

What would it take to make British Columbia the most progressive jurisdiction for people living with disabilities?

Submission of the Disability Without Poverty Network

March 2014



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About our network

The Disability Without Poverty Network (DWPN) is a working partnership between six organizations working toward positive change for people with disabilities in BC, with a focus on those who are living in poverty. A key area of focus for the DWPN has been the development of a policy brief/report calling for increases in the provincial disability benefit rates. The DWPN member organizations are:



The British Columbia Aboriginal Network on Disability Society (BCANDS), established in 1991, is a provincial, not for profit Society serving the unique and diverse disability and health resource needs of the Aboriginal population of British Columbia, both on and off reserve. BCANDS is the only

Aboriginal organization of its type in Canada and works to support Aboriginal persons living with a disability and their families/support systems, regardless of age, disability type, disability related need, location within British Columbia or ancestry (First Nation, Metis, and Inuit).



BC Coalition of People with Disabilities (BCCPD), a provincial organization working to support people with all disabilities to live with dignity, independence, and as

equal and full participants in the community. Through its Advocacy Access Program, BCCPD helps many hundreds of people with disabilities every year to access income supports and other programs and services. BCCPD champions issues impacting the lives of people with disabilities through its direct services, community partnerships, advocacy, research and publications.



**Canadian Mental Health Association
British Columbia**
Mental health for all

Canadian Mental Health Association

(CMHA) BC is part of one of Canada's most

established national mental health charities. Our Vision is: Mentally healthy people in a healthy society. As the nation-wide leader and champion for mental health, CMHA facilitates access to the resources people require to maintain and improve mental health and community



Community Legal Assistance Society (CLAS), a non-profit law office established in 1971 that provides legal assistance to disadvantaged people throughout

BC. It specializes in the areas of poverty, disability, workers' compensation, employment insurance, mental health, human rights and equality law. Activities include test case and Charter litigation, service case work, law reform, and consultation with community groups.



inclusionBC

Inclusion BC (formerly BC Association for Community Living), a provincial association dedicated to promoting the participation of

people with developmental disabilities in all aspects of community life. It also supports activities committed to building inclusive communities that value the diverse abilities of all people. Inclusion BC's goal is to make it possible for every person, whatever their ability, to live and participate as a full citizen in their community.



people. planning. positive change.

Social Planning and Research Council of BC

(SPARC BC), a non-partisan,

charitable organization that was established in 1966. Having worked with BC communities for almost 47 years, SPARC BC is an excellent source of knowledge and expertise. It also proudly operates the Parking Permit Program for People with Disabilities. SPARC BC focuses on social justice and works together with communities on issues related to accessibility and inclusion, income security and poverty reduction, and provides community development education, outreach and support for community planning.

Framework of our submission

These submissions set out the DWPN's response to the province's Disability White Paper consultation, which is focused on reducing barriers and increasing accessibility for people with disabilities in British Columbia with a view to making BC the most progressive jurisdiction in Canada. The submissions respond to the province's key questions in the White Paper consultation process:

1. Why do you think it's important that we reduce barriers and increase accessibility for people living with disabilities in BC?
2. What can British Columbians do to welcome the contributions of people with disabilities, and what barriers can we remove?
3. What would make it easier for people with disabilities to work or contribute to the community? What needs to be in place?
4. What would BC look like as the most progressive place in Canada for people and families living with disabilities?

These key questions, and particularly the last question, provide an opportunity to discuss a broad spectrum of solutions aimed at fostering and supporting the full inclusion and participation of people with disabilities in BC. With this in mind, we were pleased to see that the White Paper Terms of Reference affirm BC's commitment to a progressive realization of freedoms and reduction of barriers by supporting Canada's ratification of the *UN Convention on the Rights of Persons with Disabilities*.¹

The *UN Convention* is built on the recognition that the inherent dignity, worth and equal human rights of all people are a basic foundation for freedom. It is intended to be a broad human rights instrument that reaffirms that people with all types of (dis)ability must enjoy basic human rights and fundamental freedoms. The *UN Convention* also identifies specific areas where the rights of people with disabilities have been violated and sets out clear guidance to address those violations.

The *UN Convention* also contains strong language reaffirming a well-accepted principle of human rights: the **interdependence** and **indivisibility** of all rights. It explicitly notes "the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination."²

This reflects the idea that one cannot enjoy the full benefit of human rights on a piecemeal or one-off basis. The full enjoyment of any one right requires the guarantee of all rights and freedoms, including socio-economic rights such as the right to adequate income, housing, and nutrition. Rights like freedom of speech, freedom of assembly, and the right to vote, as well as the right to equal access to services, all well accepted in Canada, require a certain level of socio-economic security in order to be meaningful to an individual. Without that security, it is incredibly difficult for a person to take advantage of those rights, and existing inequalities and rights infringements are exacerbated.

This document provides the DWPN's recommendations regarding the provision of disability supports in BC, all grounded in the *UN Convention* and the full spectrum of indivisible rights that people with disabilities must be guaranteed in order to eliminate barriers to their participation in their communities.

Core values and principles

At a fundamental level, we believe that any disability benefits system should:

- Recognize that all individuals in the system are entitled to be treated with dignity and respect;³
- Be fair, equitable, and available in urban, rural and First Nation communities, with a client-centered focus;⁴
- Be accessible, transparent and non-punitive;⁵
- Be choice-based, flexible and reflect the goals and needs of the individuals accessing it;⁶

1. Convention on the Rights of Persons with Disabilities, 30 March 2007, 2515 UNTS 3 (entered into force 3 March 2008, ratification by Canada 11 March 2010) ("UN Convention").

2. Ibid., Preamble at (c); Article 3 at (a),(d).

3. Ibid., Preamble at (a), (h); Article 3 at (a).

4. Ibid., Preamble at (a), (c), (n), (o); Article 3 at (a),(e); Article 19.

5. Ibid., Preamble at (o); Article 3 at (f); Article 19.

6. Ibid., Preamble at (i), (n); (o); Article 3 at (a), (d).

- Focus on promoting full citizenship and participation in the community through the programs and services provided;⁷
- Provide benefits based on an evidence-based approach that reflects the true cost of housing, food and other essentials in the range of supports provided;⁸
- Reflect an environment of learning and best practices;⁹ and
- Provide supports in coordination with other government services in an integrated effort to reduce the number of people with disabilities living in poverty.¹⁰

RECOMMENDATION #1

Provide disability supports using a person-centered approach

We fully endorse the idea that people with disabilities should receive the supports they need to be able to fully participate in their own communities. However, because the strengths, barriers and goals of people with disabilities vary greatly, a one-size-fits-all system will not enable individuals to reach their maximum potential. Individuality and autonomy must be paramount.

The *UN Convention* clearly requires “respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of person,” as well as “respect for difference”. In addition it ensures that “persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.” The *UN Convention* goes on to state that health, employment, education and social services for people with disabilities should be provided “...as close as possible to their own communities, including in rural areas.”¹¹

In keeping with these principles, we recommend that the disability supports system respect the dignity of people with disabilities by moving away from a punitive system that requires people with disabilities to focus on what they cannot do in order to get the supports they need. Instead, the disability supports system should be based on trust and collaboration with the individual, and person-centered planning based on his or her personal, autonomous goals.

In order to achieve this, we recommend:

- A system of service delivery that is individualized and focused on the recipient’s personal goals for participation;
- Enhanced services and supports to better assist individuals to meet their goals; and
- Community based service delivery, including in rural and First Nation communities, with accountability to the individuals served and strong mechanisms for client feedback.

Finally, we recommend building on the successful person-centered models that are already in place in BC (e.g. the Equipment and Assistive Technology Initiative; the Community Action Initiative).

RECOMMENDATION #2

Provide adequate disability income supports

The content of the *UN Convention* reflects a strong view about the role that poverty plays in the lives and independence of people with disabilities. It explicitly highlights “the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recogniz[es] the critical need to address the negative impact of poverty on persons with disabilities.”¹²

7. Ibid., Preamble at (m); Article 3 at (c); Article 26 at 1(b).

8. Ibid., Preamble at (f), (x), (y).

9. Ibid., Article 4 at (f),(g),(i).

10. Ibid., Preamble at (f),(x),(y); Article 28 at (b),(c),(d).

11. Ibid., Article 3 at (n), (o); Article 19 at (b); Article 26 at 1(b). Ibid., Preamble at (f).

12. Ibid., Preamble at (f).

In addition, it contains strong provisions requiring state parties to “ensure access by persons with disabilities, in particular women and girls with disabilities, and older persons with disabilities, to social protection programs and poverty reduction programmes,” and to “ensure access by persons with disabilities and their families in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care.”¹³

The current level of disability income supports does not allow people with disabilities to meet their basic living costs, and does not provide them with the support they need to live in dignity and engage in their communities. We have canvassed these issues more fully in our paper, “Overdue: The Case for Increasing the Persons with Disabilities Benefit in BC”. In our experience, this poverty is a structural barrier that impedes many people with disabilities from participating in their communities with dignity and security. Our key recommendations with respect to disability income supports include:

- **Increasing the Persons with Disabilities benefit to \$1200 per month** in order to reduce the gap between what people with disabilities need for basic essentials and what they get. This increase will help ensure that people with disabilities who need financial support will live in dignity and not poverty. It will also result in greater equity between vulnerable groups by bringing the disability income support levels in line with those provided to seniors through federal OAS/GIS benefits.
- **Indexing the Persons with Disabilities benefit.** This will ensure that the benefit keeps pace with the rising cost of living and that inflation does not erode the ability of benefit recipients to meet their basic needs.
- In addition to our key recommendations to increase and index disability income supports, we also recommend that an evidence-based system be used to assess and set the rates. This evidence-based system must be fair and must reflect:
- The true cost of living in the province, including the cost of safe and accessible housing and food security;

- Portability that reflects regional variations in the costs of necessities like transportation and utilities; and
- Individualized needs like the extra costs of supports that persons with disabilities may require.

RECOMMENDATION #3

Support access to safe, secure and accessible housing for people with disabilities

The need for accessible, affordable and appropriate housing is reflected in the *UN Convention*. It requires the elimination of obstacles and barriers to the accessibility of “buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.”

The *UN Convention* also requires that state parties ensure that “persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obligated to live in a particular living arrangement.” It also requires that they “have access to a range of in-home residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation and segregation from the community.” Finally, as part of its article on adequate standards of living, it requires state parties “to ensure access by persons with disabilities to public housing programmes.”¹⁴

People with disabilities need access to flexible, affordable, safe and accessible housing and, at the current disability income support rates, many are unable to secure it. Again, we have explored the growing cost of housing in BC in “Overdue: The Case for Increasing the Persons with Disabilities Benefit in BC”. In order to address the shortage of affordable housing options, we recommended:

- Increasing the social housing stock available in BC; and
- Increasing access to private market housing options through a rental assistance program for low-income persons with disabilities like the SAFER program.

13. Ibid., Preamble at (t); Article 28 at 2(b) and (c).

14. Ibid., Article 9 at 1(a); Article 19 at (a) and (b); Article 28 at 2(d).

In order to ensure that available housing is safe and accessible, we recommend the provision of financial grants or supplements to cover the costs of accessibility changes or renovations that may be required so that a person with disabilities can reside in a given residence in a safe and accessible manner.

Finally, we recommend that the Ministry of Social Development and Social Innovation, the Ministry Responsible for Housing, and the federal government coordinate services and responses to ensure system integration so that the needs of people with disabilities receiving disability supports are effectively met.

RECOMMENDATION #4

Support employment and social inclusion in a meaningful way

We believe that, with the right supports in place, most people can and will engage in work-related activities. In order to maximize social inclusion and participation, people with disabilities need a goal-oriented, comprehensive, responsive and adequately funded system of employment supports. Further, “employment” should be defined broadly as work-related activities that are appropriate and meaningful to the individual.

We do not support mandatory work requirements for people receiving disability supports. Instead, participation should be voluntary to avoid the potential negative impacts on the individual's income supports and health that may come with rigid and punitive work assessment requirements. This position is consistent with the *UN Convention*, which requires that health, employment, education and social services be provided that “support participation and inclusion in the community and all aspects of society, **are voluntary**, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.”¹⁵

The *UN Convention* sets strong protections around the right to employment for persons with disabilities. For example, it requires state parties to:

- “promote awareness of the capabilities and contributions of persons with disabilities;”
- “protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;”
- “enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services, and vocational and continuing training;”
- “promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;”
- “promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;”
- “promote the acquisition by persons with disabilities of work experience in the open labour market;”
- “promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities;” and
- “adopt all legislative, administrative and other measures for the implementation of the rights recognized in the present Convention.”¹⁶

In keeping with these *UN Convention* directives and the principle of individuality set out earlier in this submission, we recommend that the Ministry provide a broad continuum of community-based employment supports that include pre-, during and post-employment supports. Employment supports must not be time-limited so that the gains made with supports are not lost when supports are withdrawn; instead, they should be flexible and match the unique needs and goals of the individual.

15. Ibid., Article 26 at 1(b). (emphasis added)

16. Ibid., Article 8 at 1(c); Article 27 at 1(b), (c), (d), (e), (f), (h), (j), (k); Article 4 at 1(a).\

We recommend further investigation to determine the most effective employment supports, but we suggest exploring the following areas:

- Robust educational supports for people with disabilities, including social skill development in order to improve workplace success;
- Educational supports for employers, including regarding stereotyping and stigma, again to better improve workplace success;
- Proactive supports for employers focused on long-term employment retention;
- Legislative Tools—conduct a review and analysis of legislative models that could enhance, support and maximize the goals and needs of people with disabilities in BC;
- Transitional supports for individuals attempting work placements (broadening of the current confirmed job supplement to focus on participation and not exiting the system; more consistent and geographically fair transportation supplements; retaining medical benefits into employment; etc.).

Finally, we recommend that the disability support system maintain the flexibility required to allow people with disabilities to attempt employment with minimal impact on their disability income supports should the employment not succeed. This would require rapid re-enrollment and flexible earnings exemption rules with a non-punitive focus.

RECOMMENDATION #5

Do not eliminate current disability-based supports in an effort to simplify the system

While we support simplification of the disability support system in order to make it easier to navigate and understand, particularly with respect to current administrative barriers that continue to impede people with disabilities in accessing the system, we do not support the elimination of individualized, need-based health supplements currently provided as a means to simplify the existing system.

Most, if not all, health supplements currently provided have very high eligibility thresholds that require an applicant to establish a severe health-related need. For example, the monthly nutritional supplement requires an applicant to establish that she will experience *imminent danger to her life* if specific nutritional items are not obtained (in addition to other eligibility criteria). In other words, any person receiving this supplement has shown a very serious health necessity for the additional supplement; eliminating the availability of those additional funds will have serious and negative consequences for her health and wellbeing because an imminent health-based need will no longer be met.

We recommend ensuring that disability-based supports continue to reflect the diversity and the individualized needs of people with disabilities. This recommendation is also supported by the *UN Convention*, which recognizes not only the need for individualized supports as set out earlier in the submissions, but also both the “diversity of people with disabilities” and “the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support.” Finally, the *UN Convention* requires that state parties “provide health services needed by people with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons.”¹⁷

17. Ibid., Preamble at (i), (f); Article 25 at (b).

RECOMMENDATION #6

Allow vulnerable families to benefit from child support payments

The *UN Convention* makes clear that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities.”¹⁸

It is a fundamental principle of family law that children have a right to support from their parents, and that right endures any the breakdown of their parents’ relationship. A child of separated parents has a right to receive child support from their non-custodial parent. The children of single parents relying on disability income supports are some of the most vulnerable children in the province and, as set out above in this submission, these families are living below the poverty line. BC’s current policies related to child support payments help to keep them there.

Instead of allowing these families to use any child support funds recovered from the paying parent to improve their independence and standard of living, BC deducts that money from the family’s monthly disability assistance benefits, ensuring that these families continue to struggle well-below the poverty line. The province does this despite allowing families receiving disability income supports to financially benefit from many other kinds of income, such as employment income earned by children attending school, tax refunds, and money withdrawn from an RDSP.

In order to recognize the importance of an adequate standard of living for people with disabilities and their families, we recommend that the province stop deducting child support payments from disability income supports. This recommendation will provide a small amount of relief to these families who are currently living in poverty and it will better support them to become independent and fully participate in their communities.

Conclusion

The *UN Convention* is a powerful instrument that offers a roadmap to a truly inclusive and just society for people with disabilities. Canada, as a signatory to it, has committed to take steps to implement the fundamental rights and guarantees it contains. In order for BC to better support the inclusion and participation of people with disabilities, it must take meaningful steps to fully realize these rights, and it must do so with the knowledge and understanding that no one right can be overlooked at the expense of others. To do so will erode other efforts to support people with disabilities to fully participate in their communities.

All the rights contained in the *UN Convention*, and particularly those that form the foundation for the recommendations in this submission, must be realized in order for BC to become the most progressive place for people with disabilities and their families.

18. Ibid., Preamble at (x).