

Bill 21
Mr. Lougheed

BILL 21

2006

ASSURED INCOME FOR THE SEVERELY HANDICAPPED ACT

(Assented to , 2006)

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “benefit” means a benefit referred to in section 3(1);

- (b) “client” means a recipient of a benefit who is eligible under section 3(3);
- (c) “cohabiting partner” means a cohabiting partner as defined in the regulations;
- (d) “Department” means the Department administered by the Minister;
- (e) “dependent child” means a dependent child as defined in the regulations;
- (f) “director” means a person designated by the Minister as a director for the purposes of this Act;
- (g) “facility” means a facility as defined in the regulations;
- (h) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (i) “severe handicap” means an impairment of mental or physical functioning or both that, in a director’s opinion after considering any relevant medical or psychological reports, causes substantial limitation in the person’s ability to earn a livelihood and is likely to continue to affect that person permanently because no remedial therapy is available that would materially improve the person’s ability to earn a livelihood.

Delegation by director

2 A director may delegate any power, duty or function conferred or imposed on a director under this Act to any employee of the Department or of an Indian or Metis organization.

Benefits

3(1) A director may, subject to this Act and in accordance with the regulations, provide the following benefits:

- (a) a living allowance, a child benefit or a personal benefit to a person who is eligible under subsection (3);

- (b) a health benefit to a person who is eligible under subsection (3) and any cohabiting partner or dependent children of that person.

(2) A director may provide a modified amount of a living allowance in accordance with the regulations to a person who resides in a facility.

(3) Subject to subsection (4), a person is eligible to receive a benefit if the person satisfies a director that

- (a) the person is a Canadian citizen or permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada), is ordinarily resident in Alberta and is 18 years of age or older,
 - (b) the person has a severe handicap,
 - (c) the income of the person and the person's cohabiting partner as determined in accordance with the regulations is less than the maximum amount of the living allowance plus, if applicable, the child benefit,
 - (d) the value of all assets of the person and the person's cohabiting partner as determined in accordance with the regulations is
 - (i) \$100 000 or less, or
 - (ii) in the case of eligibility for a child benefit or personal benefit, \$3000 or less,
- and
- (e) the person meets any other conditions set out in the regulations.

(4) Where the Minister determines that a person is in circumstances of financial hardship, the Minister may exempt that person from the requirement of

- (a) subsection (3)(c), in the case of eligibility for a health benefit, and
- (b) subsection (3)(d)(ii).

Application for benefit

4 An application for a benefit must be made to a director in accordance with the regulations.

Review of benefit eligibility

5(1) An applicant or client and his or her cohabiting partner must provide any information a director considers necessary as required by the director to determine if the applicant or client is eligible or continues to be eligible to receive a benefit.

(2) Without limiting the generality of subsection (1), an applicant or client must provide any information about his or her physical, mental or psychological condition and undergo any physical, mental or psychological examinations a director considers necessary to determine if the applicant or client is severely handicapped.

(3) An applicant or client must, subject to the regulations, notify a director of the following:

- (a) a change in his or her handicap;
- (b) a change in income;
- (c) an increase in assets;
- (d) any other matter specified in the regulations.

(4) A director may, in accordance with the regulations, refuse, suspend, vary or discontinue a benefit.

Third parties and financial administrators

6(1) A director may pay a third party for goods or services provided to a client from the client's benefit if the client consents.

(2) A director may appoint a financial administrator to manage all or part of a client's benefit if the client is unable to manage his or her own affairs and the client consents or the director is authorized by regulation.

(3) A financial administrator must administer a client's benefit in accordance with the regulations.

Requirement to repay

7(1) Subject to the regulations, a director must require a client to repay the amount or value of a benefit received if, in the director's opinion,

- (a) a benefit has been used for a purpose other than that for which it was provided, or
- (b) the client received a benefit to which he or she was not entitled.

(2) A director may require a financial administrator or third party to repay the amount or value of a benefit received on behalf of a client if, in the director's opinion,

- (a) the client received a benefit to which he or she was not entitled due to the non-disclosure of a material fact or provision of false information by the financial administrator or third party, or
- (b) a benefit administered by the financial administrator or third party has been used for a purpose other than that for which it was provided.

(3) A director must provide a written notice to the person required to repay an amount under this section of the amount to be repaid and the right of appeal under section 10.

(4) Where an amount required to be repaid under this section is not yet a debt due under section 9(1) and the Minister determines that there are appropriate circumstances, the Minister may exempt a person from the requirement to repay.

Underpayments

8 Where a director determines that there has been an underpayment of a benefit, the director may address the underpayment in accordance with the regulations.

Debt due

9(1) An amount repayable under section 7 is a debt due to the Government when

- (a) the client has agreed in writing to repay the value or amount of a benefit,

- (b) the appeal period under section 10 has expired, or
 - (c) 30 days has elapsed after a client abandoned an appeal under section 10 or was notified in writing of the determination of the appeal.
- (2) A director may take any of the following actions the director considers necessary to collect any debt due to the Government:
- (a) entering into a repayment agreement with the debtor;
 - (b) deducting the amount owing from a future benefit payable to the client in an amount determined in accordance with the regulations until the amount owing has been paid;
 - (c) filing with the clerk of the Court of Queen's Bench at any judicial district a certificate of the Minister certifying the amount owing;
 - (d) bringing an action in debt.
- (3) A certificate filed under subsection (2)(c) becomes an order of the Court of Queen's Bench and may be enforced as a judgment of that court.

Appeals

- 10(1)** The Minister may, in accordance with the regulations, establish one or more appeal panels to hear appeals under this Act.
- (2) A person affected by a decision of a director, or a person on his or her behalf, may appeal that decision if it is not exempt from appeal under the regulations and the appeal is made in writing to an appeal panel within 30 days from when the person was notified of the decision and the right to appeal it.
- (3) An appeal panel may, subject to this Act and the regulations, confirm, reverse or vary the decision of a director appealed from, and the decision of the appeal panel is final.
- (4) The Minister may extend the time for appeal under subsection (2) if the Minister is satisfied that there are apparent grounds of appeal and a reasonable explanation for the delay.

Offences

11(1) A person who is required to provide information under this Act and knowingly gives false information, conceals information or omits to provide information is guilty of an offence and liable to a fine of not more than \$1000 and, where ordered by a judge, repayment of the amount or value of the benefit received.

(2) A financial administrator or third party is guilty of an offence and liable to a fine of not more than \$5000 if he or she

- (a) benefits from a benefit knowing that the client was not entitled to receive it, or
- (b) wilfully misuses a benefit provided for a client.

Regulations

12(1) The Lieutenant Governor in Council may make regulations

- (a) respecting living allowances, child benefits, health benefits and personal benefits payable, including the retroactive provision of those benefits;
- (b) respecting the circumstances in which a director may provide, refuse, suspend, vary or discontinue a benefit;
- (c) respecting the determination of the income of an applicant or client and his or her cohabiting partner;
- (d) respecting the determination of the assets of an applicant or client and his or her cohabiting partner and the value of those assets;
- (e) respecting the notification requirements for changes in a handicap, income, assets and other matters specified in the regulations;
- (f) respecting the appointment and duties of a financial administrator;
- (g) respecting requirements to repay under section 7, including the circumstances in which a director does not have to require repayment;
- (h) respecting underpayments;

- (i) respecting the collection of debts due under section 9(2)(b);
 - (j) respecting the collection, use or disclosure of information for the purposes of administering this Act;
 - (k) defining for the purposes of this Act “cohabiting partner”, “dependent child”, “facility” and any other word or phrase used in this Act but not defined in this Act;
 - (l) respecting any other matter that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) The Minister may make regulations
- (a) respecting applications for benefits;
 - (b) respecting appeal panels, appeals and the decisions of a director that are exempt from appeal;
 - (c) respecting the transition of any matter from the previous legislation.

Transitional

- 13(1)** A person who, before the coming into force of this Act,
- (a) was subject to deductions from assistance for an amount owing under section 38(2)(a) of the *Income and Employment Supports Act*,
 - (b) was issued a repayment notice under section 35(5), 36(3) or 37(2) of the *Income and Employment Supports Act*, or
 - (c) entered into a repayment agreement under the *Social Development Act*, the *Income Supports Recovery Act*, the *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, or the *Income and Employment Supports Act*

is, in respect of the matters referred to in clause (a), (b) or (c), subject to Part 6 of the *Income and Employment Supports Act* as it read before section 14(2) of this Act came into force.

- (2) Where a director has paid all or part of a client’s benefit to a financial administrator or a third party prior to the coming into

force of this provision, the director may continue to do so notwithstanding section 6.

Consequential amendments

14(1) The *Conflicts of Interest Act* is amended in section 16(4)(e) by striking out “handicap”.

(2) The *Income and Employment Supports Act* is amended

(a) in section 34 by striking out “and assistance under the *Assured Income for the Severely Handicapped Act*”;

(b) in section 38(2)(a)

(i) by striking out “, under section 35(1) of this Act or under the *Assured Income for the Severely Handicapped Act*” and substituting “or under section 35(1) of this Act”;

(ii) by striking out “, the *Assured Income for the Severely Handicapped Act* or any” and substituting “or any”;

(c) in section 51(4) by adding “, RSA 2000 cA-45,” after “*Assured Income for the Severely Handicapped Act*”.

(3) The *Widows’ Pension Act* is amended in sections 3(3) and 6(2)(c) by striking out “handicap”.

Repeal

15 The *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, is repealed.

Coming into force

16 This Act comes into force on Proclamation.

Explanatory Notes

14 Consequential amendments.

15 Repeal.

16 Coming into force.