

Cornerstone Compromised

A Critical Analysis of Changes to Special
Needs Assistance in Nova Scotia

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Executive Summary

ACCORDING TO THE Department of Community Services, 65% of the total income assistance caseload in Nova Scotia receives some form of special needs allowance.¹ These allowances, therefore, are extremely important for the majority of people living on social assistance. Basic needs include a ‘personal allowance’ and a ‘shelter allowance’, which are meant to cover rent, water, heat, electricity, and other ‘personal’ or family expenses such as food, clothing, etc.² Special needs support is intended to cover additional expenses for items related to a disability, health maintenance, or access to employment. The special needs provision has equal status in the Employment Support and Income Assistance (ESIA) legislation with basic needs and employment services. Indeed, the provision of special needs allowance is a “cornerstone”³ in the design of the ESIA program and is, intended to ensure that accommodative measures are in place to meet people’s essential health and other needs.

On August 8th, 2011, the Nova Scotia government made several changes that affect access to special needs allowances under ESIA.

The definition of special needs is relatively broad: it includes items such as transportation, special dietary needs, medical equipment, basic telephone service, over the counter and prescription medications,⁴ and other items and services as outlined in the ESIA Policy Manual. Prior to the changes, the special needs regulations also created the possibility of coverage for items or services not explicitly enumerated in the Regulations or in the Policy Manual. Financial support for these specific items could still be ap-

proved if they could be shown (through the submission of medical letters and diagnostic recommendations) to be “essential” to the applicant. If the Department of Community Services (DCS) denied an applicant’s initial request for a special need under this ‘open-ended’ clause, the applicant had the right to appeal this denial to the Income Assistance Appeal Board. The Board would review the request and render its own independent assessment of whether the item or service was ‘essential’ or required to ‘alleviate pain and suffering’. The changes made in 2011 also remove the caseworkers’ (and the Board’s) ability to determine whether an item is ‘essential’ or will ‘alleviate pain and suffering’ based on medical documentation because this language has been entirely removed from Regulations and is not in the Policy Manual. As a result, special needs are now restricted to the enumerated list of 33 items and services located in the Policy.

According to the government, the ESIA changes to special needs were proposed to “make it easier for income assistance clients to understand what special needs funding they can receive, and ensure funding decisions are consistent and fair province wide” and to “fairly meet the needs of income assistance clients”⁵. This research weighs the government’s stated intentions against the actual effects of these changes. It presents an analysis of the goal and scope of the changes, as well as their implications for service recipients and service providers, using government documents, media reports, key informant interviews, and a community forum. The analysis is framed by a consideration of how these changes fit within the ideal of healthy public policy – policy that enables individuals to make healthy choices.

Key Findings

1. Creates New Problems and Exacerbates Pre-Existing Problems for ESIA Applicants and Recipients and Especially Those With Disabilities and Chronic Illnesses

As a result of both announced changes and those that have been experienced by income assistance recipients and their advocates, there are now many essential items and services no longer accessible to ESIA applicants and recipients. Moreover, even though other items are supposedly available, it is now particularly difficult for recipients to access certain items and services such as bus passes, allowances for special dietary needs, telephones, and dental work. In addition, the legal basis upon which to appeal denied applications has been dramatically narrowed. With income assistance rates far

below the poverty line and higher costs for food and housing, inadequate special needs allowances compound the challenges for ESIA recipients who are already struggling to meet their basic daily needs. In sum, ***the changes have resulted in increased pain, illness, and social exclusion for many income assistance recipients, and in particular those with disabilities and chronic illnesses.***

2. Downloads Onto Community Service Providers

Since the changes were announced, community service providers have increased the time they spend helping clients trying to access these allowances, whether on more paperwork or advocacy. They are frustrated by their inability to adequately support their clients, and have increasingly used their organization's own resources to help address pressing client needs that were once covered under ESIA special needs policies.

3. Inadequate, Undemocratic, Ineffective Government Decision-Making

A major component of public policy decision-making is stakeholder engagement with those who will be implicated in the policy. However, as this research reveals, the government did not undertake any engagement with community stakeholders prior to making these serious changes to the ESIA Regulations. There has been a lack of clarity about the rationale for the decision and inadequate communication with income assistance recipients, advocates and service providers about the nature and implications of the changes. This has ***resulted in a complete disconnect between the decision makers and the people affected.*** Ultimately it means the government's stated objectives of better understanding and fairness in policy implementation were not attained.

In addition to the concern about the decision-making process, there is a further concern about process changes that have resulted from moving the primary basis of eligibility (i.e. the list of allowable items and services) from the Regulations under the ESIA Act to the Department's internal ESIA Policy Manual. An important distinction here is that Regulations have legal status and Cabinet debates and approves these regulation changes prior to amendment. This distinction is essential when discussing eligibility for assistance under the ESIA Act because Cabinet is comprised of democratically elected officials who may be held accountable to the citizenry for their

regulatory decisions or to the courts who can enforce accountability by upholding legal entitlement provisions. In contrast, ***the new regime confers decision-making authority as to who will get how much assistance on unelected and anonymous administrators.***

4. Perpetuates Myths and Misconceptions About ESIA Recipients

The government's press release presented certain 'special needs' as being luxury items that those on income assistance, in particular, do not deserve. It also suggests that those who were receiving them were exploiting the system despite the fact that all special needs requests were granted by case-workers and/or through appeals to the Income Assistance Appeal Board. Indeed, special needs requests of this kind must be submitted along with medical evidence to establish that the special need item was "essential" or "necessary to alleviate the pain and suffering" of the individual concerned. ***The way these changes were introduced and comments by Departmental staff and the Minister that followed perpetuate the myths and misconceptions about people living in poverty in the most challenging of circumstances.***

5. Intentions Do Not Match Outcomes

Our analysis reveals that, contrary to the government's stated intention, the changes by DCS in the last two years have created gaps and oversights, which disproportionately impact people with disabilities and chronic illnesses. These special needs allowances are not 'special' --meaning 'extraordinary', but essential to the ability of ESIA recipients to live healthy, dignified lives. This is especially the case for people with disabilities and chronic illnesses. These changes have created greater inequality. Contrary to the stated objectives, they have made the system even more inconsistent and unfair. ***What the government presented as small regulatory changes, were not small but very significant changes resulting in considerable negative effects for very vulnerable populations.***

The research findings, therefore, lead us to question the original stated intentions of the government in relation to special needs allowance changes. The effects on the ground provide evidence of either the unintended consequences of a poorly thought out policy change or an intentional outcome of decisions that were not originally or publicly communicated. One of these possible intended outcomes was cost-saving. By restricting the list of spe-

cial needs items and by making eligibility more difficult through bureaucratizing applications and discouraging appeals, the government might have been seeking to save some money on the special needs allowance budget line, which, as of 2011, amounted to \$45 million per year.⁶ The cases cited as items that should be prohibited – prompting these changes – cost the Department of Community Services only \$44,000 over ten years. Based on the experiences of the key informants, ***the changes to special needs allowances will actually result in far greater costs to government because many more people are now left without adequate treatment, which will undoubtedly result in higher health care costs.***

6. Special Needs as a Cornerstone of ESIA Has Been Compromised

The Income Assistance rates in Nova Scotia fall far below any poverty line and are inadequate to cover recipients' basic essential needs.⁷ For people with disabilities and chronic health conditions, special needs allowances were the only way to offset the costs arising from their health conditions. The special needs assistance is a key cornerstone of the ESIA program. The pre-August 8, 2011 regulations allowed the ESIA program to be at least minimally responsive to the distinctive needs of recipients. They provided a legal avenue that allowed Nova Scotians in poverty, most of them people with disabilities, to receive support for items and services that are integral to their health and dignity. Instead, many applicants are now without adequate treatment, feel demoralized in relation to the changes, and are experiencing problems navigating the income assistance system. Nova Scotia is now one of only three Canadian jurisdictions that do not have an “open-ended” clause in their income assistance regulations, which allows for flexibility to consider the particular circumstances of cases that do not fit into the closed list of allowed items. These changes have compromised a critical cornerstone, making the income assistance system even more inadequate.

Recommendations

1. Implement Changes to Special Needs Allowances

- **Reinstate an ‘open-ended clause’ in the ESIA regulations:** an open-ended clause allows for non-listed items or services to be approved where they are shown to be essential for a recipient's health or safety or that of family members; this clause would permit accom-

modation of the needs of applicants — especially people with disabilities whose needs are, too often, unforeseen and are frequently not listed in Policy.⁸ In order to ensure province-wide fairness, there could be a running list of items and services that have been approved through the open-ended clause.⁹

- **Remove most of the ‘special needs prohibitions’ in s. 24(2) of the Regulations:** with the exception of prohibiting a special needs request for an item or service covered by the provincial health care plan (s. 24 (2)(a), these prohibitions serve to prevent people with essential needs from getting the assistance that they require.
- **Restore the decision-making authority for special needs to the ESIA Regulations:** reinstate the primary basis of eligibility from the Department’s internal and unaccountable ESIA Policy Manual to the ESIA Act and Regulations.
- **Fully index special food-related allowances:** allowances must take into consideration how inflation erodes the amount and kind of food recipients can buy. Therefore, they should be indexed to food inflation including the Special Diet Rates, the Maternal Nutritional Allowance and the Personal Allowance for eligible dependent children, all of which have never seen an increase since they have been in existence.
- **Streamline the intake process and requirements for adequate documentation:** the intake process including required documentation of health, safety and employment related special needs should not be so onerous, taking unnecessary time of the ESIA workers, the recipient or service providers including dietitians, physicians and others.

2. “Nothing for Us Without Us”: Implement Meaningful Stakeholder Engagement Procedures

The Department of Community Services must put in place procedures to ensure that stakeholders’ input is adequately sought, gathered, and considered in all policy decisions including special needs allowances. This includes people directly affected by the policies, such as ESIA applicants and recipients, and the community members who work with DCS policies, such

as community health workers and advocates. Efforts will need to involve sincere and meaningful, ongoing consultation and collaboration.

3. Incorporate Human Rights Perspective Into ESIA Legislation

This research demonstrates that the elimination of the ‘essential items or services’ clause disproportionately impacted people with disabilities whose needs can’t properly be met by a fixed list of services. A review of any proposed changes, using a human rights approach to assess the likely impacts, would have revealed that those most likely to be affected and those most seriously affected would be people with disabilities and that the proposed changes were very likely to be discriminatory. A human rights approach to this and, indeed, to all future ESIA reforms would take into account people’s needs – including the fundamental human right to an adequate standard of living.

4. Make Transformational Reform of the Income Assistance Program a Top Priority

Using targets, benchmarks, timelines, and measures in a Poverty Reduction Action Plan, the government should demonstrate that it is closing the gap between welfare rates and the actual cost of living that includes a nutritious diet, clothing and footwear, shelter, transportation, and other necessary goods and services; ensure that recipients moving from welfare to work are adequately prepared, supported and significantly better off as they transition to the labour market; and that those unable to participate in the labour market receive the supports and special assistance they need to live healthy lives.

5. Implement a Poverty Reduction Action Plan as Integral to Developing Healthy Public Policy

The Community Society to End Poverty in Nova Scotia (CSEP-NS) and its predecessor (CCEP-NS) has been advocating for a government-wide Poverty Reduction Action Plan since 2007. CCEP-NS developed a framework that would guide this plan’s implementation, based on a social determinants of health approach, which recognizes and makes visible connections between addressing the economic and social well-being of people living in poverty, the social and economic costs of poverty, and the benefits to soci-

ety and the economy of ending poverty¹⁰. In 2008, after six months of study, a government appointed Poverty Reduction Working Group made similar recommendations. It put forward an implementation plan for ESIA reform that (inter alia) included “increasing rates for both food and shelter, with particular attention to the special needs of persons with disabilities”; “providing funding for telephones and disability supports”; and “reviewing the entire special needs list to reflect the actual cost and individual experience, and to ensure that special needs policy is clear and communicated.”¹¹ The implementation of a Poverty Reduction Action Plan requires collaboration across Departments and with community. Such a plan must include targets, benchmarks, timelines, and a transparent public accountability mechanism and ideally works toward the goal of poverty elimination.

Introduction

ON AUGUST 8TH, 2011, the Government of Nova Scotia, through the Department of Community Services (DCS), which administers the Employment Support and Income Assistance (ESIA) program, made several changes to the special needs provisions in the Regulations¹² made under Nova Scotia's ESIA Act.¹³ Special needs support is intended to cover items related to a disability, health maintenance, or access to employment. These needs are not covered under the personal and shelter allowances designed to address basic needs including rent, water, heat, electricity, and other 'personal' or family expenses such as food, clothing, etc.¹⁴

According to the Department of Community Services, 65% of the total income assistance caseload receives some form of special needs allowance.¹⁵ These allowances, therefore, are extremely important for income assistance recipients, many of whom have disabilities or serious health conditions. Special needs have equal status in the ESIA legislation to basic needs and employment services. Indeed, the provision of special needs allowance is a "cornerstone"¹⁶ in the design of the ESIA program intended to ensure that accommodative measures are in place to meet people's essential health and other needs.

The definition of special needs is relatively broad: it includes items such as transportation, special dietary needs, medical equipment, basic telephone service, over the counter and prescription medications, and other items and services as outlined in the ESIA Policy Manual.¹⁷ Prior to the changes, special needs also included the possibility of coverage for items or services not

on the list of approved special needs, but that could still be proven (through the submission of medical letters and diagnostic recommendations) to be “essential” to the applicant. This open-ended clause in the ESIA Regulations allowed people with a proven need to obtain access to items and services that were not listed in the Regulations or Policy Manual. If the Department of Community Services denied an applicant’s initial request for a special need under this clause, the applicant had the right to appeal this denial to the Income Assistance Appeal Board. The Board would review the request and render an independent assessment of whether the item or service was ‘essential’ or to ‘alleviate pain and suffering.’

One of the critical changes made to the regulations in August 2011 was to restrict available special needs to those defined in the ESIA Regulations and to the 33 items and services listed in the ESIA Policy Manual. If an applicant’s special need is not listed in either of these sources, the Department will deny the request and there will be then no point in appealing to the Income Assistance Appeal Board because, now, it, too, will be bound to the closed list of items and services.

In its official announcement of the changes, the government framed these changes as a means to improve the clarity of the guidelines for special needs allowances, to improve fairness in the way that the allotted funds were being distributed, and to provide “consistent access to special needs funding for people on income assistance.”¹⁸ However, when the changes were made, there was an outcry from service providers and community advocates that the changes would negatively affect those most in need of assistance.^{19,20} The Department of Community Services was said to have “skirt[ed] public consultation and change the law, scrapping access to critical health services for those most in need”.²¹ This report explores the implications of the changes, and in doing so, this case study provides insights into the public policy process.

This report begins with an overview of the healthy public policy lens used in the analysis. Then it outlines the methods applied to collect data. Next, the report details the specific ESIA changes that were made in 2011 and then presents the major findings of the study. The report concludes with policy recommendations.

Framing the Analysis

ON NOVEMBER 21, 1986, the *Ottawa Charter for Health Promotion* was adopted at the First International Conference on Health Promotion, hosted by the World Health Organization in Ottawa, Canada.²² The Ottawa Charter was preceded and informed by the *Declaration on Primary Health Care* at Alma-Ata,²³ and its principles are echoed in the World Health Organization's *Health for All Targets*,²⁴ and the World Health Assembly on intersectoral action for health.²⁵ It provides a description of the type of public health work that would be necessary to achieve health for all by the year 2000. We are now over a decade beyond 2000, and health for all has certainly not been achieved; there is still much work to be done.

The first health promotion action described in the *Ottawa Charter* is to *build healthy public policy*. This action does not pertain solely to health policy; it calls for policy makers from all sectors and at all levels to consider, and be responsible for, the health consequences implicated by their policies. Healthy public policies facilitate the opportunity for citizens to make healthy choices²⁶ that can allow them to live healthy, dignified lives. ***Social assistance policy is deeply implicated in the health of persons living in poverty, and merits examination from a healthy public policy perspective. The special needs allowance, as one of the cornerstones of the income assistance program in Nova Scotia, is an integral focus of that analysis.***

The special needs allowances are considered to be inextricably connected to the larger contexts within which they occurred. No policy operates in isolation; “small” changes to the ESIA special needs regulations intersect

with and compound the impacts of other ESIA policies, within a largely inadequate income assistance system. The total amount of income assistance available to individuals and families is well below the poverty line, and thus does not provide enough support to fulfill basic needs, let alone any so-called special needs. Moreover, this system of income support, along with those in the other provinces, is stigmatizing; it robs recipients of their dignity.²⁷

Moreover, the outcomes of a policy are experienced differently depending on the daily lived experience of those who are directly affected.

Methods

IN ORDER TO investigate the changes to the ESIA special needs support, data were gathered from Hansard transcripts, government press releases, mainstream and alternative media, key informant interviews, and a community forum.

Hansard is the official transcription service of legislative proceedings at the Nova Scotia Legislature, including the legislative assembly and committee meetings. Hansard was searched for all exchanges about ESIA from September 2009 to March 2012.

Qualitative interviews were conducted with community workers and community advocates who work with the special needs allowances on a daily basis to provide insights into its impact on applicants and recipients.²⁸ Potential interviewees were identified via purposeful sampling to capture a breadth and depth of knowledge on special needs allowances. Some key informants were chosen via a snowball sample where interviewees were asked to recommend other key informants as potential interviewees who were working in community non-government organizations that provide services to ESIA recipients. Interviewees were chosen to ensure a diversity of perspectives across various sectors and the populations they serve, including geographic location. Interviews with those on the front-line dealing with the legal, social, health and other aspects of the changes provide a unique insight into the ramifications for people's lives. The rich experiences and expertise of the interviewees provide a deep understanding of the changes. In total, twelve interviews were conducted between May and July

of 2012, at which point it was judged that the data collected had reached a saturation point when no new information was being shared.

Interviews were semi-structured. The interview guide can be provided upon request. The interviews were audio recorded and transcribed. A thematic analysis using an inductive approach was then conducted on the transcripts to identify emerging themes.

Lastly, a community forum was held on July 25, 2012 to share the results of the interviews and research, and to collect further data about their impact. There were 47 people in attendance at the forum representing a variety of groups: applicants and recipients of ESIA, community workers, community advocates, medical professionals, legal professionals, researchers, students, and concerned community members. The forum consisted of two parts. Part 1 was a presentation of the already completed research, including findings from the qualitative strategic informant interviews. Part 2 consisted of group discussions prompted by the following questions:

- What are your thoughts on and experiences with the ESIA special needs changes as an applicant/recipient, community worker, concerned citizen, researcher, advocate, or activist?
- Consider the larger context in which special needs policy exists. Our end goal is policy change. What are some actions that could be taken to improve the situation for Nova Scotians on income assistance with special needs?

Answers to these questions were discussed in small groups and note-takers recorded them on flip-chart paper. These answers further informed the policy recommendations made in this report.

Background: The Special Needs Regulation Changes Under the ESIA Program

CURRENTLY, THE ESIA Act is administered through two divisions: Income Assistance and Employment Support Services. Income Assistance distinguishes between basic needs and special needs. Financial assistance for ‘basic needs’ is intended to provide for housing costs and the essential costs of living – food, clothing, and personal care items. Financial assistance for ‘special needs’ is intended for specific items and services beyond what is covered by basic needs.

Since the August 2011 changes, the regulations of the ESIA Act state that ‘special needs’ are defined as: “dental care approved in accordance with the ESIA dental fee guide approved by the director, optical care, pharmacare coverage, special diet, transportation, child care, implementation of an employment plan, funeral arrangements, and any item or service prescribed in the policy by the director.”²⁹ The specific items and services described in the ESIA Policy Manual include items and services very similar to what is in the Act and what was stated previously.³⁰ Each category has guidelines and fee schedules that further elaborate what is eligible for assistance and how much assistance is available for each item or service. The specific regulation changes, their meaning and significance are summarized in *Table 1*.³¹

TABLE 1 Summary of ESIA Regulation Changes for Special Needs

Regulation Change	Meaning	Significance
2(ab)(ii) repealed	Removed the provision for “another item or service that is in the opinion of a caseworker essential for an applicant, recipient, spouse, or dependent child”.	<p>Took away the discretionary decision making necessary to accommodate persons with disabilities or chronic health conditions to access needs essential to health.</p> <p>Reduced the special needs list to those listed in the ESIA Regulations and the 33 explicit items/services in the ESIA Policy Manual.</p> <p>Removed the right to appeal the denial of assistance for items or services that are outside of those listed in the ESIA Regulations and the 33 items/services in the Policy Manual.</p>
46(a) repealed	Removed the provision to “Exempt an applicant or recipient from the provisions regarding the calculation of the budget deficit where a supervisor considers it necessary to alleviate the pain and suffering of an applicant or recipient or dependent child or spouse of an applicant or a recipient”.	Reduced the special needs list to items and services in the ESIA Regulations and the 33 explicit items/services in the ESIA Policy Manual.
2(ab)(i)(A) changed to 24(1)(a)(i)	Changed the “provision of dental care” to “dental care approved in accordance with the ESIA Dental Fee Guide approved by the Director.”	Limited dental care to only emergency dental care excluding any preventative care.
24(1)(b) added	Redefines a special need as “an item or service prescribed in policy by the director”.	Moved the basis of eligibility for special needs from the Regulations to the policy manual. Shifts the power to determine eligibility from Cabinet (elected representatives) to non-elected bureaucracy.
24(2)(a-e) added	<p>The following items and services are now excluded in the definition of “special needs”:</p> <p>a) Those insured under a Provincial health service program or is otherwise funded by government;</p> <p>b) Those for medical purposes for which an alternative exists under MSI;</p> <p>c) Prescription medications, drugs and substances that are not listed as benefits under the Pharmacare programs in the Nova Scotia Formulary;</p> <p>d) Medical treatments and substances that are not covered as an insured service under MSI, including any equipment, supplies, materials or services used in producing or administering the treatments of substances;</p> <p>e) Shelter costs or personal allowances</p>	Explicitly prohibited items/services. Reduces scope of Director’s discretion to approve new items or services of “special need”.

Research Findings: Impact of These Changes

THE MAJOR THEMES that emerged in the key informant interviews are summarized in *Figure 1* and presented in detail, followed by an analysis of the key findings.

Impacts on Applicants and Recipients

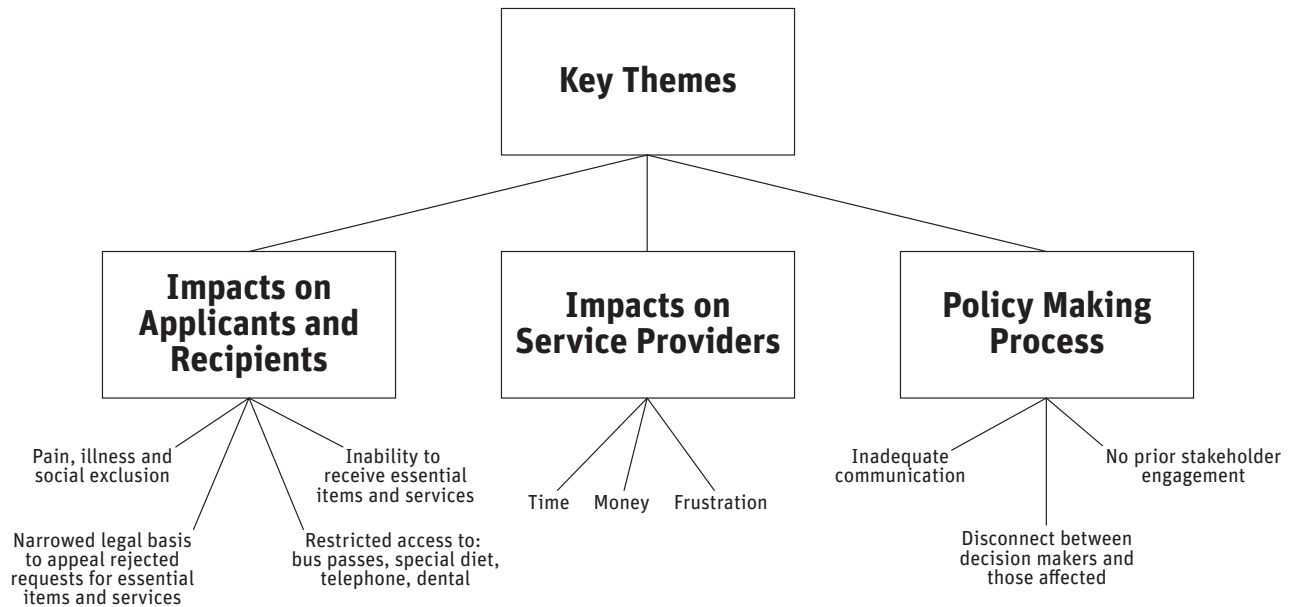
Inability to Receive Essential Items and Services Previously Available

“It’s like special needs is in the locked box now. So where do you go from there?”

The key informants interviewed all agree that the main impact on ESIA applicants and recipients is their inability to receive essential items and services previously available to deal with a chronic condition or disability. These have been restricted through the impact of the changes outlined below.

First, the changes to Regulation 24(1)(b) has resulted in moving the primary basis of eligibility (i.e. the list of allowable items and services) from the Regulations under the ESIA Act to the Department’s ESIA Policy Manual. An important distinction here is that Regulations have legal status and Cabinet needs to vet and debate regulation changes prior to amendment. This

FIGURE 1 Major Themes of Key Informant Interviews



distinction is essential to an understanding of the implications of the changes in eligibility for special assistance under the ESIA program because Cabinet is comprised of democratically elected officials whose decisions may be held accountable to the citizenry. The courts can also enforce accountability by upholding legal entitlement provisions. Departmental policy manuals, however, are not subject to the same scrutiny.

The Policy Manual, on the other hand, is written by bureaucrats within the Department of Community Services. Its intended use is to translate the language of the Act and the Regulations into accessible guidelines for income assistance caseworkers to administer the program on a day-to-day basis. The Policy manual is NOT the place to create or amend eligibility requirements for assistance; to determine *who* gets *what* or *how much*. These regulatory changes have diluted the entitlement and enforceability power of the regulations and given it over to the bureaucracy. This means that anonymous administrators who draft the policy manual make important decisions about *who* will be eligible for *what* assistance — even though this the ESIA Act confers no such power.³²

“There was a time when you could go to ESIA and make the case, right?
 “Here’s what this particular person needs.” And even if you didn’t get every-

thing you asked for, or even if you didn't get what you asked for at all, there was at least that audience to present the situation and looking at the changes and working with the changes; they've sort of cut that off – that interactive piece before it even begins.”

In short, civil servants, rather than democratically-elected legislators, may now amend the rules by simply changing the policy manual, without public debate; they have complete control. In addition, while the ESIA Director does have the power and control to add to the list of allowable special needs items and services (as long as the item or services is not explicitly prohibited by the Regulations), there is nothing in the Act or Regulations that provides a process for applicants to make a case to the Director for additions, or to request a review of a denied item request. The key informants expressed concern over about this change transfer of power. Apart from anything else, it raises significant questions regarding whether the rule of law and whether this applies to the poorest of the poor in Nova Scotia.

Second, repealing the “open-ended clause” 2(ab)(ii) in the regulations has limited the possibility of assistance to only the items and services that are explicitly listed in the thirty-three categories in the policy manual. It has also taken away key discretionary powers that formerly made it possible to tailor the assistance to an individual's essential health needs. In the absence of this, case workers and their supervisors are prevented from acceding to requests providing for items and services that are not listed in the Policy Manual prescribed by DCS head office – regardless of either the importance of the item or how immediately obvious the person's need for it is. The regulatory changes have removed the possibility of receiving an item or service that is not on the list, even if that item or service could be shown, on the basis of medical evidence, to be essential to the applicant/recipient. Further, prior to these regulation changes, section 46(a) permitted a DCS supervisor to “exempt an applicant or recipient from the provisions regarding the calculation of budget deficit where a supervisor considers it necessary to: alleviate pain and suffering...”.

“And a lot of our clients do have special needs whether its mental illness, whether it's health related, environment. Most of our clients have some kind of extra needs that used to be met through [the open-ended clause]. And they're not necessarily ones that fall in a square little box. Many times it depends on the individual.”

Finally, the addition of regulations 24(2)(a-e) mandated that certain items are explicitly *not* eligible for assistance (see *Table 1* for the list of items). We heard from our strategic informants that some of these items and services are indeed essential to the health and dignity of the applicants/recipients.

“Oh, no more gym memberships. ‘Well why would she need a gym membership?’ Because she has cerebral palsy. Well what is it going to cost in the long run [for her not to have the membership]?”

“I have seen problems with health related issues. Where maybe a client needed a special piece of equipment, a special medication, something special. In the past it was covered and now I don’t have the money for certain things.”

Tightening of Eligibility for all Items and Services

“...a feeling that there’s been a crackdown on special needs and so there is some hesitation to go to the workers to ask for something that will fall under special needs.”

When the changes were made, items like hot tubs, gym memberships, and medical marijuana were cited as being items that were at the root of the changes. Through our strategic informant interviews, the four most common items that applicants now have trouble accessing are bus passes (or assistance for transportation in rural areas), financial assistance for special diets, telephone, and dental care. These items are still provided for in the ESIA policy manual with no changes indicated, but key informants report that there seems to be some unofficial changes in the requirements for applying for special needs.

“It’s more than the regulation changes a year ago. Physicians complain to me every day that their doctors’ letters are being rejected and [DCS] want more detailed information.”

Indeed, applicants, recipients, and those working on their behalf have noticed a ‘tightening’ of the application process for these items. This has manifested itself as a requirement for more documentation, documentation from very specific professionals (e.g. requiring a letter from a dietician instead of a physician for special diet), discontinuation of special needs assistance often without prior notice and a general ‘resistance’ from caseworkers to facilitate access. Dental care is also still provided for, but only

for emergency procedures, regardless of how important the recommended treatment may be.³³

“Well it means that they don’t go in unless it is a dire situation. I’ve seen women who have just not bothered to go when they are pregnant because to get some more money for the special diet is quite a hassle, so they just don’t bother. ”

Decision by Committee

Strategic informants also reported hearing about a ‘special needs committee’ that was adjudicating applicants’ eligibility (instead of the individual caseworkers and their supervisors) and interpreted this as a further ‘tightening’ of the system. It was difficult to obtain details on this committee including about its mandate, who sat on it and how often it met. The existence of this committee and its details were only confirmed through a Freedom of Information and Protection of Privacy request.³⁴ The FOIPOP response indicated that there appears to be one committee operating in Dartmouth that was handling all special needs requests. This committee further removes the decision-making from the individual caseworker who has knowledge of the circumstance of their client and potentially lengthens the process for a decision. The committee adds another layer of bureaucratic processing, which makes it even more difficult for the decisions on special needs to be transparent and accountable, and certainly does not institute a ‘fair’ process.

No Legal Basis to Appeal the Denial of Essential Items and Services

The removal of the “open-ended clause” 2(ab)(ii) from the Regulations eliminated the basis for appeal if a recipient makes a request for an item or service that falls outside of the regulations and policy manual. There is no longer a provision in the regulations for items not listed in the policy manual and therefore, there are no legal grounds for an appeal if assistance for such an item or service is denied. While applicants can still access an appeal board if their special need request is denied, doing so for an item or service that is not listed in the regulations or policy would, in all likelihood, be futile because the appeal board must make decisions on special needs requests on the basis of what is in the ESIA Act, Regulations and, now, the ESIA Policies.

“So, it limits peoples’ access and ability to appeal decisions that are negative and impact their health. So that’s kind of the worst of it. That the judgments made by the department on peoples’ health care needs are more restricted and limits peoples’ ability to get what they need in order to survive.”

Pain, Illness, and Social Exclusion

“– this is all about exclusion. There is nothing about inclusion in the changes.”

The restriction of access to items and services affects the ability of applicants and recipients to function in their everyday lives. Ultimately, the changes leave many individuals unable to cope with pain, and to receive adequate treatment and care.

“I don’t know how they do it. I have no idea how they survive. And they don’t, you know, they develop chronic illness, right? They get diabetes, they get heart disease, they live in run down housing and become chronically ill with upper respiratory issues.”

The government’s press release presented certain ‘special needs’ as being luxury items that those on assistance, in particular, do not deserve and moreover, suggests that those who were receiving them were exploiting the system.

This was reflected in the press release from DCS: “Over the years, the department has received special needs requests for items and services like hot tubs, gym memberships, and humming touch therapy. These were never intended to be covered under special needs, but because the regulations were not clear, about 20–25 of these requests were approved either by a caseworker or through an appeal.”³⁵ The press release also said: “The department has also received a number of special needs requests for medications and substances, such as medical marijuana. The amendments now make it clear that Community Services can only cover medically related items and services that are covered by MSI or listed in the Nova Scotia Pharmacare Formulary.”³⁶

Contrary to what was suggested in comments by Departmental staff and the Minister, and what was implied in the press release, all special needs requests were granted based on medical evidence to establish that the special need item was “essential” or “necessary to alleviate the pain and suffering” of the individual concerned. The cases cited in the press release were proven to be special needs and as such were legitimately needed to assist in the day-to-day living of the individuals. This process allowed for exactly the

kind of responsive policy that we should all expect from our government. There is no one size fits all program or service.

The pre-August 8, 2011 regulations allowed the ESIA program to be at least minimally responsive to the distinctive needs of recipients. The pre-existing regulations provided a legal avenue that allowed Nova Scotians in poverty, most of them people with disabilities, to receive support for items and services that are integral to their health and dignity. Instead, many applicants are now without adequate treatment, feel demoralized in relation to the changes, and are experiencing problems navigating the income assistance system.

“Emotionally and psychologically, self-esteem is seriously impacted by that kind of exclusion that’s associated with — you know, you hear politicians of any stripe say, ‘we just can’t afford it’.”

The key informants are very concerned with the way these changes perpetuate the myths and misconceptions about people living in poverty, the impact this has on those living in poverty, but also what it says about our society and the role of our government.

“I think the changes have made this worse — we have a standard of what’s acceptable for people who live with poverty, and we have a standard that’s deemed acceptable for all of the rest of us.”

“Those kinds of comments, they really are about making the vast majority of people who are not educated about what it is like to live on social assistance feel okay about taking things away from ‘those people’. It makes Othering³⁷ happen.”

Impact on Service Providers

Frustration, Time Use, and Downloading

“I think it’s more difficult in the context that, you know, I am not able to support people to get their basic needs met in the manner that I used to be.”

Service providers are feeling frustrated and saddened by their inability to help their clients due to policy roadblocks. However, there were two seemingly opposing but related themes that emerged from the key informant interviews regarding the impacts on time and financial resource use within organizations providing services to people living on income assistance.

Service providers expressed concern about the additional time and resources spent with a client because of the increased bureaucratic requirements for special needs applications. They are also spending more time trying to fill the gap if these were denied. As one key informant said, “And it’s more work because I am pushing in other directions to try to get it.”

Since there is no basis on which to request certain items and services or to appeal when items or services are denied, some service providers are spending less time helping clients to even apply for the allowances let alone appeal decisions. “And the worker says “no, you are not eligible for that” so they tend to accept that. So, it doesn’t make it to the point of application.”

Key informants noted a decrease in the number of special needs clients. “[Time spent on special needs] may have gone down. Because I think the word is getting out that clients know the door is closed,” said one key informant.

Instead of applicant/recipients being able to access some additional support through ESIA for specific essential items, organizations are bearing the costs out of their own budgets. As one key informant said, “There are more people that are requiring support, and it puts pressure on charity and they are not able as often to address some very basic health needs.” In addition, more paperwork requires more time to be spent with each client on bureaucratic red-tape. This is time that could be more productively used, whether by a social worker, a legal aid worker or a health care worker, with that client or with other clients.

Public Policy Process

Lack of Prior Stakeholder Engagement

A major component of public policy decision-making and good public policy development is stakeholder engagement with those who will be implicated directly (clients) and indirectly (service providers). The key informants were unaware of any stakeholder consultations previous to the changes. As one said, “They don’t consult with stakeholders and I find them very un-transparent.... That’s difficult and so we’re always playing catch-up.” As another key informant said,

“...they’re...senior bureaucrats [who] do not have anybody on low income on the radar screen when they are looking at policies.”

The key informants also pointed to the need to consider the full implications of a particular policy. However, one key informant expressed their

frustration with this process as follows, “It’s kind of silly, but you know, they operate in silos in government, they don’t even talk to one another. Good luck with them talking to us, which might be an appropriate approach.”

Even after the changes were made, there was inadequate communication about what the changes would mean for applicants, recipients, and service providers.

“And it just sort of all came as a surprise to everyone. We heard that there weren’t going to be very many changes, like clients weren’t going to be directly affected by it. Then, boom. People were screwed.”

Additionally, there was, and is, inadequate support for these stakeholders to understand, work with, and navigate the system in light of the changes.

“I often hear families say that unless they ask a question, there are things that are available for them, but unless they ask the right question, they don’t know if things have decreased, or increased, or what is available.”

Underlining the lack of transparency is the fact that there was no prior presentation made to the Standing Committee on Community Services of the Nova Scotia Legislature about the regulation changes. At a Committee meeting on November 1, nearly three months after the changes, the Committee discussed having DCS and representatives from Dalhousie Legal Aid Service and Nova Scotia Legal Aid come to speak in order to educate them on the impacts of the changes. Keith Bain, a member of the Standing Committee³⁸ said, “...we’re talking about, as it says, regulation changes relating to special needs assessment, so there are changes. I think for just the education of this committee, if nothing else, that we fully understand what those changes are because we will be affected, in the long term, anyway.” The announcement of the changes was made during the Summer recess of the legislature.

The way these changes came about and have been implemented, completely alienated those living on income assistance. Not only were they not consulted, they were presented as problems.

“Because it doesn’t affect [the policy makers] they don’t give a hoot. Unless it affects their lives in some manner, it is just, “People living off the system”. People don’t want to live off the system! They want to be contributing members of society and there’s that horrible, huge stigma that is forever around”.

Analysis: Unintended Consequences or Unspoken Intentions?

THE RESEARCH FINDINGS about the negative impact of these changes on ESIA recipients lead us to conclude that these changes did not move the ESIA program towards “fairly meet[ing] the needs of income assistance clients” as the government indicated they would.³⁹ Indeed, the key informants expressed the need for a system that is fairer, but these changes were antithetical to that possibility. Moreover, the greatest impact of the changes has been on people with disabilities who are not only disproportionately represented among ESIA recipients⁴⁰ but who will be particularly hurt by the repeal of ‘special needs’ provisions which authorized items or services that were ‘essential’ to the recipient’s health or safety. This raises clear human rights concerns.

Our findings also underline the negative impact these changes have had on service providers. We found that the changes have created complications for the individuals and organizations that serve and work on behalf of ESIA applicants and recipients. The government has created barriers in the ability of organizations to advocate for their clients and effectively meet their clients’ needs. Overall, key informants reported that the changes have affected their other work by impacting their resources — time and money.

The gap between the stated intentions of the specific regulatory changes and the experiences expressed by our key informants lead us to question the original stated intention by the government. The effects on the ground provide evidence of either the unintended consequences of a poorly thought out policy change or an intentional outcome of decisions that were not originally or publicly communicated. One of these possible intended outcomes was cost-saving.

A common justification for government cuts of any kind is cost-savings. As we have seen, however, in this case, the government did not make a cost-savings argument in rationalizing the changes. Nor, based on their original intention, would it have been possible to make this cost-savings argument. Previous to the changes, individuals could receive items or services that were shown to be ‘essential’ or necessary to ‘alleviate pain and suffering’, even if they weren’t included in the list of special needs items and services in the ESIA Policy Manual. As DCS stated itself, in the past ten years, there have only been 20–25 such cases where applicants were provided items or services due to being deemed “essential” or necessary to “alleviate pain and suffering”⁴¹, costing the government only \$44,000. On the face of it, therefore, these changes will not result in significant savings for the Department of Community Services and a cost-savings argument could not have been made. Our findings suggest, however, that by restricting the list of special needs items and making eligibility more difficult by bureaucratizing applications and discouraging appeals, the government might have been seeking to save some money on the special needs allowance budget line, which, as of 2011, amounted to \$45 million per year.⁴²

Based on the experiences of the key informants, however, **the changes to special needs allowances will actually result in more costs to government.** As was shared by multiple service providers as an example: To require a client to have eight health care appointments in order to access a bus pass leads one to question whether this arbitrary requirement will actually cost the government more in the long run when one considers the cost of the bus pass versus the cost of the health care provider’s time. In addition, disallowing special needs items may well cost the government more money because recipients may require more acute health care, have long-term health problems, or may be unable to get a job and have to remain on social assistance longer. Moreover, the real costs are human, as one key informant said: “This shouldn’t even be an issue or a struggle. I think it, this Act, and dealing with special needs, that it’s demeaning and demoraliz-

ing and it just boggles my mind that people have to go through this. And it boggles my mind that people cannot see the human side of what it's like.”

Compounding Problems With the ESIA System

Understanding why, what appear to be small regulatory changes, can have such serious implications, also requires an understanding of the broader income assistance system itself.

“But for somebody who is on the system, taking [special needs] away could mean a difference of keeping their house, keeping food in the fridge, in the cupboards, and to mean it is wrong in every sense because we should be helping them a little more.”

People who are not able to access assistance for items or services that are not in the policy manual, but they are essential to their health and well-being, are using money from their personal allowances to cover the costs of the special needs items. Essentially, they are taking money from their grocery budget to pay for their special needs items. If their need is a special diet, people living on income assistance simply can't afford to purchase in accordance with what is necessary for their health. This exacerbates the already present problem of food insecurity and can have serious health implications for Nova Scotians living in poverty.

“Even the food. Nobody is...that again is appalling what they allow for the food allowance and how people can eat healthily. It is just absolutely impossible. And I don't think that people who are not on ESIA even recognize or know how absolutely dreadful it is to try to survive on the food allowance.”

These changes occurred within, and interact with, the special needs rates and other policies. For example, special diet allowances are capped at \$150/month/person.⁴³ As one interviewee noted:

“A max special diet is \$150 for a month. And that would have to include if you were getting Ensure every month. \$150 isn't buying you a healthy diet. And that has to include high fiber, diabetic diet, all of that stuff.”

The amounts prescribed for special diets were first set by the Province in 1996–97 and have not been increased at all since then. This represents remarkable indifference by the Province to the unique needs of people with disabilities who rely on special diet assistance in the face of significant food-

TABLE 2 Difference Between Cost of Food and ESIA Personal Allowance

Family Type	Personal Allowance	Cost of Food	Deficit
Family of 4 (2 adults, 2 children)	\$742	\$776.15	\$24.15
Family of 3 (one parent, 2 children)	\$371	\$563.22	\$192.22
Single Person	\$238	\$288.71	\$50.71

Source http://foodarc.ca/wp-content/uploads/2013/05/NSFoodCosting2012_Report.pdf

cost inflation.⁴⁴ It is to be noted also that the Maternal Nutritional Allowance, introduced for women in receipt of social assistance who are pregnant or whose newborn is less than 5 months old, was last increased in April 1994 — almost 20 years ago — again showing little regard for the dramatic increase in food costs during the intervening two decades.

In order to illustrate concretely the inadequacy of Income Assistance to cover even basic food needs, let alone special dietary needs *Table 2* summarizes the costs for eating a healthy diet based on real life food costing in Nova Scotia.

A Rural Lens

Outside of the Halifax central region, many Nova Scotians live in rural areas. At last count, 45% of the population of Nova Scotia lives rurally according to Statistics Canada — meaning they live in communities of 1000 people or fewer and with a density of less than 400 people per square kilometer.⁴⁵ Certainly, issues of rurality are embedded in the topic of social assistance. Key informants shared that rural Nova Scotians with special needs face barriers concerning transportation — both within their communities and to get to larger centres to access medical professionals that are able to provide the specific documentation to access Special Needs support.

“If you’re living in rural Nova Scotia how you’re going to take all of your kids, because you’re not just going with the one with the issue, because you can’t afford the childcare for the rest of them. So you’re all going to get on the bus to make your way into Halifax to make the specialist appointment”

“I think it is harder in the rural areas because you know your income assistance worker and you see them at the grocery store and you see them at Tim Horton’s. So the relationships are different. The microscope is there.”

Issues of stigma and isolation can be more acute in rural Nova Scotia, and issues of access, including the cost of transportation, pose additional barriers for person's seeking special needs support.

Conclusions

WHILE ADDRESSING POVERTY is never *just* about income, it is *always* about income. The Nova Scotia child benefit and new measures such as the poverty reduction and affordability tax credits are intended to supplement the incomes of low income people regardless of their sources of income. While such measures are not unimportant, the income they generate is not sufficient to make a significant impact on poverty, especially in the face of increases in food, shelter, clothing and energy costs. Indeed, because increases to income assistance rates have been minimal, the incomes of people who cannot work or are unable to obtain sufficient income from employment and must rely entirely on income assistance to survive are still well below the poverty line.

The Income Assistance rates in Nova Scotia are inadequate to cover recipients' basic essential needs. For people with disabilities and chronic health conditions, special needs allowances were the only way to offset the costs arising from their health conditions. The special needs allowance is a cornerstone of the ESIA program and should not be approached as if it were extraordinary. Meeting the needs of those living on assistance so that they can live a healthy, dignified life is what should guide policy decisions in this area. Instead, the changes to the special needs regulations and the broader tightening of eligibility for special needs assistance have negatively affected people who rely on assistance — especially people with disabilities and with chronic health conditions.

Recommendations

THE CURRENT INCOME assistance system in Nova Scotia is ineffective, exclusionary, and wrought with barriers for Nova Scotians living in poverty. The changes made to the special needs provisions in 2011 exacerbate the existing problems in the system. The pre-August 8, 2011 regulations allowed the ESIA program to at least be minimally responsive to the distinctive needs of recipients. Now, many applicants are without adequate treatment, feel demoralized in relation to the changes, and are experiencing even more barriers to navigate the income assistance system.

Merely repealing the August 8, 2011 changes is not enough.

In order to satisfactorily meet the needs of Nova Scotians living in poverty and support their health and dignity, a new system is needed. However, major policy reform takes time and steps need to be taken immediately to improve the situation of Nova Scotia's ESIA applicants and recipients. We make the following recommendations both to address the immediate concerns and to achieve long-term outcomes:

1. Implement Changes to Special Needs Allowances

- **Reinstate an 'open-ended clause' in the ESIA regulations:** an open-ended clause allows for non-listed items or services to be approved where they are shown to be essential for a recipient's health or safety or that of family members; this clause would permit accommodation of the needs of applicants — especially people with dis-

abilities whose needs are, too often, unforeseen and are frequently not listed in Policy.⁴⁶ In order to ensure province-wide fairness, there could be a running list of items and services that have been approved through the open-ended clause.⁴⁷

- **Remove most of the ‘special needs prohibitions’ in s. 24(2) of the Regulations:** with the exception of prohibiting a special needs request for an item or service covered by the provincial health care plan (s. 24 (2)(a), these prohibitions serve to prevent people with essential needs from getting the assistance that they require.
- **Restore the decision-making authority for special needs to the ESIA Regulations:** reinstate the primary basis of eligibility from the Department’s internal and unaccountable ESIA Policy Manual to the ESIA Regulations.
- **Fully index special food-related allowances:** allowances must take into consideration how inflation erodes the amount and kind of food recipients can buy. Therefore, they should be indexed to food inflation including the Special Diet Rates, the Maternal Nutritional Allowance and the Personal Allowance for eligible dependent children, all of which have never seen an increase since they have been in existence.
- **Streamline the intake process and requirements for adequate documentation:** the intake process including required documentation of health, safety, and employment related special needs should not be so onerous, taking unnecessary time of the ESIA workers, the recipient or service providers including dietitians, physicians and others.

2. “Nothing For Us Without Us”: Implement Meaningful Stakeholder Engagement Procedures

The Department of Community Services must put in place procedures to ensure that stakeholders’ input is adequately sought, gathered, and considered in all policy decisions including special needs allowances. This includes people directly affected by the policies, such as ESIA applicants and recipients, and the community members who work with DCS policies, such as community health workers and advocates. Efforts will need to involve sincere and meaningful, ongoing consultation and collaboration.

3. Incorporate Human Rights Perspective Into ESIA Legislation

This research demonstrates that the elimination of the ‘essential items or services’ clause disproportionately impacted people with disabilities whose needs can’t properly be met by a fixed list of services. A review of any proposed changes, using a human rights approach to assess the likely impacts, would have revealed that those most likely to be affected and those most seriously affected would be people with disabilities and that the proposed changes were very likely to be discriminatory. A human rights approach to this and, indeed, to all future ESIA reforms would take into account people’s needs – including the fundamental human right to an adequate standard of living.

4. Make Transformational Reform of the Income Assistance Program a Top Priority

Using targets, benchmarks, timelines, and measures in a Poverty Reduction Action Plan, the government should demonstrate that it is closing the gap between welfare rates and the actual cost of living that includes a nutritious diet, clothing and footwear, shelter, transportation, and other necessary goods and services; ensure that recipients moving from welfare to work are adequately prepared, supported and significantly better off as they transition to the labour market; and that those unable to participate in the labour market receive the supports and special assistance they need to live healthy lives.

5. Implement a Poverty Reduction Action Plan as Integral to Developing Healthy Public Policy

The Community Society to End Poverty in Nova Scotia (CSEP-NS) and its predecessor, CCEP-NS, has been advocating for a government-wide Poverty Reduction Action Plan since 2007. CCEP-NS developed a framework that would guide this plan’s implementation, based on a social determinants of health approach, which recognizes and makes visible connections between addressing the economic and social well-being of people living in poverty, the social and economic costs of poverty, and the benefits to society and the economy of ending poverty⁴⁸. In 2008, after six months of study, a government appointed Poverty Reduction Working Group made similar recommendations. It put forward an implementation plan for ESIA reform

that (inter alia) included “increasing rates for both food and shelter, with particular attention to the special needs of persons with disabilities”; “providing funding for telephones and disability supports”; and “reviewing the entire special needs list to reflect the actual cost and individual experience, and to ensure that special needs policy is clear and communicated.”⁴⁹ The implementation of a Poverty Reduction Action Plan requires collaboration across Departments and with community. Such a plan must include targets, benchmarks, timelines, and a transparent public accountability mechanism and ideally works toward the goal of poverty elimination.

Notes

1 Department of Community Services, Presentation to Building Connections Committee, Employment Support and Income Assistance Program, November 17, 2011, p.10.

2 Department of Community Services, Employment Support and Income Assistance Policy Manual (Halifax: Government of Nova Scotia, Effective August 1, 2001, revised May 15, 2013. See Chapter 5. http://gov.ns.ca/coms/employment/documents/ESIA_Manual/ESIA_Policy_Manual.pdf here in after referred to as *ESIA Policy Manual*

3 Nova Scotia Legislature, Debates and Proceedings *Hansard*, 1st session, 58th Assembly, (Fall 2000), page 7596 <http://nslegislature.ca/index.php/proceedings/hansard/>

4 Ibid, *ESIA Policy Manual*; See Special Needs Schedule, 6.3.1 beginning on page p. 128, revised in July 2011.

5 Department of Community Services, *Clear, Consistent Access to Special Needs Funding for People on Income Assistance*, (Halifax, NS: Province of Nova Scotia, 2011). <http://novascotia.ca/news/release/?id=20110808001>

6 Department of Community Services, Presentation to Building Connections Committee, Employment Support and Income Assistance Program, November 17, 2011.

7 Nova Scotia Food Security Network and the Food Action Research Centre (FoodARC), “Can Nova Scotians Afford to Eat Healthy?: Report on 2012 participatory food costing, May 2013, see: http://foodarc.ca/wp-content/uploads/2013/05/NSFoodCosting2012_Report.pdf See also Williams PL, Watt C, Amero M, Anderson B, Blum I, Green-LaPierre R, et al. Affordability of a nutritious diet for income assistance recipients in Nova Scotia (2002–10). *Can J Public Health*. 2012;103(3):183–8.

8 As noted, all but two Canadian provinces have open-ended provisions in their special needs regulations. Indeed, Nova Scotia’s Services for Persons with Disabilities Program (operating within the framework of the Social Assistance Act and Regulations) continues to provide that: “The Director may approve other items of special requirement he deems essential to the well being of the recipient.” *Municipal Assistance Regulations*, section 1(e)(ii); see <http://www.gov.ns.ca/just/regulations/regs/samunass.htm>

- 9** Ministry of Community and Social Services, http://www.mcscs.gov.on.ca/en/mcscs/programs/social/directives/directives/OWDDirectives/7_7_OW_Directives.aspx
- 10** Community Coalition to End Poverty, Pre-Budget Presentation to the Department of Finance, Jan. 17, 2012, Halifax, NS.
- 11** Poverty Reduction Working Group, Report of the Poverty reduction Working Group, June 30, 2008, pp22–25 http://gov.ns.ca/coms/specials/poverty/documents/Poverty_Reduction_Working_Group_Report.pdf
- 12** Government of Nova Scotia, Employment Support and Income Assistance Regulations http://www.gov.ns.ca/just/regulations/regs/esiaregs.htm#TOC1_5 (here in after *ESIA Regulations*)
- 13** Government of Nova Scotia, Bill No. 62: Employment Support and Income Assistance Act, 2000 http://nslegislature.ca/legc/bills/58th_1st/3rd_read/bo62.htm (here in after *ESIA Act*)
- 14** DCS, Policy manual, Ibid. See Chapter 5.
- 15** Department of Community Services, Presentation to Building Connections Committee, Employment Support and Income Assistance Program, November 17, 2011, p.10.
- 16** Nova Scotia Legislature, Debates and Proceedings *Hansard*, 1st session, 58th Assembly, (Fall 2000), page 7596 <http://nslegislature.ca/index.php/proceedings/hansard/>
- 17** Ibid, *ESIA Policy Manual*, See Special Needs Schedule, 6.3.1 beginning on page p. 128, revised in July 2011.
- 18** Department of Community Services, *Press Release: Clear, Consistent Access to Special Needs Funding for People on Income Assistance*, (Halifax, NS: Province of Nova Scotia, 2011). <http://novascotia.ca/news/release/?id=20110808001>
- 19** Kim Guild and Melissa Albiani, *NDP says “No” to essential services for disabled*. (Halifax, NS: Halifax Media Co-op, August 17, 2011). <http://halifax.mediacoop.ca/audio/ndp-says-“no”-essential-services-disabled/7972>
- 20** Mairin Prentiss, *Making Poor People Poorer*, (Halifax, NS: The Coast, August 26 2011). <http://www.thecoast.ca/RealityBites/archives/2011/08/26/maing-poor-people-poorer>
- 21** Ibid
- 22** World Health Organization, *The Ottawa Charter for Health Promotion* (Ottawa, ON: First International Conference on Health Promotion, November 21, 1986)
- 23** World Health Organization, *Declaration of Alma-Ata* (Alma-Ata: USSR: International Conference on Primary Health Care, 1978) http://www.who.int/publications/almaata_declaration_en.pdf
- 24** World Health Organization, *Health for All Targets* (Copenhagen: European Health for All Series No. 4, 1993)
- 25** World Health Organization, *Intersectoral Action for Health: A Cornerstone for Health-for-All in the Twenty-First Century* (Halifax, NS: Conference Intersectoral Action for Health, 1997)
- 26** Toba Bryant, Marcia Rioux, Dennis Raphael (eds.), *Staying Alive* (Toronto, ON: Canadian Scholar’s Press, 2006)
- 27** See for example, Rene Ross, *Struggling to Survive: Women on Employment Support & Income Assistance (ESIA) in Nova Scotia Provide Their Key Recommendations for Policy Reform* (Antigonish Women’s Resource Centre; Every Woman’s Centre, Sydney; Pictou County Women’s Centre; Funded by Status of Women Canada, Women’s Program, 2006) www.hpclearinghouse.ca/pdf/Struggling%20to%20Survive.pdf

- 28** It was beyond the scope of a summer intern project to directly interview applicants or recipients.
- 29** ESIA Regulations, section 24(1). See: http://www.gov.ns.ca/just/regulations/regs/esiaregs.htm#TOC1_5
- 30** See ESIA Policy Manual, Ch. 6, section 2
- 31** Nova Scotia Regulation 251/2011, Order in Council 2011-308 dated August 8, 2011
- 32** Nova Scotia's top Court has recently made clear that "nothing in the [ESIA] Act enables Departmental employees to create Policies that have the effect of law." While they are, perhaps, convenient for program administrators, the "Policies are not legislative instruments, and have no legal effect, either before the Board or in court." (*Jivalian v. Nova Scotia (Community Services)*, 2013 NSCA 2 (CanLII) at para. 31 See: <http://canlii.ca/en/ns/nsca/doc/2013/2013nsca2/2013nsca2.html>
- 33** Notably, the 2013 budget extended dental care for all children recently and it now covers cleaning and preventative care for children up to the age of 13 under the provinces Medical Services Insurance. Premier's Office, Better dental care for young children (Halifax: Government of Nova Scotia, April 8, 2013) <http://novascotia.ca/news/release/?id=20130408004>
- 34** Department of Community Services, Response to Dalhousie Legal Aid, Freedom of Information Request, received April 2013.
- 35** Department of Community Services, *Press Release: Clear, Consistent Access to Special Needs Funding for People on Income Assistance*, (Halifax, NS: Province of Nova Scotia, 2011). <http://novascotia.ca/news/release/?id=20110808001>
- 36** Ibid
- 37** Othering is the exclusionary practice of defining individuals or groups as negatively different than oneself or the dominant group. For further discussions of Othering relating to poverty see <http://www.tuc.org.uk/social/tuc-15539-fo.pdf> and http://www.ted.com/talks/lang/en/chimamanda_adichie_the_danger_of_a_single_story.html
- 38** Keith Bain, Standing Committee on Community Services, (Halifax, NS: Hansard Reporting Services, November 1, 2011) http://nslegislature.ca/index.php/committees/committee_hansard/C6/cs_2011nov1
- 39** Ibid
- 40** See: *Social Assistance Statistical Report: 2008* (Federal-Provincial-Territorial (FPT) Directors of Income Support, Income Security Division, Human Resources and Skills Development Canada): http://publications.gc.ca/collections/collection_2011/rhdcc-hrsc/Hs25-2-2008-eng.pdf at page 33.
- 41** Department of Community Services, *Press Release: Clear, Consistent Access to Special Needs Funding for People on Income Assistance*, (Halifax, NS: Province of Nova Scotia, 2011). <http://novascotia.ca/news/release/?id=20110808001>.
- 42** Department of Community Services, Presentation to Building Connections Committee, Employment Support and Income Assistance Program, November 17, 2011, p.10.
- 43** ESIA Policy Manual, p. 114
- 44** See: *Social Assistance Policy Manual* (Department of Community Services) (1996-97), page 2-A-5, "Special Diet Rates". See also Nova Scotia Food Security Network and the Food Action Research Centre (FoodARC) "Can Nova Scotians Afford to Eat Healthy?: Report on 2012 participatory food costing, May 2013, see: http://foodarc.ca/wp-content/uploads/2013/05/NSFoodCosting2012_Report.pdf) *ibid*, at page 27
- 45** <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo62d-eng.htm>

46 As noted, all but two Canadian provinces have open-ended provisions in their special needs regulations. Indeed, Nova Scotia's Services for Persons with Disabilities Program (operating within the framework of the Social Assistance Act and Regulations) continues to provide that: "The Director may approve other items of special requirement he deems essential to the well being of the recipient." *Municipal Assistance Regulations*, section 1(e)(ii): see <http://www.gov.ns.ca/just/regulations/regs/samunass.htm>

47 Ministry of Community and Social Services, http://www.mcscs.gov.on.ca/en/mcscs/programs/social/directives/directives/OWDirectives/7_7_OW_Directives.aspx

48 Community Coalition to End Poverty, Pre-Budget Presentation to the Department of Finance, Jan. 17, 2012, Halifax, NS.

49 Poverty Reduction Working Group, Report of the Poverty reduction Working Group, June 30, 2008, pp22-25 http://gov.ns.ca/coms/specials/poverty/documents/Poverty_Reduction_Working_Group_Report.pdf



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