

# POSITION PAPER ON FEDERAL INCOME SECURITY PROGRAMS

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## Providing a Rationale

According to the Parliamentary Sub-Committee on the Status of Persons with Disabilities (2001),<sup>1</sup> approximately half a million persons with disabilities are attached to the so-called system of income support in Canada. As members of the broader disability community, persons with serious mental illness<sup>2</sup> experience high degrees of discrimination in the workplace and significant barriers to accessing meaningful paid employment. Given the cyclical, episodic and unpredictable nature of serious mental illness, establishing a long-term and stable employment history can be met with formidable challenges. Systemic exclusion from the workforce often results in chronic unemployment, underemployment and dependency on income security programs for survival.

In theory, the Canadian income safety net was created in order to ensure that financial assistance is available where it is needed most. One of the basic building blocks for achieving full citizenship is access to enough income to adequately meet one's needs. According to the framework document entitled *In Unison: A Canadian Approach to Disability Issues* (1998), persons with disabilities have the right to full citizenship, "that is participation in society, fulfillment of basic needs, opportunities to contribute and the support to exercise self-determination in order to have a decent quality of life." *In Unison* projects a vision of Canadian society based on the values of equality, inclusion and independence in which persons with disabilities are full citizens. In reality, consumers, service providers, disability advocates, employers and policy analysts have collectively provided us with a grim picture of an income support scheme that allows thousands – possibly hundreds of thousands – of Canadians with disabilities to fall through the cracks. This statistic includes persons with serious mental illness. It is the policies associated with these programs that make it difficult for consumers to access and benefit from them.

This brings us to the focus of this paper. As a national health organization, we are committed to taking a leadership role on matters of social policy which impact on mental health issues. While certain Federal programs (such as Canada Pension Plan-Disability) have been critiqued from a cross-disability perspective by organizations such as the Council of Canadians with Disabilities (1997), there was, in general, little emphasis on psychiatrically disabled persons. The time has come to place the issues of people with serious mental illness on the Federal income support agenda. While there are certainly common concerns shared by all members of the disability community, there are also some unique barriers specific to people with serious mental illness. It is hoped that this document will provide a thorough understanding of how current

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<sup>1</sup> This is a sub-committee of the Standing Committee on Human Resources Development and the Status of Persons with Disabilities.

<sup>2</sup> The terms *serious mental illness*, *psychiatric disability* and *consumer* will be used interchangeably throughout this report to refer to an individual who is a past and/or present user of the mental health system.

Federal income security programs operate in order to identify ways they might be improved so that people with serious mental illness can have access to adequate income and a decent quality of life. The policy recommendations put forward in this document are intended for use as advocacy tools, and may suggest opportunities for collaboration with other national disability groups.

## **Setting the Context**

Throughout the 1990's, the Federal government placed issues related to disability (e.g. the development of a National Disability Strategy) low on its agenda. Within this political context, Federal income security programs experienced significant cuts in terms of both coverage and benefits as eligibility criteria became more restrictive and maximum entitlements were reduced. These deep cuts had a ripple effect on provincial social security systems. As a greater number of people with serious mental illness were denied eligibility for Federal income security programs, they became more dependent on provincial social assistance. This downloading of responsibilities from the Federal to Provincial governments contributed to the financial pressure on the provinces/territories to ultimately curb social assistance programs.

In its present state, the income security "system" in Canada can be most accurately described as a complex maze of the following disconnected programs:

- Contributory social insurance programs (e.g. Workers' Compensation, Employment Insurance [EI], Canada Pension Plan-Disability [CPP-D]);
- Contributory private individual and group insurance programs provided through employers (e.g. long-term group disability insurance);
- Non-contributory programs (e.g. provincial assistance/ welfare programs) and the
- Tort system (whereby an injured party turns to the legal system to sue for compensation; deals largely with physical injury).

Persons with serious mental illness can receive income support concurrently from a number of different sources. Eligibility depends on a variety of variables such as where and how the person became disabled as well as the nature and severity of the disability. In actuality, consumers find themselves caught in a jurisdictional tangle between Federal and Provincial government involvement in the funding and management of these various programs. While Federal and Provincial programs operate independently of one another according to their own rules and guidelines, they are not administered within a vacuum. For instance, eligibility at the Federal level may influence whether one receives additional income at the Provincial level.

Since CMHA is a national not-for-profit organization that addresses Federal government policy, this paper will focus primarily on three Federal income security programs, namely, *Canada Pension Plan-Disability (CPP-D)*, *Employment Insurance (EI)* and the *Disability Tax Credit (DTC)*.<sup>3</sup>

**Table 1: Overview of Federal Income Security Programs**

CONTRIBUTORY PROGRAMS	Source of Income Security	Length of Eligibility	Target Population	Benefits Received*
	Canada Pension Plan-Disability (CPP-D)	Long-term earnings replacement	Persons with severe and prolonged physical or mental <b>disabilities</b> (minimum duration of one year)	Maximum: \$917.43/month Average: \$676.33/month
	Employment Insurance (EI)	Short-term earnings replacement	Working Canadians- <b>(general public)</b>	Maximum: \$413.00/week
	Non-refundable Disability Tax Credit (DTC)	Apply for credit when filing income tax return – Approval is received for a period of time (varies across individuals) – Do not need to re-apply each year	Persons with severe and prolonged physical or mental <b>disabilities</b> that cause them to be markedly restricted in any of the basic activities of daily living	\$4293.00/year deducted from income

\*Based on year 2000

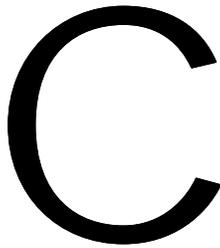
As illustrated in Table 1 above, the Federal income security programs under review are all classified as “contributory programs”. By definition, this means that individuals have worked for a designated period of time and contributed to these programs (specifically, CPP-D and EI) through earnings deductions. The non-refundable Disability Tax Credit assumes that the claimant or his/her spouse have taxable income which was earned through employment opportunities.

Before launching into a critical analysis of each program, it is important to be mindful of the fact that many consumers of mental health services have limited work histories. This illness often strikes in early adulthood at a time when education, job skills and careers are being developed. For this reason, many of these individuals are not eligible for the above programs due to insufficient

<sup>3</sup> Contributory private disability insurance plans, as a source of income support, will not be explored in this document.

contributions. Out of necessity, many turn to Provincial social assistance programs for support.<sup>4</sup>

*THE FOLLOWING SECTIONS EXPLORE ISSUES RELATED TO CANADA PENSION PLAN-DISABILITY, EMPLOYMENT INSURANCE AND DISABILITY TAX CREDIT IN TURN.*



## **Canada Pension Plan-Disability (CPP-D)**

*has not recognized the fundamental realities of many people who live with a disability. It does not have human measures in place to provide prompt service; it does not adequately address the issues of cyclical and degenerative diseases and it does not address the question of mental illness and disability in an appropriate fashion.*

Standing Committee on Human Resources Development and the Status of Persons with Disabilities (June 2001)

### **Basic Facts**



- CPP-Disability is the “first payer” and largest long-term disability benefit provider in Canada.
- It is paid out to contributors between the ages of 18-65 who have made sufficient recent contributions in four out of the last six years prior to the onset of the disability.
- One must have a physical or mental disability that is severe and prolonged (e.g. lasting at least one year) which impairs an individual from pursuing ANY gainful employment on a REGULAR basis.
- Does not look at the diagnosis per se, but rather examines the whole person in terms of functional limitations.
- 66% of initial applications are denied benefits based largely on insufficient earnings.
- The decision making process for processing applications can involve: the initial application review, appeals level I (reconsideration), appeals level II (review tribunal) and appeals level III (pension appeals board).
- HRDC service standards are as follows: 62 days to decide on initial application; 71 days to decide on a reconsideration; one year on average to go through entire three levels of the appeal process.

<sup>4</sup> A review of provincial income support initiatives is beyond the scope of this report. Current publications already exist to address these issues. Contact your provincial Department of Community and Social Services (or equivalent department in your province) for more details.

## IDENTIFIED ISSUES AND POLICY RECOMMENDATIONS

### Issue 1: Definition of Disability

#### i. Permanently Unemployable

A fundamental flaw in the system is the way in which disability benefits are linked to an individual's ability to work<sup>5</sup>. Most persons with serious mental illness are capable of working to some degree, often times on a part-time basis within a flexible employment setting. However, in order to qualify for disability benefits, one must accept the designation of "permanently unemployable" where one declares him/herself as entirely incapable of pursuing ANY employment<sup>6</sup> on a regular basis. Essentially, an "all-or-none" approach has been adopted whereby an individual's work potential is virtually ignored.

It is important to distinguish between the "inability to do ANY work" and the "inability to support oneself". Persons with serious mental illness may be able to work on a part-time and flexible basis to varying degrees of capacity, however this does not mean that they are capable of financially supporting themselves without some form of assistance.

*CPP-Disability puts individuals in a position of having to paint themselves in the worst possible light and define themselves in the most negative way just to convince the worker they actually require assistance. The entire process is based on pathology rather than recovery.*

- a consumer from Manitoba -

#### IDENTIFIED ISSUE

It is time that CPP-Disability reflected today's circumstances, and not those in place over thirty years ago when it was created.

#### POLICY RECOMMENDATION #1

It is recommended that the Government of Canada introduce a disability pension system that incorporates a newly constructed definition of disability that recognizes the work potential of persons with serious mental illness.

<sup>5</sup> This policy was formulated in the mid-1960's within the context of a social environment where persons with disabilities were not expected to be active participants in the workforce. Recent medical progress in the treatment of disease or injury and enabling technology have made it increasingly possible for disabled people to become involved in community activities, including seeking higher education and employment opportunities.

<sup>6</sup> CPP-Disability bases its assessment on "functional ability". They may determine that a person is capable of doing light secretarial work for 4 hours/day, but this decision does not take into account whether this individual has adequate English language or math skills. There is not a "reality check" as to whether anyone is actually going to employ this person. CPP-D's focus is on employability, rather than the availability of jobs.

**IDENTIFIED ISSUE**

There is a need to recognize that persons with serious mental illness can work, often times on a part-time basis. This does not, however, suggest these individuals are necessarily capable of achieving full financial independence.

**POLICY RECOMMENDATION #2**

It is recommended that the Government of Canada introduce a disability pension system that endorses “a scale of allowable earnings” policy as a means of recognizing the work potential of persons with serious mental illness. CPP-Disability could pay “partial or reduced benefits” rather than full benefits to enable persons with serious mental illness to work part-time and still retain a portion of their benefits.

ii. **Chronic Versus Episodic Illnesses**

Since the program’s inception, this definition of disability has failed to recognize that severe disabilities may be chronic and recurrent rather than continuous. For the past 35 years, mental health consumers have faced many obstacles in qualifying for CPP-Disability given the cyclical, episodic and unpredictable nature of mental illnesses. There is hope, however, that this may be changing in light of a recently released policy guideline<sup>7</sup> (in May 2001) on CPP-Disability, titled the “Allowable Earnings Initiative”, which explicitly states the following:

*‘...a significant minority will have the opportunity and desire to participate in some form of work activity because it gives them a connection to the community and a feeling of self-worth...particularly those with severe illnesses of a cyclical nature, may alternate between periods of work activity and periods when they cannot work – periods when income support is required. The CPP-Disability program, in its intent and policies, is able to assist these clients to achieve the level of work activity that they are capable of.’*

This is undoubtedly an encouraging step forwards in terms of recognizing the unique needs of persons with serious mental illness. Time alone will allow us to assess how effectively this new policy translates into practice. Without a question, consumers are optimally positioned to inform us on these issues and the importance of tapping into their experiential knowledge in this area cannot be overstated.

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<sup>7</sup> This policy guideline was released by the Program Policy and Planning Division of the Income Security Programs Department in May 2001, but has not been made public as of yet. There are plans to produce a client newsletter by December 2001 to notify current benefit recipients about the new policy initiative that will be considered retroactive to May 2001.

**IDENTIFIED ISSUE**

There is a need for an income support program that ensures that persons with serious mental illness are able to benefit from employment when possible without losing access to income support when unemployed and ill.

**POLICY RECOMMENDATION #3**

It is recommended that the Government of Canada introduce a pension policy that is flexible enough to respond to changing circumstances such as fluctuating health and the ability to work.

**IDENTIFIED ISSUE**

In order to ensure that policy directives are clearly understood and consistently implemented, there is a need to establish efficient and effective communication pathways between those developing CPP-Disability policy guidelines and those enforcing them.

**POLICY RECOMMENDATION #4**

It is recommended that the Government of Canada make certain that both existing and new policy guidelines (i.e. "Allowable Earnings Initiative") are adequately communicated to the appropriate gatekeepers throughout the system.

**Issue 2: The Application Process****i. Contribution Requirements**

Effective in January 1998, eligibility was restricted to those claimants who have contributed in four of the last six years. Previously, the threshold was five of the last ten years, or two of the last three. Therefore, a person must now work for a longer period of time in order to qualify for benefits. The numbers of people approved for CPP-D across Canada is currently at levels similar to those in the early 1980's. The rationale for these changes was the need to ensure the sustainability of CPP funding in future years. However, these legislative changes have had a significantly adverse effect on persons with serious mental illness. Many are still striving to create a work history and tend to have a limited attachment to the labor force. What if a person paid in for many years at a full-time rate, but only part-time in the past few years?

**IDENTIFIED ISSUE**

Since Bill C-2 was enacted in January 1998, there has been a 50% reduction in the number of approved CPP-Disability applications. This figure is likely to be even higher amongst consumers of mental health services who tend to have a limited and sporadic attachment to the labor market in response to dealing with the cyclical and recurring nature of their illness.

**POLICY RECOMMENDATION #5**

It is recommended that the Government of Canada reconsider these cutbacks and widen CPP eligibility requirements to be more inclusive of persons with serious mental illness who have histories of chronic unemployment and underemployment.

**ii. Lack of Consistent, Clear and Accessible Program Information for Applicants**

Many consumers do not even reach the application stage due to a myriad of reasons such as the complexity of the contribution rules, language barriers and paranoia around leaving one's apartment to fill out the initial application forms.

There are virtually no written policies or procedures for understanding how CPP-D processes and reviews applications. As a result, there are reported inconsistencies and real discrepancies across regions in terms of how claims are being processed and how decisions are being made.

An astounding 66% of initial applications are denied eligibility.<sup>8</sup> There are concerns that a person's "disability status" is being determined by CPP-Disability gatekeepers who have never even seen nor spoken to the applicant under review. In other instances, individuals may not meet the contribution requirements but have been inappropriately pressured by either the Provincial government or private disability insurance plans to submit an application to CPP-Disability given the "first payer" status of this program. Interesting, almost two-thirds of those rejected do not apply for a reconsideration of their application. Yet, there is no follow-up data on the reasons for this. Did these individuals simply not qualify in the first place and accept this ruling, or is the system designed to discourage individuals from pursuing their rightful claims?

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<sup>8</sup> According to the Canadian Alliance on Mental Illness and Mental Health (CAMIMH), this figure is a conservative estimate. They believe that the proportion of those with serious mental illness whose applications are rejected is much higher than the 66% quoted for the general pool of applicants with disabilities.

**IDENTIFIED ISSUE**

Presently, consumers have to be fortunate enough to find non-institutionalized support in the goodwill of a health care professional, family member, friend or peer. More often than not, these supports are limited in their availability due to other competing demands on their time. As well, these individuals may not have the knowledge, skills or experience to deal with the complexity of the issues at hand. Providing access to an individual advocate to guide people through the process could help to make the system more transparent and “consumer friendly”.

**POLICY RECOMMENDATION #6**

It is recommended that the Government of Canada consider providing an advocacy-based service to consumers during the initial application and appeals process.

**IDENTIFIED ISSUE**

There are real discrepancies in terms of how applications are processed and decisions are made that vary by region and across caseworkers.

**POLICY RECOMMENDATION #7**

It is recommended that the Government of Canada publish clearer and more accessible program guidelines for consumers and service providers, and ensure that they are consistently administered across the country.

**iii. Lack of Clear Application Completion Guidelines for Physicians**

Many physicians do not want to take the time to fill out these forms and many more are not familiar with CPP-Disability’s definition of disability. In many cases, psychiatrists have completed applications forms in the best interests of their patients only to later learn that so many of these individuals were denied eligibility at the initial application stage. CPP-Disability is designed for those with a “severe” and “prolonged” condition. If there is any hint of ambiguity, an application will be turned down. Based on this definition, a psychiatrist needs to be aware that in order for this person to qualify, s/he needs to be given a prognosis that is “guarded” at best. Furthermore, the quality of medical reporting tends to be poor. Physicians are not encouraged to provide a rationale for their conclusions nor document any details about a person’s medical condition that might prove useful to the decision-makers involved.

Applicants who are not under the care of a psychiatrist are at a significant disadvantage, since CPP-Disability puts a lot of weight on the professional

opinion of psychiatrists as opposed to family doctors. Many consumers and service providers alike do not realize that the probability of approval is higher should the supporting medical documentation be completed by a psychiatrist.

*The entire application process puts most of the power in the hands of the doctor who is filling out the documentation. Eligibility criteria is based on a person's functionality rather than what is needed for the person to attain quality of life and to live successfully in the community.*

- a consumer from Ontario -

The majority of consumers are also unaware that non-compliance with doctor's orders will work against their case. An individual must demonstrate that they are following through with the recommended treatment plan in order to not jeopardize their application form. These unspoken rules and regulations do not take into account the realities of living with mental illness such as the intolerable side effects often associated with medication compliance or the stage of denial that many consumers experience following a psychiatric diagnosis. And then there are those doctors' fees for completion of application forms that many consumers cannot afford to pay.

#### **IDENTIFIED ISSUE**

It is critical that CPP's "definition of disability" be made more transparent to physicians across this country so that they fully understand the fundamental importance of using the correct language when completing an application form. There are significant repercussions to statements like "s/he can't work *at this time*" which physicians may not be currently aware of.

#### **POLICY RECOMMENDATION #8**

It is recommended that the Government of Canada provide psychiatrists and the larger medical community with a clear and consistent set of guidelines or instructions on how to complete their portion of the CPP-Disability application form.

### **Issue 3: The Review and Appeals Process**

*People who are fearful and suspicious of bureaucracy don't do well with a process that requires two to three rounds of application and appeals...the amount of red tape has gotten worse in the past few years.*

- a consumer advocate from British Columbia -

#### **i. Intimidation, Confusion and Delays**

Consumers who have been through the application and appeals process commonly describe it as 'intimidating, overwhelming and confusing'. It

takes approximately one year to complete an entire appeal process that entails submission of the initial application and three separate levels of appeal (I: reconsideration; II: review tribunal; III: pension appeals board).<sup>9</sup> Only a small number of individuals actually progress through all three stages of appeal since the majority (75%) of those who request a reconsideration of their file (level I appeal) are denied their claim at this first stage. In total, approximately one-third of appellants are successful in overturning an initial decision. For those who are already in a depressed and anxious state, the motivation to appeal is often entirely lost.

Human Resources Development Canada (HRDC) has set forth clear service standards regarding application and appeals processing timelines (e.g. 62 working days to decide on an initial application; 71 days to decide on a reconsideration – appeal level I) The reality is that consumers' lives are put on hold for far greater time periods than these standards allow for.

*I was held hostage by the appeal process that took just over 11 months. During that time, my hands were tied since I couldn't apply for Provincial assistance until the appeal decision was made final. Eventually, out of financial desperation, I had to sell my new car to live off the money, and lost \$7000 in equity on my car.*

- a consumer from Prince Edward Island –

#### **IDENTIFIED ISSUE**

There is no safety net for persons with serious mental illness during the waiting period.

#### **POLICY RECOMMENDATION #9**

It is recommended that the Government of Canada closely follow the timelines established in their service standards protocol for processing initial applications and appeals.

#### **Issue 4: Constant Fear of Losing One's Benefits**

##### **i. Participation in Vocational Rehabilitation Programs**

Since disability is equated with permanent unemployability, individuals on CPP-Disability are highly reluctant to do anything that even resembles work or the pursuit of employment. For instance, people who are interested in vocational rehabilitation are afraid to make the call to seek information through formal CPP channels because it may trigger a reassessment of their medical condition resulting in the fear that their benefits could be lost. Some individuals have even been encouraged to participate in rehabilitation

<sup>9</sup> Of the 66% of initial applicants who are outright denied eligibility, only one-third of these individuals will actually request for their decision to be reconsidered.

measures only to discover later on how difficult it was to get back on CPP-Disability. Essentially, people are penalized for trying to improve their condition even if they are not capable of participating in regular work again.

*There is the perception out there that the rehabilitation agenda has less to do with rehabilitation and more to do with “off loading” people from benefits.*

- a consumer from Alberta -

#### **IDENTIFIED ISSUE**

Rehabilitation and training do not guarantee employment, and therefore should not result in the loss of benefits.

#### **POLICY RECOMMENDATION #10**

It is recommended that the Government of Canada design and implement a disability pension system that provides incentives for persons with serious mental illness to increase their work tolerance and readiness.

#### **ii. Inadequacy of the Three-Month Trial Period**

There is a three-month trial work period that has been arbitrarily set to test an individual’s capacity to return to work. During this time, consumers continue to receive benefits. This trial period has been identified as inadequate for persons with chronic and fluctuating conditions such as mental illness. It is unrealistic to expect someone to get established in a job, adjust to resulting lifestyle changes and balance all this with fluctuating periods of illness and wellness. As well, there is always the fear that if they fail at their employment attempt or their disability recycles itself and returns, that they will not be able to maintain their benefits.

#### **IDENTIFIED ISSUE**

Consumers should not be at risk of losing their benefits should their employment attempt fail.

#### **POLICY RECOMMENDATION #11**

It is recommended that the Government of Canada design and implement a disability pension system where persons with serious mental illness are not penalized after an unsuccessful three-month trial work period.

#### **iii. Fast Tracking Provides No Guarantee of Reinstatement**

The current “fast tracking” application process does not guarantee that CPP-Disability will be reinstated should a person with serious mental illness fail to find employment or lose his/her job after a three-month trial work period. Although there is a fast track process that is written into the policy,

CPP-Disability believes that a person is employable (and therefore no longer eligible) by the very nature of obtaining employment regardless of whether or not they are actually able keep the job.

The fear of losing one's benefits is often strong enough to prevent consumers from even considering re-entry into the workforce if they were to become well enough. *"The risk is just too great!"* is a phrase that is heard repeatedly when talking with consumers about return-to-work strategies. The fast track process takes months and there is no safety net for the individual during this waiting period.

#### IDENTIFIED ISSUE

There is a need to remove the current financial disincentives that are associated with attempts at re-entry into the workforce.

#### POLICY RECOMMENDATION #12

It is recommended that the Government of Canada design and implement a disability pension system that endorses an "immediate" reinstatement policy, rather than a "rapid" one.

# E

## mployment Insurance (EI)

*Act has tightened up eligibility criteria, benefit levels and duration of benefits over the past five years. The Canadian Labor Congress reports that the percentage of unemployed workers covered by the program in 1997 was less than half its level in 1989. Those entering the workforce for the first time or those re-entering the labor market after an absence of two or more years are required to meet an even higher entrance requirement.*

Caledon Institute of Social Policy (September 2000)

#### Basic Facts



- Based on reforms to the EI Act in 1996, eligibility is now calculated on the basis of the number of hours worked rather than the number of weeks worked.
- The benefit rate is set at 55% of a claimant's income over the past 26 weeks prior to filing the claim. The maximum length of a claim has been reduced to 45 weeks.
- To qualify for EI benefits, workers must now put in from 420 to 700 hours (the equivalent of 12 to 20 weeks) depending on the unemployment rate in the region. This measure represents an increase of between 180 to 300 hours over the former entrance requirement (pre-1996).
- A new entrant or a re-entrant to the labor market after an absence of two or more years is required to work 910 hours in order to be eligible for benefits.

### **Major Issue: “New-Entrants” and “Re-Entrants” Are Penalized**

An important and unique aspect of psychiatric disability, as compared to many other disabilities, is its episodic nature. This may explain why advocates from the broader disability community have not lobbied for legislative and policy changes to the EI Act since they largely represent the interests of those with chronic long-term disabilities. It would be unlikely for these individuals to rely on a program that provides short-term income replacement support. However, it is well known that persons with serious mental illness tend to cycle between periods of illness and wellness. When these individuals are symptom-free, they are usually able to work and carry out the normal tasks of life. However, during psychiatric illness episodes, these same individuals may be incapable of functioning at a level that enables them to work in regular employment. EI has traditionally provided an important source of temporary income replacement for these individuals.

The real turning point came in 1996 when the Federal government introduced new legislation that placed severe restrictions on eligibility by substantially increasing the number of required hours of work. Those entering the workforce for the first time or those re-entering the labor market after an absence of two or more years are required to meet even higher eligibility requirements (i.e. 910 hours compared to 700 hours for those who are recently attached to the labor market). This reform was implemented in order to discourage dependency cycles and increase workforce attachment, particularly for youth.

In reality, this legislative change has significantly affected the long-term unemployed, the underemployed, new workers and part-time workers who have for the most part been disqualified from collecting EI. Unfortunately, persons with serious mental illness who face multiple barriers to employment (e.g. hospitalization, medication maintenance issues, relapse) are disproportionately represented amongst this group of “new entrants” or “re-entrants”<sup>10</sup> as a result of their limited or irregular attachment to the labor market. In essence, consumers are being penalized and further stigmatized because of their illness.

In terms of EI eligibility, employees who are dismissed because of “misconduct” or quit “without just cause” are not eligible for EI benefits. The stigma associated with mental illness often drives people to conceal their illness within the workplace. Without disclosure, it is difficult to seek out the appropriate supports from employers and co-workers to deal with workplace stressors and conflict. Persons with serious mental illness who are

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<sup>10</sup> “New entrants” or “re-entrants” are defined as those with less than 490 hours (14 weeks @ 35 hours/week) of insurable employment and/or benefits paid or payable in the last 52 weeks prior to the qualifying period.

experiencing difficulty on the job may be fired or may quit as a result of their illness, and would therefore not be in a position to claim EI benefits.

Furthermore, if a person applies for “EI sickness benefits”<sup>11</sup>, s/he is required to obtain a medical certificate indicating how long the illness is expected to last. The unpredictable nature of mental illness creates a barrier to accessing this kind of medical information.

#### **IDENTIFIED ISSUE**

A program should be developed that exempts individuals with recurring illnesses or disabilities from fulfilling the additional number of insurable hours required of those who are considered “new” to the labor force. Without this exemption, persons with serious mental illness are becoming unjustly disadvantaged. Few are able to meet the eligibility criteria in terms of the number of insurable hours and recent attachment to the labor market.

#### **POLICY RECOMMENDATION #13**

It is recommended that the Government of Canada design and implement a short-term earnings replacement program that is sufficiently well tuned to deal with the unpredictable and episodic nature of psychiatric illness.

**D**

#### **isability Tax Credit (DTC)**

*was designed with the severely physically disabled person in mind. It is virtually impossible to access for anyone with a severe psychiatric disability without appealing the decision to the Tax Court of Canada.*

Family advocate for a person with a severe psychiatric disability  
(March 2001)

<sup>11</sup> Sickness benefits apply to situations where you are sick, injured or in quarantine. Benefits are paid up to 15 weeks provided that you meet the eligibility criteria of 600 hours.

**Basic Facts**

- DTC is a non-refundable tax credit that can be used by persons with disabilities to reduce the amount of income tax they will have to pay. A person can transfer to his/her spouse or to another supporting person the part of the disability amount that s/he does not need to further reduce his/her Federal income tax to zero.
  - This is intended to financially assist persons with disabilities in bearing the additional costs of living and working generated by the “impairment”.
  - A person can claim the disability amount if a qualified person (e.g. medical doctor, optometrist, audiologist, occupational therapist, psychologist, speech pathologist) certifies the following:
    - A person has a severe mental or physical impairment that causes him/her to be *markedly restricted* in any of the basic activities of *daily living*\* and the impairment is prolonged.
    - Eligibility for the disability amount is based on functional impairment, not on medical diagnosis because a medical condition can vary widely in the degree of its severity.
    - A person does not qualify if s/he receives therapy, uses appropriate devices or takes medication that removes a marked restriction in a basic activity of daily living.
- \* *Basic activities of daily living include: walking; speaking; perceiving, thinking and remembering; hearing; feeding and dressing; eliminating bodily waste. Basic activities of daily living do not include general activities such as working, housekeeping, or social and recreational activities.*

**IDENTIFIED ISSUES AND POLICY RECOMMENDATIONS****Issue 1: Inadequacies of Current Assessment Form (DTC T2201)****i. Can Your Patient Perceive, Think and Remember?**

Health professionals have been given the official gatekeeper role in determining a person’s eligibility for the Disability Tax Credit (DTC). Unlike other disability support programs, individuals must be certified as eligible *before* even proceeding to file their claim.

In the case of persons with serious mental illness, a psychiatrist who is familiar with the patient’s condition must agree to complete a one-page assessment form that answers questions as they apply to this person’s “impairment” and how this impacts on their ability to perform the basic activities of daily living. The only question on this form that specifically pertains to persons with serious mental illness is, “*Can your patient perceive, think, and remember?*”

Clearly, the Federal government has failed to consult with health professionals concerning the cognitive or intellectual capacities and limitations of persons with serious mental illness. As a result, they have made the following false assumptions about this population. First, that individuals with a severe and prolonged “mental impairment” cannot think, perceive or remember AND secondly, that individuals with severe and prolonged “mental impairment” cannot manage or initiate personal care without constant supervision.

The patient or family of a patient with a mental illness can qualify for a DTC only if a psychiatrist states that a patient is “not” able to think, perceive and remember, all or almost all the time, even with therapy or medication. Since all people with a persistent or recurrent serious mental illness can “think, perceive and remember”, *not one of them would be eligible for the DTC*. Therefore, the wording of this question fails to adequately measure and assess the disabling impacts of this illness.

#### **IDENTIFIED ISSUE**

The Tax Act was not designed to provide tax relief only for individuals with physical disabilities. The Government of Canada has an obligation to ensure that every individual is equal before the law without discrimination based on race, national or ethnic origin, color, religion, sex, age or *mental* or physical disability.

#### **POLICY RECOMMENDATION #14**

It is recommended that the Government of Canada clarify and revise the T2201 Disability Tax Credit Certificate to reflect the guidelines and objectives of the Tax Act so that eligibility criteria can be administered fairly to all disabled persons regardless of their disability.

#### **ii. Dichotomous Response Format is Problematic**

This form consists of a complex set of questions that are presented in an extremely simple manner. Doctors have expressed that there is not enough scope within the “YES” or “NO” response boxes for an accurate medical assessment. A thorough diagnosis often requires conducting a battery of psychological tests and subsequent analyses of the findings. Reporting of these results do not lend themselves to an “all-or-none” response format.

Following a change in DTC guidelines in 1997<sup>12</sup>, the opportunity no longer exists for psychiatrists to describe the restricting effects of the disabling

<sup>12</sup> Since these new guidelines came into effect, there are indications that the Canada Customs and Revenue Agency have been reassessing eligibility more stringently. Many individuals (and their families) who were eligible for this credit prior to 1997 have been reassessed as “ineligible” although the status of their disability has not changed.

condition upon an individual's ability to perform the basic activities of daily living. As a result, many doctors have refused to complete this form because the current response format forces them to contradict their own assessment of the patient.

**IDENTIFIED ISSUE**

There is no opportunity for describing a person's mental disability using the current DTC Assessment Form T2201.

**POLICY RECOMMENDATION #15**

It is recommended that the Government of Canada clarify and revise the T2201 Disability Tax Credit Certificate to provide an opportunity for health professionals to explain in a narrative format how a patient's mental disability substantially interferes with his/her ability to perform the basic activities of daily living, rather than simply boxing patients into "YES" or "NO" categories.

iii. **Confusion Concerning "Basic Activities of Daily Living"**

According to Form T2201, basic activities of daily living include walking, speaking, perceiving, thinking and remembering, hearing, feeding and dressing and eliminating bodily waste. Many doctors have held the incorrect view that most persons with serious mental illness do not qualify for the credit since it is intended for those who have difficulty "feeding themselves, dressing, using the toilet or carrying out a simple conversation." In fact, it is important to understand that the six items defining a basic activity of daily living are not to be read together. Rather, each activity is to be treated separately.

**IDENTIFIED ISSUE**

There needs to be clearer guidelines on completion of the T2201 form to minimize inaccurate reporting by physicians.

**POLICY RECOMMENDATION #16**

It is recommended that the Government of Canada clarify and revise the T2201 Disability Tax Credit Certificate application process so that it includes a clear set of "how-to" instructions for completion of the form.

**Issue 2: The Need to Educate Potential Users about the DTC**

The CMHA experience is that many persons with serious mental illness are not aware of what is available to them through the tax system. There is a definite need to increase the level of awareness about the DTC, particularly amongst those who are most likely to benefit.

**IDENTIFIED ISSUE**

Any review of the tax system should include persons with serious mental illness as an integral part of the process.

**POLICY RECOMMENDATION #17**

It is recommended that the Government of Canada create a tax system that is made as transparent as possible so that a greater number of persons with serious mental illness can be aware of the system's workings and participate in the change process.

## Summary of Policy Recommendations

It is recommended that the Government of Canada:

### CPP-Disability

1. Introduce a disability pension system that incorporates a newly constructed definition of disability that recognizes the work potential of persons with serious mental illness.
2. Introduce a disability pension system that endorses “a scale of allowable earnings” policy as a means of recognizing the work potential of persons with serious mental illness. CPP-Disability could pay “partial or reduced benefits” rather than full benefits to enable persons with serious mental illness to work part-time and still retain a portion of their benefits.
3. Introduce a pension policy that is flexible enough to respond to changing circumstances such as fluctuating health and the ability to work.
4. Make certain that both existing and new policy guidelines (i.e. “Allowable Earnings Initiative”) are adequately communicated to the appropriate gatekeepers throughout the system.
5. Reconsider these cutbacks and widen CPP eligibility requirements to be more inclusive of persons with serious mental illness who have histories of chronic unemployment and underemployment.
6. Consider providing an advocacy-based service to consumers during the initial application and appeals process.
7. Publish clearer and more accessible program guidelines for consumers and service providers, and ensure that they are consistently administered across the country.
8. Provide psychiatrists and the larger medical community with a clear and consistent set of guidelines or instructions on how to complete their portion of the CPP-Disability application form.
9. Closely follow the timelines established in their service standards protocol for processing initial applications and appeals.
10. Design and implement a disability pension system that provides incentives for persons with serious mental illness to increase their work tolerance and readiness.
11. Design and implement a disability pension system where persons with serious mental illness are not penalized after an unsuccessful three-month trial work period.
12. Design and implement a disability pension system that endorses an “immediate” reinstatement policy, rather than a “rapid” one.

### **Employment Insurance**

13. Design and implement a short-term earnings replacement program that is sufficiently well tuned to deal with the unpredictable and episodic nature of psychiatric illness.

### **Disability Tax Credit**

14. Clarify and revise the T2201 Disability Tax Credit Certificate to reflect the guidelines and objectives of the Tax Act so that eligibility criteria can be administered fairly to all disabled persons regardless of their disability.
15. Clarify and revise the T2201 Disability Tax Credit Certificate to provide an opportunity for health professionals to explain in a narrative format how a patient's mental disability substantially interferes with his/her ability to perform the basic activities of daily living, rather than simply boxing patients into "YES" or "NO" categories.
16. Clarify and revise the T2201 Disability Tax Credit Certificate application process so that it includes a clear set of "how-to" instructions for completion of the form.
17. Create a tax system that is made as transparent as possible so that a greater number of persons with serious mental illness can be aware of the system's workings and participate in the change process.

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