

### RECOMMENDATIONS FOR THE GOVERNMENT OF NEWFOUNDLAND AND LABRADOR RELATED TO THE TREATMENT OF THE CANADA EMERGENCY RESPONSE BENEFIT FOR INCOME SUPPORT RECIPIENTS

#### BACKGROUND

This policy brief examines the rapid response by the Government of Canada in implementing the Canada Emergency Response Benefit (CERB), and how this benefit is treated by the Government of Newfoundland and Labrador for those in receipt of Income Supports from the Department of Advanced Education, Skills, and Labour (AESL).

The purpose of this policy brief is to provide background and context for the Government of Newfoundland and Labrador to support recommendations that will ensure our most vulnerable residents are not placed in dangerous and precarious situations that will add undue burden and strain to individuals, families, community organizations and public systems.

#### ISSUE

The Government of Canada announced the CERB on March 25, 2020<sup>i</sup> as a response to the global COVID-19 pandemic. The CERB was implemented without the usual checks and balances to deliver payments to Canadians quickly and easily in a time of great need and uncertainty for a period of up to 24 weeks. Individuals have had to make the best decisions for themselves and their families based on available information, even as both federal and provincial policies continue to shift beneath their feet.

The Government of Canada did not immediately make it known whether the CERB would be considered taxable. The uncertainty of how to treat the CERB led many provincial and territorial jurisdictions to make their own determination for how the CERB should be treated by social assistance programs.

On April 4, 2020, the Government of British Columbia announced<sup>ii</sup> they would fully exempt the CERB from any social assistance payments for the duration of the CERB.

A short time later, on April 9, 2020, the Government of Newfoundland and Labrador became the first jurisdiction in Canada to announce there would be no exemption for the CERB for Income Support recipients<sup>iii</sup>. The Government of Newfoundland and Labrador laid some of the harshest penalties for Income Support recipients when they noted<sup>iv</sup>:

“[I]ndividuals cannot receive both provincial Income Support and the CERB at the same time. Should Income Support clients receive the CERB, they will no longer qualify for Income Support, and benefits will be suspended immediately. An overpayment will be set up on Income Support files where there is an overlap in payments from the CERB.”

Yet, on April 13, 2020 Minister Carla Qualtrough, the Federal Government’s Minister of Employment, Workforce Development and Disability Inclusion, recommended that provinces and territories exempt the CERB from social assistance payments and benefits<sup>v</sup>.

Despite the Government of Canada’s recommendations that provinces and territories exempt the CERB from social assistance payments, the Government of Newfoundland and Labrador continues to claw back Income Support payments dollar-for-dollar and suspend income and benefits. The implications of this decision will have profound impacts on individuals, families and communities across the province.

## CHALLENGES

Under the regulations governing the operations of the *Income and Employment Support Act*, Section 10(2) many people who receive the CERB will automatically be suspended from Income Support<sup>vi</sup>. The impact of this regulation means those who receive the CERB and Income Support will be expected to stretch the CERB for the duration of what they would normally otherwise receive from Income Support.

The Government of Newfoundland and Labrador cannot afford to have the income, housing, health, and supplementary supports jeopardized for our neighbours who rely on Income Support. Enforcing penalties, including the suspension of Income Support for recipients who received a federal benefit places the Government of Newfoundland and Labrador in the unfavourable position of absorbing the human and financial costs that arise with increases in homelessness, incarceration and healthcare system usage. The unintended consequences will be far greater than the short-term benefit.

### WHAT ARE THE IMPLICATIONS?

Any cost savings accrued by AESL will be more than offset by increased costs to other provincial departments, including shifted to the Department of Justice and Public Safety, the Department of Health and Community Services and the regional health authorities, and NL Housing Corporation. Below we illustrate three examples of the human and social costs the Government of Newfoundland and Labrador will bear witness to under our current environment:

#### EXAMPLE #1

Joe, a 47-year-old single male who receives \$880 per month from Income Supports applied and received the CERB. Joe is expected to have the \$2000 CERB benefit stretch for 2.27 months (\$2000 / \$880). During this period, Joe's income, health, rent, and supplemental benefits are also suspended. Joe can re-apply for Income Supports, but only after 2.27 months, and the re-application process can take six to eight weeks, based on pre-pandemic processing times.

With Joe's Income Support suspended, he is unable to access his health benefits, which he relies on to provide critical medication to ensure his mental health remains stable. To cope, Joe self-medicates using illicit drugs and he has an overdose. Joe is hospitalized for two nights.

When he is released, he is given a five-day eviction by his landlord for disturbing peaceful enjoyment related to his drug use. He is placed in an emergency shelter until he is rehoused.

Savings:	\$2,000.00	Income Support (clawback)
	\$200.00	Medication (approx.)
	<b>\$2,200.00</b>	<b>Total</b>
Costs incurred:	\$15.95	911 call
	\$854.19	Ambulance transport
	\$1,681.96	Hospital stay (two nights)
	\$1,070.37	Shelter stay (seven nights)
	<b>\$3,622.47</b>	<b>Total</b>

## CUTTING OFF SUPPORT IS NOT CUTTING COSTS 💰

The NL Government is currently going against the advice of the federal government and is suspending income support for people who have received the CERB.

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This will have a huge human cost in terms of people's **mental health**, **housing stability**, and interaction with systems like **criminal justice**.

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It costs:  
**~\$950 PER MONTH for an individual to receive income support.**

It costs:  
**~\$4,920 ~\$9,090 ~\$18,000**

for that same individual to be in a shelter for a month.      for that same individual to be incarcerated for a month.      for that same individual to spend a month in the Waterford.

### EXAMPLE #2

Ashley, a 28-year-old single mother of three, receives \$1,012 per month from Income Support and \$806 per month in child support from her ex-partner. On March 18, Ashley's world crashes down. First, the schools close. Since Ashley's children are in the School Lunch program, Ashley is worried about how she will feed her children nutritious meals. Then, her neighbour and friend, whom she relies on for childcare and a weekly drive to the supermarket, won't let her come over anymore because of the social distancing requirements. Ashley can't afford her own car, so instead she buys groceries at the local corner store at a higher cost, bringing her children with her even though she knows they shouldn't be out in public. Then her ex-partner calls – he lost his job and will be late on his child support this month. On March 25, Ashley hears the Prime Minister announce the CERB and in desperation she applies to try to keep things together until she receives the child support. Ashley receives the CERB before it is known this income will be considered taxable income and well before she learns it will impact her Income Support. With Ashley's Income Support now suspended and her re-application pending over the next 1-3 months (\$2000 / \$1012), Ashley asks her landlord for an extension on next month's rent. He rejects her request, and when she can't pay, he gives her an eviction notice. She tries to fight it, thinking that the ban on evictions during the pandemic will protect her. Then she is told that the ban on eviction only applies to a loss of *employment* income, not Income Support or child support.

Ashley is afraid of what will happen to her children if she loses her housing. She is at risk of having her children apprehended by the Department of Children, Seniors and Social Development (CSSD) if she presents to a shelter. Her children have already lost their school routine and can't see their friends – what will happen to them if they end up in foster care?

Savings:	\$2,000.00	Income Support (clawback)
	<b>\$2,000.00</b>	<b>Total</b>
Costs incurred:	\$4,587.30	Shelter stay (one month)
	\$7,035.00	Foster care (one month for three children)
	<b>\$11,622.30</b>	<b>Total</b>

### EXAMPLE #3

Debbie, a 32-year-old woman receiving \$906 per month from Income Support, has been in an abusive relationship for the past six months. After hearing that the Government of Canada was simplifying the CERB application, Debbie's abuser coerced her to sign up for the CERB. Once the CERB was deposited into her account, her abuser withdrew the money. Once AESL was made aware that Debbie received the CERB, her Income Support, rent and health benefits were all suspended, leaving her with no source of income. With no money to pay her rent and no close friends or family in St. John's, she moved in with her abuser, who continues to exploit her.

Debbie is unable to re-apply for Income Support for at least 2-3 months (\$2000 / \$906). Debbie's abuser is now accusing her of freeloading and tries to force her into sex work. She was sexually abused as a child and she would do anything to avoid that. She figures if she can just get enough money to appease him, he will leave her alone. She gets caught stealing and has to appear in court. Her abuser is furious and strikes her. Not knowing where else to turn, she leaves her belongings and goes to the emergency room.

Savings:	\$2,000.00	Income Support (clawback)
	<b>\$2,000.00</b>	<b>Total</b>
Costs incurred:	\$761.95	Police arrest
	\$3,443.32	Court appearance
	\$144.49	Emergency room visit (less than 24 hours)
	<b>4,349.76</b>	<b>Total</b>

Joe, Ashley, and Debbie are just a few examples of the types of questions that the Government of Newfoundland and Labrador need to answer. What is the cost to enforce penalties on a federal benefit? What is the human cost to our neighbours simply trying to make the best decision for themselves and their families?

In all of these situations, one thing is clear – our neighbours whose Income Support are suspended are more vulnerable to predatory situations, more prone to incarceration, more apt to need emergency hospital visits, and are more likely to find themselves facing eviction and spiraling into homelessness.

**OPPORTUNITIES**

In this uncertain time, it is more important than ever for our neighbours in need of Income Support to maintain access to the income, especially the direct payment of rent, health, and supplemental benefits they need for daily living. Enforcing penalties will only add to an over-burdened social safety system, which can be avoided with one-time amendments to the *Income and Employment Support Act* and its associated regulations.

Fortunately, there is precedent for providing one-time exemptions to payments received by Income Support Recipients. Under Section 8 of the regulations governing the *Income and Employment Support Act* there are 17 exemptions made for the treatment and provision of income resulting from federal and provincial benefits<sup>vii</sup>, including:

Section and Subsection	One-Time Exemptions
Section 8a(i)	A federal compensation payment where an applicant or recipient or his or her dependent has contracted AIDS through a blood transfusion
Section 8a(iii)	A payment under the 1986-1990 Hepatitis C Settlement Agreements, unless the payment is compensation for loss of income or loss of support under section 4.0 or 6.01 of the Transfused HCV or Hemophiliac HCV Plans
Section 8a(iv.1-l)	Payments received from the Newfoundland and Labrador Housing Corporation Educational Incentive Allowance
Section 8a(vi)	A payment received from the capital transfer under the Labrador Inuit Land Claims Agreement from December 1, 2005 to August 31, 2008
Section 8a(vii)	A payment received from the Hebron Community Commemorative Fund

During an unprecedented global pandemic in which the Government of Newfoundland and Labrador has responded with critical investments into community and social services, there is clearly precedent in making a one-time amendment to exempt the CERB. There is no cost to the Government of Newfoundland and Labrador to make an exemption for the CERB under the *Income and Employment Support Act* and its regulations. There will be, however, substantial unintended costs to provincial taxpayers and unnecessary trauma inflicted on our most vulnerable residents if the Government of Newfoundland and Labrador continues to enforce penalties for a federal benefit.

**RECOMMENDATIONS AND CONSIDERATIONS**

On July 7, 2020, End Homelessness St. John’s (EHSJ), and a dozen organizations in the housing and homelessness community called for AESL and the Government of Newfoundland and Labrador to make a one-time amendment to the *Income and Employment Support Act* to waive penalties imposed upon Income Support recipients who received the CERB while receiving Income Supports.

On July 10, 2020 the Hon. Christopher Mitchelmore, Minister of Advanced Education, Skills and Labour replied confirming the Government of Newfoundland and Labrador’s decision to enforce penalties. This reply did not invite further dialogue on the issues that so many community organizations have raised as an impending crisis for our most vulnerable neighbours.

We continue to advocate for dialogue and leadership on this issue, and to spur those conversations, we are providing two recommendations that we believe will prevent unintended negative consequences to individuals, families and communities across our province. Although we offer two recommendations below, the first recommendation is our preferred option.

## Recommendation #1

Fully exempt the CERB income from Income Support payments. Treating the CERB as a stackable income, similar to the Child Tax Benefit will ensure Income Support recipients are not unnecessarily penalized for making the best decisions for themselves and their families. During a global pandemic, fully exempting the CERB ensures Income Support recipients can maintain their income, health, rent and supplemental benefits.

Newfoundland and Labrador would demonstrate leadership across Atlantic Canada in supporting our most vulnerable neighbours, while also mitigating the potential trauma, harm and financial costs involved in enforcing a penalty for a federal benefit.

Canadian examples: Three jurisdictions have fully exempted the CERB from social assistance payouts: British Columbia, Yukon, and the Northwest Territories.

## Recommendation #2

Treat the CERB as earned income. The Federal Government will be issuing T4As<sup>viii</sup> for CERB recipients, meaning that CERB income is considered taxable income.

The decision to treat CERB as earned income means that Income Supports recipients will not be suspended or terminated under the *Income and Employment Support Act* Regulations, Section 10. Rather recipients will be allowed to maintain their Income Support with an overpayment applied to their Income Support earnings during the periods individuals received CERB.

Canadian examples: Four jurisdictions have treated CERB as earned income, Alberta, Manitoba, Ontario, and Quebec.

As a community, we know the most efficient and sustainable way to avoid a pending crisis is to move forward with the first recommendation. It is preferable to exempt any and all penalties, including applying overpayments to Income Support recipients.

## NEXT STEPS

The Government of Canada implemented the CERB as an emergency benefit for all Canadians. Those in receipt of social assistance who received the CERB should not be treated any different than any other person in our province making the best decision for themselves and their families in a time of crisis. The purpose of the CERB was to ensure everyone can remain safe and secure, which led the Government of Canada to urge provinces and territories to exempt the CERB from social assistance payments.

The housing and homeless-serving organizations in our community still maintain that the quickest and most efficient way to ensure Income Support recipients are not placed in precarious and dangerous settings is for our leaders in government to make any and all required amendments to the *Income and Employment Supports Act* and its associated regulations to exempt the CERB from any potential penalties.

We are formally requesting a meeting with the Ministers who represent the following departments:

- Minister Christopher Mitchelmore, Department of Advanced Education, Skills and Labour
- Minister Andrew Parsons, Department of Justice and Public Safety
- Minister John Haggie, Department of Health and Community Services

- Minister Lisa Dempster, Department of Children, Seniors and Social Development and Minister Responsible for the Newfoundland and Labrador Housing Corporation

Our request for such a meeting is urgent to ensure that a solution can be arrived at in a judicious and expedient manner. Such a meeting can be done in a virtual manner to accommodate for both physical distancing and for our MHAs who may be in their home districts, if required.

As always, we appreciate the opportunity to work collaboratively with your government and the many community partners concerned about this pressing issue. Working together, I am confident we can arrive at solutions to ensure our most vulnerable neighbours will be supported safely and securely.

## **CONTACT**

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<sup>i</sup> Government of Canada. (March 25, 2020). <https://www.canada.ca/en/department-finance/news/2020/03/introduces-canada-emergency-response-benefit-to-help-workers-and-businesses.html>

<sup>ii</sup> Government of British Columbia. (July 6, 2020). <https://www2.gov.bc.ca/gov/content/family-social-supports/income-assistance/on-assistance/covid>

<sup>iii</sup> The Independent. (July 3, 2020). <https://theindependent.ca/2020/07/03/nl-cerb-clawbacks-push-people-into-poverty-advocates/>

<sup>iv</sup> Government of Newfoundland and Labrador. (April 9, 2020). <https://www.gov.nl.ca/releases/2020/aesl/0409n05/>

<sup>v</sup> The Star. (April 13, 2020). <https://www.thestar.com/news/canada/2020/04/13/ottawa-to-the-provinces-dont-claw-back-cerb-for-workers-on-social-assistance.html>

<sup>vi</sup> Government of Newfoundland and Labrador. "Income and Employment Support Regulations under the Income and Employment Support Act (O.C. 2004-461). <https://www.assembly.nl.ca/Legislation/sr/Regulations/rc040144.htm#10>

<sup>vii</sup> Government of Newfoundland and Labrador. "Income and Employment Support Regulations under the Income and Employment Support Act (O.C. 2004-461). <https://www.assembly.nl.ca/Legislation/sr/Regulations/rc040144.htm#8>

<sup>viii</sup> Government of Canada. (July 2, 2020). (<https://www.canada.ca/en/revenue-agency/services/benefits/apply-for-cerb-with-cra/return-payment.html>)