

**PROPOSED MODIFICATIONS REGARDING
SOCIAL ASSISTANCE POLICIES**

**BRIEF TO THE MINISTER OF SOCIAL DEVELOPMENT AND
THE COMMITTEE ON SOCIAL ASSISTANCE REFORM**



BY

**THE N.B. THE FRONT COMMUN
FOR SOCIAL JUSTICE, INC.**

Moncton, N.B.

May 25, 2011

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1. POLICY MANUAL

PROBLEMS

A. Mishmash of electronic procedures

1. The policies were obviously designed to accommodate the electronic system instead of people. They are nothing more than a tangle of disparate, unnumbered electronic procedures that are modified without warning, at the Minister's pleasure.
2. They were designed based on the automated electronic system set up by Accenture. (This company, known before 2001 as "Andersen Consulting Canada", was hired by Frank McKenna to manage income assistance in NB.) The policies that it established are supposed to be "on-line tools" for managers. The latter say that they allow "the computer" to make their decisions.

B. Difficulties in use

1. There is no numbering system, no logical arrangement, no keyword index, no table of contents. Because there is no numbering, it is impossible to refer to a policy in particular.
2. There are no approval and no effective or revision dates on the policies.
3. It is very hard to find a particular policy because it could theoretically be in more than one section. Managers have trouble keeping track in the mess. The Auditor General said: "...it is difficult and time consuming to use. ... researching policies could take hours, as information could be searched for in various ways and each way could provide different results." (2004 Report, 7.95.)
4. There are redundancies and incoherencies, giving ample room for errors in application and making accountability impossible.
5. They are not easily accessible to the public. Like the forms, they are hard for people in general, and especially for those with limited literacy skills, to understand. For example, on the French appeal form the term "indu" could be replaced by "trop long", which would be much easier for ordinary people to understand.

C. Lack of fairness

1. The policies are not fair because they do not sufficiently provide for exceptions.
2. They are not based on legislation or on philosophical grounds.

PROPOSALS

A. Reworking

1. The policy system needs to be totally reworked. The Minister needs to tidy up the policies.
2. Each policy should have a number that identifies it clearly and can be found in the table of contents and keyword index.

B. Re-framing

1. Since there are exceptions to every rule, policies should be nuanced and differentiated. Transportation requirements, for example, are different in urban or rural settings.

2. They should be boiled down into short statements, simplified and published as pamphlets or brochures. They should be reviewed by plain-language advisers who would simplify the contents and put them into plain language (street language accessibility).

C. Bases

1. Policies should be founded on principles and bases stated at the beginning of each policy. Some examples of principles: Reduce harm, maximize advantages; Recognize risks and prevent endangerment; Offer public, free and fair social services; Grant exceptions; Follow normal procedures concerning the appeal system, commercial practices, etc.; Ensure procedures that are just and the least limiting as possible; Interpret legislation without imposing an excessive burden; Interfere as little as possible in people's private lives; Provide the written evidence and information requested by recipients.
2. Each policy should start with the rationale justifying it, in other words, its reason for existence and the legislation on which it is based. The policy statement should include the following: the people targeted, eligibility criteria, benefits and services concerned, designated agents and appeal mechanisms, and in certain cases, the conditions, restrictions or requirements to access benefits. The procedure accompanying the policy should explain how the policy is implemented (who? when? where?).

Normal format for policies

Title...
 No...
 Effective Date...
 Reference...
 Statement...
 Approval...
 Initial Issuance Date...

ARGUMENTS

1. Historically (around 1995), policies were numbered, justified by bases and enabling clauses, signed by the Deputy Minister, dated, assigned an effective date or a revision date, accompanied by a table of contents and brought together into a physical policy manual, accessible to anyone who asked for it. A return to a similar system is needed.
2. A policy is a general guideline that employees have to follow in order to make sure that similar decisions are made in similar situations. This implies that as soon as a situation is special the policy in question cannot be applied blindly and special treatment is required.
3. A public policy has to be based on legislation and cannot contradict it or limit conditions of eligibility for benefits beyond what is in the legislation.

2. DEDUCTION OF EMPLOYMENT INCOME (AFTER EXEMPTION)

All income is deducted from social assistance, except for part of employment income.

PROBLEMS

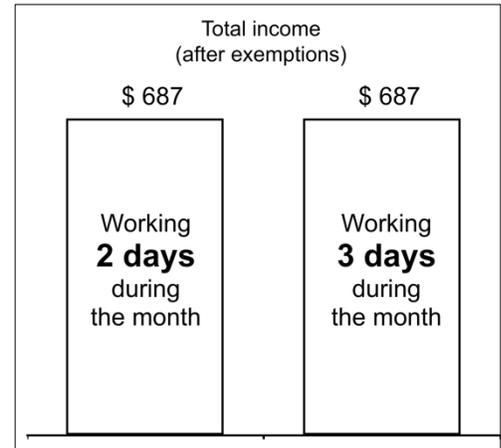
A. Undesirable effect

1. Since assistance rates are low, this only keeps recipients in their state of poverty. Total income (basic social assistance, plus benefits and credits and employment income, minus the exemption) is still below the poverty line.
2. Monthly income is calculated from the 21st of the previous month to the 22nd of the current month. This makes accounting complicated for recipients and causes errors in calculation.

3. When the minimum wage increases, exemptions should also increase. Otherwise, recipients lose money again.

B. Demotivational factor

1. Recipients feel that they're not getting ahead by going to work, because if they earn over \$150 or \$200 during the month the amount over this gets deducted from their assistance. In other words, what they earn on the one hand is taken away on the other.
2. Sometimes a recipient even loses by working a third day in a month. For example, for two days of work he earns \$152 (\$9.50 x 16 hr.), and \$150 is exempt. Added to his reduced social assistance, this gives a monthly income of \$687. For three days of work, he would receive \$228 (\$9.50 x 24 hr.), of which \$150 is exempt. Added to his reduced social assistance, he would still have a monthly income of \$687, so he loses if he works a third day in the month.



C. Irregular employment

1. The exemption policy for employment income does not apply very well when income isn't calculated the same way as for regular workers, that is, from the 1st of the month to the last day of the month. Often income is earned in one month but applied to another because it is paid after the cut-off date. This is another factor of frustration and makes people lose part of their income.

PROPOSALS

1. That the exemption for income be made more flexible and extended to other forms of income besides employment income.
2. That the basic exemption for employment income be set at \$300, and that half of succeeding income be exempted up to \$450 per month. (Someone who worked 3 hr. a day for \$9.50 an hour for 20 days would earn \$570 a month, \$450 of which would be exempt, giving him an income of \$120 deductible from his income assistance.) This would give him an income of \$987.
3. That the policy state that income assistance is not touched when the employment income comes from work on a project or at the minimum wage.
4. That the current policy be modified to take into account the actual amount in the case of those who have to travel long distances to work, in other words, to subtract their travel expenses from net earnings.

ARGUMENTS

1. The government's perspective of encouraging a return to work should be maintained.
2. Businesses sometimes temporarily need more workers, and employable recipients could fill this need, but the current policy doesn't encourage this.
3. The expenses for the public treasury of increasing exemptions would be largely compensated by a reduction in healthcare costs. A study by the Canadian Centre for Policy Alternatives in NS clearly shows that low income leads to much higher healthcare spending.

- Increasing exemptions is a good way to improve the quality of life of recipients and their need for socialization.
- The Department sometimes tells recipients that it exempts the first \$150 earned in a month to pay their expenses for going back to work. But if they earn \$150 and have to pay the same amount to earn it, they're no farther ahead. Nobody would agree to work just to pay his employment expenses.

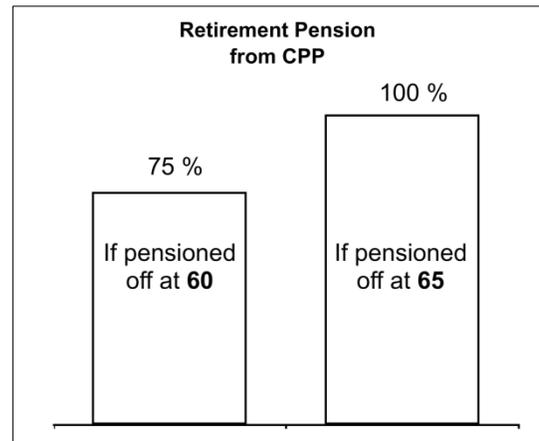
3. FORCED DEDUCTION OF CPP INCOME AT AGE 60

CURRENT POLICY

At age 60, the Minister forces recipients to draw their Canada Pension Plan retirement pension early if they are entitled to one. They aren't allowed to wait till they reach 65. The full amount they receive is deducted from their assistance.

A. Reduced pension

- The amount paid to seniors would be higher if they waited till age 65 to file for their CPP retirement pension.
- In fact, the amount they would normally be entitled to at 65 is reduced by 5% for each year before age 65. This readjustment is permanent.



B. Injustice to seniors

- It is an injustice to make them apply for an early pension. Reducing their assistance by the same amount deprives them of additional income that they could use to obtain basic necessities.
- This sort of measure increases the number of seniors living in poverty.

PROPOSALS

- A recipient should be allowed to wait till age 65 before receiving his CPP retirement pension, as is the case for other citizens.
- A certain amount of the CPP retirement or disability pension could be considered as savings and added to banked assets, and thus exempted when income is calculated (the current exemption for assets is \$1,000 to \$4,000, depending on circumstances). Banked assets represent security for a citizen no longer receiving income assistance.
- Those who receive token amounts of pension income (a few tens of dollars to \$100 per month) should have an exemption, especially when they have many healthcare expenses.

ARGUMENTS

- Historically, social assistance recipients have always had to use all their available resources, like pensions and unemployment assistance, but they didn't have to take their pension early because that bears a penalty.
- This policy, which only applies to social assistance recipients and not to all citizens and which was added in the 1990s, constitutes discrimination based on social condition and in consequence is a violation of people's social rights.

4. RECOGNIZED DISABILITY

CURRENT POLICY

Applications to recognize a disability are sent to a Medical Advisory Board made up of three physicians and a secretary. Its decision is final and cannot be appealed. The Board is the only body able to recognize a disability. Its decision is based on only two reports: a medical report and a social report. A recipient may submit a new application in six months if his physical condition changes.

PROBLEMS

A. Denial of right to appeal

1. Regulation 95-61 allows a recipient to appeal if he is dissatisfied with a decision related to a disability, but this right to appeal was eliminated by the Minister through a policy. This unduly restricts the right to appeal. The right to appeal a decision related to a disability is therefore limited by policy and not by legislation. This is abnormal.

B. Irregularities

1. The decision-making process takes place without hearing the person.
2. The social report doesn't cover all the social aspects and is prepared not by a social worker but by a manager. Consequently, the evaluation of the person's limitations is incomplete.
3. The decision-making mechanism related to applications for a disability pension is far from at the same level as the systems commonly used to award benefits.

C. Overly restrictive criteria

1. The refusal rate for disability pensions in 2009-2010 was 59% (975 applications and 574 refusals), despite the fact that in most cases physicians had indicated that the applicant was unable to work.

PROPOSALS:

A. System overhaul

1. The present Board should be dissolved and replaced by two traveling Boards composed of three persons: a psychiatrist, a general practitioner and another specialist.
2. The right to appeal should be respected. In case of refusal, applicants should be able to appeal to an independent physician-arbitrator.

B. Standards

1. To be acceptable, the standards of the current Medical Advisory Board should meet the following conditions.
2. The Board should be able to hear cases in both official languages.
3. Applicants for disability certification should be able to have a hearing in person and be accompanied by a representative if they so wish.

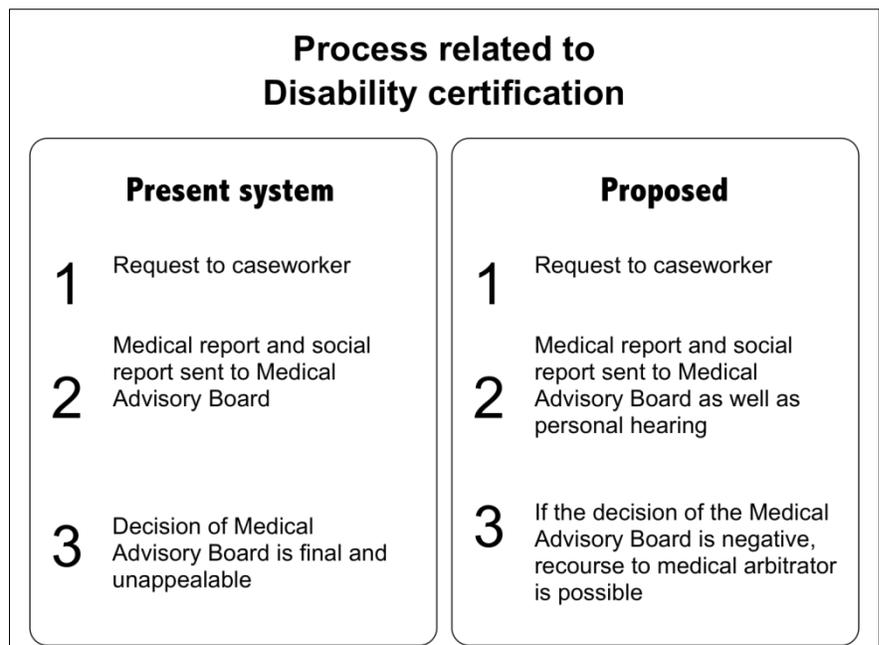
- The person's condition should be thoroughly examined. To facilitate this, the "Social File" form should be redone to better reflect functional difficulties caused by problems related to self-protection, organization, adaptation and emotional balance.

C. Fair procedures

- The Department should automatically send the applicant a copy of the social report without him having to request it.
- Social reports should always be prepared by social workers.

ARGUMENTS

- Decision-making mechanisms based solely on a document review do not do people justice because some details are always left out. The applicant should be able to be heard in person, as is the case for Employment Insurance or WorkSafe.
- The Board may err in making a decision and cause major harm to the applicant. For a single person, a favorable reply represents additional income of \$1,972 per year.
- This is why cases need to be examined by a higher authority. If an application is again refused, a hearing should be held with a physician-arbitrator, with the possibility of having a personal representative.



5. ADULT CHILDREN LIVING WITH THEIR PARENTS

CURRENT POLICY

An unemployable adult who lives with his parents, whether they receive assistance or not, has his assistance reduced by 25% because he benefits from free housing. The formula is different if he has a recognized disability.

PROBLEMS

A. Equivalency factor

- There really isn't much difference between an unemployable person and a person with a recognized disability, because they are both unable to enter the labour market. However, persons recognized as being disabled do not have their benefits reduced by 25%.

B. Impoverishing effect

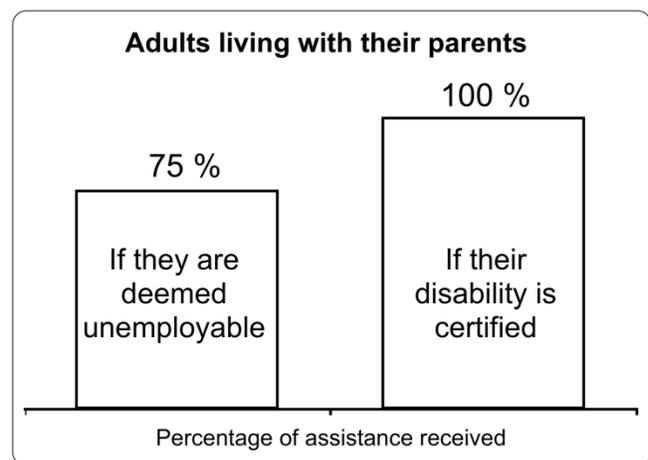
1. The current policy contributes to impoverishing unemployable adults who live with their parents.
2. This has the negative effect of depriving these persons of part of their income, although they often help look after their parents and are doing them a service by living with them. If they weren't there, these elderly or ill parents would need homecare services.
3. Most of the time, these adult children live with their parents because they aren't self-sufficient.

C. Right to elect domicile

1. The liberty of recipients to live where they want while receiving the same income should be respected.

PROPOSALS

1. That the current policy be modified to eliminate the lack of income imposed on those who live with their parents.
2. That the same formula applied to disabled persons be applied to unemployable adults living with their parents, that is, if the parents earn less than \$30,000 per year no deduction is made. The deduction is 5% if they earn between \$30,000 and \$35,000, 15% if they earn between \$35,000 and \$40,000 and 25% if they earn \$40,000 or more per year.



ARGUMENTS

1. Under the principle of equal treatment, unemployable persons should be able to benefit from the same conditions as persons who are recognized as disabled because their needs are pretty much the same.

6. SPECIAL BENEFITS

CURRENT POLICY

The Canada Assistance Plan, the origin of social assistance, allowed for special benefits to help in emergencies. Over the years, however, the provincial government limited access to these benefits to groups referred to as “priority groups”, that is, cases of disability, eviction, disaster and lack of housing. Now only four categories of persons are entitled to special benefits.



PROBLEMS

1. Policies on basic assistance cannot foresee the many exceptions that require special treatment.
2. Exceptional cases need to be dealt with individually.

PROPOSALS

1. Broaden the special benefits program to adequately meet exceptional or emergency situations.
2. Remove the definition of "priority group" so that all individuals and families will have access, when needed, to special benefits, especially in cases where children's living conditions are at stake and they are at risk, when a family is continuously monitored by the Department and where it is a case of basic necessities.

ARGUMENTS

1. Basic assistance is uniform, generalized assistance that is not appropriate when a situation is out of the ordinary.
2. Special benefits are the only way to individualize benefits, and therefore to guarantee equality when conditions are not equal.
3. The absence of public transport in rural regions and hard-to-heat dwellings are good examples of exceptional situations that justify granting special benefits.

7. TERMINATION OF ASSISTANCE

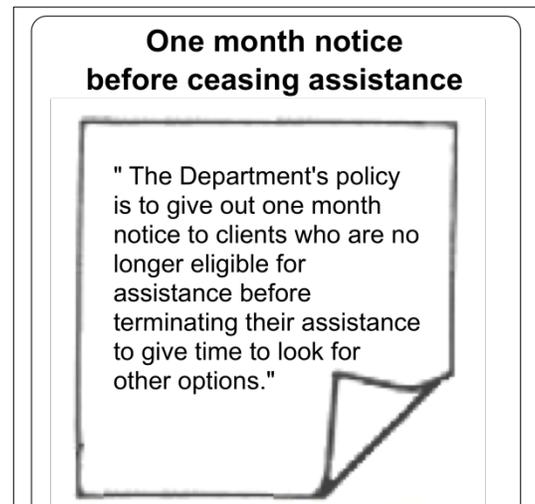
CURRENT POLICY

The recipient is entitled to a month's notice before the Department terminates his assistance.

PROBLEMS

A. Failure to observe the policy

1. The current policy is not always observed.
2. In many cases, such as in the case of overpayments, for example, the Department advises the recipient that his assistance is terminated immediately and that he has to surrender his medical card.



Y. Arsenault, Regional Director, Oct.31, 1996

B. Negative repercussions

1. Closing a file abruptly causes people a lot of anguish. In the meantime, they no longer have any means of survival, but they still have to pay their rent, buy food and obtain other necessities.
2. Often, people find out that they are no longer entitled to income assistance when they go for their mail at the beginning of the month and don't find their social assistance cheque.
3. Closing a file suddenly disorganizes people's budgets and puts them in a very precarious situation.

PROPOSALS

1. That no files be closed unless managers make sure that people are not at risk. In other words, that they use more discernment.
2. In questionable cases, that managers make prior contact with social workers to find out the foreseeable consequences and weigh the appropriateness of their decision.

ARGUMENTS

1. Under the principle of avoiding putting people in danger, it is necessary to make sure that an individual or family does not run any risk of eviction, having the electricity cut off, being deprived of food or losing their medical card by abruptly closing their file.
2. Persons whose file is closed abruptly often, by that very fact, become needy. The *Family Income Security Act* gives the Minister the power to provide assistance to persons who are needy or at risk of becoming needy. A person in need is usually defined as someone who is unable to find a job or to look after his needs because of loss of livelihood, illness, disability, age or other circumstances.
3. It is reasonable to grant a certain grace period before eliminating assistance. This is a common business practice.
4. Giving ineligible persons a month's notice before terminating their assistance also gives them time to clarify their situation.

8. APPEAL SYSTEM

CURRENT POLICY

The appeal system has three levels: 1) a regional review by the area reviewer; 2) a hearing before the Appeals Board, which currently only has the power to make recommendations; and 3) the Minister, who has the final decision-making power and who can decide to not implement the Board's directives. The Board's mandate is limited to ruling on the subject of the dispute before it, and its decision has to be based solely on the Act and Regulations. Two reasons for appeal are excluded in the Regulations (separate files and emergency benefits), while the Minister added two others through a policy (disability and overpayments).

PRESENT APPEAL SYSTEM

- 1 Unfavorable decision by caseworker (in writing) and request for review
- 2 Request for appeal and hearing by Appeal Board
- 3 Directive issued to Minister and decision made by Minister

PROBLEMS

A. Cumbersome system

1. It is obviously a makeshift system when compared to the standards set in other systems such as Employment Insurance or WorkSafe NB.
2. The area review mechanism is not independent of the Department.
3. In many cases, decisions are made based on Department policies, and this is against the law.
4. It is not reasonable that special benefits cannot be appealed.
5. Travel costs are only paid at the discretion of the Appeals Board Chairman.

B. Natural justice

1. Recipients' right to a just and fair appeal system is not recognized.
2. A recipient does not have the right to a paid defender or a representative as is the case, for example, of those injured in the workplace. This deprives him of proper defense.
3. The recipient is unable to read the documents concerning him to prepare before the hearing.

C. Minister's right of veto

1. There is no assurance of an enforceable decision because the Board Chairman only submits "directives" to the Minister.
2. In reality, the government has given the Minister the power to refuse to follow the Board's directives and to render, should he so wish, a new decision.

D. Power to investigate

1. Historically, the Board had the mandate to investigate various matters and report to the Minister, but the government eliminated this Board power in Reg. 95-61.

PROPOSALS

1. That the area review be eliminated and replaced by a primary review (between the manager and his supervisor or designate), preventing unnecessary delay in reaching the Appeals Board.
2. That the Appeals Board have three members:
 - a. A Chair nominated by government
 - b. One representative from business
 - c. One representative from the N.B. Federation of Labour; this representative must be a person currently living on social assistance.
3. That a full time bilingual independent person be available to act as an advocate for people who request it when they present themselves before the appeal board
4. That the system respect rights better: broaden reasons for appeal to include special benefits and economic units, give appellants a copy of documents that the Department intends to present at the hearing, provide them with coaching services from representatives who would help them prepare to appear at the hearing and to introduce documents as evidence.
5. That Appeals Board decisions be enforceable.
6. That Board decisions may be appealed to the Ombudsman.
7. That decisions be based solely on the Act and Regulations.

Restriction of the right to appeal

Legislation:

All decisions made concerning social assistance may be appealed, except for economic units and emergency items.

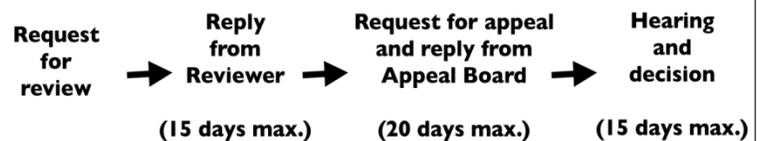


Policy:

... except also in case of overpayments, heating assistance and disability certification.

Through its policies, the Department is limiting guaranteed rights, depriving thus the citizens of their right to appeal.

Time frames imposed for the appeal system



ARGUMENTS

1. The Appeals Board should have the power to question unjust administrative decisions and to report on them publicly.
2. A manager's decision has an impact on the recipient and his family, so he should have the opportunity to properly explain his situation before the Board.
3. The Board should study not only complaints but systematic problems such as the definition of income, for example.

4- The appeal system is a democratic process to give the recipient a chance to have the manager's decision reviewed. It's also an opportunity to give explanations or submit other information or evidence to enhance understanding of his situation.

5-An effective appeal system is a normal, democratic tool to protect individuals from incorrect decisions or abuse in any administrative system.

9. HOUSEHOLD INCOME POLICY

CURRENT POLICY

The household income policy is only applied to social assistance recipients who are in spousal relationships but the social assistance recipients who requested this consideration after January 2010 are being denied this advantage.

PROPOSAL

That the reform on household income policy continues to be applied to all social assistance recipients who are in not spousal relationships.

That this reform be applied to all qualifying social assistance recipients, regardless of the time they chose to dwell with another social assistance recipient.

ARGUMENT

The denial of the household income policy reform to those social assistance recipients who acquired this status after January 1st 2010 constitutes discrimination and should be abolished.