

# Realizing Rights in the Canada Disability Benefit Act

## *Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities regarding Bill C-22*

The Government of Canada has a legal and moral obligation to create the conditions in which people's human rights are upheld, including the right to an adequate standard of living, as described in Article 25 of the UN Declaration of Human Rights,<sup>1</sup> Article 28 of the UN Convention on the Rights of People with Disabilities,<sup>2</sup> and other economic, social, and cultural rights as described in the International Covenant on Economic, Social, and Cultural Rights,<sup>3</sup> ratified by Canada in 1976.

We are writing to share our recommendations for C-22, the Canada Disability Benefit Act, recognizing that disabled people and their households experience low income, inadequate housing, food insecurity, unmet medical needs, and social exclusion at disproportionate rates in Canada - all of which are violations of our shared, fundamental human rights.

The Canada Disability Benefit Act must not be seen as an act of charity or a government handout. It is critical that the Canada Disability Benefit Act recognize the rights of disabled people, and contribute effectively and equitably to the progressive realization of the right to an adequate standard of living for disabled people and their households.

Our recommendations will focus on bringing this lens to the design and implementation of this Act, looking specifically at issues of eligibility, adequacy, and accountability.

## Eligibility

1. The bill should set mandatory specifics on such things as who is eligible for the Canada Disability Benefit that regulations cannot contradict. The bill should not leave this all to regulations to be made by Cabinet.
2. Eligibility criteria and application processes must be clear and simple to navigate. People who already receive provincial or territorial disability benefits and Canada Pension Plan

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<sup>1</sup> <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english?LangID=eng>

<sup>2</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>3</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

Disability Benefits should be automatically enrolled. As existing programs exclude many people with disabilities<sup>4</sup> (including those with episodic disabilities), there should also be a process for people not automatically enrolled to apply for the Canada Disability Benefit. An appeal process is also necessary for those initially excluded or denied enrollment.

3. Eligibility should be based on the social model of disability, in which the effect of the impairment upon social participation is central, rather than basing eligibility solely on strict medical criteria. Eligibility criteria should not be tied to employment, training, or treatment programs.
4. The Canada Disability Benefit should not only be available to “working age” people with disabilities. The age discrimination should be removed from the bill to ensure that all people with disabilities receive financial support throughout their lifetime. This would assist households caring for people with disabilities.
5. Eligibility for the Canada Disability Benefit should not be tied to immigration status. People with precarious status in Canada already face disproportionate risks of poverty, housing insecurity, food insecurity, and lack of access to health care, while ironically fulfilling many of the essential services required in our food and care systems. Immigration status is also already a barrier excluding many from accessing critical supports like the Canada Child Benefit. In order to uphold our human rights obligations, people with precarious status must have access to critical income supports and public services and programs.

## Adequacy

6. The bill should set a mandatory minimum or floor amount for the Canada Disability Benefit, annually indexed to inflation, and a mandatory start date by which it must begin to be paid. The floor should be sufficient to move beneficiaries to or above Canada’s official poverty line. Cabinet should be able to raise it, but not lower the floor. People with lived experience must be meaningfully involved in informing the amount of the benefit to address real costs of living.
7. The federal government must work with the provinces and territories to ensure income supports work together to actually bring people with disabilities and their households above the poverty line. The bill should require that none of the Canada Disability Benefit (or provincial or territorial benefits) will be clawed back by any level of government if that would place the beneficiary below the legislated income floor.

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<sup>4</sup> Standing Senate Committee on Social Affairs, Science and Technology (2018). *Breaking Down Barriers: A critical analysis of the Disability Tax Credit and the Registered Disability Savings Plan*. <https://sencanada.ca/en/info-page/parl-42-1/soci-breaking-down-barriers/>

8. As with the Canada Child Benefit (CCB), the benefit should be income-tested, phasing out support very gradually as income increases, to avoid penalizing people for participating in paid labour.
9. No income support alone can prevent the disproportionate rates of low-income, housing insecurity, food insecurity, or unmet medical needs experienced by disabled people or their households. To increase the effectiveness of this cash transfer, the government must also address issues of affordability, accessibility, and supply by investing in publicly funded, universally accessible programs and services, and exercising regulatory controls. Examples we support include a federal, single payer pharmacare program; investing in not-for-profit accessible, deeply affordable housing and taxing Real Estate Investment Trusts to curb the financialization of housing; and ensuring that the new federal childcare program invests adequately in the creation of deeply affordable, accessible childcare spaces, staff training, and employee retention.
10. Furthermore, recognizing that there will be people living with disabilities and care providers who will likely fall through the eligibility criteria of this Bill (as with provincial and territorial disability benefits and other income support programs)<sup>5</sup>, and recognizing again Canada's human rights obligations, we call on the Government of Canada to view the Canada Disability Benefit as another step (similar to the CCB for parents and caregivers) toward a universally accessible basic income guarantee that would ensure all people living in Canada met a minimum income floor. The CCB has shown the effectiveness of cash transfers in reducing and/or alleviating poverty among children and families, but large gaps remain in terms of eligibility, excluding many children and caregivers<sup>6</sup>. The Canada Disability Benefit should contribute to an increasingly accessible and comprehensive income support program to close these gaps, recognizing the particularly high costs of living experienced by people with disabilities and their households.

## Accountability

11. The bill should impose a timeline by which Cabinet must institute the regulations that are necessary for the Canada Disability Benefit to come into effect. As mentioned previously, the bill should also set a starting date by which the benefit must be paid. We call for all parties to work together to ensure people with disabilities receive the benefit by 2024.
12. The bill should set a time limit for applications to be processed (in cases where people are not already automatically enrolled), for benefits to be received, and for appeals to be adjudicated. The appeal process must be clear, simple, and accessible, and must avoid

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<sup>5</sup> Ibid.

<sup>6</sup> Campaign 2000. (2019). *2019 Report Card on Child and Family Poverty in Canada*. <https://campaign2000.ca/wp-content/uploads/2020/10/campaign-2000-report-setting-the-stage-for-a-poverty-free-canada-updated-august-2020.pdf>

shuffling between federal and provincial or territorial jurisdictions. It must be guided by the tenets of natural justice<sup>7</sup> (i.e., the legal right to be treated fairly throughout administrative proceedings).

13. In the spirit of “nothing about us without us,” the bill should require the Government to hold accessible, inclusive, and open public consultations on the regulations. These regulations must be consistent with existing human rights obligations and the progressive realization of the right to an adequate standard of living.

We are committed to working with the Government to see this Bill reach its full potential, and welcome your questions. We would welcome the opportunity to speak to the HUMA Committee and individual MPs and Senators to provide greater background and details on these recommendations and Canada’s human rights obligations. We do this in solidarity with disabled people living across the country.

Sincerely,

**Natalie Appleyard**, Socio-Economic Policy Analyst, Citizens for Public Justice

**Victoria Levack**, Spokesperson, Nova Scotia Disability Rights Coalition

**Jordan Waterbury**, signing as an individual with lived experiences as a person with Autism Spectrum Disorder, joblessness, and poverty, and as a member, FACE of Poverty, Halifax, NS

**Sandra Hennigar**, Chair, on behalf of members of FACE of Poverty, Halifax, NS

**Kate Kehler**, Executive Director, Social Planning Council of Winnipeg

**Sid Frankel**, Associate Professor, Faculty of Social Work, University of Manitoba

**Nancy E Hansen**, PhD, Professor, Director, Interdisciplinary Master's Program, Disability Studies, University of Manitoba

**Emilly Renaud**, National Coordinator, Canada Without Poverty

**Sam Mason**, Accessibility Coordinator, on behalf of Voices of Albertans with Disabilities

**Sherry Costa-Lorenz**, Provincial Coordinator, Nova Scotia League for Equal Opportunities

**Colleen Huston**, on behalf of members of Disability Action Hall, Calgary, AB

***Citizens for Public Justice (CPJ)** is a national, progressive organization of members who are inspired by faith to act for social and environmental justice in Canadian public policy. Our work focuses on three key policy areas: poverty in Canada, climate justice, and refugee rights. In collaboration with many partners across the country, and centring the voices of people with lived experience of poverty and other forms of systemic oppression, CPJ works to research, develop, and advance federal policy measures that build equity, honour our human rights obligations, and put us on a path to eradicating poverty in Canada.*

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<sup>7</sup> See, for example, <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2018/understanding-your-rights-the-rules-of-natural-justice>