
Canadian Union of Public Employees

Submission to Employment and Social
Development Canada

Canada Disability Benefit Regulations

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Canada Disability Benefit Regulations About the Canadian Union of Public Employees

The Canadian Union of Public Employees (CUPE) represents 750,000 workers in health care, emergency services, education, municipalities, social services, and more. In CUPE's 2020 membership survey, 9 per cent of our members indicated that they consider themselves to be a worker with disabilities. 45 per cent have received a workplace accommodation. 55 per cent have not. CUPE's National Persons with Disabilities Committee has long promoted and defended the rights of all persons with disabilities to improve conditions in the workplace and in our communities.

CUPE applauds the *Canada Disability Benefit Act* as an important first step. It is the result of the tireless work of the disability community. However, the amount allocated in the 2024 Federal Budget is abhorrently inadequate and cannot achieve the intended goal of lifting persons with disabilities out of poverty. The following submission will outline this and other significant barriers and concerns about the Canada Disability Benefit (CDB) regulations.

Summary of recommendations

- Increase the amount of the CDB to bring recipients to 30 per cent above the poverty line
- Ensure any persons with disabilities who already receive federal, provincial or territorial disability funding automatically qualify for the CDB and develop a clear plan so that injured workers and people with episodic or temporary disabilities are included in the CDB
- Create a simple, accessible process for people with disabilities who are currently not receiving benefits
- Develop a clear plan on how it will be extended to people over 65 years old and ensure that this plan includes a senior-specific measure of poverty
- CDB should be a guaranteed income support program for people with disabilities, sufficient to eliminate poverty for people with disabilities.
- Make the CDB an exempted refundable tax credit so there are no claw backs due to pensions, EI or other benefits
- Prevent claw backs from those who receive long-term disability benefits under an insurance policy or employee plan

Context

Persons with disabilities disproportionately live in poverty compared to people without disabilities. In 2022, Statistics Canada found that 10 per cent of persons with disabilities

aged 15 years and older – roughly 1.5 million people – were living below the poverty line in Canada. Disability Without Poverty’s 2023 Report Card found that people with disabilities are twice as likely to live in poverty compared to people without disabilities.¹

41 per cent of low-income Canadians are persons with disabilities, and among them, people who have intersecting identities, such as women, Indigenous, Black, racialized, and 2SLGBTQI+ people, face even greater barriers.

Disability Without Poverty has found people with disabilities trying to raise money for food or rent because of inadequate income or financial support from governments. The organization has also heard from people who are considering medically assisted death options because the government is failing to support them in living with dignity.²

Canada ratified and signed on to the UN Convention on the Rights of Persons with Disabilities in 2010. This places both a moral and a legal obligation on Canada to work towards justice, particularly when the recent report published by the Canadian Human Rights Commission highlights that poverty is the prevalent concern from coast to coast.³

Disability justice which extends beyond the disability rights framework, requires the dismantling of systems and structures that disable and debilitate people and calls for a “future where there is enough care, community and support for everyone to thrive.”⁴ While the CDB has the potential to lift people with disabilities out of poverty, much more needs to be done to address ableism, racism, sexism, transmisogyny and colonization embedded in Canada’s government systems. Still, the CDB is also an opportunity to promote and uphold the principles of disability justice – intersectionality, leadership of those most impacted, recognizing wholeness, collective access and collective liberation – in much-needed funding for people with disabilities.

Overview of the Regulations

The CDB regulations propose a maximum amount of \$2,400 per year, or \$200 monthly. Those who receive the Disability Tax Credit between the ages of 18 to 64 years old are eligible to apply for the CDB.

This amount is wholly inadequate and keeps persons with disabilities in poverty, penalizes them for working and ignores the heavy burden of living in a built world that too often does not include them.

¹ Disability without Poverty, 2023 disability poverty report card, <<https://www.disabilitywithoutpoverty.ca/2023-disability-poverty-report-card/>>.

² David Thurton, Canada Disability Benefit won't lift 'hundreds of thousands' out of poverty, new numbers confirm, CBC, <<https://www.cbc.ca/news/politics/canada-disability-benefit-poverty-1.7228322>>.

³ Monitoring the Rights of People with Disabilities, Canadian Human Rights Commission, <<https://www.chrc-ccdp.gc.ca/en/monitoring-the-rights-of-people-with-disabilities>>.

⁴ Letter from the Editors, The Disability Justice Issue, Briarpatch, November 2022, <<https://briarpatchmagazine.com/articles/view/disabled-leadership-and-wisdom>>.

Single CDB recipients are allowed an annual income threshold of \$23,000 – which is below the poverty line – before their benefits are reduced (or \$32,500 combined for a cohabiting couple or spouses). This amount is less than what the Canadian government offered to people during the pandemic, which was barely adequate to cover the cost of living.

There is an exemption to these income thresholds for "working income." Single individuals may earn up to \$10,000 of "working income" (or \$14,500 combined for couples) which raises the income thresholds to \$33,000 for singles and \$46,500 for couples.

Above these levels, the benefit will be reduced by a certain amount depending on the recipient's income and fully phased out when income reaches a certain level.

Beginning in 2020, Disability Without Poverty launched a project to find out the needs of people with disabilities and how the Canada Disability Benefit could reduce poverty and ensure financial security. The results were released in March 2024 in the report, *Disability with Possibility: What We Learned from Disabled People Across Canada on Shaping the Canada Disability Benefit*.

The proposed CDB regulations fail to comply with recommendations made by members of the disability community such as a well-funded CDB that would actually lift people with disabilities out of poverty including consideration of added costs of disabilities.⁵ Members also recommended that a simple, accessible application process be created including automatically enrolling people who are already receiving federal, territorial or provincial disability benefits.⁶ Disability community members also called for consideration of the added financial risks of people with disabilities with intersectional identities including newcomers and refugees, members of the 2SLGBTQIA+ community, Black people, racialized people, Indigenous people and women.⁷ A disability justice lens calls for leadership from the most impacted and Disability Without Poverty's 7 principles calls for keeping disabled people involved. People with disabilities must lead the development of any act, regulation or benefit.

Below we raise the following concerns on the amount, eligibility, age requirement, and caregivers with disabilities, and call for no claw backs because of pensions, EI, other benefits and private insurance plans.

⁵ Disability Without Poverty, *Disability with Possibility What We Learned from Disabled People Across Canada on Shaping the Canada Disability Benefit*, 2024, <https://www.disabilitywithoutpoverty.ca/wp-content/uploads/2024/03/Shape-the-CDB-Phase-3-capstone-report-Disability-with-Possibility_compressed.pdf>.

⁶ Disability with Possibility, (2024) p. 13.

⁷ Disability with Possibility, (2024) p. 19.

The amount of the CDB

The regulations propose a maximum amount of \$2,400 per year. This means that a person with disabilities will only be able to receive a maximum of \$200 monthly. The amount proposed is wholly inadequate.

The low (working) income threshold penalizes applicants for working. The proposed benefit still claws back money even for people with disabilities who do not have access to health insurance benefits that would help offset the higher human and economic costs.

CUPE joins members of the disability community in highlighting the “increased costs of living with a disability, such as special transportation, dietary needs, and uninsured medical treatment and equipment expenses.”⁸ We also call for the benefit to bring recipients to up to 30 per cent above the poverty line with payments being made monthly, indexed to inflation, and portable throughout Canada.⁹

Eligibility and the Application Process

Only those who receive the Disability Tax Credit (DTC) are eligible to apply for the CDB. This is problematic because it excludes many people with disabilities and requires DTC recipients to go through another application process.

CUPE echoes the disability community’s frustrations of having to prove over and over again their disabilities in the application process for benefits and supports, which can be retraumatizing, taxing and time-consuming. For example, a veteran who lost both his legs in Afghanistan had to repeatedly prove he was still a double amputee, even 10 years after his injury.¹⁰ People with disabilities already experience significant challenges including “discriminatory, rude, and dismissive treatment” when attempting to access disability and income supports needed to live a safe, secure, and meaningful life.¹¹ A study in Western Canada conducted for the Department of Justice found a “notable difference” with people with disabilities who were also Indigenous, racialized, immigrants, women, and/or those who belong to the 2SLGBTQI+ community.¹² Racism and patriarchy are embedded in disability and income support systems. 2SLGBTQI+ people with disabilities were often questioned about their identity and sexual orientation and this intensified the problems that they were experiencing.¹³

⁸ Daily Bread Food Bank, We need a fully funded Canada Disability Benefit, <<https://www.fundthebenefit.ca/>>.

⁹ Daily Bread Food Bank.

¹⁰ Veteran frustrated by paperwork to prove he still has no legs, CTV, 2016, <<https://www.ctvnews.ca/canada/veteran-frustrated-by-paperwork-to-prove-he-still-has-no-legs-1.2866389>>.

¹¹ Doris Rajan, PhD, Serious Problems Experienced by Diverse People with Disabilities: Western Canada A Qualitative Study, Department of Justice, 2021 <https://www.justice.gc.ca/eng/rp-pr/jr/pwdwc-phcw/docs/RSD_RR2021_Persons_with_Disabilities_Western_Canada_EN.pdf>

¹² Rajan (2021), p. 6.

¹³ Rajan (2021), p. 7.

People with invisible disabilities such as chronic fatigue or brain injury did not feel their disability was understood and were denied disability supports they needed.¹⁴

Basing the CDB on the DTC excludes many injured workers and workers with episodic or temporary disabilities who do not meet the DTC's stringent criteria. More than one million people experience workplace injuries every year in Canada.¹⁵ In CUPE's 2020 membership survey, of the 9% of workers with disabilities, 7% of them had temporary or episodic disabilities.

People with episodic disabilities can experience significant challenges in finding work, staying in a job and making advancements. In community consultations, national organization Realize found that "biases and assumptions rooted in ableism but connected to other oppressive systems (racism, homophobia, sexism, ageism, faithism) work together to prevent intersectional people with episodic disabilities from obtaining work and being successful in employment. For example, forms (to request accommodation) were highlighted as often being converted into tools 'to surveil, avoid, and filter out marginalized communities (like Black, Queer, Trans).'"¹⁶

Participants in Realize's IDEAL Community Consultations also flagged governments at all levels were barriers because of "the inaccessibility of their support where funding application processes are primarily forms based."¹⁷ Participants also expressed concerns around "losing support" if they were on government assistance, began to work and then had a relapse or flareup of the episodic nature of their health condition.¹⁸

Many disability groups and advocates have called for recipients of the DTC and other provincial/territorial benefits to automatically qualify for the CDB. People who are on other federal programs including the Canada Pension Plan disability benefits, Child Disability Benefit, Disability benefits for Veterans, and the Canada Student Grant for Students with Permanent Disabilities as well as recipients of provincial/territorial disability benefits should also automatically qualify. This may not capture all those who should receive the benefit – some provinces have defined "disability" too narrowly, which could result in exclusions – but it would ensure a baseline coverage to start.

CUPE echoes calls for the CDB to be structured as an exempted refundable tax credit like the Child Tax Benefit and like every other major new federal income security benefit (until the CERB) since 1978.¹⁹

¹⁴ Rajan (2021), p. 7.

¹⁵ Canadian Injured Workers Alliance, <<https://www.ciwa.ca/>>.

¹⁶ Realize, IDEAL Community Consultations: Intersectionality, episodic disability and access to health services, community supports and employment in Canada, 2024 <<https://www.realizecanada.org/documents/ideal-community-consultations/>>.

¹⁷ Realize (2024), p. 14.

¹⁸ Realize (2024), p. 14.

¹⁹ John Stapleton, Starting with the Canada Disability Benefit, Let's Go All the Way! Let's Exempt All Income Forms From Social Assistance, 2024 <<https://openpolicyontario.com/starting-with-the-canada-disability-benefit-lets-go-all-the-way-lets-exempt-all-income-forms-from-social-assistance/>>.

This would allow for many people in Canada to automatically receive the CDB and for the CDB to be automatically exempt from all income assistance.

We echo Disability Without Poverty's call for urgency and a simple application process. At a minimum, people who are eligible for the DTC or who already receive federal, provincial or territorial disability payments should automatically qualify for the CDB. CUPE also recommends that the federal government develop a clear plan to include all injured workers and people with episodic or temporary disabilities in the CDB.

Age Requirement

Only people who are of working age – between the ages of 18 and 64 – can apply for the CDB. The rates of poverty are especially high among people with disabilities who are of working age. However, Statistics Canada has shown that disability rates increase with age. Data released in May 2024 showed that 40 per cent of people aged 64 and over have a disability.²⁰ Capping the age of eligibility at 64 excludes a significant number of people with disabilities. There is no clear plan on how the CDB will be extended to seniors.

Many seniors struggle financially. Seniors without adequate pensions struggle to meet rising housing and daily living costs, lack medical care and support, and cannot afford medication. This results in precarious housing and impacts on their health.

Canada does not have an adequate method to measure poverty among seniors. The current method, the Market Basket Measure (MBM), used by the Canadian government shows that seniors are doing well compared to the rest of the population. The MBM is based on a family of four and does not include costs specific to seniors such as meal services, private transportation and increased health costs.²¹ Yet, the Low Income Measure (LIM) shows that seniors are one of the worst-off groups.²² CUPE echoes Maytree's call for a senior-specific measure of poverty.

The CDB regulations must include a clear plan on how it will be extended to people over 65 years old and this plan should include a senior-specific measure of poverty. At a minimum the CDB should be designed so that there is not a gap between CDB and the Guaranteed Income Supplement (GIS). Seniors with disabilities have a higher cost of living. So, the CDB should be designed to cover seniors with disabilities, instead of their incomes dropping to GIS levels at this age. This would be the best way to ensure that there is no gap between the two income support systems.

²⁰ Statistics Canada, A demographic, employment and income profile of persons with disabilities aged 15 years and over in Canada, 2022 <<https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2024001-eng.htm>>.

²¹ Paloma Griffin and Mohy Tabbara Maytree, A fine line: Finding the right seniors' poverty measure in Canada, 2023 <<https://maytree.com/publications/a-fine-line-finding-the-right-seniors-poverty-measure-in-canada/>>.

²² Griffin and Tabbara (2023).

Caregivers with Disabilities

In Disability Without Poverty's report, *Disability with Possibility: What We Learned from Disabled People Across Canada on Shaping the Canada Disability Benefit*, 32 per cent to 38 per cent of those surveyed were both unpaid carers and a person with a disability.

Caregiving means needing to take time off from paid work. In some cases, if a person is providing support to another and has received the Veterans Care benefit, their Ontario Disability Support Program (ODSP) benefits will be clawed back. A person on ODSP can provide care to another but is being penalized for doing so. This is a huge problem and prevents people in these situations from having any sort of financial security for basic necessities such as rent, bills and groceries.

The Canadian Centre for Caregiving Excellence (CCCE) notes, "In a recent study, 46 per cent of caregivers in the workforce reported short-term absenteeism due to caregiving responsibilities in the last year. We also heard in focus groups that many caregivers cannot remain in paid employment at the same time as caring for their loved ones. As a result, many caregivers are in a worsened financial position due to their caregiving responsibilities." The consequences are even greater for caregivers who are disabled, given that the cost of living is higher for people with disabilities.

CUPE represents 190,000 workers in the health care system, some of whom do "double duty" of working in health care and providing unpaid care to family or friends. People working in other sectors such as disability support workers, staff in social services, paramedic services and housing also have the "double duty" of working in care work and caring for family or friends.

CDB should be a guaranteed income support program for people with disabilities, similar to the Canada Child Benefit for families with children and GIS for seniors. The CDB should provide income supports sufficient to eliminate poverty for people with disabilities.

No claw backs

El and benefits - Members of the disability community have expressed concerns about claw backs to other benefits. Maytree warns that claw backs are when a "person's social assistance benefit is reduced because they have income from somewhere else, such as the new Canada Disability Benefit. Claw backs can leave a person no better off even though they receive the new Canada Disability Benefit."²³

Maytree emphasizes that provincial and territorial governments must exempt the CDB from claw backs by adding "the CDB to the list of exempt unearned sources of income

²³ Maytree, Advocacy toolkit: Preventing Canada Disability Benefit clawbacks, 2024, <<https://maytree.com/publications/advocacy-toolkit-preventing-canada-disability-benefit-clawbacks/>>.

in the social assistance regulations.”²⁴ The Toronto-based organization warns “by default, social assistance will be clawed back if no action is taken.”²⁵

Gluckstein Lawyers said, “The Trudeau government rejected an amendment that sought to prevent provinces and insurance companies from clawing back the benefit.”²⁶

CUPE recommends that the CDB be treated similarly to the Canada Child Benefit as noted above in that it is not considered income earned while on an EI claim and could not be clawed back. So, the CDB would not contribute the insurable income to qualify for EI and it would not be considered income earned while on an EI claim.

CDB and pensions – CDB applicants who have pension income, for example from a workplace pension, will have their CDB benefits reduced or fully phased out if their incomes exceed the above thresholds. This is most likely to affect CDB recipients who are able to work (and have access to a pension plan) and those who became disabled from work later in life after accumulating entitlement to significant pension benefits. CUPE recommends that all pension income be excluded from the income threshold to ensure people who are aging and have disabilities have income to meet their basic needs.

Private insurance plans - The Ontario Trial Lawyers Association (OTLA) has raised concerns that private and group disability insurers will be able to offset or deduct the Canada Disability Benefit. In their submission on Bill C-22, OTLA states “Almost all group disability insurance policies and many private/individual policies contain wording to the effect that the insurer can deduct any payments provided to the insured under any government sponsored plan.”²⁷

A Senate amendment that was not accepted would have prevented claw backs of the benefit from those who receive long-term disability benefits under an insurance policy or employee plan.

²⁴ Maytree (2023).

²⁵ Maytree (2023).

²⁶ Gluckstein Lawyers, Insurers Shouldn't Profit Excessively from Canada Disability Benefit, 2024, <<https://www.gluckstein.com/news-item/insurers-shouldn't-profit-excessively-from-canada-disability-benefit>>.

²⁷ Ontario Trial Lawyers to the Senate, OTLA Submission to Submission to the Senate Standing Committee on Social Affairs, Science and Technology, Bill C-22, An Act to reduce poverty and support the financial security of persons with disabilities by establishing the Canada Disability Benefit and making a consequential amendment to the Income Tax Act, 2023, <https://sencanada.ca/Content/Sen/Committee/441/SOCI/briefs/SOCI_C-22_Brief_OTLA_e.pdf>.

Summary of recommendations

- Increase the amount of the CDB to bring recipients to 30 per cent above the poverty line
- Ensure any persons with disabilities who already receive federal, provincial or territorial disability funding automatically qualify for the CDB and develop a clear plan so that injured workers and people with episodic or temporary disabilities are included in the CDB
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CUPE thanks the Office for Disability Issues for reviewing our submission on the Canada Disability Benefit regulations. Many of these recommendations were made by members of the disability community prior to the release of the CDB regulations but the federal government failed to incorporate them into the regulations. The federal government still has a significant opportunity to incorporate recommendations from the disability community and take meaningful steps to end poverty for persons with disabilities, meet its obligations under UN Convention on the Rights of Persons with Disabilities and work towards disability justice.

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