

House of Commons

Sub-Committee on the Status of Persons with Disabilities

## The Disability Tax Credit

Introductory Remarks

Dr John Service  
Executive Director  
Canadian Psychological Association

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INTRODUCTION

The Canadian Psychological Association is pleased to have this opportunity to appear before the Sub-Committee on the Status of Persons with Disabilities to discuss the Disability Tax Credit.

Psychology is the study of the biological, cognitive, affective, social and cultural determinants of behaviour. That is to say, psychologists are concerned with how people think, feel and behave in their social and physical environments. As such, the discipline covers a broad field that includes health. Within the health domain, psychological services cover the continuum of care which includes mental illness and psychological disorders such as learning disabilities.

The Committee has heard from a number of interested parties. This testimony has been excellent and very complete. There is no need to review that information at this time.

The DTC was originally designed for those with physical impairments, such as blindness. It has evolved over the years, with important efforts made to include Canadians with disabilities, diseases and conditions that fall outside of the strictly physiological domain. This evolution is to be commended. However, the result has been an attempt to use what has essentially been a physical health template and culture to assess mental illness or psychological problems. This is part of the problem we face today.

Some changes have occurred over time to improve the assessment process. After input from groups such as the Learning Disabilities Association of Canada, psychologists were included with physicians to assess impairments in perceiving, thinking or remembering. This decision is in the best interests of Canadians as they look for high quality and accessible assessments and treatments.

## THE NATURE OF THE IMPAIRMENT

The issues before us today are those of interpretation and definition more than they are of basic principles. The nature of impairment is defined by a number of criteria. An impairment must be severe and prolonged using a benchmark of 12 months. This is a reasonable length of time.

One basic activity of daily living is defined as perceiving, thinking or remembering. This also is a reasonable benchmark. However, the interpretation of this benchmark which requires the impairment exist all or almost all of the time (the 90% rule) is reasonable for some Canadians that have, for example, a neurological injury, but not for many Canadians with mental illness or a psychological disorder. For Canadians who fall within these latter groups, it is more appropriate to consider other criteria to determine eligibility. For example, the decision taken in *Radage vrs the Queen* is instructive. In that decision the Judge used as a benchmark, disturbances of perceiving, thinking or remembering that deviate significantly, in a diagnostic, statistical and functional sense, from normal human experience, a standard used widely in many forms of evaluation. This would seem reasonable.

Severe and prolonged mental illnesses are very debilitating. The impairment is present, by definition, for a long period of time, exceeding, in this case, 12 months. Within this framework, symptoms may increase and decrease in severity but the impairment remains constant.

Sometimes the onset of increased symptom severity is not predictable. The eligibility criteria need to be sensitive to these factors and the CCRA information and forms need to make this clear to practitioners.

Mental illness can have devastating long-term effects that are secondary to the illness but which seriously compromise the individual's ability to hold a job or take care of personal affairs. These Canadians are very disabled by the secondary effects of their illnesses.

The impairment must be a marked restriction of the performance of basic activities of daily living. This is a reasonable benchmark for some Canadians, for example, those with a significant developmental delay or serious brain injury, but not for many suffering from a severe and prolonged mental illness or other psychological conditions. These Canadians are able to perform basic activities needed for daily living but are not able to conduct their personal affairs without serious negative consequences or supervision.

The concept of the effective management of personal affairs appears in earlier versions of the eligibility criteria of the DTC. It would be a useful concept to bring back as it more appropriately judges the level of disability of many who have a mental illness or a learning disability. One solution is to add the phrase "*...or basic personal affairs*" to the text that follows the question "*Can your patient perceive, think, and remember?*" on Part B of the Form T2001. The second sentence would read "*For example, answer no if he or she cannot manage or initiate personal care or basic personal affairs without constant supervision.*"

#### FORM T2201: THE DISABILITY TAX CREDIT CERTIFICATE

Form T2201 asks if the patient can perceive, think and remember. Case law has concluded that this criteria should read perceive, think or remember. This change falls into line with current CCRA practice and is a positive development that should be reflected in the Form.

If the answer to the question can the patient perceive, think or remember is yes, the tax credit is not allowed. If the answer is no, the person's application is considered once subsequent questions are answered satisfactorily. The asking of the question in this manner and the 90% threshold automatically eliminates many deserving Canadians. It is confusing for many practitioners.

As stated above, practitioners will answer yes not knowing this virtually disqualifies deserving applicants. It would be more efficient to reword the question to give the practitioner a better opportunity to define the level of the disability. This would be clearer to the practitioner and give CCRA officials a more realistic benchmark to work from.

An answer of no to this question can virtually mean the person is actively and acutely delusional throughout the twelve month period or significantly brain damaged. This obviously sets the bar too high in terms of the spirit of the DTC and in terms of a fair comparison to physical illness.

#### RECOMMENDATIONS

It is important that CCRA officials and interested parties such as those that have appeared before

you have the opportunity to discuss these important issues.

1. CCRA officials and interested parties (providers and patient groups) continue the consultation process to address the issues specific to mental illness and psychological disorders.
2. Include the performance of personal affairs with personal care as a benchmark for determining eligibility.
3. Ensure eligibility criteria are sensitive to the issues of impairment coupled with symptom variability.
4. Define disturbances of perceiving, thinking and remembering as those that fall significantly outside the scope of normal human experience.
5. Perceive, think and remember be changed to perceive, think or remember in information sent to practitioners so they clearly understand the template being used by CCRA officials.