



# Policy Points

July 2013

## Cornerstone Compromised: A critical analysis of changes to Special Needs Assistance in Nova Scotia

According to the Department of Community Services (DCS), 65% of the total income assistance caseload in Nova Scotia receives some form of special needs allowance.<sup>1</sup> These allowances, therefore, are extremely important for the majority of people living on social assistance, who are disproportionately people with disabilities. The special needs provision has equal status in the Employment Supports and Income Assistance (ESIA) legislation with basic needs and employment services.

Indeed, the provision of special needs allowance is a “cornerstone”<sup>2</sup> 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. Under the ESIA, financial assistance for 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.<sup>3</sup> Special needs support is intended to cover additional expenses for items related to a disability, health maintenance, or access to employment.

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,<sup>4</sup> 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 approved 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 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. 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.

According to the government, the ESIA changes to special needs section 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”<sup>5</sup>. 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’; they are essential to the ability of ESIA recipients to live healthy, dignified lives. This is especially the case for people with disabilities and chronic illnesses. Contrary to the stated objectives, they have made the system even more inconsistent and unfair.

These changes have compromised a critical cornerstone, making the income assistance system even more inadequate. The Income Assistance rates in Nova Scotia fall far below any poverty line and are inadequate to cover recipients’ basic essential needs.<sup>6</sup> 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 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, who are disproportionately 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 even more problems navigating the income assistance system. The special needs assistance is a key cornerstone of the ESIA program.

## Recommendations

In order to satisfactorily meet the needs of Nova Scotians living in poverty and support their health and dignity, a new system is needed. Merely repealing the August 8, 2011 changes is not enough. 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. Remove barriers to access to special needs

a. Reinstating 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 recipi-

ents’ health or safety or that of family members; this clause would permit accommodation of the needs of applicants—especially people with disabilities whose needs are, too often, unforeseen and are frequently not listed in Policy.<sup>7</sup> 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.<sup>8</sup>

b. 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 already 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.

c. 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 to ensure maintenance of government accountability.

d. Fully index special food-related allowances: allowances must take into consideration how inflation erodes the amount and kind of food recipients can buy, and therefore, 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.

e. 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 poverty.<sup>9</sup>

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.”<sup>10</sup>

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.

### **Conclusion**

The research findings 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 special needs items and by making eligibility more difficult through bureaucratizing applications and discouraging appeals. However, 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 our research, 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.

*The full report, **Cornerstone Compromised: A critical analysis of changes to Special Needs Assistance in Nova Scotia** co-authored by Sara Wuite, Christine Saulnier and Stella Lord, from which this Policy Points is drawn can be downloaded free on the website: [www.policyalternatives.ca](http://www.policyalternatives.ca)*

## References:

- <sup>1</sup> Department of Community Services, Presentation to Building Connections Committee, Employment Support and Income Assistance Program, November 17, 2011, p.10.
- <sup>2</sup> Nova Scotia Legislature, Debates and Proceedings Hansard, 1st session, 58th Assembly, (Fall 2000), page 7596 <http://nslegislature.ca/index.php/proceedings/hansard/>
- <sup>3</sup> 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](http://gov.ns.ca/coms/employment/documents/ESIA_Manual/ESIA_Policy_Manual.pdf) here in after referred to as ESIA Policy Manual
- <sup>4</sup> Ibid, ESIA Policy Manual; See Special Needs Schedule, 6.3.1 beginning on page p. 128, revised in July 2011.
- <sup>5</sup> 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>
- <sup>6</sup> 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](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 (2002-2010). *Can J Public Health.* 2012;103(3):183-8.
- <sup>7</sup> 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/sa-munass.htm>
- <sup>8</sup> Ministry of Community and Social Services, [http://www.mcscs.gov.on.ca/en/mcscs/programs/social/directives/directives/OWDirectives/7\\_7\\_OW\\_Directives.aspx](http://www.mcscs.gov.on.ca/en/mcscs/programs/social/directives/directives/OWDirectives/7_7_OW_Directives.aspx)
- <sup>9</sup> Community Coalition to End Poverty, Pre-Budget Presentation to the Department of Finance, Jan. 17, 2012, Halifax, NS.
- <sup>10</sup> 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](http://gov.ns.ca/coms/specials/poverty/documents/Poverty_Reduction_Working_Group_Report.pdf)



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