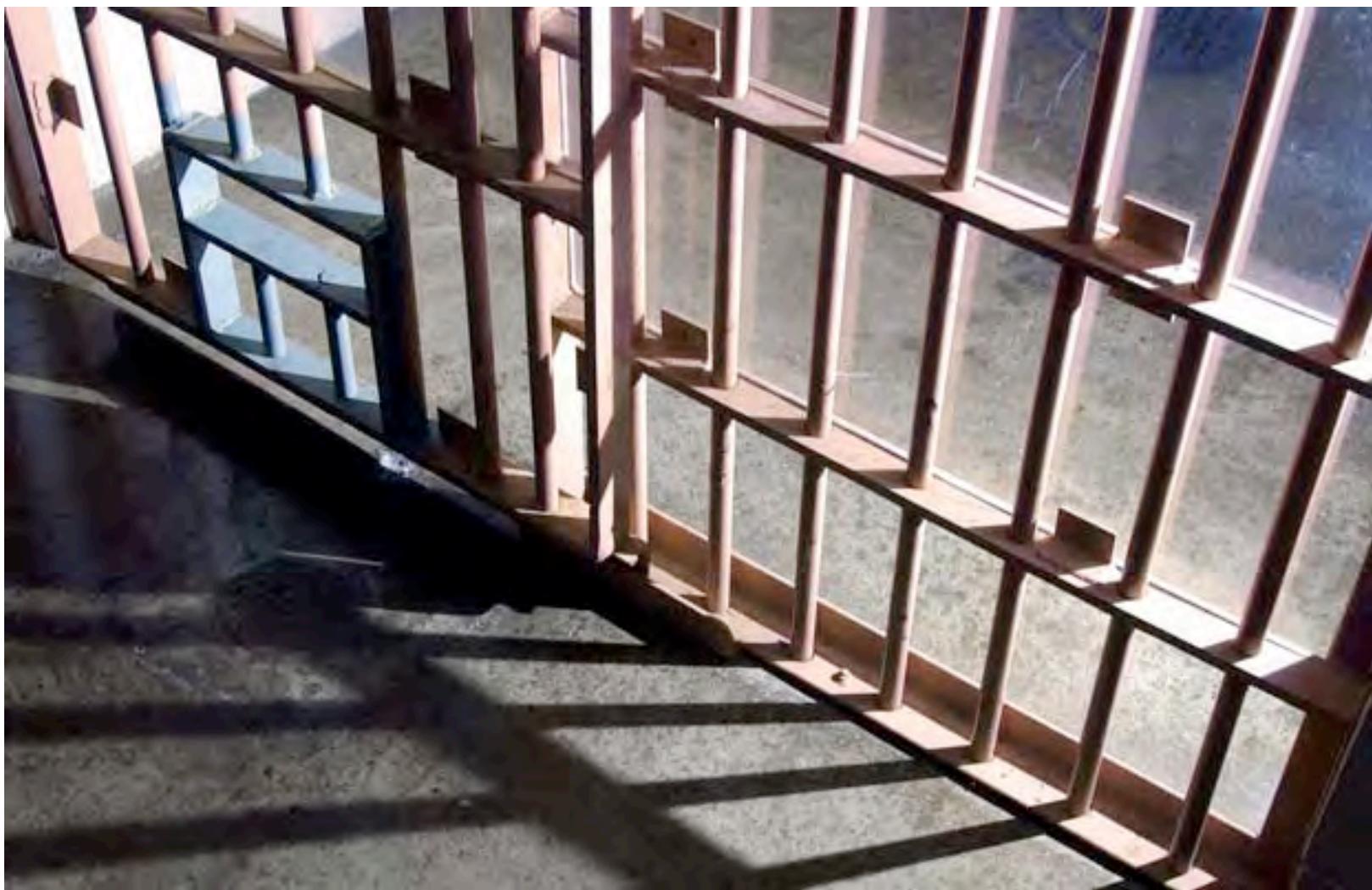
TRANSGENDER DAY OF REMEMBRANCE

EFFECTIVE JUNE 1, 2010

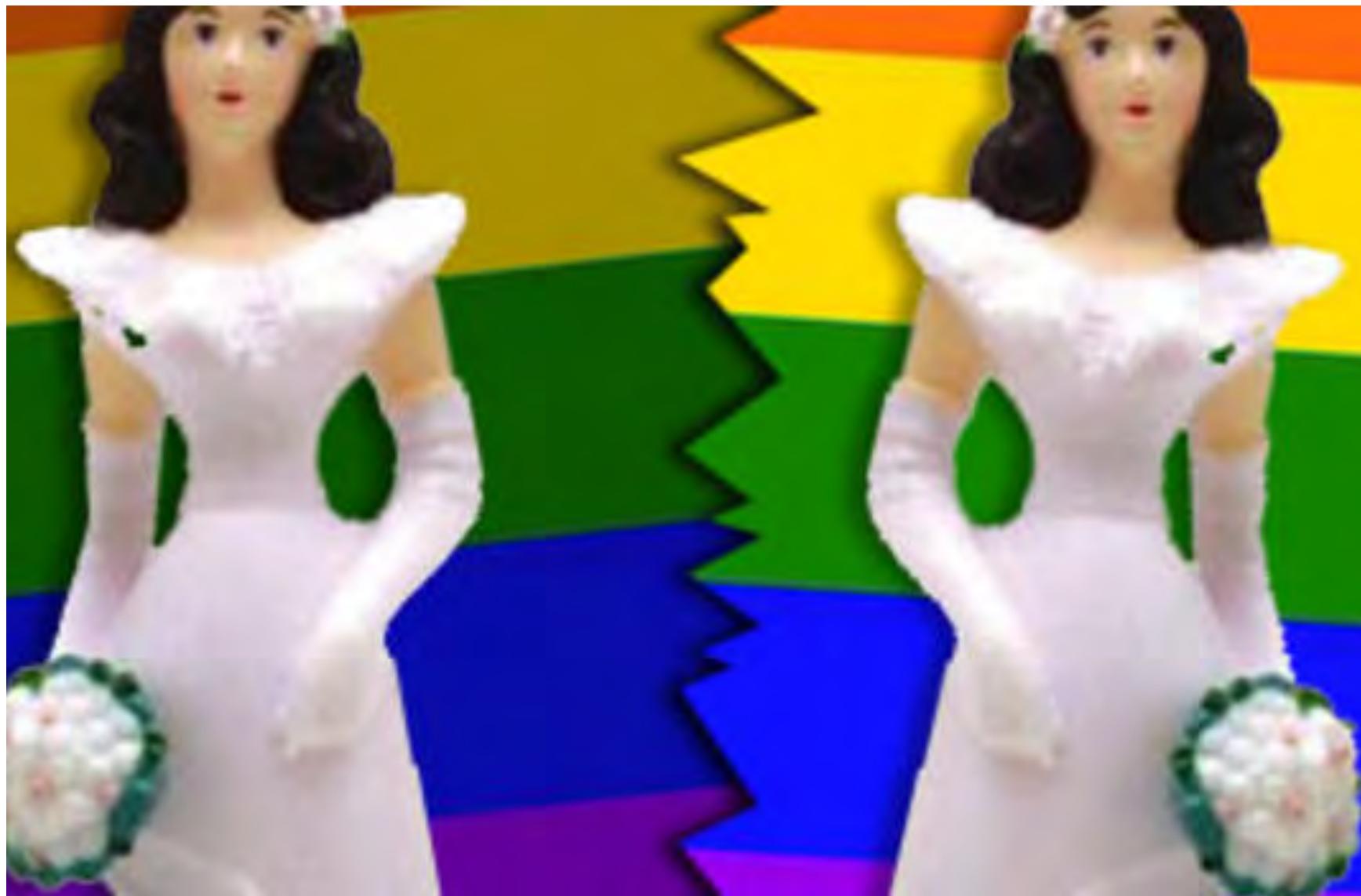
IF YOU HAVE AN OUTSTANDING WARRANT YOU MAY NOT BE ELIGIBLE FOR INCOME ASSISTANCE, HARSHSHIP ASSISTANCE, OR SUPPLEMENTS UNTIL THE WARRANT IS RESOLVED.

THIS APPLIES TO ARREST WARRANTS FOR INDICTABLE OFFENCES FROM ANY JURISDICTION IN CANADA AS WELL AS ARREST WARRANTS UNDER THE IMMIGRATION AND REFUGEE PROTECTION ACT (CANADA).

IF YOU HAVE ANY QUESTIONS OR REQUIRE MORE INFORMATION, PLEASE CONTACT YOUR LOCAL EMPLOYMENT ASSISTANCE WORKER OR CALL THE MINISTRY TOLL-FREE AT 1-866-866-0800. AN INFORMATION SHEET IS ALSO AVAILABLE FOR YOUR INFORMATION.







Trans people and the law



Basic Protection

- *The Canadian Charter or Rights and Freedoms* (s 15, s 7)
- *Human Rights Act (Canada)* ("sex" "disability" "gender identity and gender expression)
- *BC Human Rights Code* ("sex" "disability" "gender identity and gender expression)
- *The Criminal Code*
- Workers Compensation regulations (bullying, harassment)
- Collective Agreements
- Local trans inclusion policies

Charter

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, **sex**, age or mental or physical disability.

Charter Exceptions

Affirmative action programs

15(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Federal Human Rights Act

Prohibited grounds of discrimination

3 (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, **sex**, sexual orientation, **gender identity or expression**, marital status, family status, **disability** and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

Federal exemptions

Special programs

16 (1) It is not a discriminatory practice for a person to adopt or carry out a special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be based on or related to the prohibited grounds of discrimination, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to that group.

Federal exemptions

Universality of service for Canadian Forces

15 (9) Subsection (2) is subject to the principle of universality of service under which members of the Canadian Forces must at all times and under any circumstances perform any functions that they may be required to perform.

BC Human Rights Code

Freedom from discrimination in accommodation, service and facility; purchase of property, tenancy, employment, wages, or by unions

"because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, **physical or mental disability, sex, sexual orientation, gender identity or expression**, or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person."

Provincial Exemptions

Exemptions

41 (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, sexual orientation, gender identity or expression, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.

Provincial Exemptions

Special programs

42 (1) It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program that:

- (a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, sex, sexual orientation, or gender identity or expression, and
- (b) achieves or is reasonably likely to achieve that objective.

Not Exemptions

- X Other employees' discomfort
- X Customers' or clients' discomfort

Workers Compensation

- Bullying and harassment language
- Psychological or physical injury claim

Local policies

- Vancouver Park Board
- Vancouver School Board
- City of Vancouver

Collective Agreement Language

- Right to a harassment-free workplace
- Benefit plan and leave provisions

Explicit protection



Explicit protection

BC Human Rights Code (Bill-27)

Human Rights Act (Canada) – (Bill C 16)

Criminal Code (Bill C-16)

Workers Compensation

Collective Agreements

Local policies





This is an issue for us:

- Unions and Employers have special obligations to protect workers
- Solidarity includes EVERYONE!

How can we help?



Trans inclusion to do list

- Appropriate pronouns
- Accessible offices and activities
- Better collective agreement language
- Privacy and respect

Be an ally

- Educate yourself.
- See trans people as people rather than objects or oddities. It is not a trans person's job to explain themselves to you.
- Accept trans people for who they say they are, including their name and pronoun-and if you don't know, ask!

Be an ally

- Remember that transgender women are women and transgender men are men
- Remember some people prefer to exist somewhere in between or outside of the gender binary.
- Don't assume anything- gender, pronoun, orientation, bathroom preference, surgical plans, legal matter, etc.

Be an ally

- Use appropriate language
 - “~~born a boy~~” or “~~born a girl~~,” assigned male or female at birth.
 - Don’t use offensive terms or prefixes such as “real” or “bio-“ when describing someone who is not trans (it’s best to use “cis-”). Although trans people may use these terms in self- reference, cisgender people should avoid this language.
 - If you don’t know, ASK!

Be an ally

Trans people are disproportionately victims of violence and social ostracism. Be a good human.

- Use your privilege for good!- stand up for us, call people on their remarks and jokes
- work in your practice to make room for all genders, in space and in language.
- Include trans people in crafting policies that affect them
- Respect Privacy and safety! Someone's trans status is not your news to tell.

Recognize Barriers

- Don't require legal name changes before you will use a person's name
- Don't ask about sex or gender on forms
- Don't charge an unnecessary user fee, announce people's names, or require a key or ID for access to basic services.
- Pay an honorarium!

Change policies to make:

- Spaces more accessible
- Signage more inclusive
- Gender neutral language standard
- Change gender-segregated spaces (bathrooms, change rooms) into all gender spaces

Other inclusion efforts

- Describing activities without gendering them
- Include trans women explicitly in women activist committees and events, and elect them to womens' officer positions
- Don't assume any person's gender
- Hold Trans Day of Remembrance events
- Support legislative change to protect trans workers
- Hold employers accountable for including trans workers and bargain more inclusive collective agreements

Mourn

Transgender Day of Remembrance



Organize

MAY INTERNATIONAL DAY
**17 AGAINST HOMOPHOBIA
& TRANSPHOBIA**



Group exercise

- Asking pronouns

Group exercise

- Apologizing for misgendering someone

Gender *

Male Female

 Please select one of these options.

None

ORGAN DONOR REGISTRATION

No registration confirmation will be sent
To confirm your registration, visit transplant.bc.ca

BC Care
Card No.
(Personal
Health No.)

| | | | | | | | | | | | | |
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| 9 | | | | | | | | | | | | |
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Date of
Birth

| | | | | | | | | | | | | |
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| 1 | 9 | 7 | 7 | | | | | | | | | |
| Y | Y | Y | Y | M | M | D | D | | | | | |

Gender

Male Female trans

Surname

First Name

Address

City

BC

Postal Code

| | | | | | |
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I hereby consent to the following donation after my death:

- 1. All organs and tissues needed for transplant **or**
- 2. ONLY the following organs and tissues:
(check the ones you want to donate)

Heart

Kidneys

Eyes

Lungs

Pancreas

Tissues



You



I am

Male

Female

When were you born?

Dec 31, 1969

We use these to calculate an accurate calorie goal
for you.

Where do you live?

United States

Zip/Postal Code

ROB CO

THE
SHE

www.congresdutravail.ca
www.canadianlabour.ca

Les syndicats : vivez la différence!
Unions make a difference in people's lives.



Congrès du travail du Canada
Canadian Labour Congress

| MODULE 3 - COMMUNICATION STRATEGIES | |
|-------------------------------------|--|
| Time | Activity |
| 10:00 | What is Communication? Plenary Discussion |

Write the following
The single
that it ha

11/1

Adrienne Smith @VanAlias:

Why am I late? Because our seat of government doesn't have a nongendered bathroom for me

9:23 AM - 25 Jul 2016

Bad

LADIES
WOMEN
GIRLS

IF THIS IS NOT
YOU
PLEASE USE
OTHER DOOR

MEN
GENTS
BOYS

IF THIS IS NOT
YOU
PLEASE USE
OTHER DOOR



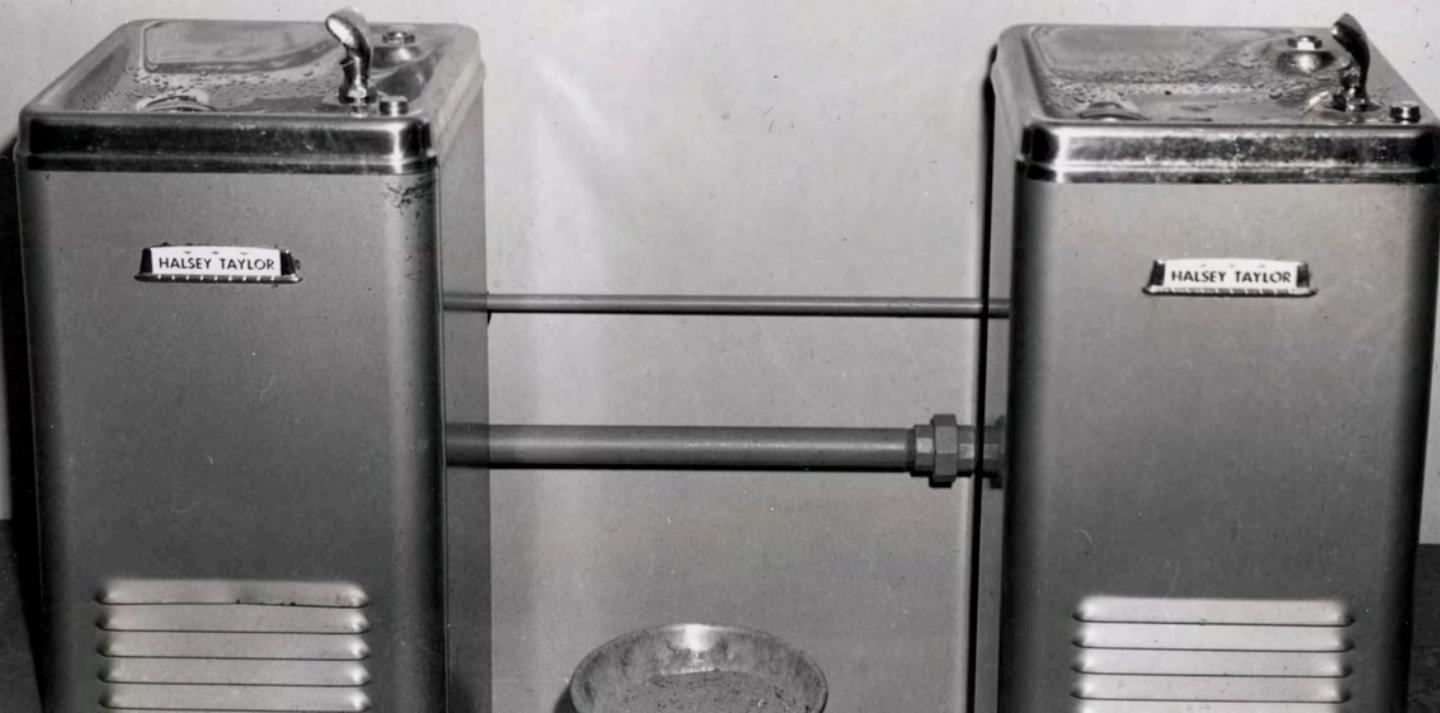
NO TRANS MEN ALLOWED

COLORED

MAY USE THIS

WHITE

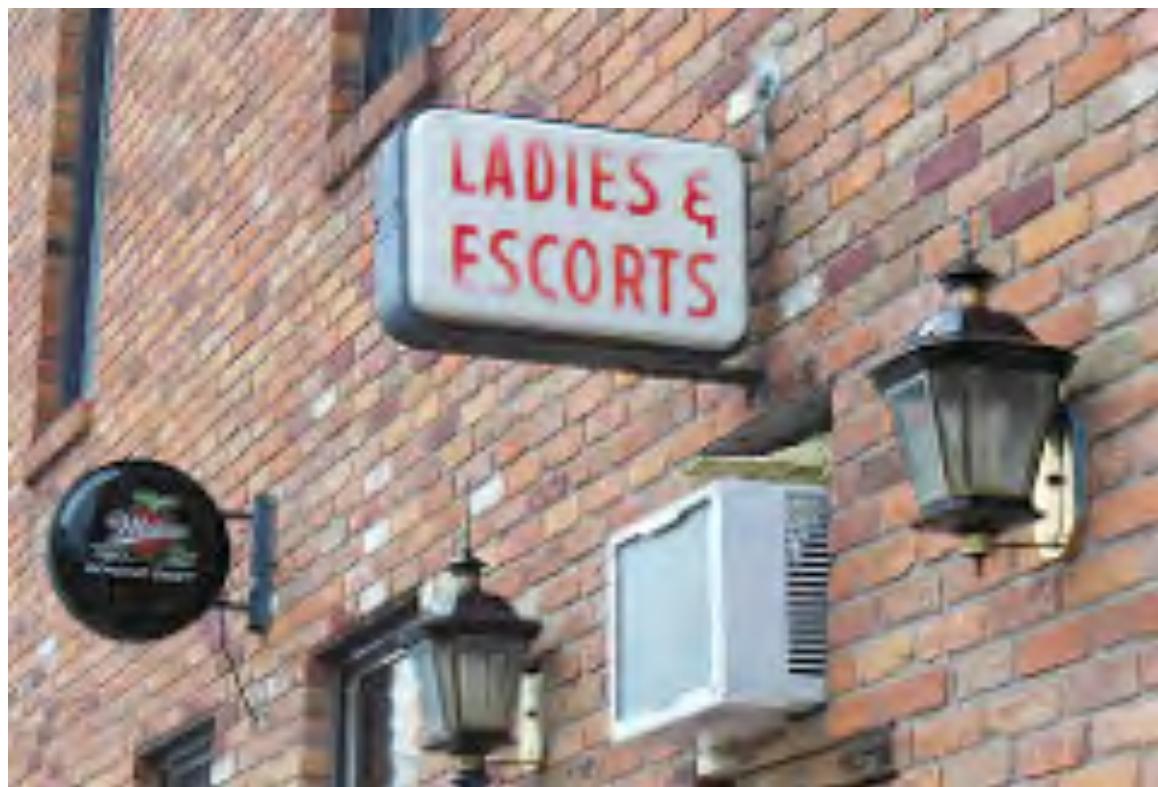
MAY USE THIS



**WHITE
MENS REST ROOM**



LADIES
WAITING ROOM





A glowing neon sign with a black background. The sign features the words "MENS" and "ENTRANCE" in white, outlined in red, with a blue glow effect. The sign is illuminated from behind, creating a bright, glowing appearance against the dark background.

MENS
ENTRANCE



WOMEN'S WASHROOM

PLEASE ASK FOR THE MENS WASHROOM KEY AT THE FRONT DESK



PLEASE
ASK FOR KEY



Better







ALL GENDER RESTROOM

Anyone can use this restroom,
regardless of gender identity
or expression





TOILET



TOILET



TOILET



Men



Anyone can use this
restroom regardless of
gender identity or expression

Ladies



Anyone can use this
restroom regardless of
gender identity or expression



ACCESSIBLE



ALL GENDER
RESTROOM



OUR RESTROOMS ARE FOR ALL GENDERS

Please lock the door when you use them.

**Another restroom is located on the
Religious Exploration hallway
(through the door near the office).**



Best

UNIVERSAL CHANGE ROOM



TRANS
PEOPLE
WELCOME



**ALL-GENDER
RESTROOM**

ALL-GENDER RESTROOM

TOILETTE MIXTE





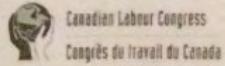


This bathroom
is for ... People

moss...it



Anyone can use this restroom,
regardless of gender identity
or expression.





RESTROOMS



• • • • • • • • •

A series of white braille dots forming a decorative border at the bottom of the sign.



WHATEVER
JUST WASH YOUR HANDS

BATHROOM

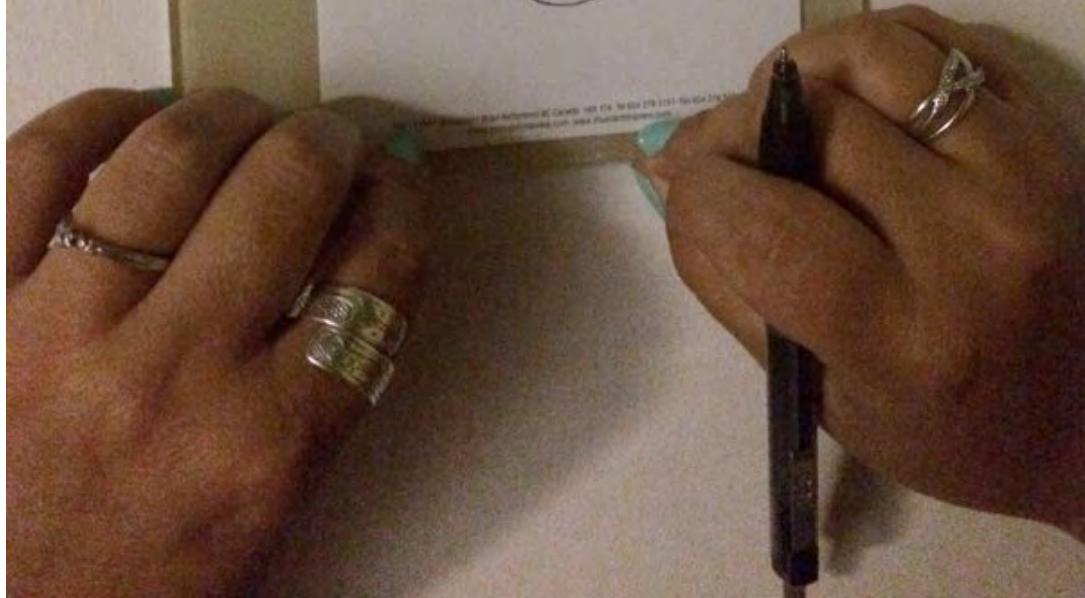
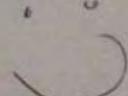
MEN, WOMEN, CHILDREN,
BANKERS, DOCTORS, LAWYERS, BAKERS,
CANDLESTICK MAKERS,
CARPENTERS, KNIGHTS, SQUIRES,
BLOGGERS, JAY-WALKERS,
LADIES WITH GLASSES WHO LIKE BOOKS,
HIGH ROLLERS, TALKERS,
THE PERSON THAT TESTS BUBBLE WRAP...

Anybody.
**WE DON'T
DISCRIMINATE.**

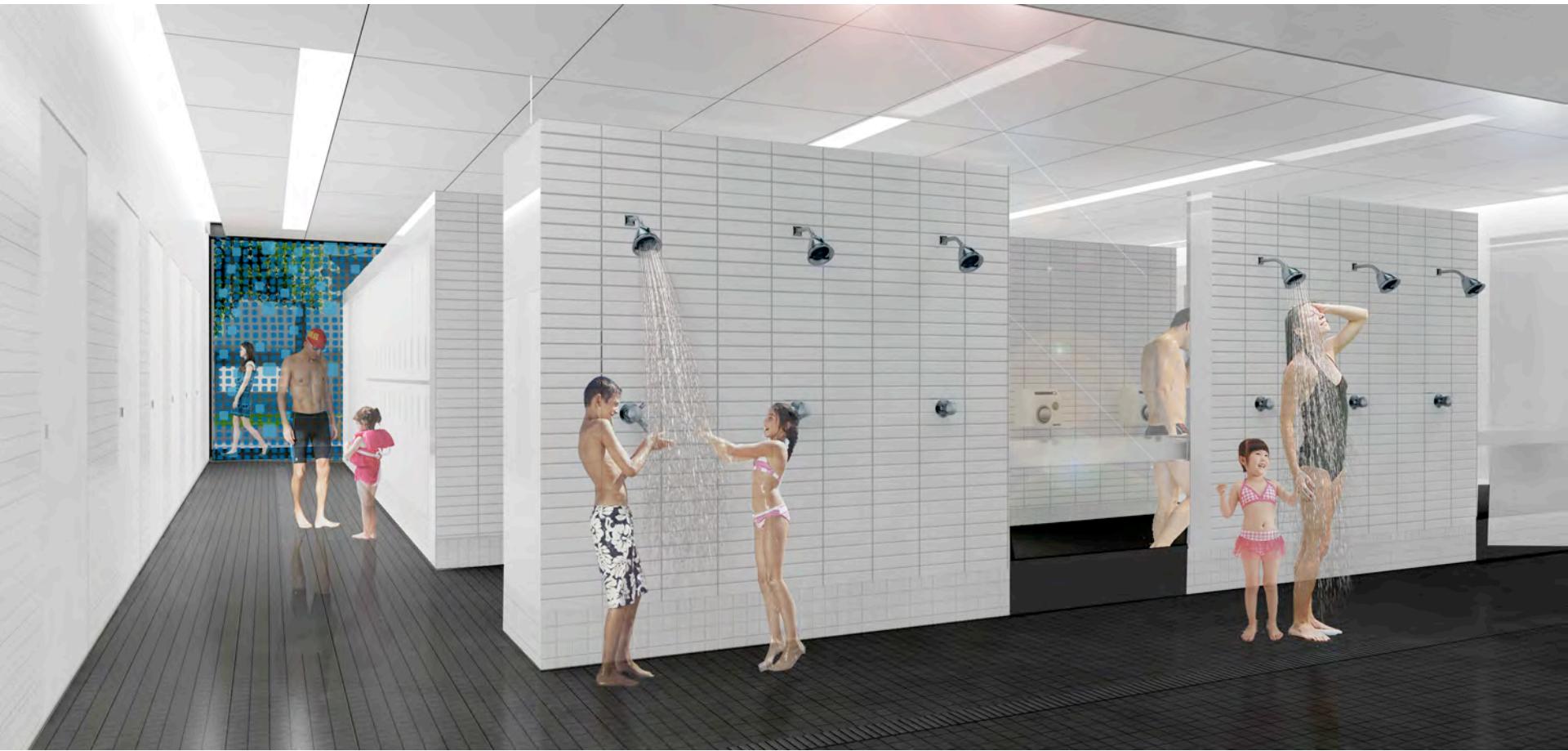


Thunderbird Press

TOILET



Result?















Scenario- supporting a member

You are a shop steward. A member approaches you for help:

"Michael" would like her boss to call her Melanie, and she would like to change in the womens' change room. How would you help Melanie?

Scenario - Landlord problems

- You are a community advocate. Your first client of the day is Argenta.
- Argenta rented an apartment midway through her transition, but now she is dressing as herself, most of the time. Her landlord keeps cashing her cheques, which are printed with her old name on them.
- Yesterday, the landlord saw her coming home wearing a dress. He comes by at supper time and asks her to move out because she is "not normal". Is this ok? What would you do?

Scenario – health clinic

- Joey thinks he might be pregnant. He needs an STI test and to talk to someone about his options regarding the pregnancy. There is a Planned Parenthood clinic in his neighbourhood but he doesn't know if he can go there. How would you help Joey?

Scenario- the local election

- Your union has a womens' representative, and elections are happening at your next meeting. Pavan, a member who has served as treasurer for the last two years ask you if you will nominate them for the position. You think they would do a great job, but you are not sure whether they count as a woman. What do you do?

Resources

- Google
- Transgender Law Centre: *peeing in peace*
<http://transgenderlawcenter.org/issues/public-accomodations/peeing-in-peace>
- Dean Spade: *Normal Life*. New York: South End Press, 2011.
- BC Law Institute: *Gender Free Legal Writing*
<http://www.bcli.org/sites/default/files/GenderFree.pdf>
- Transgender health information program
<http://transhealth.phsa.ca/>
- **Trans Rights BC** <http://www.transrightsbc.ca/>
- Canadian Labour Congress- Workers in transition guidebook
<http://canadianlabour.ca/sites/default/files/media/WorkersInTransitionGuide-2011-04-EN.pdf>

Notable cases

- *Charter*:
 - *CF .v Alberta*, [2014 ABQB 237](#)
 - *XY .v Ontario (Minister of Government and Consumer Services)*, [2012] OHRTD No 715, [2012 HRTO 726](#)
- *Human Rights Code*
 - *Vancouver Rape Relief v. BC Human Rights*[2000 BCSC 889 \(CanLII\)](#)
 - *Kavanagh v. Canada (Attorney General)*, [2001] CHRD No. 21 at para 135 (sex and disability);
 - *Sheridan v. Sanctuary Investments Ltd. (B.J.'s Lounge)*, [1999] BCHRTD No. 43 a para 97 and 110 (sex and disability)).
 - *Cunningham c CB* (sex)

**TRANS
RIGHTS
BC**

Trans Rights BC – Trans Ri... +

www.transrightsbc.ca

Search

TRANS RIGHTS BC

HOME KNOW YOUR RIGHTS TAKE ACTION ACTIVIST PROFILES

TRANS RIGHTS BC

Welcome to Trans Rights BC

This project aims to disseminate human rights information that is accurate, accessible, and relevant to the safety and well-being of trans and gender-diverse individuals and their supportive allies across British Columbia.

CONTINUE READING

The screenshot shows the homepage of the Trans Rights BC website. The header features the organization's name "TRANS RIGHTS BC" in large white letters. Below the header, there are four main navigation links: "HOME", "KNOW YOUR RIGHTS", "TAKE ACTION", and "ACTIVIST PROFILES". A search bar is located above the "TAKE ACTION" link. On the left side of the page, there is a large, semi-transparent image of a person's face. Overlaid on this image is a dark, semi-transparent box containing the word "TRANS" in large white letters. To the right of this box, the text "Welcome to TRANS" is visible, followed by a paragraph about the project's aim to disseminate human rights information relevant to the safety and well-being of trans and supportive allies. A "CONTINUE" button is located at the bottom of this section. On the right side of the page, there is a sidebar with a list of nine categories: "Public Spaces/Services", "Education", "Housing", "Employment", "Parenting", "Harassment & Violence", "Police & Prison System", "Healthcare", "Immigration & Refugee Issues", and "Sex Work". The footer contains the website address "www.transrightsbc.ca/know-your-rights/".

Trans Rights BC – Trans Ri... +/-

www.transrightsbc.ca

Search

TRANS RIGHTS BC

HOME KNOW YOUR RIGHTS TAKE ACTION ACTIVIST PROFILES

Public Spaces/Services

Education

Housing

Employment

Parenting

Harassment & Violence

Police & Prison System

Healthcare

Immigration & Refugee Issues

Sex Work

Welcome to TRANS

This project aims to disseminate human rights information relevant to the safety and well-being of trans and supportive allies

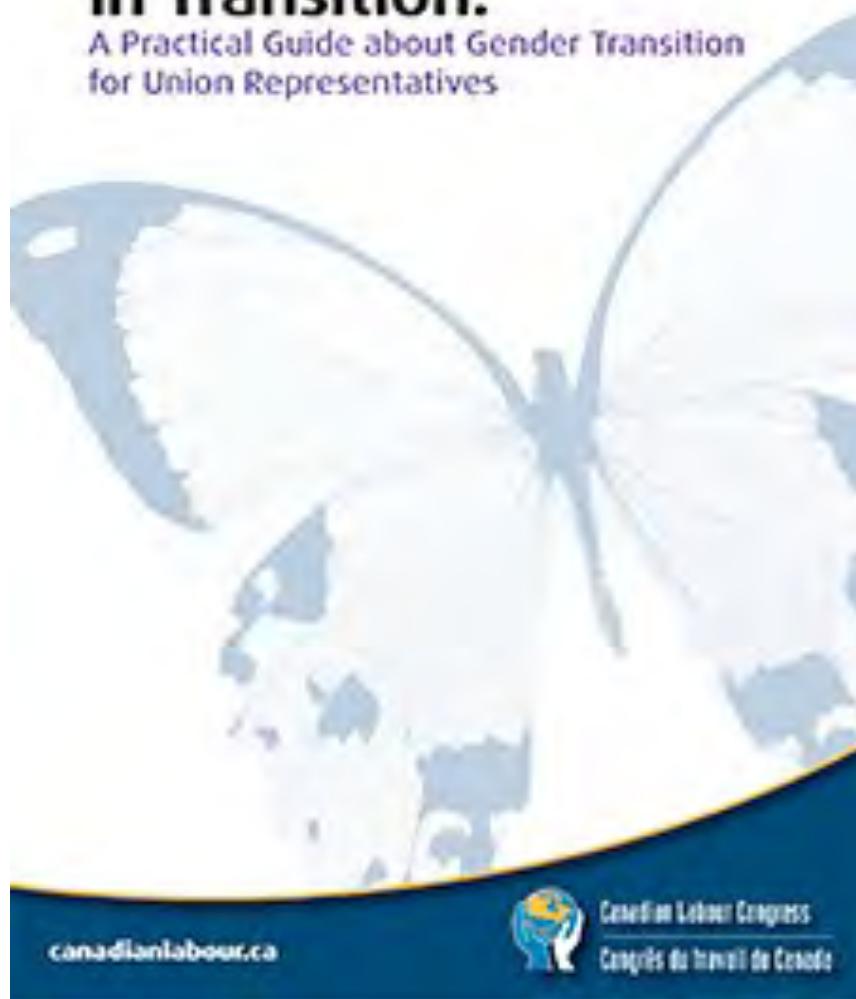
CONTINUE

www.transrightsbc.ca/know-your-rights/



Workers in Transition:

A Practical Guide about Gender Transition
for Union Representatives



canadianlabour.ca



Canadian Labour Congress
Congrès du travail du Canada







@VanAlias

asmith@clcctc.ca

THURSDAY, OCTOBER 18, 2018 – DAY 3

No Materials/Materials at session

Making complaints against the police in BC: Celia Pinette - policy and law reform specialist, Pivot Legal Society; Dylan Mazur - community lawyer, BCCLA

An overview of the police complaints process for municipal police and RCMP. The session covers relevant oversight bodies, complaint procedures, and strategies for making complaints. It is tailored to the work of frontline advocates and includes practical skills, case studies, template letters, and safety considerations

Group Consultation

Helping Clients Deal with Police

Dylan Mazur – Community Lawyer, BC Civil Liberties Association
Anna Cooper – Staff Lawyer, Pivot Legal Society

Provincial Advocates Conference: October 16 – 18, 2018

AGENDA

- **Introductions** – who is in the room?
- **Group Consultation** – this is an information exchange
- **Dotmocracy** – what issues are your clients facing with police?
- **Scenarios** – hypotheticals based on common situations → explore advocacy options

Scenario 1 – Street Checks

One of your clients, Emily, comes into your office and tells you about the following experience with police:

Emily was walking down the alley, and was stopped by two police officers. One officer asked her: Who are you and where are you going? She gave a nickname and said she was just out for a walk. The officer asked to see some ID and told Emily to open her bag. Emily obeyed the officer. The officers searched her bag and found two small baggies with white powder and \$500.00. The officers took the baggies and the money, which they said was "proceeds of crime", then left. They did not arrest Emily or give her any paperwork.

Emily wants to know:

- Were the officers allowed to do that?
- Did she have to cooperate?
- That was her rent money – can she get it back?
- Any other advice you would give?
- Any resources you use in these situations?



Street Stop Flowchart



An officer walks up to you...

“Am I free to go?”

Yes

No

Further Comments
and Questions

Walk
Away

*“Am I
Under
Arrest?”*

No. You are
being detained

Yes

*“Why am I under arrest/being
detained?”*

“I want to remain silent.”

“I want to speak with my lawyer.”

You don't have to stay anything to police unless you are:

- Under arrest
- Driving a car/involved in a car accident
- Riding a bike



If asked you must provide your NAME and ADDRESS **but nothing else.**

(Also name/address of owner of bike/car if not your own).

**British Columbia
Civil Liberties Association**

The Arrest Pocketbook

**A Guide to Your
Rights
by David Eby**



STATEMENT FOR POLICE

PIVOT
equality lifts everyone

KNOW YOUR RIGHTS:

- Silence (see over).
- I can say "No" if the police ask to search me or my things.
- Saying "No" does not mean I have something to hide.
- I can leave unless I am being detained or arrested.
- I can only be strip-searched in private and by officers of the same gender.
- If I am being detained or arrested I have a right to know why and a right to speak privately to a lawyer without delay, even if I cannot afford to pay.
- I have a right to know a police officer's name and badge number.
- I can report a police officer who abuses me, swears at me, or violates my rights.

If you are stopped by police against your will, read or show them the following statement. Then, do not say anything until you talk to a lawyer.

Statement for police

"Officer, if I am under arrest or being detained, please tell me so. If I am free to go, please tell me so. If I am not free to go, please tell me why. I wish to exercise all my legal rights including my right to silence and my right to speak to a lawyer before I say anything to you. I do not consent to being searched. I wish to be released without delay. Please do not ask me questions because I will not willingly talk to you until I speak to a lawyer.
Thank you for respecting my rights."

Police Arrest: Silence is golden

Each situation is different and you must use your common sense. Stay calm and remember everything that happens. Remember your rights!

SILENCE

You can refuse to talk to police or answer their questions unless you are in a bar or a cinema, driving a car, or they say you broke the law. In those cases, you must give your name, birthdate, and address, or show your ID, but you do not have to say any more.

To report a police officer to the Police Complaint Commission call 1-800-665-6878
For legal aid call 1-866-458-5500 (1-866-458-3300 outside Metro Vancouver)

Scenario 2 – Observation vs Obstruction

You are walking to work when you see a police officer standing really close to one of your clients, Marcus, who is sitting on the ground. It looks like the officer is being really aggressive. You walk over and ask the officer “what’s going on here?”. The officer tells you to “Keep walking.” You refuse to move and instead take out your camera and start filming. The officer tells you to stop filming and threatens to arrest you for “obstruction of police”.

What can you do in this situation?

- Can the officer arrest you for obstruction if you don’t stop filming and walk away?
- Was there a better way to approach the officer who was interacting with your client?
- Any advice you would give to an advocate in this situation?
- Any resources you use in these situations?

Cop Watch

- Recording and documenting police actions is a well-known strategy for community members to demand police accountability

What you can do:

- Ask the police for their surname and badge number
 - Most officers are required by their policies to provide this upon request.
 - Other ways to ID officers:
 - Badge # on shirt (generally at chest level or on sleeve)
 - Car # or Licence Plate # (Police Departments know what officer was in what car on what day)
- Follow police and record them/observe their actions – this is legal as long as you keep a reasonable distance and are not physically interfering with an investigation
- Ask the officer why they are on site – note, they do not have to answer this question, but any information they provide may be helpful
- NOTE: whenever possible, have another person with you when interacting with police. Film in groups.

Six Up! Warning - Alerting people to the presence of an undercover officer may be obstruction of police

Common Issues:

- Cop tells you to stop filming → "It is not illegal to film an officer"
- Cop tells you to leave the area: "I am just observing, I am not interfering" (Note – may have to leave if safety issue, e.g. live weapon)
- Cop tries to seize your phone/camera: "My phone is not evidence, I do not consent to you taking it." "I can send you the video I just took of this incident if that is evidence of a crime."

Scenario 3 – Tent City Red Zone

You have clients who are living in a tent city in your region. One of your clients, David, is arrested for theft. Police searched the tent where he is living and found a bike which they say was stolen from a neighbouring property. He was given a Promise to Appear by the police to show-up in court in three months' time. As part of his conditions, he is not allowed to be within 300 meters of the tent city where he lives, i.e. he is “red zoned”.

David wants to know:

- Is there a way to change his conditions so he can keep living at the tent city?
- Can the police just walk in his tent any time like that?
- Any other advice you would give?
- Any resources you use in these situations?

THIS TENT IS MY HOME

It is a dwelling-house: a private residence where I live.

**I do not consent to anyone opening, entering or looking in my tent
without my express, written, permission.**

This includes law enforcement.

**I have a reasonable expectation of privacy in my tent protected by s.8
of the *Charter*.**



Thank you for joining us!



TENANCY AND ANIMALS

By Kate Feeney & Amber Prince

Featuring Cute Animal Pictures

NO GENERAL RIGHT TO A PET

- Tenants in British Columbia do not have a general right to have a pet.
- Under Section 18 of the Residential Tenancy Act, landlords can set limits on pets in their rental unit, or prohibit pets entirely.



PET DEPOSITS

- Landlord who permit pets may charge a pet deposit of up to 50% of one month's rent. This is the maximum amount the landlord can charge, regardless of the number of pets owned by the tenant.
- At the end of the tenancy, a landlord cannot draw from the pet deposit to pay for non-pet related damage (e.g. water damage from a leak).

NO-PET CLAUSES AND EVICTION



FACT SCENARIO

- Your client has been living in her home for over 10 years. When your client moved in, she signed a tenancy agreement with a no-pets clause. A couple of years later, she got a dog. The previous property management company was aware of her dog, but did not enforce the no-pets clause. However, the new property management company has written to your client to advise that if she does not remove the dog within 30 days, she will be evicted.
- What are your client's rights in this scenario? How would you assist your client?

VIOLATING A NO-PET CLAUSE

- Tenants sometimes choose to get a pet despite a no-pet clause in their tenancy agreement. Can this be a basis for eviction?
- See RTB Policy Guideline 28
- Factors to consider:
 - Was the no-pet clause varied by verbal or written agreement?
 - Was the no-pet clause a material term of the tenancy agreement?
 - Was there an implied waiver of enforcement?

VARIATIONS

- If the tenant can prove that the no-pet clause was varied by written or verbal agreement to allow pets, the new agreement will prevail.
- Tenants should always seek to put changes to the tenancy agreement in writing.

ORDINARY V MATERIAL TERM

- Whether a no-pets clause is a material term may depend on the language of the tenancy agreement and the subsequent actions of the landlord or the landlord's agent.
- A delay in enforcing a no-pets clause does not automatically preclude the landlord from insisting on compliance. However, it may suggest that the landlord does not consider the pets clause to be a material term of the tenancy agreement.
- A change in management, resulting in the enforcement of a no-pets clause after the previous management did not enforce it, is not sufficient to establish that a no-pets clause has become material term: see RTB Decision #2096_112011

IMPLIED WAIVER

- If a landlord is aware of a breach of a no-pet clause and does not insist on compliance and does something which clearly indicates that the pet is acceptable, this is called a “waiver.”
- This is not a waiver of the no-pets clause itself, but only a waiver of the landlord’s right to end the tenancy on the basis of a breach of the clause.

TENANTS WITH DISABILITIES & ANIMALS



FACT SCENARIO

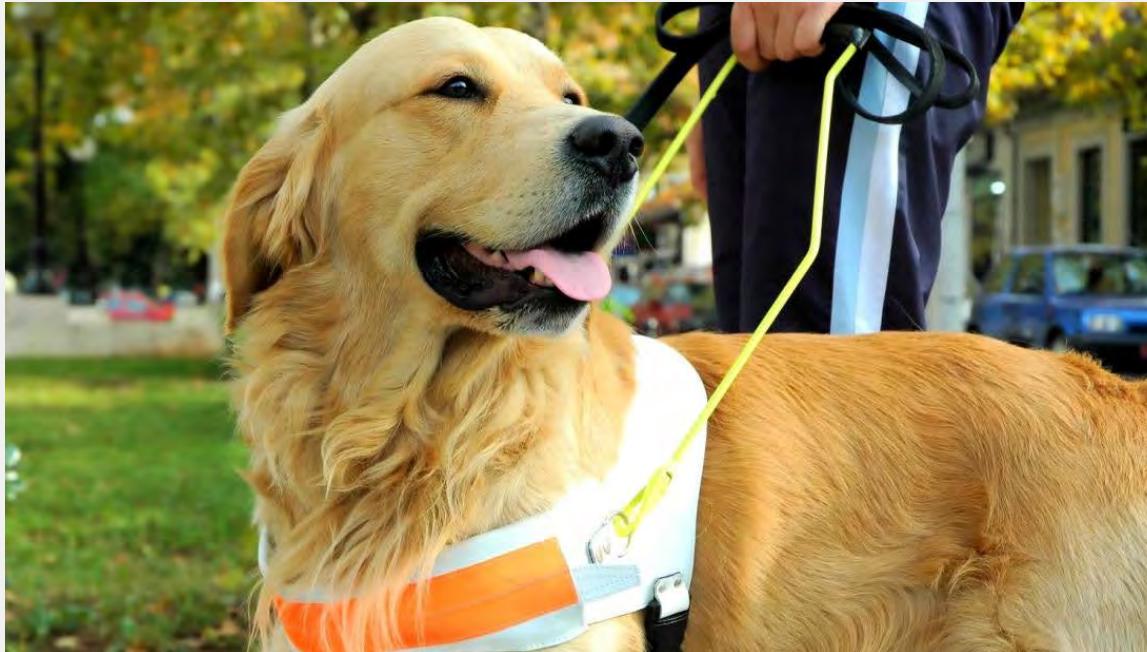
- Your client has physical and mental disabilities and wants a service dog to help her meet her disability-related needs, including preventing anxiety attacks. She has inquired about obtaining a certified service dog from an accredited school, such as PADS. However, PADS has closed its waitlist. She wants to train a puppy to become a service dog and has connected with a volunteer organization that will help her do the training. She is eager to get started, but her landlord has a no-pets policy.
- What are your client's rights in this scenario? How would you assist your client?

EXCEPTIONS

- One exception is where a tenant has a certified guide dog or service dog under the *Guide Dog and Service Dog Act*.
- Another exception is where a tenant has a support animal that meets their disability-related needs, pursuant to the *BC Human Rights Code*.



GUIDE DOGS AND SERVICE DOGS



DEFINITIONS

- **Guide dog:** a dog that is trained as a guide for a blind person and is certified as a guide dog. A guide dog team consists a blind person and a guide dog that are certified as a guide dog team.
- **Service dog:** is a dog that is trained to perform specific tasks to assist a person with a disability and is certified as a service dog. A service dog team consists of a person with a disability and a service dog that are certified as a service dog team.
- **Dog-in-training:** a dog that is being trained by a dog trainer to become a guide dog or service dog and is certified as a dog in training.
- **Retired guide or service dog team:** an individual and a dog that were previously members of the same guide dog team and that are living together and are certified as a retired guide or service dog team.

CERTIFICATION IS KEY

- There are two ways to gain access to a certified guide or service dog in British Columbia:
 - Receive a trained dog from an accredited school
 - Pass a public safety test
- Misrepresenting a dog as a certified guide or service dog is an offence under the Act, punishable with a fine of up to \$3000.

TENANCY RIGHTS OF GUIDE OR SERVICE DOGS

- Landlords are not allowed to deny tenancy to a guide or service dog team, or impose discriminatory terms or conditions on their tenancy.
 - The only exception is where the tenant will be sharing sleeping, bathroom or cooking spaces with an individual from another family.
- Retired guide or service dog teams enjoy the same tenancy protections as guide or service dog teams.
- However, a dog-in-training team does not have any tenancy protections.

UNCERTIFIED SUPPORT ANIMALS



TENANCY RIGHTS

- A tenant with disabilities may have the right to have an uncertified support animal under the BC *Human Rights Code*.
- Landlords have the duty to accommodate tenants with disabilities to the point of undue hardship.
- Where a tenant has disabilities and their animal helps them meet their disability-related needs, the landlord must allow the animal unless the landlord can establish that doing so will cause them undue hardship.

HUMAN RIGHTS CASE LAW

- Whether or not a dog is certified under the *Guide Dog and Service Dog Act* is not relevant in the human rights context: see *Devine v david burr Ltd. and others (No. 2)*, 2010 BCHRT 37 at para 108.
- In order to establish a *prima facie* case of discrimination, the tenant is not required to prove that they “cannot live without” a support animal. Rather, they must prove that due to their disabilities, not having a support animal would result in an adverse impact: see *Judd v Strata Plan LMS 737*, 2010 BCHRT 276 at para. 32.
- A tenant may also establish *prima facie* discrimination where not having a support animal would put them at significant risk of an adverse impact: see *BH obo CH v. Creekside Estates Strata KAS 1707 and another*, 2016 BCHRT 100
- The duty to accommodate can include permitting a tenant to live with a puppy-in-training: see *Tenant X v Rosegate Strata Corporation NW 2402 and another*, 2015 BCHRT 161.

DOES THE TYPE OF ANIMAL MATTER?



THAT DEPENDS...

- Of course, only dogs are covered by the *Guide Dog and Service Dog Act*.
- For the purposes of the BC *Human Rights Code*, the test does not hinge on the type of support animal. Rather, the person must establish a connection between their disabilities and an adverse impact (or significant risk of adverse impact) of not having the animal in question.
- Some animals' attributes lend more to assisting with disability-related needs than others'. However, the ultimate determination of whether there is human rights protection depends on the individual circumstances of the case.

AW



SUPPORTING ANIMALS DURING CRISIS



FACT SCENARIO

- Your client became homeless after eviction. She has a cat and her cat is living in a cat carrier. Your client is struggling to secure housing and does not want to give up her beloved cat. You don't want to see this happen either.
- What advice would you give your client? How would you assist her?

ONE MONTH AGO AT ATIRA...



BC SPCA HAS POWER TO SEIZE

- The BC SPCA can seize where it concludes that the animal is abandoned or is in distress.
- An abandoned animal includes an animal that is found straying or that is found in a rental property after a tenancy agreement has expired. An animal in distress is defined as an animal that is:
 - (a)deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
 - (a.1)kept in conditions that are unsanitary,
 - (a.2)not protected from excessive heat or cold,
 - (b)injured, sick, in pain or suffering, or
 - (c)abused or neglected.

GETTING YOUR SEIZED ANIMAL BACK

- Where an animal is seized, the BC SPCA is required to give the owner notice that the BC SPCA may destroy, sell, or otherwise dispose of the animal and that the owner has a right to request a review of the decision.
- The owner has 4 days to request the review where the animal was seized because it was viewed as abandoned, and 14 days where the animal was seized because it was viewed as in distress.
- Following the review, the BC SPCA may return the animal with or without conditions, or may affirm its notice that the animal will be destroyed, sold or otherwise disposed of.

THE REVIEW PROCESS

- The BC SPCA's current review process is to prepare a disclosure package and then to invite submissions from the owner concerning the return of the animals.
- The BC SPCA considers the owner's submissions in light of its investigation results to determine whether it is in the animal's best interests to be returned to its owner.
- The BC SPCA is required to issue written reasons for its review decision. There is a right of appeal.

APPEALS AND JUDICIAL REVIEWS

- An owner has the right to appeal review decisions by the BC SPCA to the British Columbia Farm Industry Review Board (BCFIRB).
- The owner has 4 days from the receipt of the written decision to submit the appeal.
- The BCFIRB does not conduct appeals like true appeals. It has broad evidentiary, investigation, inquiry and remedial powers **and is not required to show deference to BC SPCA decisions**: see *A.B. v British Columbia Society for the Prevention of Cruelty to Animals* (August 9, 2013), upheld by the BC Supreme Court on judicial review.
- A decision by the BCFIRB can be judicially reviewed. The standard of review is a “reasonableness” standard.

PREVENTION IS BEST

- Some BCSPCA shelters may be able to provide temporary care to a pet under certain emergency circumstances. You can contact your local shelter to discuss options. However, exercise caution given the BC SPCA's powers to seize.
- Charlie's pet food bank provides free and low cost pet food, items and services in Vancouver's Downtown Eastside for people who are homeless, living outdoors, low-income and seniors.
- Charlie's free vet clinic provides free veterinarian services in Vancouver's Downtown Eastside to people who are homeless or living in an SRO.
- Charlie's pet food bank and Charlie's free vet clinic are located at 543 Powell Street.

WE LOVE ANIMALS!