

BENEFIT INTERACTIONS

Kevin Love and Alison Ward, lawyers
Community Legal Assistance Society
November 12, 2020



What We Will Do

- Look at how the most common benefits interact.
- Look at how the new federal benefits and expanded EI may impact other benefits.
- Look at how to maximize what goes into your clients' pocket and how to avoid problems.

So Many Different Benefits! List of Short-Forms

- Canada Recovery Benefit (CRB), Canada Recovery Sickness Benefit (CRSB), Canada Recovery Caregiving Benefit (CRCB)
- Canada Emergency Response Benefit (CERB)
- Income Assistance (IA) and Hardship Assistance (HA)
- Disability Assistance (DA) for Persons with Disability (PWD)
- Canada Pension Plan (CPP)
- Disability Tax Credit (DTC)
- Old Age Security (OAS) / Guaranteed Income Supplement (GIS)
- Employment Insurance (EI)
- Workers' Compensation Board (WCB)
- Canada Child Benefit (CCB)

No Universal Definition of “Disability” For Benefits and Pensions

- PWD:
 - Severe mental or physical impairment
 - Severity assessed based restriction of ability to perform daily living activities
 - At least 2 years
- CPP-D:
 - Severe and prolonged
 - Severity assessed based on long term employability. Is person incapable regularly of pursuing any substantially gainful occupation?
 - Prolonged means long continued or indefinite duration
- EI sickness:
 - Unable to work because of injury, illness, or quarantine
 - Focus is short term, must last at least 7 days
- WCB
 - Only covers work related injury and disability
 - Must (usually) be disabled from earning full wages, but DO NOT need to be totally unable to work
 - No minimum duration of injury or disability

Clients on Income or Disability Assistance

- Ministry (MSDPR) generally sees themselves as payor of last resort. Most other (but not all) benefits deducted.
- Changed somewhat (for now) with COVID
 - People now allowed to keep some additional benefits without deduction.

Current MSDPR Income Treatment and Interaction

1. Temporary changes - COVID-19

OTHER BENEFIT

TREATMENT

All Canada Recovery Benefits	<ul style="list-style-type: none"> • Exempt if on assistance or had PWD designation on April 2, 2020 • Unearned if not, deducted dollar for dollar
EI regular and sickness	<ul style="list-style-type: none"> • Exempt if on assistance or had PWD designation on April 2, 2020 • Unearned if not, deducted dollar for dollar
CERB	<ul style="list-style-type: none"> • Exempt if on assistance or had PWD designation on April 2, 2020 • Unearned if not, deducted dollar for dollar
Federal one time benefit paid to seniors on OAS and GIS	<ul style="list-style-type: none"> • Exempt as income & an asset for all forms of welfare (IA, HA, DA) • \$300 for seniors eligible in June 2020 for OAS only • An additional \$200 for seniors eligible in June 2020 for GIS
Federal one time benefit of \$600 paid to some people with disabilities	<ul style="list-style-type: none"> • Exempt as income for all forms of welfare (IA, HA, DA) • Paid to people on CPPD as of July 1, • OR who were receiving a Veteran's disability support on July 1 • OR who apply for the DTC by <u>DECEMBER 31/20</u> (new deadline, recently extended, old deadline was Sept 25, 2020)

Current MSDPR benefits and interactions Temporary COVID-19 \$300 supplement

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

Who is **NOT** eligible for the \$300/ month supplement?

People on welfare who receive EI, CERB or any Recovery Benefit .

The supplement is payable to all other recipients of

- Income Assistance
- Disability Assistance
- Comforts Allowance (i.e. people in special care facilities); and
- BC Senior's Supplement

Current MSDPR Income Treatment 2. Standard rules

OTHER BENEFIT

TREATMENT

- | | |
|---|--|
| <p>EI pregnancy, parental, compassionate care for critically ill child</p> | <ul style="list-style-type: none"> • Exempt as income & an asset for all forms of welfare(IA, DA, HA) |
| <p>Canada Pension Plan (disability, retirement and early retirement)</p> | <ul style="list-style-type: none"> • Unearned income, deducted dollar for dollar • Lump sums (retro) are income in month received, unless assigned to MSDPR via Consent to Deduction and Payment form |
| <p>Canada Pension Plan (orphan’s benefits, disabled contributor’s child benefit</p> | <ul style="list-style-type: none"> • Exempt income for all forms of welfare |
| <p>WCB Temporary Disability (Wage Loss)</p> | <ul style="list-style-type: none"> • IA: Unearned Income, deducted dollar for dollar • DA: Qualifying income, exempt up to AEE |
| <p>WCB Permanent Disability (Pension)</p> | <ul style="list-style-type: none"> • Unearned income, deducted dollar for dollar from IA and DA • Lump sums (commuted pension) only income in month received <ul style="list-style-type: none"> • <i>may</i> be able to argue the lump sum is exempt as income up to the family unit’s asset exemption level |

Income \ Disability Assistance and EI

- With Covid, EI entrance requirement down to 120 hours of insurable employment.
- Many more IA \ DA recipients may now qualify for EI.
- Worthwhile: EI pays a minimum of \$500 for minimum of 26 weeks.
- All EI benefits exempt from deduction until March 1, 2021, **if** family unit was eligible for assistance or had the PWD designation on April 2/20.
 - Usually only EI pregnancy, parental, and benefits to care for critically ill child are exempt.
- If EI/CRB will be exempt for someone on IA/DA, they can continue getting regular assistance while they apply for EI/CRB
 - If EI/CRB will not be exempt for someone, can only receive repayable hardship assistance while waiting for EI/CRB.

Income \ Disability Assistance and Recovery Benefits

- Key date is April 2, 2020.
- Exempt if getting assistance or had PWD designation on this date, deducted if not.
- Clients who are **NOT** eligible for CRB or EI get \$300 top-up until December 2020 (for January 2021 benefit month)

Bruce

- Bruce is collecting DA. He supplements his income working construction for the Johnstown Company. But lately there ain't that much work on account of the economy. Bruce was laid off last week and wants to know his options.
- What questions would you ask Bruce?

Bruce

- Bruce tells you he has had a PWD designation since 2016. He has been working for Johnstown consistently for about two years. He doesn't work much, likely about 3 hours a week earning \$15 an hour.
- What would you tell Bruce?

PWD and CPP-D

- Definition of “disability” not the same: CPP-D requires severe and prolonged disability, meaning incapable regularly of pursuing any substantially gainful occupation.
- CPP D is a contributory scheme. Must have made enough CPP contributions through work, recently enough to onset of disability (MQP)
- Monthly CPP-D is deducted dollar for dollar from IA, DA, and HA.
- Obligation to apply for CPP-D (to pursue income that can make someone at least partly independent of welfare). MSDPR screens for recipients who might qualify for CPP-D benefits and can require them to apply.
- MSDPR can force a recipient of IA, DA or HA to sign a Consent to Deduction and Payment form (s 9, EA Regulation; s 7, EAPD Regulation).

PWD and CPP-D Practice Points

1. Medical Services Only eligibility

- Generally want to apply for PWD designation and get DA before CPP-D.
- If you receive the PWD designation and then apply successfully for CPP-D, you keep “**medical services only**” status with MSDPR even if your CPP-D rate is higher than PWD rate.
- “medical services only” status gives access to most (but not all) Schedule C health benefits (e.g. including medical equipment, medical supplies, dental, optical, medical transportation, physio/chiro etc. MSO does not include diet supplements, monthly nutritional supplement, natal supplements, etc)
- One caution: Max CPP-D retro is 15 months. If you delay CPP-D application date to apply for PWD/DA first, the person may lose out on some months of retro CPP-D benefits.
- If client getting CPP-D, there is a very simple two-page form to apply for PWD. But if the person applies for CPP-D first and their CPP-D rate is above the PWD rate, client will not be eligible for anything from MSDPR (including medical services only).

PWD and CPP-D Practice Points

2. Retro CPPD lump sum and DA

- Should apply for CPP-D *proactively* once on DA.
- If not, MSDPR may ask the client to apply for CPP-D and require a client to sign a “Consent to Deduction and Payment” form.
- Once signed, the form means any retro CPP benefits for period when client was on PWD are paid to MSDPR (not the client).
- If client applies for CPP-D on their own initiative, client keeps any retro CPP-D, except that retro CPP-D is considered unearned income in the month received.

Rosalita

- Rosalita was diagnosed with a very serious, long-term illness. She has been off work for a while now. She kept hoping things would get better, but now she’s not so sure. She has no income and needs financial help going forward.
- What questions would you ask Rosalita?

Rosalita

- Rosalita tells you she went off work because of the illness in January of 2019. She tried going back to work last February but that only lasted about a week before her doctors told her to stop.
- Before getting sick, she had worked for 20 years earning about \$55 000 per year. She has \$7 000 left in the bank. She is worried about her future.
- What would you tell Rosalita?

I'm on CPP D – how do other Federal Benefits affect CPP D benefits?

- EI and CRB now pay a flat rate of \$500 per week, which is more than the maximum monthly CPP-D rate.
- CPP-D eligibility does not require the recipient to do absolutely no work. You can have the capacity to do *some* work and remain eligible for CPP-D.
- Entrance requirements for EI (120 hours) and CRB (\$5,000 earned) very much attainable.
- CPP-D is not deducted from EI or CRB (or vice versa)

CPP-D and Other Federal Benefits: Potential Problems

- EI and CRB both require past work history and a future job search.
- Could put CPP-D at risk by admitting ability to work.
- Must tell CPP if you are earning more than \$5,800 (for 2020). Case will be reviewed.
- If CPP determines you are regularly capable of earning at least \$16,651.92, will be cut off.

Wendy

- Wendy has been on CPP-D since a car crash in which she sustained serious head, knee, and back injuries. To earn a little extra money she sometimes pet-sits for people while they are out of town. People used to drop off their dogs at her house and pay her in cash. She never told anyone she does this or filed a tax return.
- With the new restrictions in Vancouver in November, people have stopped bringing their dogs to her. Wendy has heard about the new money from the federal government and wonders whether it could help.
- What questions would you ask Wendy?

Wendy

- Wendy tells you she charges about \$50 a day. She figures she was taking care of a dog on average about three days a week up to November. Part of the job includes taking the dogs for a walk and to the vet if needed.
- What would you tell Wendy?

CPP-D and WCB

- WCB only for work-related injury, disease, or disability.
- Fact that client is totally disabled for CPP-D purposes does not necessarily mean that all disability is due to work.
- WCB deducts 50% of CPP-D benefits paid with respect to work component of injury.
- Example: If WCB finds client 30% disabled from work accident, WCB will deduct an amount equal to 15% of CPP-D benefits.

Benefits For People 65 and Older

- Federal income supports:
 - CPP, OAS, GIS.
 - But EI and CRB now more important.
- Provincial income supports:
 - BC Seniors supplement.
 - sometimes IA and DA.
- Many other programs for housing, health care.

Federal Benefits for People 65 and Over

- **CPP Retirement:** Based on contributions.
- **OAS:** Based on years of residency
 - Partial OAS: minimum 10 years residency in Canada and have legal status in Canada when your application is approved (citizenship, permanent resident status or temporary resident's permit).
 - If less than 10 years residency, may still qualify if worked in a country that Canada has a "social security agreement" with
 - Full OAS: 40 years residency in Canada and have legal status as above. Current max OAS is \$614.14 per month.
 - income only a factor if net income is above \$79,054/year (2020).
- **GIS:** Based on low-income, and only if also eligible for OAS

Federal Benefits for People 65 and Older: Can Pensioners Qualify For EI or CRB?

- Yes, if adequate work hours or earnings
- CPP Retirement is not deducted from CRB, but it also does not count towards the \$5,000 to qualify.
- CPP retirement **is** deducted from EI if qualifying hours were worked before pension started.
- CPP retirement is **NOT** deducted from EI if qualifying hours were worked after pension started and while pension was paid.

Federal Benefits for People 65 and Older: Possible GIS Reduction

- EI, CRB, and CERB are taxable income and may reduce future GIS payments.
- GIS payment cycle starts in July and is based on income in previous calendar year.
 - For single people (2020) GIS payable if net income (excluding OAS) is below \$18,600
 - For couples where both on full OAS, if net income (excluding OAS) up to \$24,576
 - Each \$2 of income (other than OAS) generally reduces GIS by \$1.
- EI, CRB, and CERB payments from year 2020 may impact GIS payment starting in July 2021 (to June 2022)

Benefits for People 65 and Older GIS : changes in income

- Service Canada can sometimes use an estimate of the current year's income to calculate a GIS rate instead of using prior year's tax return (e.g. 2020 tax return used to calculate GIS July 2021 to June 2022)
- This can happen when a person's regularly recurring income has been reduced or stopped since taxes were filed
 - This includes loss or reduction of pension income and income from any employment or any business.
 - It is possible (but not certain) that loss or reduction of EI, CERB and CRB *may* also be considered a relevant change.
 - Change in marital status (e.g separation) also relevant
- Contact Service Canada and request a form to estimate current year's income

Sonny

- Sonny is now retired. However, to supplement his income and to stay busy he still covers the odd shift at a small grocery store when one of the usual staff is away. The grocery store stayed open despite COVID and Sonny kept working as usual. However, last week the store own told Sonny that she is closing for good so there won't be any more work for him.
- What questions would you ask Sonny?

Sonny

- Sonny says he turned 65 and started getting CPP retirement in April of 2018. Since then he figures he covered about 2 shifts a month (8 hours each) and makes about \$15 an hour. He says he likes to keep busy so will be looking for some other work to do.
- What would you tell Sonny?

Benefits for People 65 and Older Provincial Benefits

- no maximum age criteria for welfare
- someone 65 and over who is not eligible for federal seniors' benefits (e.g. lived in Canada less than 10 years) can receive IA/DA if meet other standard eligibility conditions
- Seniors who receive OAS and GIS also may qualify for a monthly "senior's supplement" from MSDPR. People receiving the federal Allowance (60 to 64, spouse receives OAS and GIS) may also qualify for the senior's supplement.
 - Senior's supplement maximum rate is \$49.30 per single senior and \$120.50 for senior couples.
- Important this year as senior's supplement now also gives access to \$300/month Covid supplement from MSDPR

Benefits for People 65 and Older Provincial Senior's Supplement

- EA Regulation s 64: people on GIS or the Allowance qualify
- Supposed to be automatic, don't need to apply. Service Canada shares information with MSDPR. Senior's supplement supposed to start the month after someone is found eligible for the GIS or the Allowance.
- If anything interrupts GIS eligibility, it will also interrupt Senior's supplement eligibility
 - e.g. taxes filed after April 30;
 - income in a taxation year that puts someone over the GIS income limit (e.g. cashing RRSPs, increased employment income, receiving EI benefits, CERB etc)
 - If restore GIS eligibility (e.g. by asking for estimate of current year's income to be used instead of tax year) should also restore senior's supplement eligibility
- If errors, can receive up to 12 months of retroactive senior's supplement.
- Refusal of senior's supplement can be reconsidered and appealed

QUESTIONS?