

Canada Disability Benefit regulations consultation: CMHA National submission, September 2024

With the Canada Disability Benefit in its final stages of development prior to launch, the national office of the Canadian Mental Health Association (CMHA) welcomes the opportunity, at this critical juncture, to make our voice heard through the following regulatory submission.

In creating the Canada Disability Benefit (CDB), the federal government has recognized the need for a new, national income support program for working-aged Canadians with disabilities, who are too often living in deep and chronic poverty. This group includes many of the individuals we serve across our CMHA federation. From Whitehorse to Charlottetown, we provide services to people with mental health, substance-use related and other forms of disability for whom a livable income is currently out-of-reach – and we see the consequences of that, daily. Implemented properly, the Canada Disability Benefit is a generational opportunity to provide a real foundation of financial security to these individuals, and by extension, better support their health, quality of life, and their ability to participate in their communities to their fullest potential.

To that end, we are strongly urging a number of improvements to the Canada Disability Benefit. They are about optimizing and protecting the value of a benefit in whose creation we've collectively invested; ensuring access for people who need it the most; and avoiding any unintended erosion of security for those who receive benefit payments.

At the same time, we also want to emphasize that the rollout of the Canada Disability Benefit should face no additional delay. We firmly believe the government can launch the benefit in accordance with the July 2025 timeline it's committed to, while simultaneously and on an ongoing basis, continuing to strengthen this income support program in line with our recommendations, and other feedback from the disability community.

1. To reflect reality for people with disabilities: increase the benefit amount and edit the inflation calculation

a) Benefit amount

Totalling only \$200 per month at maximum, the initial level of support the Canada Disability Benefit is proposed to provide is deeply inadequate. Official estimates have found that working-age Canadians with disabilities, including those related to mental health, are about twice as likely to live in poverty as their non-disabled peers¹, and they often face significant, systemic barriers to financial security. Through its Disability Inclusion Action Plan and the creation of the CDB, the federal government has had an opportunity to remedy this chronic inequity, but so far has not demonstrated a sufficient level of leadership and investment.

¹ <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2024001-eng.htm>

We are urging the federal government to increase the CDB amount, and to demonstrate its commitment to the disability community by providing for this via the 2024 Fall Economic Statement. The majority of Canadians would support such a move, according to a 2024 poll, which found that almost 9 in 10 Canadians believe the CDB should bring the income of its recipients to at least the poverty line. The benefit, as currently proposed, will fail to achieve that in most cases for people with disabilities living in poverty, as the government's own estimates reflect.²

b) Inflation calculation

While we strongly support the decision to index CDB payments to inflation, it is concerning that the method proposed in the regulations will not reflect cost-of-living increases in the six months prior to a given payment year, which may be significant. The window for calculating inflation to increase the benefit amount should be extended to as close to the beginning of the payment year as possible, to be maximally responsive to real-world conditions impacting the financial security of people with disabilities.

For the same reason, consideration should also be given to updating benefit rates on a quarterly basis to reflect inflation, as is currently practice for Old Age Security (OAS) payments, rather than applying a single annual adjustment as proposed.

2. A question of autonomy: calculate income on an individual basis, regardless of relationship status

The federal government itself found “very strong support” among stakeholders for an income test for the Canada Disability Benefit that disregards spousal/partner income³ — something the Senate committee that studied the Canada Disability Benefit Act also urged, considering the rates of domestic violence and financial dependence faced by people with disabilities.⁴

By instead opting to use a combined income test for CDB applicants who live with spouses/common-law partners, the government openly acknowledges it may be reinforcing financial dependency⁵ among people with disabilities, as their CDB payments could be reduced or eliminated entirely based solely on their partner's income. This choice of approach is unacceptable and undermines the autonomy and safety of people with disabilities. From a gender and disability rights perspective, the draft regulations must be amended to adopt an income test for the CDB that only considers applicant income.

3. Ensure clawbacks are off the table

The Canadian Disability Benefit cannot become a way for provinces, territories, the federal government or private insurance companies to save money at the expense of people with

² <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>

³ <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>

⁴ <https://sencanada.ca/en/committees/SOCI/Report/115967/44-1>

⁵ <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>

disabilities. From subsidized housing to long-term disability to Canada Child Benefit payments, the CDB should supplement, not replace or subtract from existing programs that support people with disabilities, through financial or other social benefits.

To better protect CDB recipients from clawbacks to other vital income supports, ongoing consideration should be given to structural changes to the benefit and/or its supporting legislation at the federal level, including the potential to change the CDB to a refundable tax credit

In the interim, and as the creator of the benefit, the federal government must take every available action to ensure that CDB recipients do not see any corresponding reduction in the value of other income supports that they rely on, including at the federal level. This also includes securing public commitments to that end by provinces, territories, and the private insurance industry.

Furthermore, the income threshold after which CDB amounts will be reduced should be, at minimum, no lower than the social assistance rates for people with disabilities in all provinces/territories. This is not currently the case, and means some recipients relying exclusively on social assistance benefits in certain jurisdictions will automatically receive a reduced CDB amount. This warrants regulatory reconsideration, as CDB recipients should not be penalized for living in jurisdictions with more fulsome social assistance rates.

4. Prioritize low-barrier CDB retroactivity

We are urging the government to automatically extend CDB retroactivity to anyone who indicates they should qualify for it and is otherwise deemed eligible for the benefit, for the first two years following the benefit's launch.

Taking a self-attestation approach to retroactivity, initially, would recognize the significant potential challenges associated with formally proving historic eligibility. These include lack of access to a provider who can offer backdated perspective on a patient's disability, and the as-yet unconfirmed launch timeline for federal navigation support and application cost coverage.

5. Expand access gateways to the Canada Disability Benefit, and improve the DTC as an entry point

a) Look beyond the DTC to make CDB access more equitable

We continue to have concerns about the decision to require a Disability Tax Credit certificate to access the new Canada Disability Benefit, considering the significant, well-established barriers associated with accessing the DTC. This is a particular challenge for people with mental health-related disabilities and/or other disabilities that are unpredictable, intermittent, or less visible in the impairment they cause.

Considering the limitations of the DTC, the federal government should work to provide additional avenues through which disability is recognized and CDB eligibility can be granted. This should

include considering streamlined access to the CDB if individuals have been approved for other provincial, territorial, or other federal supports for people with disabilities, such as Canada Pension Plan disability benefits.

b) DTC reform: necessary and long overdue

As the sole gateway, at present, to become eligible for the Canada Disability Benefit, the Disability Tax Credit program is urgently in need of reform — and the federal government has already emphasized its commitment to find ways to increase take-up and lower the burden of obtaining a DTC certificate⁶. Reform should build on existing knowledge and recommendations related to DTC shortcomings, including from the 2023 CRA Disability Advisory Committee report⁷ and ongoing consultation with community organizations and people with disabilities.

The reform process should include considering expanding the range of practitioners who can complete DTC medical application forms, as these trusted frontline professionals (social workers, etc) may well have a more fulsome mental health history of an applicant and could help bridge the gaps in DTC access for the most marginalized populations, such as people experiencing homelessness or are otherwise transient, while also reduce the administrative burden placed on physicians.

DTC reform should also consider how to make the application process less administratively complex overall, recognizing the significant challenge this currently poses for applicants and supporting practitioners. In doing so, it should also consider how the DTC interacts with other federal benefits with a view to streamline administrative processes to maximize efficiency and further dismantle barriers to access.

6. Swift action is needed to subsidize the cost of applying for the DTC

In Budget 2024, the federal government committed to covering the cost of the medical forms required for a Disability Tax Credit application.⁸ Recognizing this is a significant barrier and financial burden for people with disabilities, this funding must be made available as soon as possible to ensure DTC applicants face no charges by health practitioners to complete an application and access the Canada Disability Benefit. This cost coverage must extend to reapplications, to be inclusive of the 37 percent of working-age DTC certificate holders whose eligibility for the DTC is time-bound.⁹

7. Benefit navigation support and professional education: essential components of equitable access

⁶ <https://budget.canada.ca/2024/report-rapport/chap2-en.html>

⁷ <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/disability-advisory-committee/2023-full-report.html>

⁸ <https://budget.canada.ca/2024/report-rapport/chap2-en.html>

⁹ <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>

The community-delivered benefit navigation support program promised through Budget 2024¹⁰ must be made available as far in advance of the opening of the Canada Disability Benefit as possible. This is particularly important, given the current Government of Canada assumption that 75% of DTC applicants require professional services (from a lawyer, DTC “promoter,” etc) to apply.¹¹ Presently there is no regulation of the fees that can be charged for such services, meaning DTC access may come at a significant cost for people with disabilities.

Considering the impacts of stigma, marginalization and other barriers to accessing vital supports, specific federal attention should be paid to increasing awareness among people with mental illnesses and/or substance use challenges of government benefits they may qualify for, and offering support with the application process. Additional education and training should also be provided to medical practitioners to expand knowledge, sensitivity and willingness to complete DTC application forms for people with mental health and substance use-related disabilities.

8. Expand auto-tax filing to help more people get the benefits they’re entitled to

Given that access to the Canada Disability Benefit requires applicants to have completed their previous year’s tax return, we are advocating for increased access to auto-filing for people who face financial or other barriers to completing a tax return.

¹⁰ <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>

¹¹ <https://canadagazette.gc.ca/rp-pr/p1/2024/2024-06-29/html/reg2-eng.html>