

positive change



**Advocacy for People
with HIV disease and AIDS**



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Introduction

Welcome to *Positive Change*, a manual of legal and practical information on issues of concern for persons living with HIV and AIDS in British Columbia. This manual is intended to be a resource for individuals or organizations working on behalf of persons living with this disease. Beware, as legislation and policy changes occur the advocacy practices contained in this manual will have to be modified by those individual advocates using the manual.

This manual is intended to be used by lay advocates who are providing free advocacy services. To charge for many of the advocacy services in the manual would be illegal because an advocate would be practicing law without a lawyer's license.

The content of *Positive Change* has been reviewed by our project's supervising lawyer however, it is legal information only, *not* legal advice. A referral section listing some of the free and low-cost legal resources available has been included for those times when you need legal advice. You may also want to make inquiries in your local community to see what legal resources are available. If you discover an inaccuracy in *Positive Change* please contact the BCPWA Advocacy Department.

To obtain more information or copies of
POSITIVE CHANGE contact:
The Individual Advocacy Department
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Section 2: BC Benefits & the Ministry of Human Resources (MHR)

One of the major areas you will face while advocating for persons with HIV disease will involve the BC Benefits programs of the Ministry of Human Resources. You will learn how this system works, the related policies and legislation you will encounter, eligibility criteria to access benefits and the intricacies of appealing denials of benefits.

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Section 3: Canada Pension Plan (CPP) Benefits

The Canada Pension Plan has a disability pension plan that many people living with HIV/AIDS can access. Here you will find the eligibility criteria, application procedures, and how to appeal denials of CPP entitlements. A special section examines the implications of returning to work for CPP disability pension recipients.

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While there have been many cut-backs to the EI system in Canada, there are still some short term sickness benefits that you need to be aware of. For individuals considering leaving their jobs, this section examines the EI eligibility criteria, amounts of benefits, when to apply, and how to appeal denials of benefits.

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Glossary of Abbreviations

BCBM	BC Benefits Manager
DS	District Supervisor
FAW	Financial Assistance Worker
HRDC	Human Resources Development Canada
HSB	Health Services Branch
MHR	Ministry of Human Resources
MSP	Medical Services Plan
PHN	Personal Health Number
WCB	Workers' Compensation Board

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What are the skills of a good advocate?

This section has borrowed heavily from the *Advokit: a self-help kit to help you advocate for yourself* produced by the Penticton Advocacy Network.

The definition of an advocate is a “defender of rights”. You probably already have the skills needed to be an advocate. Most people do; they just don’t call it advocacy. Advocating for yourself or someone else takes practice, it takes calmness, it takes asking questions and getting the information you need. Some of the tools you will need are:

- 1 An open and flexible mind.
- 2 Creative problem-solving techniques.
- 3 Listening skills (to the person you are helping and to the “other side”).
- 4 Good working knowledge of the area in question (e.g., B.C. Benefits and MHR policy).
- 5 A knowledge of the government ministries involved.
- 6 An ability to disagree without closing the lines of communication.
- 7 An ability to persuade.
- 8 An ability to be persuaded.
- 9 An ability to analyze problems.
- 10 An ability to separate relevant from irrelevant information.

Effective Advocacy

Meetings

- Set clear guidelines for the person you are providing advocacy services. Be firm on what you can and cannot do for them and put it in writing. Be careful not to break the guidelines yourself. For example: “I can help you get a crisis grant for formula for your baby but I cannot and will not help you get a crisis grant to fix your car stereo”.
- Respond appropriately. Always be respectful and do not judge. If the person gets upset or angry, take time out. Assess the productiveness of continuing the appointment.

- Always get written consent for discussing someone's case with MHR, their doctor, or any other individual or agency. Send the original of the consent to the individual or agency and keep a copy for yourself. There is a sample consent form in the Appendix. When a case is finished, make detailed notes on what happened and when. If it appears that the person has decided not to go ahead with an appeal, write them a letter saying what has happened up to this point.

Avoiding Burnout, Isolation and Intimidation

- Be clear about your reasons for accepting a case. Being an advocate is hard, demanding and rewarding work. Having clear reasons for accepting cases will help you feel fair about the cases you take on and those you do not. Some examples are:
 - a I will always be an advocate for individuals and families whose housing and/or income is threatened.
 - b If the person coming to me faces an emergency situation I will be an advocate for him or her.

It is best to tell clients at the first meeting if there are specific reasons you will not advocate for them. Some examples of reasons to refuse are:

- c I will not advocate for anyone who is committing fraud.
- d I will not advocate for anyone if I have found that he or she is not telling the truth.
- e I will not advocate for someone who loses their temper in a meeting.

Applying a policy in a consistent manner and applying your energy where you feel it is most needed will help relieve the anxiety you feel when turning someone down.

Creating policy will help you set work limits. Make sure the client is doing as much of the work as they can. You are teaching them to assist themselves. As you already know, there will never be a shortage of people who will need your assistance. Set your boundaries and stick to them.

- Be aware of your feelings and stay objective. It is fine to feel empathy but, becoming emotionally involved makes your work harder and drains your energy – a sure recipe for burnout. If a situation makes you angry, be sure to direct your anger at the situation, not the individuals involved. Be clear with the individual that you are not angry with them.
- Know your research. It will make your job less stressful and will strengthen your credibility for the next encounter. If you know you have got your information right, you are difficult to intimidate.

- Stay focused on the issue at hand. Keep the discussion on the relevant details. Clarify that you have a set amount of time to discuss their request and if you are not finished you will have to make another appointment with them.
- Take comprehensive notes. Write down all the important details including dates.
- Always be mindful of your safety. Never meet in your home or give out your address. Try to meet in a public place that also affords some privacy (e.g. a booth in a restaurant). If someone is threatening you, end the interview immediately. Trust your intuition.
- Clarify responsibilities. Develop “to-do” lists for the person and yourself before they leave. Ask if they feel satisfied that they will get solutions.
- Check-in. At the end of an appointment ensure that the person understands how you will assist them. Ask if they have any questions and if they are satisfied with the proposed solutions.

File Management

- Keeping track of the information in an organized manner is an essential part of being an advocate. If you do not keep close track of documents and dates, you could miss important deadlines or lose necessary information. You can keep information in a file folder or envelop, as long as it is all together.
- Keep all information secure. Always keep private information in a secure place and do not share it with anyone who has not been authorized by the person for whom you are advocating. Treat your relationship with absolute confidentiality. If you have more than one person coming to see you be sure to have the first person’s papers put away before the next person comes in. If you don’t have anywhere safe to keep papers, give them back to the person at the end of each interview.
- Do not keep original documents. Make copies and return the originals to the person you are advocating for.
- Record, record, record. From your first interview with someone through to the end of their case, keep careful notes of who said what and when. Keep track of when you made phone calls to Financial Assistance Workers (FAWs) what they said and what was discussed and/or decided. But don’t write down your personal opinions in your notes, just the facts.
- Develop a deadline system. It is important to have a system in place to ensure that you do not miss crucial deadlines. For example: you could have a calendar where you place deadline reminders and check each day. It is a good idea to begin the deadline reminders at least one month from the date something is due; then, write yourself reminders 15 days, 10 days, etc., before the deadline.

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- Know your limits. Do not take on tasks that are too big for you. Know when to refer the person to another resource, for example, a women's centre, legal aid office or anti-poverty group in your area. When you do refer, ask the person to call you back to let you know what happens or, if they need more help. Assure them that you are not simply "getting rid" of them. If you are constantly feeling panicked by your workload, you need to review your policy for taking on cases or how you are carrying out your work. Taking on too much harms you and the people you are assisting.
- Develop a support network. There are many individuals and organizations out there doing welfare advocacy. These people will be an invaluable resource to you in keeping abreast of developments in welfare law and advocacy. Also, you need to be able to share your experiences, good and bad, with others who understand the work you do. Celebrate your victories with other advocates in your community.

Good Luck!

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BC Benefits & the Ministry of Human Resources (MHR)

Introduction

How the System Works

BC Benefits is the income assistance system paid for, and run by, the provincial government. 'BC Benefits' used to be called 'Guaranteed Annual Income Need'. Some people call it 'welfare'. Many people living with HIV/AIDS rely on BC Benefits for financial support. BC Benefits is the last resort for food, shelter and basic amenities of life. Before receiving BC Benefits, a person must exhaust all other avenues to secure income.

BC Benefits are limited and highly regulated. It can be a tremendous help to a person to have an advocate to ensure that they are receiving all the support to which they are entitled. To be effective, an advocate needs to be familiar with the legislation and policies, as well as, how the system works or fails to work.

The Legislation

The BC Benefits regime is governed by five different acts. Each act has corresponding regulations. Regulations are also law.

- The *BC Benefits (Income Assistance) Act*, R.S.B.C. 1996, C. 27 and the *Income Assistance Regulation*, provide for assistance to families and to employable persons aged 25 and over. Within this manual these acts are cited as "IA Act" and "IA Reg.", respectively. This legislation is administered by the Ministry of Human Resources (MHR).
- The *Disability Benefits Program Act*, R.S.B.C. 1996, C. 97 and the *Disability Benefits Program Regulation*, provide for assistance to persons aged 18 and over who are living with a permanent disability (Disability Benefits Level II, commonly referred to as DBL II). Within this manual these acts are cited as "Disability Ben. Act" and "Disability Ben. Reg.". This legislation is also administered by MHR. When MHR designates a person as disabled, the person is entitled to higher rates of assistance and a greater number of benefits. A person must make a special application for disability benefits.
- The *BC Benefits (Youth Works) Act*, R.S.B.C. 1996, C. 28 and the *Youth Works Regulation*, provide assistance to "youths", persons aged 19 to 24. Within this manual these acts are cited as "Youth Works Act" and "Youth Works Reg.". Unless a youth is considered disabled, youths are viewed as employable and expected to actively seek work or participate in employability programs. Youth allowances are administered by MHR however, often young people are referred to job training programs of the Ministry of Education, Skills and Training.

- The *BC Benefits (Child Care) Act*, R.S.B.C. 1996, C. 26 and the *BC Benefits (Child Care) Regulation*, cover the range of child care subsidies and services available to low income families. This series of benefits is administered by the Ministry of Children and Families.
- The *BC Benefits (Appeals) Act*, R.S.B.C. 1996, C. 25 and the *BC Benefits (Appeals) Regulation* establish the appeal process for decisions made by MHR, Ministry of Education, Skills and Training, or Ministry of Children and Families. Within this manual they are cited as “*Appeals Act*” and “*Appeals Reg.*”. The legislation sets out timelines, rules and procedures for internal Ministry appeals, appeal tribunals and the BC Benefits Appeals Board.

Policy vs. Legislation

The focus of this chapter is the administration of BC Benefits by MHR. MHR staff are responsible for providing financial assistance, benefits and services to people eligible for social assistance pursuant to the BC Benefits legislation.

In order to assist staff in interpreting the legislation, MHR has created policy. A distinct policy exists for each piece of legislation. This chapter discusses legislation, as well as, MHR policy since staff use policy to determine eligibility for the different types of assistance and benefits. It is important to realize that regardless of internal MHR policy and procedure, MHR is bound by the legislation. If an advocate is familiar with the legislation, they can distinguish it from policy if the advocate disagrees with it. Policy has no legal authority. Therefore, knowledge of the law is crucial for an advocate to provide comprehensive and effective services.

The MHR Office – A Brief Overview

Staff Positions

Every person who receives BC Benefits has ongoing contact with MHR staff. As you advocate you will have a lot of contact with MHR staff. Who, then, are the staff at MHR offices?

Administrative staff - meet and greet MHR clients, file paperwork, answer the telephones, print the cheques and perform other clerical duties. In some offices administrative staff also book appointments for Financial Assistance Workers.

Financial Assistance Worker (FAW) - is responsible for a person's case and for ensuring that the person receives the assistance, allowances and benefits to which they are entitled. Many people refer to their FAW as their ‘worker’, and it is their worker who is their main contact within MHR. FAWs interpret legislation and policy to determine eligibility both at the initial time of application for financial assistance and, for as long as a person is ‘on the system’. The FAW's work entails processing a great deal of paperwork and computer work.

District Supervisor (DS) - oversees the MHR office. The DS supervises the FAWs and administrative staff. The DS is the first person you should approach when the person you are assisting is having difficulty with their FAW or wishes to appeal a decision.

BC Benefits Manager (BCBM) - is responsible for the regional implementation of BC Benefits and handling reconsiderations and appeals.

How to work with MHR

It is an unfortunate reality that staff in many MHR offices often have difficulty keeping up with the demands for service. They deal with a lot of people, many of whom are troubled, frightened or ill. As the 'front line' workers of an MHR office, administrative staff can take abuse from clients who are desperate, frustrated or angry. Each FAW has approximately 300 people on their caseload, each with his or her own needs. DS's must work to juggle the concerns of their staff, their clients, and superiors who make policy and legislative changes. Under these circumstances, it can be difficult for MHR staff to consistently deliver quality and timely service that addresses individuals' need.

People often complain of tense interactions with MHR staff which leave them feeling ignored and dismissed. No one likes to be on assistance, and no one likes to be made to feel like a number, or worse, an inconvenience. While it may be difficult to understand the perspective of an MHR staff person, this is your role as advocate. A good advocate remains professional even when clients are angry or upset with their workers. Allow clients the chance to share their feelings and tell their story. However, enter into conversations with MHR staff in a collaborative manner rather than a confrontational manner. Presume that the staff are trying to do their best. This approach will foster a good relationship for you as an advocate with MHR staff which will help all your clients. Alienating MHR staff does not help anyone. Fostering a level of professional distance will allow you to effectively represent your client's interests.

Know When to Draw the Line with MHR Staff

There are times when people are treated poorly by MHR staff. Never dismiss a person's complaint of abuse, misconduct or incompetence. When you or the person you are assisting encounter abuse, disrespect, a lack of professionalism or incompetence, take action. Write down what happened for the record, then discuss the resolution desired. You may talk with the FAW or administrative staff or take the matter up with the DS. Again, approach the DS with the attitude that they will be as alarmed as you about what has happened. In rare cases, talking with the DS may not produce the results desired. At this point you may decide to pursue the matter with MHR superiors such as the BCBM. In such cases, you may wish to contact an advocate at the BCPWA Society for advice and support.

Provide the FAW with the Solution (Make it Easy for Them)

Take the initiative and identify potential solutions. Many FAW's do not have the time or interest to pro-actively point out to their clients additional benefits for which they are eligible. With time, effort and experience, an advocate can come to know the legislation better than many FAW's.

Inform the person of the steps for applying for a benefit, including the forms which must be filled out or documents from doctors, pharmacists, etc. Facilitating the completion of MHR documents will speed up the process. You may wish to keep MHR forms at your office. Also, directly faxing documents to the attention of the FAW or DS is quick and provides you with a written record that the documents were sent.

Financial Assistance, Benefits & Hardship Assistance

BC Benefits may be broken into 3 main categories: monthly financial assistance, benefits and hardship assistance. Monthly financial assistance covers basic shelter and support costs. For person living with a disability, the monthly financial assistance is called the 'disability allowance', for young people, it is called the 'youth allowance' and, for other persons it is called 'income assistance'.

'Benefits' are other types of assistance available such as the health benefits. Benefits are described later on in this chapter. **Hardship assistance** is minimal assistance for people who do not meet the eligibility criteria for allowances or income assistance or benefits, but they have no other means to provide shelter or food for themselves. MHR may cover their basic support and shelter costs for a short time.

Rates: How much money is provided

Shelter Allowance Persons are eligible to receive their actual shelter costs up to the maximums established by the legislation. For example, the maximum shelter allowance for a single person is \$325 a month. If a person pays \$270 for rent and has no other recognized shelter costs, \$270 is the monthly shelter allowance that they will receive from MHR.

For renters, recognized shelter costs include rent, utilities (heating costs, water, hydro, garbage disposal and the rental of one basic residential phone line) and, house insurance premiums. For home owners, recognized shelter costs include mortgage payments, utilities (heating costs, water, hydro, garbage disposal and the rental of one basic residential phone line), property taxes, house insurance premiums and pre-authorized home maintenance and repair costs. Cable television is not recognized by MHR as a shelter cost.

Legislative Authority : *Schedule A Disability Ben. Reg. Schedule A IA Reg., Schedule A Youth Works Reg.*

Support Allowance Generally, the support allowance is designated for all other expenses other than rent. Support allowances include food, clothing, toiletries, pet care and entertainment.

Legislative Authority : *Schedule IA Reg., Youth Works Reg. & Disability Ben Reg.*

Hardship Assistance The rates of hardship assistance are based upon a person or families' actual need up to the maximum benefit level as set out in the table above with one exception: hardship recipients are not entitled to the higher rates available to persons on DBL II. As well, persons on hardship are not eligible for any of the additional benefits.

Highlights

SINGLE PERSON	SUPPORT ALLOWANCE	MAXIMUM SHELTER ALLOWANCE	TOTAL
aged 19-64	\$ 175.00	\$ 325.00	\$ 500.00
aged 25-54	\$ 175.00	\$ 325.00	\$ 500.00
aged 55-59	\$ 221.00	\$ 325.00	\$ 546.00
aged 60-64	\$ 271.00	\$ 325.00	\$ 596.00
Disability I aged 19-64	\$ 271.00	\$ 325.00	\$ 596.00
Disability II aged 18+	\$ 446.00	\$ 324.00	\$ 771.00
COUPLES			
	SUPPORT ALLOWANCE	MAXIMUM SHELTER ALLOWANCE	TOTAL
both aged 19-54	\$ 291.00	\$ 520.00	\$ 811.00
one or both aged 55-59	\$ 383.00	\$ 520.00	\$ 903.00
one or both aged 60-64	\$ 433.00	\$ 520.00	\$ 953.00
both aged 19-54, one is Disability I	\$ 341.00	\$ 520.00	\$ 861.00
both are aged 19-54, Disability I	\$ 433.00	\$ 520.00	\$ 953.00
one aged 19-54, one is Disability II	\$ 608.00	\$ 520.00	\$1128.00
both are Disability II	\$ 783.00	\$ 520.00	\$1303.00
SINGLE PARENT			
	SUPPORT ALLOWANCE	MAXIMUM SHELTER ALLOWANCE	TOTAL
adult with or w/o disability, 1 child	\$ 359.00	\$ 520.00	\$ 879.00
adult with or w/o disability, 2 children	\$ 359.00	\$ 610.00	\$ 969.00
Youth, single parent, 1 child	\$ 359.00	\$ 520.00	\$ 879.00
Youth, single parent, 2 children	\$ 359.00	\$ 610.00	\$ 969.00
single parent w/ Disability II, 1 child	\$ 534.00	\$ 520.00	\$1054.00
single parent w/ Disability II, 2 children	\$ 534.00	\$ 610.00	\$1144.00
TWO PARENT			
	SUPPORT ALLOWANCE	MAXIMUM SHELTER ALLOWANCE	TOTAL
1 child	\$ 383.00	\$ 610.00	\$ 993.00
2 children	\$ 383.00	\$ 650.00	\$1033.00
both are Disability I, 1 child	\$ 433.00	\$ 610.00	\$1043.00
one is Disability II, 1 child	\$ 608.00	\$ 610.00	\$1321.00
both Disability II, 1 child	\$ 783.00	\$ 610.00	\$1393.00
both Disability II, 2 children	\$ 783.00	\$ 650.00	\$1433.00
Legislative Authority : Schedule A for: IA Reg., Youth Works Reg. & Disability Ben Reg..			

Eligibility Criteria for Financial Assistance

Just because a person feels 'in need' is not a guarantee that they will receive assistance. The eligibility criteria set out in the legislation must be met in order to receive assistance of any type.

Eligibility is assessed at the time of application and throughout the time a person is in receipt of BC Benefits. With the exception of people who receive DBL II benefits, recipients are required to complete a Request for Continued Assistance ('the stub') each month. As well, every year a person must meet with their FAW for an 'annual review' and re-apply for BC Benefits. Changes to personal and financial circumstances can affect eligibility, resulting in a change in the amounts MHR provides or a discontinuance of assistance.

1. Duty to Disclose Information

Persons are legally required to complete honestly their application for BC Benefits and to report any subsequent change to their situation. Knowingly providing false information is illegal. As a result of information sharing agreements between the federal and provincial governments, MHR is able to check the accuracy of most information provided by applicants.

MHR has developed a 'fraud squad', known as the Prevention, Compliance and Enforcement (PCE) Unit. FAWs refer any cases of suspected fraud to the PCE Unit for follow-up. If a person is found to have committed fraud, they may be cut off BC Benefits, asked to sign a repayment agreement or subjected to criminal penalties. In the event someone you are assisting is investigated by the PCE Unit it is wise to have the person disclose the withheld information to MHR. It has been the experience of BCPWA advocates that upon disclosure MHR enters into a repayment scheme of approximately \$10 per month.

You may find that people ask you if they should disclose information about their other sources of income. As an advocate you cannot counsel people to commit fraud and you should state this up front. You should inform clients of the likelihood of being caught, as well as, all the potential consequences of committing fraud.

2. Residency and Leaving the Province

A person can move to BC and immediately apply for assistance. There is no longer a 90 day residency requirement for persons applying for BC Benefits.

Technically, if a person leaves BC for more than 30 days in a calendar year they are no longer eligible. In some cases such as a family emergency, the recipient should ask their FAW for prior authorization to leave the province for an extended period of time. As well, MHR allows people to be absent from the province to avoid hardship, for education purposes, or to receive medical assistance not available in BC.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

3. Outstanding Criminal Warrants

A person is not eligible for assistance or any benefit if they or their dependent(s) have an outstanding criminal warrant. MHR has an information sharing agreement with federal and provincial policing agencies and can discover outstanding warrants.

A person may still be eligible for hardship assistance in the event they have dependent children and provided they sign an agreement to repay the monies at a later date. Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

If someone has been denied assistance or cut off because they or their dependent(s) have an outstanding warrant, they will remain ineligible until the warrant is executed or expires. The warrant needs to be resolved. Refer them to Legal Aid or one of the various legal resources listed in the Appendix. Meanwhile, you can argue that the person should receive assistance because the warrant is being addressed. Providing proof of legal proceedings by a letter from a lawyer should suffice.

4. Quitting Without Just Cause or Being Fired from Work

Persons who quit their job without just cause may be declared ineligible for BC Benefits for up to 30 days. "Just cause" is not defined within the legislation, however, MHR policy describes just cause as sexual or other harassment, poor working conditions, leaving an abusive domestic relationship (for example, relocating to escape a violent partner), workplace discrimination, or leaving to care for an ill family member. If a person resigned because of illness, stress due to poor conditions or workplace discrimination, advise them to obtain a letter from their doctor. Such a letter may assist in securing assistance without the 30 day wait. Furthermore, a person with dependent children who leaves their job without just cause, may be eligible for hardship assistance if they agree to repay MHR.

Persons fired from their job for bone fide reasons may be ineligible for BC Benefits for up to 30 days. Some bone fide reasons to terminate a person's employment are theft, deception, or incompetence. Generally, it is not legal to fire someone because they have HIV, they make minor mistakes, or they are gay or lesbian. For more information on non-union employment practices see the *Employment Standards Act* or call the Employment Standards Branch nearest you (found in the Blue Pages).

There are exemptions to the 30 day ineligibility rule. People receiving disability or single parents whose children have a medical condition requiring the parent to stay at home or who are under 7 years old are eligible for assistance despite quitting without "just cause" or being fired.

Legislative Authority ; *IA Reg., Youth Works Reg.*

5. The Asset Test

The value of a person's assets is evaluated by MHR when determining eligibility for BC Benefits. The legislation places limits on the cash value of all assets a person may possess to qualify. If a person has assets in excess of these limits, they must be liquidated (spent) before the person is eligible or can continue receiving assistance. Common assets include money in bank accounts, RSP's, stocks and bonds, a second car, and any piece of property or structure that is not the family residence.

Not all items of value are considered to be assets under the legislation. The following items are exempt: the place of residence (people are not expected to sell their primary home in order to receive assistance), one vehicle used for day-to-day transportation, clothing, household furniture and appliances, child tax benefit, GST tax credit, business, farm or fishing equipment and payments from the federal or provincial government to hemophiliacs and other persons who were infected with HIV through the blood supply system. Additionally, persons with disabilities may be the beneficiary of a trust up to \$100,000, as long as, payments from the trust are used for

disability-related costs such as home renovations or special equipment. The trust payments cannot exceed \$5484/year.

Assets Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg. Schedule B IA Reg., Schedule B Disability Ben. Reg.*

Assets	
AGE AND FAMILY STATUS	MAXIMUM ALLOWABLE ASSET AMOUNT
single person under 55	\$500.00
single person over 55	\$3000.00
couple under 55, no children	\$1000.00
couple under 55 w/children	\$5500 plus \$500 for each additional dependent
couple over 55	\$5500 plus \$500 for each additional dependent
single parent	\$5000 plus \$500 for each additional dependent
single person w/disability	\$3000.00
person w/disability and a dependent	\$5000 plus \$500 for each additional dependent
Legislative Authority : <i>IA Reg., Youth Works Reg., Disability Ben. Reg. Schedule B IA Reg., Schedule B Disability Ben. Reg.</i>	

6. The Income Test

A person's income is assessed to determine eligibility for MHR assistance. If a person has no source of income or if a person has an income, less than the monthly assistance provided by MHR, the person is eligible to receive assistance. In providing assistance, MHR will deduct certain portions of "earned income" and all "unearned income" from the monthly assistance rate and pay the remaining amount to the recipient.

7. The Social Test

Persons are eligible for BC Benefits only if they seek out, pursue and take full advantage of every source of income, asset, or other means of support available to them or their dependents. Persons are obliged to seek out and accept any and all gainful employment, unless they are disabled, over the age of 65, single parents with children under 7 years-old, or fall under one of the other categories exempt from working.

Legislative Authority : *IA Act & IA Reg., Youth Works Act & Youth Works Reg., Disability Ben. Act & Disability Ben. Reg.*

If MHR decides that a person or their dependent(s) are not fulfilling the work obligation, assistance or allowances can be reduced or terminated. If this happens to a client of yours, you can present to MHR the detrimental impacts this will have on the person's health. Without sufficient food and adequate shelter a person living with HIV is more vulnerable to succumbing to opportunistic infections or other illness.

Earned Income

Earned income is defined as "any form of money, goods or service obtained in exchange for work or rendering a service (being paid for a job), for providing room and board, or for renting a room in a person's place of residence". Earned income also includes pension plan contribution refunds. The recipient may keep some portion of earned income. To be entitled to keep a portion of one's earned income, a person must have been receiving assistance for 3 consecutive months.

Legislative Authority: *IA Reg., Youth Works Reg., Disability Ben. Reg.*

How does MHR calculate how much earned income a person can keep?

- Persons receiving regular income assistance or youth allowance may retain 25% of their total earned income. They may only claim this exemption 12 times over 3 years. For example, an employable woman 57 years-old receives monthly assistance of \$546. If one month she earned \$400, she would be entitled to 25% of the \$400 which would be a \$100 earned income exemption. Her total income for the month would be \$646: \$246 from MHR and \$400 from her part-time job.
- Disabled persons are entitled to retain the first \$200 a month plus 25% of any further earned income in addition to their monthly allowance. If the same woman from our previous example was disabled due to HIV+ and related complications she would receive \$771 a month. If she was able to work part-time occasionally and earned \$400 each month that she worked, her earned income exemption would be \$200 + 25% of \$200, totaling \$250. Her total income for the month would be \$1021.00: \$621 from MHR and \$400 from her part-time job. There is no limit to the number of times a person receiving a disability allowance can claim their earned income exemption.

Legislative Authority : *Schedule B IA Reg., Schedule B Disability Ben. Reg., Schedule B Youth Works Reg.*

Unearned Income

Unearned income is entirely deductible from people's BC Benefits (with few exceptions). Unearned income includes EI, any Canada Pension Plan (CPP) benefits, union benefits, stocks, bonds, shares, Old Age Security and Guaranteed Income Supplement. Consult the legislation for a complete list of unearned income and the exemptions.

The legality of MHR deducting people's CPP disability benefits dollar-for-dollar was challenged by the BCPWA Society on a number of occasions. Despite the evidence showing the detrimental impact caused by the reduced income from dollar-for-dollar deductions, the BC Court of Appeal upheld the legislation.

Legislative Authority: *Schedule B IA Reg., Schedule B Youth Works Reg., Schedule B Disability Ben. Reg.*

Disability Benefits

There are two levels of disability benefits, Disability Benefits Level I (DBL I) and Disability Benefits Level II (DBL II). DBL I designates a person as disabled temporarily. DBL II designates a person as permanently disabled.

Living with HIV+ does not automatically qualify a person for either DBL I or DBL II. The legislation establishes that the person must demonstrate that the disabling condition creates extra costs and needs for assistance to perform daily tasks. While the application process for both DBL I and DBL II is the same, the eligibility criteria designating someone permanently disabled are much stricter.

Applying for Disability Benefits Level II (DBL II)

For a person living with HIV/AIDS receiving DBL II can make a profound difference to their quality of life. DBL II entitles a person to:

- the highest monthly income (\$771/month for a single person);
- the largest "earned income" exemption;
- greatest allowable asset amounts;
- relief from the obligation to seek out and pursue employment;
- enhanced health benefits;
- eligibility for the year long BC Transit pass; and
- eligibility for transition to work benefits.

In order to qualify for DBL II benefits, a person must meet all the following criteria:

- they must be 18 years of age or older;
- they must have a severe mental or physical impairment;
- they must require extensive assistance or supervision in order to perform daily living tasks within a reasonable time;
- they must require unusual and continuous monthly expenditures for transportation or, special diets or, other unusual but essential needs; and
- they must have confirmation from a doctor that this impairment exists and that it is likely to continue for at least 2 years, or that it is an episodic condition likely to continue for at least one year and recur in the future.

Once a person qualifies for DBL II it is a lifetime designation. If, for some reason, a person goes off BC Benefits for a time and requires a disability allowance in the future they do not need to re-apply for DBL II designation. However, they will need to re-apply for their disability allowance.

Legislative Authority : *Disability Ben. Act*

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Legislative Authority : *Disability Ben. Act*

In order to apply for DBL II an application form must be completed. These forms are available at any MHR office. The application has three parts: the applicant's, the assessor's and the doctor's. Once completed, application forms are assessed by Health Services Branch (HSB), a specialized office of MHR in Victoria. See the Appendix for a sample of a completed application. It takes approximately 10 weeks for HSB to make a decision.

The Applicant Portion

Be thorough and detailed, the person must highlight as much as possible how their situation meets the eligibility criteria for DBL II.

What is your disability

State that the person is living with HIV/AIDS and all other medical information, such as:

- T-cell and viral load counts (generally accepted as indicators of how much damage has been and will be done to a person's immune system by HIV)
- any history of opportunistic infections
- any history of hospitalization
- any history of wasting or weight loss
- other diagnosed illnesses such as hepatitis, herpes/shingles, mental illness (depression, mood disorders), neuropathy

How does it affect your daily life

The person should describe how medical conditions impact them, such as

- any related conditions such as insomnia, anxiety, and depression, chronic, chronic fatigue, night sweats, loss of appetite, skin conditions
- any negative side effects from medications
- any restrictions the medications impose such as having to take them many times each day (constant interruption to daily living), having to staying up late to take meds, eating or drinking certain things to take their medication

Do you require assistance/supervision to manage normal daily living

List all assistance the person receives from family, friends, roommates, etc. Also, discuss the assistance they need but are not receiving. While supervision is usually only required for persons with severe mental or physical illness, many people with HIV/AIDS require, or would benefit from, assistance with certain day-to-day tasks such as

- assistance for housework, cooking, grocery shopping due to physical weakness stemming from neuropathy, wasting, chronic fatigue, insomnia, nausea, dizzy spells, diarrhea
- assistance with the many loads of laundry that result from night sweats, chronic diarrhea
- assistance with remembering to take meds because of, memory loss, depression, anxiety, dizzy spells.

Costs that are a direct result of the medical condition

The legislation states that a person must have continuous monthly expenditures as a result of their disabling condition in order to be eligible for the disability allowance. Have the person consider items such as

- increased laundry costs for machines, detergent due to night sweats, diarrhea
- increased underwear and linen replacement costs due to repeated washings, staining
- increased clothing costs due to special needs for footwear (neuropathy), wasting (clothes no longer fit)
- increased transportation costs to access health services or simply to get around
- cost of over-the-counter medications such as gravol for nausea, pain relievers, immodium
- cost of vitamin and mineral supplements, herbal and 'alternative' remedies.
- cost of 'harm reduction items' such as cleaning supplies, bleach, antibacterial soaps
- cost of bottled water (untreated water can contain harmful micro-organisms such as cryptosporidium)
- increased grocery costs due to higher caloric requirements to prevent wasting and need for fresh fruits, vegetables

The Assessor Portion

Only certain people can fill out this portion of the application. The list of qualified assessors includes FAW's, physicians and nurses, social workers, mental health workers, counselors and therapists, lawyers and other persons with assessor status. As well, advocates and service providers from established organizations recognized by MHR may be assessors. If you require an assessor, refer the person to BCPWA or to an AIDS organization or advocacy group in your area. Many of these groups have assessor status. In the event that you know the person well and are familiar with their situation, you may wish to talk to whomever is completing the assessor portion and provide them with valuable background information.

The Physician's Portion

According to the legislation, a doctor must confirm the disabling condition, its duration and the impact it has on a person's day-to-day life. The doctor must provide a diagnosis and indicate whether or not the disabling condition will continue for at least two years or, if it is an episodic condition.

The applicant and assessor portion should be completed before giving the application to the doctor. Many doctors insist on it, and, the application itself asks the doctor to comment on what the assessor has written.

Inform the person that their doctor can receive compensation from MHR for completing the form. HSB will pay \$35 to general practitioners and \$50 to specialists for completion of the physician's portion. Doctors must invoice HSB. The applicant should never pay this fee.

Applying for Disability Benefits Level I (DBL I)

If HSB rejects a person's application for DBL II, they may decide automatically that the eligibility criteria for DBL I has been met and designate the person DBL I. Persons designated DBL I receive \$596 per month for single individuals. They are also eligible for enhanced medical coverage, and they are not obligated to pursue employment. In the past, the DBL I designation was termed "unemployable" and "person with special needs". These categories are no longer used.

As noted, the application process for DBL I is the same as the DBL II application process. The person completes the same application form. For DBL I designation the criteria are less strict. In order to be eligible for DBL I, the physician must indicate that they have a disabling mental or physical condition that is likely to last a minimum of 6 months. Also, they must have additional costs as a result of this disabling condition. Finally, they must also require supervision or assistance in order to manage daily tasks.

Appealing a Denial of Disability Benefits

If a person is denied DBL I or DBL II, or granted DBL I instead of DBL II, they can appeal. There are two ways to appeal the decision:

- Forward any additional or new information with a cover letter to HSB. Upon receiving this information, HSB will review the application. A letter from the person's physician is helpful and will strengthen your argument that the person meets the eligibility criteria for DBL I or II.
- A less efficient, more time consuming approach requires completion of the Reconsideration Request (appeal) form. The form is sent to the BC Benefits Manager who has 20 working days to make a decision. If the BCBM upholds the decision of HSB, you may appeal the matter to a tribunal.

Additional Benefits

Benefits are additional forms of assistance for which persons on BC Benefits may be eligible. Each benefit has its own eligibility criteria. Generally, persons need to be receiving income assistance, disability or youth allowances to receive additional benefits, persons on hardship assistance are not eligible. A complete section further in the manual has been dedicated to health benefits because of their importance to persons living with HIV/AIDS.

BC Transit Pass

There are a number of ways a person may receive assistance with BC Transit fares. The ongoing cost of bus fare may be covered for a person with a child or a person designated as DBL II who is working and no longer receiving BC Benefits. Also, money for transit may be issued for transportation for health care visits.

Anyone on DBL II and seniors can purchase a year long BC Transit pass for \$45. This pass covers buses, the Seabus or the Skytrain. People living with HIV/AIDS find the yearly transit pass extremely useful, allowing them to affordably travel to health care appointments and to community agencies.

Legislative Authority : I A Reg., Disability Ben. Reg.

A person with a DBL I designation may be eligible for a bus pass. Application for the bus pass may be made under Schedule C 2(1)(k) IA Reg.

A "Disability Bus Pass Form" may be completed by persons on disability, available at any MHR office. Once completed, the form should be given to the FAW or mailed directly to the Bus Pass Program office in Victoria (see address below). Once the application form is received, it takes four to eight weeks for the pass to be issued. A phone call may be made to check the status of the application. Program employees can be asked to hurry the process along if the person requires the pass for transportation to medical appointments or other urgent matters.

If the person loses their pass they will have to apply for a replacement. Replacement forms must be filled out and a \$5 fee paid. Again, the forms are available at MHR offices. Once Victoria receives the re-application it takes approximately four weeks for the replacement bus pass to be issued. In the interim, you may wish to assist the person in requesting a crisis grant if they need to use transit to keep doctor or other essential appointments.

CONTACT

Write: The Bus Pass Program, Box 1900, Victoria, BC V8V 3J7

Phone: from Vancouver and the Lower Mainland (604) 682-0391; or from Greater Victoria (250) 387-4331; or from elsewhere in BC 1-888-661-1566

Comforts Allowance

If the person you are assisting lives in a facility which provides them shelter and meals they are not eligible for shelter or support assistance. However, they may be eligible for an \$82 per month comforts allowance designed to pay for some of the amenities of life (toiletries, clothes, etc.). Comforts allowance are provided to persons receiving accommodation and care in:

- an emergency shelter or transition house, (for a family, each person receives the allowance), or
- a special care facility, including hospitals for extended, intermediate and acute care, a residential facility for people with physical and/or mental disabilities, and hospitals treating mental illness.

Legislative Authority : IA Reg., Youth Works Reg., Disability Ben Reg.Sch. A

Crisis Benefit & Being Administered

Having a serious illness such as HIV typically entails additional costs. In emergencies people may qualify for a benefit also known as a crisis grant. To be eligible for this benefit

- the item requested must be for an emergency need that could not have been planned for;
- the item requested must be necessary to prevent imminent danger to physical health or for the immediate protection of a child; and
- there must be no alternative sources of funding or way to obtain the item.

Security Deposits

MHR provides security deposits for people receiving income assistance or disability or youth allowances. Security Deposits are provided in situations covered by the *Residential Tenancy Act* (RTA) or for a housing unit owned by a co-operative association. Sublets are not covered by the RTA and deposits will not be issued for payment to a roommate. Security deposits are secured by persons providing their worker with an MHR "Intent to Rent" form. The form must be signed by the landlord and indicate the rental and security deposit amounts. If the person does not want the landlord to know that they receive BC Benefits when they are applying for an apartment, providing the landlord's "application to rent" form to the FAW may be acceptable to secure the deposit.

The RTA rates for deposits must be followed. An owner or landlord can request no more than 50% of the monthly rental amount as a security deposit. In cases of subsidized rental housing, the monthly rent is calculated as the actual rent payable plus the monthly subsidy. Therefore, if a person pays \$200/month in rent and \$400 is paid as a subsidy, the monthly rent is \$600 and MHR will provide a maximum of \$300 for the security deposit.

In the past, MHR issued security deposit cheques directly to the owners or landlords. However, since August 1997, the person renting the apartment receives the security deposit from MHR. Upon receiving the deposit the recipient must sign a repayment agreement. It is the renter's responsibility to recover the deposit when they move out. If the landlord refuses to return the deposit, it is the renter's responsibility to pursue the landlord at arbitration. At all times the renter remains responsible for repaying the deposit in full to MHR. If the renter is unable to pay back MHR in a single payment, funds likely will be deducted each month from their cheque until it is paid off. Deductions are usually \$10.00.

Legislative Authority ; *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Work Related Benefits

If a person wants to work they may be eligible for a number of benefits from MHR to assist them. Note: a person in receipt of Disability II who tries to work but ultimately has to go back on BC Benefits will retain their DBL II status and need not re-apply for disability designation. However, they must speak with a verification officer and re-apply for financial assistance and benefits. As well, persons designated DBL II entering the work force will continue to receive enhanced MHR-sponsored medical coverage for as long as they live in BC. Single parents will continue to receive this coverage for one year (discussed below in Part Four).

Work Clothes

MHR may provide financial assistance in purchasing clothes for work if:

- the recipient has confirmed employment that will promote financial independence significantly; or if the clothes are considered necessary by the employer to begin work (for example steel-toed boots). In some instances, an estimate of costs will be required for the items needed. Technically, FAW's are required to assess whether a person can cover the costs through their income or credit,

with an advance from a prospective employer or through Human Resource Development Canada, Employment Insurance. Persons who are transient in BC or receiving hardship assistance are not eligible for this benefit.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Transportation

MHR will assist with local transportation costs required for the first month of confirmed employment in BC. Only the least expensive mode of transportation will be covered and there can be no other source of funding available to the recipient.

Legislative Authority : same as above.

Work Force Entry Benefit

This benefit covers incidental expenses related to their job commencing. The maximum grant is \$200 and it is issued once a year.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Transition to Work Benefit

This benefit is available to persons with children or a DBL II recipient who, as a result of commencing work, is no longer eligible for financial assistance. The benefit is intended to assist people or families with their transportation and child care costs up to \$150/month for 12 consecutive months after they cease receiving their monthly financial assistance from MHR.

To receive this benefit:

- neither the person nor anyone in their family, may have received this benefit before;
- during the 12 months while receiving the benefit no family member may receive income assistance or an allowance from MHR; and
- only one person in a family unit is eligible at a time.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Community Volunteer Benefit (CVP)

This benefit is designed to encourage certain recipients of BC Benefits to participate as volunteers in non-profit community agencies as part of the Community Volunteer Program (CVP). It is a \$100/month benefit designed to cover the costs of clothing, transportation and other expenses associated with volunteering for a minimum of 10 hours a month. Persons who are potentially eligible include DBL I or II recipients, single parents with a child under 7 years old or, who has a physical or mental condition that precludes the parent from being employed, and other people temporarily excused by MHR from seeking employment or participating in employability programs. Persons interested in the CVP should discuss it with their FAW. In most regions in BC there is a 'waiting list' for the benefit.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Lost or Stolen Cheques

Replacement of a lost or stolen cheque may be issued if the cheque was not endorsed (signed on the back). If the cheque has been stolen the recipient is required to meet with police and file a report and meet with their FAW and sign a declaration describing the problem and promise to return the cheque if it is found. For lost or stolen cash MHR may issue a crisis benefit to cover basic needs. When a person reports lost or stolen cash or an endorsed cheque more than once, they are automatically administered.

Legislative Authority : *IA Reg., Youth Works Reg., Disability Ben. Reg.*

Health Services and Benefits

Persons in receipt of BC Benefits are eligible for basic or enhanced medical coverage.

Basic Medical Coverage

Persons who receive income assistance or the youth or disability allowance may have their Medical Services Plan (MSP) premiums and Pharmacare – covered prescription drugs paid by MHR. The person must meet the basic MSP requirements: they must legally reside in Canada, they must have lived in BC for at least three continuous months, and they must live in BC for six months each calendar year.

Enhanced Medical Coverage

MHR may provide financial assistance for other health needs not met by MSP or Pharmacare coverage. This coverage is called enhanced medical coverage and provides for health items such as eye-wear, medical equipment and surgical supplies, non-emergency dental services and dentures, physiotherapy, chiropractic services, massage therapy, orthodontics, and medical transportation (see schedule C s.2)

Persons eligible for these benefits are:

- persons (and their dependents) in receipt of DBL II;
- persons (and their dependents) in receipt of DBL I as long as that person does not receive the federal spouse's allowance or GIS benefits, and every other member of the family is a person with a DBL I or a dependent child;
- single parents (and their dependents) in receipt of income assistance, a disability allowance or youth allowance;
- persons (and their dependents) living in BC no longer receiving DBL II because they are employed (known as a 'Medical Services Only' (MSO));
- single parents (and their dependents) living in BC no longer receiving income assistance, a disability or youth allowance because they are employed for a period of one year (MSO file);
- persons over 65 (and their dependents) living in BC over the age of 65 who prior to turning 65 were eligible;

- persons living in BC transferred from income assistance, the youth and disability allowance to federal income security support (Old Age Security, CPP) will retain their Enhanced coverage;
- persons (and their dependents) receiving special care in a special care facility or hospital; and
- a child residing in the home of a relative.

Legislative Authority : *IA Reg., Youth Works Reg., Dis. Ben. Reg.*

Pharmacare Coverage

Pharmacare is a Ministry of Health program which provides coverage for listed prescription drugs and medical supplies. Pharmacare has a number of different 'plans'.

PLAN TYPE	DESCRIPTION
PLAN A	All persons over the age of 65, regardless of their level of income, should automatically receive a gold Care Card and 100% Pharmacare coverage. Applications for the gold Care Card are also available at Pharmacies.
PLAN C	All persons receiving income assistance, youth or disability allowances can receive Pharmacare-covered medication at no cost. The person simply needs to show the pharmacist their Care Card or give them their Personal Health Number (PHN) when they pick up their prescription. These numbers identify the person as eligible for Pharmacare coverage.
PLAN E	All persons with MSP coverage, who are not covered by any other medical plan, must pay all their prescription costs up to \$800 after which they pay only 30%. Once a person spends \$2000, all costs are covered by Pharmacare.
PLAN T	A person on hardship assistance may receive temporary coverage in the event of a medical problem.

Drugs Not Covered

If a person requires a medication that is not covered by Pharmacare, they need to ask their doctor to request Special Authority direct from Pharmacare for coverage.

Legislative Authority : *Pharmacists Act*

Schedule C Benefits

Under the BC Benefits legislation, regulations for the *Income Assistance Act, Youth Works Act* and *Disability Benefits Program Act* stipulate the health benefits recipients may receive. (With the exception of children, persons must have been receiving enhanced coverage for a minimum of 6 months before they are eligible for basic dental assistance).

Basic dental coverage

MHR covers the following dental costs:

- persons w/ a disability : \$500 per year
- persons over 65 : \$500 per year
- all other adults: \$250 per year
- children (under the BC Healthy Kids program): \$700 per year

To receive these dental services, a person must provide their dentist with their Care Card or PHN. The dentist will contact directly the Dental Program for approval of coverage of services.

Adults who have not yet received enhanced medical coverage for 6 months or adults in receipt of basic medical coverage or hardship assistance, may receive some dental assistance from MHR. Emergency dental services and denture repair required to relieve pain may be covered. In such cases, persons should meet with their FAW to make the request.

Legislative Authority : *Schedule C IA Reg., Schedule C Dis. Ben. Reg., Schedule C Youth Works Reg.*

Orthodontic Coverage

Generally, orthodontic coverage is granted only for children in families with enhanced medical coverage. Adults and children in receipt of Healthy Kids basic MHR-sponsored medical coverage are not eligible. Some exceptions may be made for adults and children when the orthodontic problems are severe and orthodontics will improve the person's ability to function or prevent a serious risk to health.

When Dental Coverage is not Sufficient

What if the person needs dental work which costs exceed the allowable limit? There is some discretion for MHR to cover costs above the limit. However, the full support of the dentist is needed because she or he will have to advocate for the services. The dentist must submit an application with supporting dental documentation to the HSB for authorization. Unfortunately, it can be difficult to find a dentist willing to help-out and, the process can be time-consuming.

Prescription Medical Supplies & Nutritional Supplements

Persons with enhanced medical coverage may be eligible for the cost of necessary medical supplies, including nutritional supplements, bandages and dressings, catheters, rubber gloves and incontinence supplies, lancets and sharps containers for diabetics, and contraceptive devices (other than oral contraceptives which are available through Pharmacare). The person needs to provide a doctor's prescription for the supply. This is an important benefit for persons living with HIV/AIDS and who suffer from wasting. Such persons may benefit from taking products such as Ensure, Boost, Advera. Generally, MHR does not pay for over-the-counter medications, vitamins, nutritional supplements or alternative remedies. A separate application under Schedule C 2(1) (b) and (l) is required - the infamous "Schedule C application".

In order for a person to receive a six month supply of Ensure or other nutritional supplements, they need to get a prescription from their doctor for the product and state that it is a supplement to their diet. Warning: if the request is for more than five cans, HSB will take the position that the product is intended as food. HSB will not cover the request because food is covered in the income assistance, youth works and disability allowances.

The person must see a nutritionist. They can ask their doctor for a referral. The nutritionist must support the need for a supplement and complete a Nutritionist Assessment form, available at any MHR office. Both the doctor's prescription and Nutritionist Assessment form are forwarded by the FAW to HSB for a decision.

If the person is sick or wasting, it can be frustrating, as well as, dangerous to health to wait for all the forms to be completed and eligibility determined. FAW's have the authority to approve a crisis supply of Ensure or other products when there is a clear health need and an appointment has been booked with a nutritionist.

Legislative Authority: *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Medical Transportation

Persons receiving enhanced medical coverage may be eligible for assistance with extraordinary transportation, accommodation and other costs such as meals related to their accessing essential medical treatment. "Essential medical treatment" is any treatment covered by MSP. A person's doctor must confirm the need for the specific medical service or treatment.

However, MHR will pay for non-local medical transportation only when the service or treatment is not locally available. The guidelines for local and non-local medical transportation are established by the Regional Manager of MHR in each district and can vary. Persons requiring assistance for non-emergency medical transportation should discuss the matter with their FAW well in advance of any trip they are planning.

As well, persons may apply to the Ministry of Health's Travel Assistance Program (TAP). TAP will assist any person regardless of their income with transportation costs when they need to travel outside their community necessary medical service. TAP provides complete coverage of cost on BC Ferries (person and vehicle) and discounted travel on Air BC, Canadian Airlines, Harbour Air, BC Rail, VIA Rail, Central Mountain Air and Malaspina Coach Lines. Generally, TAP forms are obtained by the doctor making the referral.

Legislative Authority: *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Medical Equipment

Persons receiving enhanced medical coverage may receive assistance with the cost of renting, purchasing or repairing medical equipment. The item must be necessary to the person's independent mobility or, to prevent medical or health deterioration. A doctor's written prescription and diagnosis must be provided to MHR.

Equipment covered by MHR include, hospital beds, specialized mattresses, braces, glucometers for diabetics, vaporizers, ventilators, heart monitors, nebulizers, respiratory aids, and mobility aids (canes, crutches, scooters, wheelchairs, grab bars, shower chairs and walkers).

Purchasing criteria:

- if the item costs more than \$100, the person must also provide two estimates from different suppliers; or
- if the item costs more than \$250, the person must have their doctor refer them to an occupational therapist or physiotherapist. The therapist must complete the MHR 'Medical Equipment Request and Justification Form'. Also, two estimates from different suppliers are required which have a two year all-inclusive warranty.

Renting Criteria:

- if the rental is for a period of less than 60 days, the person needs to provide a written prescription and diagnosis from their physician; or
- if the rental is for more than 60 days, in addition to the prescription and diagnosis, one price quote must be provided.

Repairs

MHR will not pay for repairs to any medical equipment still under the manufacturer's warranty. If the repairs to equipment cost less than \$250, the recipient must provide their FAW with one written estimate. Any request for coverage of repairs in excess of \$250 must be assessed by HSB.

Orthotics and Bracing Equipment

MHR will provide basic orthotics and bracing devices to persons with enhanced medical coverage to prevent medical or health deterioration or, to assist with basic ambulation. Once the FAW is satisfied that there are no alternative sources of funding such as ICBC or Workers' Compensation Board the person will be referred to an MHR-recognized supplier.

Legislative Authority : *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Hearing Aids

In certain cases, MHR will provide hearing aids, services and supplies to persons with enhanced medical coverage or, to persons whose hearing deficiencies are a barrier to employment. Persons wishing to access this benefit should contact the Ministry of Health, Speech and Hearing Program for hearing tests and discuss the matter with their FAW.

Legislative Authority : *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Optical services - Frames and Lenses

MHR will assist with the cost of frames and lenses for adults on enhanced medical coverage or, children with basic or enhanced medical coverage. New glasses are provided once every four years for adults, or once every year for children providing a valid prescription is given to the FAW. However, new lenses are provided whenever an optometrist or ophthalmologist confirms a significant change in prescription. Special authorization is required for coloured lenses or tints, special lenses, oversized frames or contact lenses. These items are covered only when confirmed by an

optometrist or ophthalmologist as medically essential. Adults with only basic medical coverage may be eligible for basic frames or lenses if they can demonstrate to their FAW that they have no other way of paying for their glasses.

Legislative Authority : *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Physiotherapy, Massage and Chiropractic Therapy

Any person with basic or enhanced medical coverage is entitled to 12 free visits with a physiotherapist, massage therapist or chiropractor each year. Persons with enhanced medical coverage may be eligible to receive more than 12 visits if they are experiencing an acute need for the treatment. They must provide their FAW with a written request from their physician or therapist, which includes a diagnosis that the condition is severe and immediate rather than a 'chronic' ongoing problem. The written request must indicate the medical reasons for the need for further treatment, as well as, the type, frequency and number of visits required. This request is forwarded by the FAW to HSB for a determination.

Legislative Authority : *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

Diet Allowances

MHR may provide a diet allowance to persons who require a special diet due to a medical condition. A doctor, dietitian, nutritionist or naturopathic physician must confirm in writing the need for the diet. MHR offices also provide set forms which people may use. With the exception of people on hardship assistance, anyone receiving BC Benefits (either enhanced or basic medical coverage) may be eligible for the following allowance:

\$10 for a restricted sodium diet	\$30 for persons requiring kidney dialysis
\$15 for persons with diabetes	\$40 for persons with dysphagia
\$40 for a gluten-free diet	\$50 for persons with cystic fibrosis
\$40 for a high protein diet	

Many people living with HIV/AIDS are prone to wasting (weight loss) and can greatly benefit from a high protein diet. Persons eligible for a high protein diet allowance, or who have dysphagia, are also eligible for \$30 towards the cost of a blender. The person should make a request for the \$30 to their FAW.

Generally, diet benefits are authorized for 12 months, at which time the person must re-apply for the diet allowance. However, there has been inconsistent administration of the diet allowance by MHR. Some regions may cut-off a person's diet allowance after 6 months and not notify the recipient that they need to re-apply. If a person suddenly finds that their monthly cheque has been decreased by the amount equal to their diet allowance they should re-apply for the diet allowance immediately.

Persons may only receive a single benefit for dietary needs even if they have two or more of the recognized conditions. They will receive the highest single amount.

Natal Allowance

Pregnant women are eligible for a monthly natal benefit. This benefit begins from the time the woman provides written confirmation from a doctor that she is pregnant, to the 7th month after the birth of her child. The benefit is \$35 per month. If there is written confirmation she will give birth to more than one child, the benefit is \$70 per month. A natal benefit may be issued, as well as a diet allowance, if the dietary need is unrelated to the pregnancy. Pregnant women on hardship assistance are not eligible for diet or natal benefits.

Legislative Authority : *Schedule C IA Reg., Schedule C Youth Works Reg., Schedule C Disability Ben. Reg.*

Schedule C: Life Threatening Health Needs

Schedule C also covers health needs that are not specifically enumerated in the regulations. Sections 2 (1)(L) of Schedule C provides assistance for:

Any other health care good or service if

- a) a person is facing a life-threatening need, and
- b) no other sources of funding are available to the person.

Therefore, health needs other than dental, orthotics, eye-wear, etc. can be requested under this section providing there is a life-threatening health need and there is no alternative source of funding from other government services, community agencies or individual sources.

Persons living with HIV/AIDS have successfully requested coverage for the monthly costs of vitamin therapy, bottled water, and additional food. BCPWA has pioneered this advocacy issue and through many tribunals and appeal board submissions BCPWA has established that:

- vitamins, bottled water and additional food are health care goods;
- persons living with HIV/AIDS need these health care goods to address their life-threatening disease and its complications; and
- there are no other services funding the health care goods needed and individuals on BC Benefits cannot pay for these health care goods from their meager monthly allowance.

Applying under Schedule C 2 (1)(L) is an intensive process. Applicants need to provide medical documentation in support of the request, including a letter from their doctor and substantial medical research supporting the request. Advocates need to provide an accurate outline of the person's income and expenses, and a cost breakdown of the health care items they are requesting. Finally, since at the time of writing this manual MHR appealed all applications won at tribunal, a legal argument will have to be prepared for submission to the Appeal Board.

If you or your organization is interested in helping persons apply for benefits under Schedule C 2(1)(L), contact the BCPWA Advocacy Department or an HIV/AIDS service organization in your area. BCPWA can provide written materials including application and appeal arguments. As well, a manual presently exists which describes the process from A to Z. Contact the Pacific AIDS Network (PAN) at 1-800-665-2437.

Medical Services Only (MSO)

Persons living in BC may retain or receive MHR-sponsored medical coverage (excluding the diet and natal allowances) even if they are ineligible for income assistance, or youth or disability allowance. MSO may be provided to:

- persons who were on disability benefits are now employed and their dependents retain enhanced medical coverage;
- single parents who are now in the work force and dependents retain enhanced medical coverage for a period of one year;
- persons who turn 65 years of age retain basic or enhanced medical coverage; or
- persons who face a 'life-threatening health need' but are ineligible for assistance may be classified MSO and receive basic coverage.

MSO Benefits are limited to the specific good or service necessary to meet the health need. People needing MSO must complete an assessment form detailing their income, assets, medical and living situation and show that they have no alternative source of funding. This assessment is sent to HSB for final determination. If you are assisting someone who wishes to apply for MSO, they may need your assistance to book an appointment with a FAW since they are not on any worker's caseload. If you feel qualified, you may assist them in completing the assessment form and send it to HSB directly.

Legislative Authority : *Schedule C & IA Reg., Schedule C Youth Works Reg., Schedule C Dis. Ben. Reg.*

The Appeals Process

When a FAW or DS denies a person a benefit, allowance or assistance, or decreases the amount of a benefit, allowance or assistance, or refuses to refer them to an employability program, that person is legally entitled to appeal.

Legislative Authority : *IA Act, Youth Works Act, Dis. Ben. Act*

If they choose to appeal they will be referred to as the "Appellant". As an advocate you should appeal only those decisions you believe you can make an argument that the person is indeed eligible, or at least potentially eligible. When a person initiates an appeal, they may be eligible for the benefit or assistance for the duration of the appeal process. This interim assistance is at the discretion of MHR. If the interim assistance is provided the person must agree in writing to repay it if the person loses the appeal.

Legislative Authority : *IA Reg., Youth Works Reg., Dis. Ben. Reg.*

Discuss the Matter with the FAW and DS

Sometimes the most effective appeal procedure is to talk directly to the FAW or the DS (or to HSB in the case of disability allowance appeals). The MHR worker may not be aware of all the details regarding a person's situation. Explain the reasons that entitle the person to the benefit, allowance or assistance. This may result in the FAW or DS granting the request, or suggesting a compromise. Also, speaking with the FAW and DS may result in information coming to light of which you were unaware that may affect your assessment of the person's eligibility or the chances for success of an appeal.

Reconsideration Request Form

Persons may request a reconsideration of any MHR decision by completing a Reconsideration Request form. According to the legislation, a completed form should be submitted to MHR within 20 business days of the denial. A business day does not include Saturdays, Sundays or statutory holidays.

Once completed and dropped off at MHR offices, the form is reviewed by the DS and then forwarded to the BCBM. The BCBM reviews the appeal documents and decides if the correct decision was made by the FAW and the DS. The BCBM has 10 business days to deliver a decision in writing to the appellant from the time the appellant submitted the Reconsideration Request form. If the BCBM is reviewing a decision regarding disability status she or he has 20 business days to render a decision. The BCBM mails the decision on a form called the BC Benefits Reconsideration form. Legislative Authority : *IA Act*

Appealing to Tribunal

What Decisions Can Be Appealed to Tribunal?

If the BCBM denies the request the next step is to appeal the decision to a BC Benefits Tribunal. Be aware that not all decisions made by a FAW and, subsequently, upheld by the DS and BCBM may be appealed to a tribunal.

Legislative Authority : *IA Act, Youth Works Act, Dis. Ben. Act*

NO AVENUE FOR APPEAL WHEN THE FOLLOWING BENEFITS DENIED	
INCOME ASSISTANCE ACT	access to an employment-related program tuition, education and employability program allowances
	access to a community living or residential program
	payments made while awaiting the final outcome of an appeal
YOUTH WORKS ACT	employability program benefits
	assistance issued pending an appeal
DISABILITY BENEFIT ACT	a person covered by this Act may appeal a denial of any benefit

Proceeding to Tribunal

A person must indicate that they wish to proceed to tribunal within 7 days of receiving the decision in writing from the BCBM. If the person does not notify MHR of their desire to appeal within this time limit they are "deemed to have accepted the decision" and lose their right to appeal it. On the bottom of the BC Benefits Reconsideration form at the "Decision to Proceed to Tribunal", the person indicates they want to proceed to tribunal, they appoint a nominee and indicate if they will be represented by a lawyer or an advocate.

Legislative Authority : *Appeals Reg., Appeals Act*

The Tribunal Panel

Tribunal panels are composed of three people: the Appellant's nominee, the MHR's nominee and the tribunal chairperson. A nominee is a person knowledgeable about BC Benefits legislation. Both parties, the Appellant, and MHR choose a nominee to sit on the tribunal panel. The two nominees are required to choose the chair of the tribunal. If the nominees are unable to agree on the choice of the chairperson, the matter must go before a Provincial (Family) Court judge who will designate a chairperson. Persons eligible to chair tribunal panels have taken special MHR training. Typically, a list of qualified chairpersons is provided by the MHR nominee. Persons who act as nominees are paid \$50 by MHR for providing this service.

Timelines

MHR must appoint its nominee within 7 business days of receiving the request to proceed to tribunal. Then, the appellant has 7 days to appoint their nominee. The two nominees have 7 business days to appoint a chair. Finally, the tribunal hearing must be held within 14 business days of the panel being established, however, this time limit may be extended if the panel agrees.

Legislative Authority : *Appeals Reg.*

While the members of the tribunal panel must make their decision in accordance with the relevant BC Benefits legislation, much of the legislation is open to interpretation. The composition of the panel can have a tremendous impact on the tribunal decision. Therefore, the ideal nominee should be articulate and effective at persuading other panel members to make a favourable decision. Many AIDS service organizations, and anti-poverty groups have a list of potential nominees who are familiar with the BC Benefits legislation, as well as, the issues relevant to persons living with HIV/AIDS.

The Tribunal Hearing

Who is present at the tribunal? In addition to the panel, each tribunal is attended by a MHR representative (usually the DS) who will represent MHR's position. You will attend as advocate for the appellant. It is important that the appellant also attend to answer some questions. If the appellant does not wish to attend the tribunal it is essential that you get written permission to represent them at the hearing.

What Happens (and What Should Happen) at the Hearing

Generally, the MHR representative presents first followed by questions. Then, the appellant's advocate makes their presentation followed by questions. Witnesses may be called by either side to testify, however, they may not remain in the room after they have testified.

To ensure a fair hearing, all procedure needs to conform to the 'rules of natural justice'. This means that each side must be given full and equal opportunity to present their case, all information made available to the tribunal must be made available to both parties, and both parties must have an opportunity to question any witnesses who give testimony. Throughout the tribunal, all procedural questions are decided by the chairperson, including the order in which people speak, the evidence that is admissible, and so forth. Requests, such as asking for a 'time-out' during proceedings, should be directed to the chairperson.

After the submissions and questions, all persons except the nominees and chairperson leave the room for panel to make their decision. Decisions are made by majority, requiring agreement by 2 out of 3 panel members. When a decision is made, the appellant, advocate and MHR representative are invited back into the room to hear the tribunal panel's decision. The panel may confirm, reverse or partially reverse the MHR decision. The decision must:

- be written up on the prescribed form called the "BC Benefits Tribunal decision";
- must refer to the sections of the BC Benefits legislation on which the decision is based;
- must include a summary of relevant facts; and
- must have attached copies of any documents relied upon to make the decision. Usually, both parties are given a copy of the tribunal decision with copies of any documents at the end of proceedings. If the panel is not able to write up their decision that day, or one of the parties is not able to wait until after deliberations, the legislation states that the parties must be notified (on the prescribed form) of the decision within 21 business days of the chairperson being appointed.

Legislative Authority : *Appeals Reg.*

Advocacy Tips

Ideally, you should prepare your arguments in advance of the tribunal. It is useful to give some thought to any potential questions you can think of which may be asked of you. Your written argument and any supporting documentation should be copied and distributed to the chairperson, nominees and MHR rep at the beginning of proceedings, as well as, any other documents you are relying on. In turn, you should also be provided with a copy of MHR's argument and documentation. Finally, it is important to be aware that a tribunal decision may be overturned because of errors in the written decision.

Appealing Tribunal Decisions to the Appeals Board

If either party is dissatisfied with the decision made at Tribunal, they may appeal the decision to the BC Benefits Appeals Board. This Board is composed of community members appointed by the Lieutenant Governor in Council. The Board members must either have a knowledge of administrative law or, experience with income security programs, appeal or arbitration boards, or with health, education or community programs.

Legislative Authority : *Appeals Reg.*

What Decisions May Be Appealed?

After the tribunal has made its decision, either party may appeal to the Board. However, MHR or the recipient can only appeal an error in law. The appeal argument must demonstrate that either the tribunal panel relied on the wrong piece of legislation, and/or interpreted and applied relevant legislation incorrectly. A minor error, 'typo' or otherwise, in the written tribunal panel decision, is not a basis for appeal to the Board. If MHR appeals a tribunal decision that decision is set aside until the Appeals Board renders a decision.

How to Appeal to the BC Benefits Appeal Board

The party wishing to appeal the tribunal decision is called the Appellant. The Appellant must complete the form "Notice of Appeal to the BC Benefits Appeal Board" and deliver it with a copy of the tribunal decision, to the BC Benefits Appeals Board within 30 days of receiving the tribunal decision. As well, a written submission arguing the reasons for appeal should be attached to the Notice. Once the 30 day deadline passes both parties are barred from proceeding either to the Appeals Board or the courts, and it is deemed that both parties have accepted the decision of the tribunal.

Legislative Authority : *Appeals Reg., Appeals Act*

Once the Appeals Board receives a Notice of Appeal from the Appellant, the Board must notify the other party (the Respondent) of the appeal within 5 business days. The Respondent should receive a copy of the Notice and the written submissions filed by the Appellant. The Respondent has 15 business days to file their own written submission. The Board must serve a copy of that response on the Appellant, who in turn has 10 business days to file a rebuttal argument.

Legislative Authority : *Appeals Reg.*

How Decisions Are Made

Appeals to the Board based on a question of law are decided by a 'panel' composed of either one or three members. After considering the written arguments of both parties; the panel will confirm the tribunal decision, reverse in whole or in part the tribunal decision, or dismiss the appeal. An appeal will be dismissed if it is not a question of law or, is 'frivolous or vexatious'. The Board is required to deliver a decision within 40 business days of receiving all the submissions. Unfortunately, this timeline is not "mandatory". There have been some cases of people waiting over a year to receive a decision. Generally, it takes one to three months to receive a decision. Once the Board renders a decision it is final, and may only be reviewed by the BC Supreme Court on the basis of a question of law or excess of jurisdiction. Such a review is called a judicial review.

Legislative Authority : *Appeals Act*

The Challenges of Advocating at the Appeals Board Level

Given that appeals of tribunal decisions must be based on a question of law, and that decisions are based solely on the basis of written documents and argument, the entire process and deliberations of the Appeal Boards tend to be legalistic and technical. Many Board members have legal backgrounds. Often MHR submissions are written by lawyers. It can be intimidating for advocates and clients to proceed with the Appeal process.

It is important that you be clear about your abilities to undertake an appeal to the Appeals Board. If you feel capable, you may wish to proceed with the appeals process. Otherwise, refer the Appellant to an agency or person who can help them. If you not assuming responsibility for the appeal, make sure to impress upon the Appellant that they have a 30 business day time limit for filing their Notice to Appeal, and any written submissions.

When you decide to represent a person at the Appeals Board, you may notify the Board in writing that you wish to be served with the relevant documents, rather than the documents being served on the Appellant, personally. This system ensures that you receive all submissions and correspondence and can respond in a timely fashion. Sometimes persons are served with packages from the Appeals Board and subsequently "sit on them" until time limits have expired. If you do take this step remember your professional obligation to keep the person informed of the proceedings and the actions you are taking on their behalf.