



Not too late to better the Canada Disability Benefit

Response to the Canada Disability Benefit Regulations

Prepared by:

Yasmine Gill, Mohy-Dean Tabbara, and Alexi White

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Maytree
77 Bloor Street West
Suite 1600
Toronto, ON M5S 1M2
CANADA

+1-416-944-2627

info@maytree.com
www.maytree.com

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Introduction

In 2022, 911,000 people – or 14.6 per cent – of working-age people with disabilities lived below Canada’s official poverty line.¹ The poverty rate rises to 38.5 per cent for single working-age individuals with disabilities.

Through the *Canada Disability Benefit Act*, the Government of Canada has committed to reduce poverty and support the financial and social security of people with disabilities. This is in line with Canada’s responsibility under international human rights law to fulfill the right to an adequate standard of living, not only for people with disabilities but for all people in Canada.²

On June 29, 2024, the government published draft regulations that would introduce a new Canada Disability Benefit (CDB). The proposed regulations include specific parameters for the CDB, including eligibility criteria and benefit calculations.

Maytree is a Toronto-based human rights organization that believes our economic and social systems create poverty when they fail to focus on human dignity. Our response to the draft regulations is guided by a human rights-based approach, which contrasts with traditional charity-based frameworks that have failed to address the root causes of disability poverty in Canada. Grounded in principles of participation and accountability, a human rights-based approach recognizes that all levels of government are required under international law to pursue the progressive realization of the right to an adequate standard of living by using the maximum available resources to advance this goal.

We would like to emphasize that nothing in this submission should be read as a call to delay the implementation of the CDB. Though the proposed design includes several fundamental shortcomings, people with disabilities have already waited too long for the CDB, and the government should be able to implement an imperfect benefit while simultaneously working to improve it as soon as possible.

1 Statistics Canada. (April 26, 2024). Table 11-10-0090-01 Poverty and low-income statistics by disability status. <https://doi.org/10.25318/1110009001-eng>

2 See article 2 of the International Covenant on Economic, Social and Cultural Rights and article 28 of the Convention on the Rights of People with Disabilities.

The benefit amount is highly inadequate

For years, the total welfare incomes of people with disabilities have languished significantly below Canada's Official Poverty Line.³ The government's messaging around the CDB – including comparisons to the Guaranteed Income Supplement for seniors – brought hope that the new benefit would largely end disability poverty in Canada.⁴ But with a proposed annual maximum amount of only \$2,400, the disappointing reality is that the government's own estimates suggest the CDB will lift only about 25,000 people with disabilities out of poverty.⁵

Poverty is a policy choice – one that is inconsistent with Canada's human rights obligations. If the CDB is intended to fill in the gaps left over by provincial and territorial social assistance programs, then the benefit amount should reflect this. According to the Parliamentary Budget Officer's analysis, which draws on Maytree's 2022 *Welfare in Canada* report, the maximum benefit amount would have to increase by a factor of six to \$14,356 per year to close the largest gap between current welfare income and the Official Poverty Line across provinces and territories.⁶ Note that the Official Poverty Line does not account for the additional cost of living with a disability, so even this higher benefit would not be sufficient to lift all people with disabilities out of poverty.

Recommendation 1: The federal government should immediately increase the maximum benefit so that receipt of social assistance and the CDB is sufficient to escape a life of poverty.

3 Laidley, J. & Tabbara, M. (July 2024). *Welfare in Canada*, 2023. Maytree. <https://maytree.com/changing-systems/data-measuring/welfare-in-canada/>

4 Government of Canada. (September 2020). *A stronger and more resilient Canada: Speech from the Throne to open the Second Session of the Forty-Third Parliament of Canada*. <https://www.canada.ca/en/privy-council/campaigns/speech-throne/2020/stronger-resilient-canada.html>

5 Thurton, D. (June 7, 2024). Canada Disability Benefit won't lift "hundreds of thousands" out of poverty, new numbers confirm. *CBC News*. <https://www.cbc.ca/news/politics/canada-disability-benefit-poverty-1.7228322>

6 Office of the Parliamentary Budget Officer. (November 2023). *The Canada Disability Benefit: Models and Scenarios*. <https://distribution-a617274656661637473.cbo-dpb.ca/cc0930a87cbe514f3939754dd7b28f97483325cacb8ff82b44362d6876f83a9>

Eligibility is overly restrictive

The government projects that, at maturity, only about 600,000 people will be eligible for the CDB based on the proposed eligibility criteria. This contrasts with the more than 900,000 working-age people with disabilities in Canada who live in poverty,⁷ and the over 750,000 households receiving social assistance that include at least one person with a disability.⁸

This discrepancy is due to the requirement that CDB recipients qualify for the Disability Tax Credit (DTC) certificate. Even in the grim landscape of disability adjudication systems in Canada, the DTC stands out for its cumbersome and costly application, unwieldy and lengthy dispute resolution process, and narrow definition of disability.

The government has been well aware of these failings since 2020, when it proposed to use the DTC as an eligibility screen for a one-time COVID disability benefit.⁹ The disability community pushed back strongly at the time, raising concerns about the use of the DTC as a screen for benefit eligibility. Despite this warning, the government took no action over the past four years to devise a more appropriate measure of eligibility for the CDB. It is not too late to commit to developing a new approach.

Recommendation 2: Commit to developing a separate CDB certificate that uses the inclusive definition of disability outlined in section 2 of the *Accessible Canada Act*. Through one streamlined application process, people with disabilities could be assessed on whether they qualify for both the DTC and the CDB certificates, or only the CDB certificate.

Recommendation 3: The appeals process for an alternative CDB certificate must be rooted in the *Canada Disability Benefit Act*. Appeals should go to the Social Securities Tribunal and not the Tax Court as is the case for the DTC certificate.

⁷ Statistics Canada. (April 26, 2024). Table 11-10-0090-01 Poverty and low-income statistics by disability status. <https://doi.org/10.25318/1110009001-eng>

⁸ Tabbara, M. (April 2024). *Social Assistance Summaries*, 2023. Maytree. <https://maytree.com/changing-systems/data-measuring/social-assistance-summaries/>

⁹ Philipupillai, K. (January 11, 2022). Canadians with disabilities “left behind” say advocates after Ottawa spends \$797-million in targeted COVID support. *The Hill Times*. <https://www.hilltimes.com/story/2022/01/11/canadians-with-disabilities-left-behind-say-advocates-after-ottawa-spends-797-million-in-targeted-covidsupport/229879/>

The CDB should be structured as a refundable tax credit

The proposed structure for the CDB as a benefit available through Service Canada introduces unnecessary barriers to access and potential negative program interactions that will prevent people with disabilities from receiving the full value of the CDB.

Accessing the proposed CDB will require a three-step process: (1) qualify for the DTC certificate; (2) file a tax return; and (3) apply for the benefit through Service Canada. Unlike a benefit delivered through Service Canada, a refundable tax credit along the lines of the Canada Child Benefit or Canada Workers Benefit could be provided automatically through the tax return. This would mean that the third step – the application through Service Canada – would no longer be needed. Moreover, a refundable tax credit can be designed to be just as responsive as a Service Canada benefit and even offer automatic advanced payments as is now done with the Canada Workers Benefit.

The accessibility of the CDB is of great importance given the many well-documented systemic barriers that routinely marginalize people with disabilities in Canada. Requiring an application through Service Canada adds to these barriers and only delays the flow of the benefit. These barriers are not without fiscal costs to the government, either. According to Employment and Social Development Canada's Cost Benefit Analysis for the CDB regulations, administration and delivery by Service Canada is estimated to cost about \$239.1 million over ten years.

In addition to a simpler application process, structuring the CDB as a refundable tax credit would avoid many of the negative interactions between the CDB and other benefits that may result in clawbacks. Provincial and territorial social assistance programs do not generally consider refundable tax credits in their benefit calculations, and neither do Rent-Geared-to-Income housing providers. The federal government has not yet explained how the CDB will interact with other federal benefits, such as the Canada Pension Plan disability benefit, leaving open a risk that this interaction will erode the value of the new benefit. This too could be avoided if the CDB were structured as a refundable tax credit.

Furthermore, if the CDB were designed as a refundable tax credit, it would not be included in the calculation of Adjusted Family Net Income (AFNI). As AFNI increases, a family's other supports across the income security system are reduced. As a result, the introduction of the CDB as a benefit through Service Canada will

mean some families may receive less from the Canada Child Benefit, the Canada Workers Benefit, a range of provincial and territorial tax credits, and more.

The government cannot simply hope that the impact of the new benefit will not be reduced through clawbacks and a higher AFNI. Ensuring that the proposed CDB stacks on top of and does not subtract from existing supports will require the government to be proactive in making a range of regulatory and legislative changes both at the federal and provincial/territorial levels. Turning the CDB from a benefit to a refundable tax credit would greatly simplify this process and would keep hundreds of millions of dollars in the pockets of those who need it most.

Recommendation 4: Commit to redesigning the CDB as a refundable tax credit to improve access and reduce negative program interactions. The required changes to tax legislation could be passed as part of the 2025 Budget Bill.

Recommendation 5: If a refundable tax credit model is not accepted, the government should immediately eliminate the need for an application to Service Canada. The government has provided no reason as to why Service Canada cannot distribute the CDB automatically to anyone who has filed taxes and has a DTC certificate.

Recommendation 6: The federal government should work with all provinces and territories to avoid clawbacks of other benefits, such as social assistance, rent-geared-to-income, and private insurance. The federal government should also re-examine the design of all other income security benefits that rely on AFNI and make regulatory changes to mitigate negative effects.

Recommendation 7: If a refundable tax credit model is not accepted, the government must ensure by other means that the CDB does not negatively interact with other federal programs such as the Canada Pension Plan disability benefit, Employment Insurance, and veterans' benefits.

Individualize the CDB income threshold

Although poverty is measured at the family level, human rights belong to the individual. A human rights-based approach recognizes the importance of individual autonomy and independence.

For this reason, the disability community has been clear in its desire to base the CDB around the individual with the disability, rather than their family as whole. Notably, it would prevent coercive dependence and would limit financial abuse, both of which especially impact women. Maytree echoes this call.

Recommendation 8: The CDB income threshold should consider only the individual's income and not that of the family.

Integrate the working income exemption into the income threshold

Maytree asserts three principles for CDB design, derived from a human rights-based approach, that are relevant to setting the income threshold and working income exemption:

1. The CDB should not be reduced until an individual or family reaches an income that at least exceeds Canada's Official Poverty Line. Taking away benefits from families living in poverty is not in keeping with Canada's human rights obligations. Note that the poverty line varies by region, and the average for single individuals in 2023 was \$26,781.03.¹⁰ It will be higher by 2025 when the Canada Disability Benefit will start to be paid.
2. In recognition of the equal dignity of every recipient, the CDB should not be designed to incentivize work, only to avoid disincentivizing it.
3. The CDB should not be reduced because a recipient lives in a province or territory with more generous social assistance rates. If the federal government is asking provinces and territories not to claw back social assistance because of CDB payments, it should not reduce CDB benefits due to social assistance payments.

¹⁰ Torjman, S. (April 2024). *Dignity by Design: The Canada Disability Benefit*. CSA Public Policy Centre. <https://www.csagroup.org/wp-content/uploads/CSA-Canadian-Disability-Benefit-Public-Policy-Report-EN-Accessible-Updated.pdf>

From these three principles flow several concerns with the proposed design:

First, the proposed CDB income threshold for a single individual is only \$23,000 – several thousand dollars below the poverty line.

Second, the proposed design includes an additional working income exemption of \$10,000 that will only benefit some recipients and is clearly designed to encourage work.

Third, in two territories social assistance payments already exceed the CDB's \$23,000 income threshold for a single individual with a disability, and in one province it is right below the threshold.

In the Northwest Territories, social assistance benefits for a single individual with a disability were \$32,874 in 2023, reflecting the high cost of living.¹¹ Similarly in the Yukon, social assistance benefits for a single individual with a disability were \$24,690 in 2023.¹² This means that a social assistance recipient with a disability who is residing in either territory would exceed the CDB income threshold and receive less from the new benefit than a social assistance recipient elsewhere in Canada. In Alberta, a single individual with a disability who qualified for Assured Income for the Severely Handicapped (AISH) received \$21,244 in social assistance benefits in 2023.¹³ This amount is close to the allowable CDB income threshold, and as AISH continues to increase with inflation in 2024 and 2025, it too may trigger a reduction in the value of the CDB.

Recommendation 9: Combine the income threshold and working income exemption. Under this approach, a single individual with a disability would have a new income threshold of \$33,000. A couple would have a threshold of \$46,500 (assuming the government opts not to individualize the benefit). This would eliminate the work incentive without penalizing anyone who is working, avoid reducing the CDB benefits of people living in poverty, and prevent regional disparities due to differing social assistance maximums.

11 Laidley, J. & Tabbara, M. (July 2024). *Welfare in Canada, 2023*. Maytree. <https://maytree.com/changing-systems/data-measuring/welfare-in-canada/>

12 Ibid.

13 Ibid.

Conclusion

Moving forward, Maytree urges the government to redouble its efforts to listen to the perspectives of those with lived experience of disability. A human rights-based approach requires centring the dignity of people living with disabilities, and meaningful engagement is an integral component in this.

Despite the government's stated commitments in this area, it is difficult to see the voices of people with disabilities reflected in the proposed regulations. From the benefit design, to the eligibility requirements, to the application and appeals processes, the government has repeatedly prioritized ease of implementation over the needs of recipients. Sadly, a culture of scarcity has led to widespread disappointment in the benefit as it currently stands, even as Canada is on the verge of implementing an important new element of our income security system.