

Canadian Paraplegic Association
Submission to the Technical Advisory Committee on Tax Measures
for Persons with a Disability

August 29, 2003

Executive Summary:

The Canadian Paraplegic Association highly recommends that the Government of Canada, and specifically Canada Customs and Revenue Agency (CCRA) review all aspects of tax measures related to persons with disabilities. However, for the purpose of brevity, CPA takes the following position in relation to the Disability Tax Credit (DTC). Firstly, it is apparent that making the Disability Tax Credit refundable as opposed to non-refundable would better enable persons with disabilities to be reimbursed for their out of pocket expenses regardless of where their income comes from. However, as the issue of a refundable vs. non-refundable tax credit is not within the purview of the Technical Advisory Committee (TAC), this issue will not be discussed further in any detail.

Based on the issues being considered by the Technical Advisory Committee, the Canadian Paraplegic Association strongly urges the CCRA to reconsider its current practice of focusing eligibility criteria for the Disability Tax Credit on medical model definitions of disability. By using a medical model definition, Canadians with disabilities are inappropriately assessed by their physical or medical condition and not by their individual needs. Also, the current criteria continue to make consideration for eligibility unnecessarily difficult for persons diagnosed with conditions such as multiple sclerosis and post-polio syndrome, and for those persons who may have sustained an incomplete spinal cord injury resulting in mobility restrictions that may or may not affect walking. This difficulty lies in the fact that their condition can result in periods of remission or periods where a person may not be markedly restricted in any one area, d thereby necessitating the need to frequently re-qualify. CPA also recognizes that the costs associated with living with a disability cannot be categorized into walking; feeding; speaking; perceiving, thinking and remembering; hearing; dressing; and the elimination of bodily waste. Additional costs associated with living with a disability outside of the current definition should include costs associated with finding and maintaining employment; housekeeping; shopping for and the preparation of food; extra costs associated with childcare for a parent with a disability; and the extra costs associated with transportation (including vehicle conversions) and home renovations.

Due to the number of persons living with a spinal cord injury or other physical disability requiring attendant care services for assistance with the basic activities of daily living, CPA believes that the current Caregiver Credit and Attendant Care deduction does not recognize the costs incurred by spouses and common law partners in relation to attendant care support, and the costs paid out of pocket by persons with a net income over \$16,172. Ironically, tax relief is provided to individuals providing in-home care for a parent or grandparent over the age of 65 or other infirm dependent relatives including siblings. Furthermore the child disability benefit recognizes the special needs associated with

caring for a disabled child. Also, individuals paying more than \$10,000 out of their own pocket for attendant care expenses cannot make a DTC claim together with a claim through the Medical Expenses attendant care claim. The Canadian Paraplegic Association would support a review of both the Caregiver Credit and the Attendant Care deduction allowances, and a review of rules around these issues in the Income Tax Act to ensure equity and fairness within the broader taxation system itself.

Lastly, CPA supports a review of the current list of eligible medical expenses since the list does not take into consideration the medical issues related to living with a spinal cord injury and or other physical disability related to sexual function and fertility which are cost prohibitive for many persons living with disabilities and their partners.

Organizational Background:

Spinal Cord Injury (SCI) currently affects approximately 1,000 new families per year, and estimations from the Rick Hansen Institute most recently suggest that there are currently as many as 37,000 Canadians living with an SCI. Since its founding in 1945, the Canadian Paraplegic Association (CPA), a consumer driven, community based organization, has assisted persons with spinal cord injuries and other physical disabilities to achieve independence, self-reliance and full community participation. CPA offers six core services: peer support; rehabilitation counseling; vocational and employment services; community advocacy; case management and information services.

Background

In 2001, a letter was sent to approximately 106,000 Canadians asking that they re-qualify for the Disability Tax Credit. Subsequently, serious concerns expressed by the community of persons with disabilities led to a review of the DTC by the Sub-Committee on the Status of Persons with Disabilities and the formation of the Technical Advisory Committee on Tax Measures for Persons with Disabilities (TAC) in early 2003.

The Canadian Paraplegic Association has participated in the review and re-development of the T2201 Form for application for the DTC and believes that the new draft form adequately meets the needs of people with spinal cord injuries and other physical disabilities. However, CPA also believes that the TAC on Tax Measures will provide the community with an opportunity to address issues remaining which are outside of the purview of the CCRA's working group.

Introduction

The impact of a spinal cord injury or other physical disability on a family is often overwhelming. Often, people with an SCI or other physical disability are reliant on others for the provision of care associated with the basic activities of daily living and require mobility aids such as wheelchairs and other technical aids for use at work, at home and in recreation. Additionally, persons injured in accidents such as sport and motor vehicle mishaps can no longer rely on large insurance settlements to meet the basic requirements of living with a disability over their life span, as insurance settlements have typically decreased over the past decade. Hence, individuals and families often bear the

costs of ongoing and continuous care. Further, due to a systemic lack of accessible and affordable housing and government funded attendant care services, people are often relying on their families for housing and for attendant care services. Therefore, it is clear that the tax system has the potential to alleviate some of the costs associated with living with a disability. Thus, the intent of the Disability Tax Credit to alleviate some of the many barriers faced by persons with disabilities is crucial. Recognition that the following principles contribute to the overall ability of people with disabilities to achieve independence, self-reliance and full community participation should steer the work of the Technical Advisory Committee:

- Disability-related costs are often intangible, and always involuntary;
- The high costs associated with living with a disability as well as some eligibility criteria for income and disability support programs can act as a disincentive to employment;
- Tax measures to assist in covering the costs associated with disability should not be limited to people who are employed;
- The costs associated with disability are not necessarily covered more adequately when a person is employed;
- Tax credits serves to equalize not subsidize.

These principles indicate that the Disability Tax Credit (DTC) remains of great concern to people with spinal cord injuries and other physical disabilities. Many individuals with an SCI and other persons with other physical disabilities continue to struggle to find employment with a significant enough salary and benefits package to meet their all of their basic needs. As a result, provisions through the Income Tax Act, that recognize the financial aspect of living with a physical impairment, are a way to equalize the playing field for all Canadians. While the CPA recognizes that people with spinal cord injuries are likely to meet the DTC eligibility criteria, it does assert that the costs associated with living with a SCI or other physical disability are significant and that provisions under the medical expense tax credit, attendant care deduction and the caregiver credit are not fully inclusive.

The Canadian Paraplegic Association supports the submissions of the Council of Canadians with Disabilities (CCD), Canadian Association for Community Living (CACL), the Canadian Mental Health Association (CMHA), and the Canadian National Institute for the Blind (CNIB), and wishes to add to these submissions in order to highlight some of the specific issues of the community of people with SCI and other physical disabilities.

The Technical Advisory Committee on Tax Measures (TAC)

The Canadian Paraplegic Association applauds the Government of Canada in its recognition of the need for review and potential reform of the Disability Tax Credit and other taxation measures related to disability. In convening the Technical Advisory Committee on Tax Measures, and through the appointment of key individuals who are

well qualified and are aware of the complexities of living with a disability and the work being done by community-based organizations for and by persons with disabilities, CPA feels confident that the needs of the community will be served well by TAC's members.

Definitions of Disability:

The Canadian Paraplegic Association asserts that the Government of Canada and specifically Canada Customs and Revenue Agency (CCRA) needs to review all aspects of tax measures related to persons with disabilities. However, for the purpose of brevity, CPA takes the following position in relation to the Disability Tax Credit (DTC). CPA believes that the CCRA has largely focused its eligibility criteria for the Disability Tax Credit on medical model definition of disability and, as a result, Canadians with disabilities are assessed by their physical or medical condition and not by their individual needs. The medical model views disabled people as individuals whose experience is determined by their physical medical or mental condition. The community of persons with disabilities has argued that the definition of disability should be more focused on the social model of disability in order to fully understand the needs of an individual. The T2201 form continues to follow a medical model, in that individuals with disabilities are required complete the form with the certification of a qualified professional. While it is understandable that a measure is required to determine eligibility, the Canadian Paraplegic Association takes the position that eligibility certification should be based more on the social model of disability and should also take into consideration the cost prohibitive nature of obtaining such medical forms for many individuals and families, because of the fees charged by medical professionals.

Eligibility Criteria

The Canadian Paraplegic Association asserts that although a person with a spinal cord injury or other physical disability is likely qualify for the disability tax credit, the eligibility criteria could result in some persons with physical disabilities deemed to be ineligible or be expected to re-qualify. For example, persons diagnosed with diseases such as multiple sclerosis and post-polio syndrome, which can result in periods of remission or periods where a person may not be markedly restricted in the area that deemed them eligible previously, such as walking. Additionally, CPA wishes to support recognition of persons who may have sustained an incomplete spinal cord injury and as a result may be able to walk, but may experience mobility related issues which may not necessarily fit within the current eligibility criteria. Therefore, CPA would support the elimination of re-application for persons previously deemed eligible due to diagnosis with a condition known to fluctuate in severity and/or remission, and would support a full review of current eligibility criteria related to walking. Also, CPA concurs with the submission from the Canadian Association for Community Living that "although the courts generally decide favorably for the complainant in DTC cases, not every family or individual has the resources, whether financial or otherwise, to undergo the full process of appeal."

Basic Activities of Daily Living:

Basic activities of daily living are rarely 'basic' for a person with a disability and the medical model approach to defining disability does not address the many needs

associated with disability outside of an individual's "condition". The costs associated with living with a disability cannot be categorized into walking; feeding; speaking; perceiving, thinking and remembering; hearing; dressing; and the elimination of bodily waste. Additional costs associated with living with a disability outside of the current definition should include costs associated with finding and maintaining employment; housekeeping; shopping for and the preparation of food; extra costs associated with parenting and childcare for a parent with a disability; and the extra costs associated with transportation (including vehicle conversions) and home renovations.

Disability Supports

A person with a disability is not guaranteed consistent disability support programming across the country. Therefore, there are many individuals and families across Canada who, because of a systemic lack of support services are forced to pay a portion of or all attendant care services out of their own pocket, or provide personal care for family members themselves. Due to current rules in the Income Tax Act, a person directly paying more than \$10,000 a year for attendant care services cannot make a claim against the disability tax credit with a medical expenses claim. Therefore, persons who are receiving an income, but due to the lack of available supports around their work schedules are paying for 100% of their attendant care services out of their salary, do not benefit from the DTC. Many persons requiring attendant care are dependent on approximately six hours of care in a 24 hour period at a rate of approximately \$13.33 per hour. This amounts to over \$28,000 per annum to be paid directly from a person's salary, without appropriate or adequate tax relief. Additionally, the disability tax credit specifically the Caregiver Credit, does not currently recognize the costs incurred by spouses and common law partners in relation to attendant care support. Ironically, tax relief is provided to individuals providing in-home care for a parent or grandparent over the age of 65 or another infirm dependent relatives including siblings. Moreover, the child disability benefit recognizes the special needs associated with caring for a disabled child. The Canadian Paraplegic Association recognizes the numerous hours of care provided by all family members of persons with disabilities; however, it seeks equity and fairness for its members due to the recognition that people with spinal cord injuries and other physical disabilities do receive unquantifiable assistance from their spouses and common law partners such as daily personal assistance, overnight assistance, assistance while traveling, meal preparation and housekeeping assistance.

Additionally, the Attendant Care deduction does not allow for attendant care to be provided by a spouse or common-law partner. CPA, while not encouraging attendant care provision by a spouse or common law partner, recognizes that in many instances attendant care is provided by partners of persons with SCI or other physical disability out of necessity. The majority of spouses providing care are not paid for their work, nor do they have an opportunity to earn an income outside of the home.

Medical Expense Tax Credit

Currently the list of eligible medical expenses does not take into consideration the medical issues related to living with a spinal cord injury and or other physical disability, including sexual function and fertility. Pharmaceuticals and recognized fertility therapies related to sexual function and fertility are often cost prohibitive to many persons with disabilities. CPA, on behalf of its members, takes the position that the medical expense tax credit should not be limited in this regard, and that pharmaceuticals related to sexual function, and procedures such as intra-cytoplasmic sperm injection, in-vitro fertilization and artificial insemination should be added to the list of eligible medical expenses. As a result the limited list of eligible medical expenses restricts the ability of persons with disabilities to enjoy fulfilling sexual relationships and have children.

Conclusion

While CPA recognizes that this submission refers directly to the Disability Tax Credit, the Association supports a review of all income benefit, disability support programs and tax relief for persons with disabilities. Income and disability support programs continue to affect the lives of all 3.6 million Canadians with disabilities and their families. It is clear that improved communication and coordination between programs would be a step in the right direction and people with disabilities may be better served with a level of consistency in relation to the eligibility criteria and definitions for all government programs. The Canadian Paraplegic Association would also support a move toward a refundable tax credit that would ultimately assist in leveling the playing field and ensuring the fulfillment of basic needs.