

March 4, 2022

Hon. Nicholas Simons  
Minister of Social Development & Poverty Reduction  
PO Box 9933 Stn Prov Govt  
Victoria BC V8W 9R2  
[SDPR.Minister@gov.bc.ca](mailto:SDPR.Minister@gov.bc.ca)

Dear Minister Simons,

Disability Alliance BC feels compelled to advocate on an important issue affecting people on Disability Assistance (known as PWD) who have been obtaining employment insurance (EI) benefits during the COVID-19 pandemic, for which the Ministry had provided an exemption between April 2020 and November 2021. We feel strongly that EI benefits should be considered earned income that can be treated under the annualized earnings exemption limit rather than clawing back monthly PWD income dollar for dollar as is currently the case. We recognize there are inconsistencies in the way that the Ministry treats other sources of income which are similar to EI:

### **Canada Emergency Response Benefit:**

The Ministry's stakeholder letter dated December 30, 2021 said, "Payments received through Canada Emergency Response Benefit (CERB), Canada Recovery Benefit (CRB), Canada Recovery Sickness Benefit (CRSB), Canada Recovery Childcare Benefit (CRCB) and the new Canada Worker Lockdown Benefit (CWLB) will be exempt up to and including December 31, 2022<sup>1</sup>, OR until the wind down of the programs, whichever comes first." The Ministry has made the decision to extend its exemption for these benefits, but not for EI, despite both programs being accessed in situations when a person cannot be guaranteed their income.

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<sup>1</sup> Please note: The December 2021 stakeholder letter initially stated that the exemption would end by December 31, 2021, but in a follow up clarification email with the Ministry this was then corrected to December 31, 2022.

The Ministry's continued exemption of CERB and its affiliate programs while not exempting EI could be implicated as giving precedence to one form of illness or disability over another. For instance, the Canada Recovery Sickness Benefit is described as a benefit which "gives income support to employed and self-employed individuals who are unable to work because they are sick or need to self-isolate due to COVID-19, or have an underlying health condition that puts them at greater risk of getting COVID-19."<sup>2</sup> DABC argues that PWD clients needing to access EI due to other forms of illness should not be treated differently from PWD clients needing to access the CRSB due to COVID-19.

### **Workers' Compensation**

Workers' Compensation Board (WCB) Temporary Wage Loss Replacement Payments are considered unearned income which can be used towards the annualized earnings exemption limit. Wage loss benefits are defined as compensation for "workers who lose pay due to a work-related injury or illness."<sup>3</sup> EI benefits can be accessed for a variety of reasons: illness, layoff, maternity/paternity leave, and caring for a critically ill person or newborn.<sup>4</sup> DABC recognizes that the Ministry has exempted EI income that constitutes: "maternity benefits, parental benefits, and special benefits for Parents of Critically Ill Children"<sup>5</sup> but not for reasons related to illness, layoff, or caring for a critically ill person who is not a child.

DABC argues that the Ministry's reasoning to exempt WCB Temporary Wage Loss benefits and continue the exemption of CERB and its affiliate benefits should be extended to EI. WCB, CERB and EI are income replacement benefits for Canadian workers to rely upon when a sudden event outside of their control affects their income. All of these benefits are temporary. All of these benefits cannot be used at the same time. Whether it is from an accident at work, or from a sudden illness, or from being laid off, or not being able to go to work because of the COVID-19 pandemic, all of these situations are through no fault of the worker. Yet, PWD clients who have been injured on the job will get their income replacement benefit through WCB exempted and PWD clients who could not be employed or self employed due to the COVID-19 pandemic will have their CERB or other

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<sup>2</sup> <https://www.canada.ca/en/revenue-agency/services/benefits/recovery-sickness-benefit.html>

<sup>3</sup> <https://www.worksafebc.com/en/claims/benefits-services/wage-loss-benefits>

<sup>4</sup> <https://www.canada.ca/en/employment-social-development/programs/ei.html>

<sup>5</sup> <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/income-treatment-and-exemptions>

affiliate benefits exempted, while PWD clients who are laid off of work or through illness will not.

DABC recognizes that BC is “the only province that opted to fully exempt these federal benefits on a temporary basis” as stated in the Minister’s email letter dated February 17, 2022. Certainly, this has greatly benefitted PWD clients who lost their jobs during the pandemic. However, as you may be aware, the \$1,358 that a single individual on PWD receives per month is not enough to live off of, and so for those who are able to work, their employment income alongside their PWD income is crucial to meet even the basic necessities of life. Having income replacement benefits like EI available for PWD clients to access when their employment income has been jeopardized, is critical to sustaining a basic quality of living.

DABC has heard directly from PWD clients who have been impacted by the Ministry’s decision to end the EI exemption. Clients have expressed how this decision has had a severely negative impact on their daily life and their health situation. This has put clients at risk of homelessness, as well as choosing to sacrifice other vital needs like medication or medical therapies just to get by. This is inhumane.

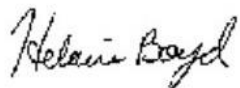
Simply put, PWD income alone still places a person in poverty within our province. The current income and disability assistance system disincentivizes recipients from actively seeking out opportunities that would improve their life situation. The level of income restrictions currently imposed on PWD recipients in order to continue receiving assistance negatively affects the life choices of these recipients to such a degree that the Ministry has inadvertently established a class system in BC whereby low income people with disabilities are not afforded the same freedoms as everyone else.

DABC believes that income replacement systems like EI should be treated as a form of earned income, not unearned income, because workers contribute their employment earnings to EI through a deduction in their pay cheque. Everyone who pays EI premiums can rely on EI benefits being there when they need them, including PWD clients, however the difference is that PWD clients “are required to pursue and accept the other income or means

of support,”<sup>6</sup> meaning that they must accept EI benefits if they are eligible for them, but have no recourse to stop their PWD income from being clawed back. DABC believes this clawback of EI benefits is a form of discrimination against PWD clients, which hinders them from escaping the cycle of poverty.

DABC strongly urges the Minister to consider the points raised above and work with community stakeholders and impacted individuals to amend the Employment and Assistance for Persons with Disabilities Regulation so that people who receive PWD benefits who qualify for EI benefits are not penalized and discriminated against.

Sincerely,



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Disability Alliance BC



Justina Loh  
Executive Director, Operations  
Disability Alliance BC



Andrew Robb  
Managing Lawyer – Disability Law Clinic  
Disability Alliance BC

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<sup>6</sup> <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/eligibility/pursuing-income>