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*Dignity. Equity. Justice.*  
*Serving People with HIV/AIDS through Legal Advocacy*

## Important Changes to the Special Diet Benefit...

### What has happened?

On November 4, 2005, the Ministry of Community and Social Services made changes to the rules for the special diet benefit under the *Ontario Disability Support Program* (“ODSP”) Act and the *Ontario Works* (“OW”) Act.

Prior to these changes, people on ODSP or OW could apply to receive up to \$250 per month to buy vitamins, nutritional supplements and special foods, if an approved health professional said that they need these things because of a medical condition or to keep healthy.

### How does this affect PHAs?

Many PHAs on ODSP are receiving the special diet benefit in order to maintain their weight or in order to make sure their medication regimes are effective. Many others receive the special diet supplement so they can buy vitamins that they need to boost their immune systems. Most PHAs receiving the special diet supplement are receiving the maximum, \$250 per month.

Unfortunately, the new rules are going to make it harder for PHAs to

get the special diet benefit. Those who are receiving it may either lose it entirely or it may be significantly reduced.

The new rules provide a list of medical conditions for which the special diet will be given. The list does include HIV/AIDS, but ties the amount of the special diet benefit to weight loss. The weight loss is measured by the percentage of total body weight lost. The breakdown is as follows:

-Weight loss less than or equal to 2% of usual body weight = \$75

-Weight loss greater than 2% and less than 5% of usual body weight = \$150

-Weight loss greater than 5% and less than/equal to 10% of usual body weight = \$180

-Weight loss greater than 10% of usual body weight = \$240

Eligibility for the special diet for PHAs is now entirely based on weight loss. If you have not lost weight, you will not get the special

diet for HIV/AIDS. However, if you have any of the other medical conditions listed in the schedule, you may get some special diet benefits for those other conditions. For example, if you have diabetes, you can get \$42. Hepatic disorders like Hepatitis C is worth \$10. The maximum amount you can get for all conditions combined is \$250.

The government has also made strict rules about how you apply. You must use an application form provided by the local ODSP/OW office. You cannot use a photocopy. (cont'd on next page...)

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**When will my special diet benefit be affected?**

People who were receiving the special diet before November 4, 2005 will continue to receive it for a little while. Some people will get a letter from ODSP/OW saying that their special diet allowance is being reviewed and asking that they send in a special diet application within 90 days. If the application is not sent in on time, the special diet benefit will be cut off. Some people will not receive these letters, but will instead be asked to “reconfirm” their eligibility for special diet during their next “CVP” review (Consolidated Verification Process). The new regulation states that you will continue to receive the old special diet amount up until you submit the new application form. So, HALCO is advising people to submit the new application form to ODSP on the last possible date - which is 89 days after the request to submit the application form is made. Check the letter that came from ODSP with the new application form, count forward 89 days, and wait to give the completed form to ODSP until that date.

**Is anyone doing anything about this?**

These changes affect a great number of Ontarians receiving social assistance and are causing a lot of concern within the community and at legal clinics. There will be a lot of political lobbying in an attempt to loosen the eligibility rules. Keep your ears and eyes open for any developments.

This summary of the new changes to the special diet does not cover all of the details of the new regulations or of the policies that the Ministry of Community and Social Services will use in implementing the changes. If you have any questions, please contact us. 



## HALCO Holiday Hours

**HALCO will be closing  
for the holidays on  
December 23 at 5 p.m.,  
and  
will re-open on Tuesday,  
January 3, 2006 at 9 a.m.**

**Best Wishes to all for a  
Healthy 2006!**

## CPP Class Action Update...

As many of you may recall, following a 1999 Supreme Court of Canada ruling on same sex couples, the federal government extended Canada Pension Plan (CPP) survivor pension benefits to same-sex couples, but imposed a limit – pensions would only be paid to survivors whose partner had died on or after January 1, 1998. Survivors of opposite-sex couples were unaffected by these amendments and continued to receive benefits whether their spouse died before or after January 1, 1998.

Based on the arbitrary limit imposed by Parliament, George Hislop and others around the country launched a national class action law suit in 2001 challenging the federal government's arbitrary cut-off date of January 1, 1998 as being unconstitutional. Hislop and others argued generally that the CPP benefits should be paid to survivors whose partners died before January 1, 1998 and specifically retroactively to April 17, 1985 – the date the *Charter of Rights and Freedoms* became law, enshrining equality rights.

In December 2003, following a trial, Justice Ellen Macdonald, of the Ontario Superior Court of Justice, granted a constitutional exemption to the limitation and ordered that class members receive their ongoing CPP survivor's pensions benefits, including any arrears, starting one

month following the death of their partners. The federal government appealed Justice Macdonald's decision to the Court of Appeal for Ontario. The Court of Appeal upheld the ruling that class members should receive an ongoing pension, but overturned in part the portion of the ruling concerning the arrears. In its decision the Court of Appeal also directed Justice Macdonald to conduct further hearings to determine the rights of class members based on its ruling. This process is currently on hold due to the fact that both the government and the representative plaintiffs of the class action have appealed various portions of the Court of Appeal's ruling to the Supreme Court of Canada. The Supreme Court of Canada is currently scheduled to hear the appeal on May 16, 2006.

Notwithstanding the appeals to the Supreme Court, this past July the federal government voluntarily and unilaterally undertook (on a without prejudice basis) to make interim payments and ongoing payments to class members who filed a "complete and qualifying" application. In order to qualify for the interim payment one of the following criteria needs to have been met: (1) an application was submitted subsequent to December 19, 2003, the date of Justice Macdonald's decision, (2) there was an appeal pending before the Review Tribunal or the Pension Appeals Board on December 19, 2003 (if the application was rejected in the first instance and an appeal was pending), or (3) an application was submitted before December 19, 2003 which was not denied. None of

the foregoing prevents an individual who is currently qualified from making an application now to receive 11 months arrears and ongoing payments under the without prejudice interim agreement. In fact, if you have not applied yet it would be prudent to do so by contacting your local Social Development Canada ("SDC") office. The general contact number for SDC is 1-800-277-9914.

If you applied and met the criteria set above, you should have started receiving ongoing payments some time in late summer or fall. As noted, based on the interim agreement with the government, you will be entitled to 11 months of arrears from the date of filing your application. By way of example, if you filed an application on July 10, 2003 and did not receive a "rejection" letter, you should be entitled to ongoing payments from the date of your application and 35 months of arrears (i.e. 24 months since the date of the application (July 10, 2003 to August 2005) plus 11 months of arrears for the period before the application was filed (August 2003 to July 2003)). If you are not sure whether your application qualifies, you can make an inquiry with your local SDC office (noted above).

You should note that all pensions are taxable, and the receipt of pensions being paid out now may impact your entitlement to social assistance or ODSP. Counsel for the class action continues to seek relief from the normal rules for class members,

however, to date this has not been solidified.

The federal government will currently not pay any arrears beyond the 11 months from the date of application. The Supreme Court of Canada, however, will be ruling on the entitlement of class members to full arrears (i.e. one month after death of partner) in the New Year, so the payments may become retroactive if the court decides that a full constitutional exemption is proper.


On the other hand, if the Supreme Court rules that the federal governments arbitrary limitation was justified, the interim payments that commenced this past July to class members may have to be repaid. This is due to the fact that despite agreeing to start making these payments, the government still maintains the position, and will argue before the Supreme Court, that class members should not be entitled to any CPP survivor's pension benefits outside of the legislated timelines. It is generally believed that survivors will not be called on to repay the amounts that are being paid out under the interim agreement, however, until the Supreme Court rules there is still a possibility that this may happen. If the Supreme Court upholds the Court of Appeal ruling, it could potentially involve about \$80 million in total payments.

If you know of someone who may be eligible but has not already applied, the 11 month limit on arrears may

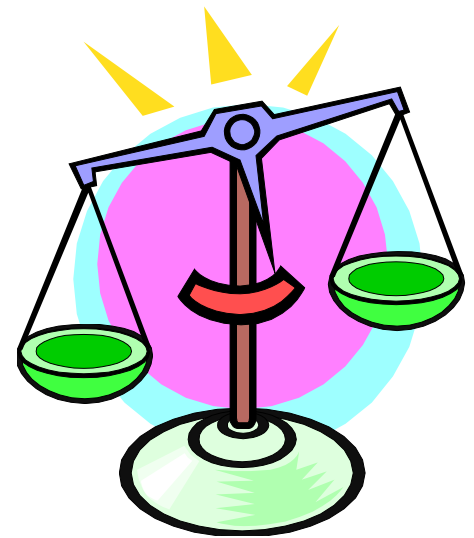
mean that they are losing some pension payments forever. We encourage anyone who may qualify as a class member under this lawsuit, but who has not yet made an application for CPP survivor pension benefits to do so with their local SDC office as soon as possible. In addition you may register with the Ontario class counsel firm of REKO.

If you have further questions about this matter, please contact our clinic or class counsel at REKO (Douglas Elliott / Patricia LeFebour / Sean Grayson, Tel.: (416) 362-1989, Toll-free: 1-866-877-0109, Website: [www.reko.ca](http://www.reko.ca)).

*\*On October 8, 2005, George Hislop passed away in Toronto, Ontario. He was 78 years old. Hislop spent 28 years together with his partner, Ronald Shearer. Upon Ronald's death, George enquired about receiving CPP survivor's benefits. After being denied, he launched a class action lawsuit, along with other plaintiffs across Canada, against the federal government for denying gay and lesbian couples the right to CPP survivor's benefits. In August, 2005, after many trials and appeals, George Hislop received a cheque for partial survivor's benefit arrears from the federal government. Douglas Elliott, a Toronto lawyer with REKO who represented Mr. Hislop in the lawsuit, noted that "George was quite rightly described by the judge in our case as a legend. He has left a lasting legacy of tolerance to our entire country....With his unique*

*combination of charm and courage, George transformed our city, our nation and our world. His death is a great loss to all of us."* 

[This article contains information that has been published in press releases by the firm Roy Elliott Kim O'Connor LLP (REKO) - counsel for the CPP Class Action in Ontario - that are sent to registered class members from time to time.]



## Recent Changes to Canada's Temporary Resident Visa Process

The visa application process for temporary residents (including short-term visitors) has recently been changed. Individuals applying for a visa to come to Canada are no longer required to disclose their HIV status on the application form.

An HIV+ visitor to Canada flagged this issue a few months ago to the organizers of AIDS 2006 – the 16<sup>th</sup> International AIDS Conference being held in Toronto, August 13-18, 2006. Discussions then took place between Citizenship and Immigration Canada (CIC), other government departments, AIDS 2006 organizers, the Ministerial Council on HIV/AIDS, the Canadian HIV/AIDS Legal Network (CHALN) and others. As a result of this collaborative effort, Canada recently changed the visa process for short-term visitors (meaning a stay of less than 6 months).

Until recently, the “Application for a Temporary Resident Visa Made Outside Canada” effectively required an applicant to disclose a diagnosis of HIV/AIDS (and other health conditions). The form asked:

*-Have you or any member of your family ever: (a) been treated for any serious physical or mental disorders or any communicable of chronic diseases? [...]*

*-If the answer to any of the above is “yes”, give details.*

As CHALN states, “This question was unnecessarily intrusive and overbroad, requiring people to disclose highly sensitive personal information such as their HIV status for no legitimate purpose. It presented a *de facto* barrier to people living with HIV/AIDS entering Canada....”

In May 2005, CIC implemented a new visa application form. The medical questions as they appear now are:

*-Within the past two years, have you or a family member had tuberculosis of the lung or been in close contact with a person with tuberculosis of the lung?*

*-Do you or an accompanying family member have any physical or mental disorder for which that person will require social and/or health services, other than medication, during the stay?*

As CHALN states, “These new questions more directly and narrowly address the specific statutory considerations of protecting public health and preventing excessive demand on health services, without requiring that a visa applicant disclose their HIV status.”

Furthermore, it should be noted that these questions primarily affected citizens from developing countries (Africa, Asia, Latin America and the Caribbean) where a visa is required to enter Canada as a tourist.


Quick Refresher on Canadian Immigration Policy and HIV:

Current immigration law states that an applicant may be denied a visa or

entry into Canada if they are deemed to be “medically inadmissible” – i.e. they are “likely to be a danger to public health or public safety” or they “might reasonably be expected to cause excessive demand on health or social services.” Canadian government policy states that people living with HIV/AIDS do not represent a danger to public health or safety by virtue of their HIV status. HIV is not a casually communicable infectious disease like tuberculosis. Furthermore, a person living with HIV/AIDS entering the country on a short-term basis “would not normally be expected to place a demand on health services.” The policy states that visa officers should only be concerned with assessing the likelihood that a person might need hospitalization during their visit.

It is important to remember that a Visa Officer always has discretion to request a medical exam (which currently includes an HIV test) if s/he has reasonable grounds to believe that a visitor may be a risk to public health or pose an excessive demand. Visa Officers are instructed that it would be “rare” that a visa applicant living with HIV/AIDS might need a medical exam and “rarer still” that a person would be assessed as medically inadmissible.

The updated visa application form can be found at: <http://www.cic.gc.ca/english/applications/visa.html>

Questions & Answers on Canada's immigration policy as it affects people living with HIV/AIDS, can be found on CHALN's website at: <http://www.aidslaw.ca>. 

## ODSP & OW Changes You Should Know About...

(\*The following does not discuss the most recent changes to the Special Diet Benefit. Please see our article on page 1 for this information.)

Over the last year, the Ontario government has introduced changes to the Ontario Disability Support Program (ODSP) and the Ontario Works (OW) program, which can be categorized in 3 areas: income and assets; benefit entitlement; and, ODSP applications and appeals. The changes took effect immediately, and impact both applicants and recipients. The Income Security Advocacy Centre ([www.incomesecurity.org](http://www.incomesecurity.org)) has issued a summary of these changes:

### 1. INCOME & ASSET CHANGES

The following items are no longer treated as income or assets under ODSP or OW. This means you are able to keep these items without losing your benefits or being denied assistance:

#### **Registered Education Savings**

**Plans (RESPs):** You are no longer required to cash out RESPs that you have for yourself or your children in order to receive, or continue to receive, assistance. RESPs can be kept without affecting your benefits. You are also allowed to have other people contribute to your RESPs without having it affect your

benefits. In addition, the matching contribution by the federal government – the Canada Student Education Grant (CESG) – is also exempt.

If an RESP is cashed out and used for college/university expenses (e.g., tuition, books, etc.), it has no impact on benefits. You can also receive money from a relative's RESP (such as an aunt or uncle) without your benefits being affected. However, if an RESP is cashed out and not used for educational purposes, it will be treated like income and will have an effect on your benefits.

**ODSP ONLY - Gifts totaling up to \$5,000 a year:** ODSP recipients and their dependents can each receive gifts totaling \$5,000 in a given year. Under the old rules, the limit was \$4,000. Gifts or contributions to an RESP do not fall under this rule, and therefore do not count towards the \$5,000 limit.

#### **Non-Economic Loss (NEL)**

**Awards:** Injured workers can now keep the NEL award they receive for permanent impairment under the workers' compensation scheme, up to a maximum amount of \$25,000 (OW) or \$100,000 (ODSP). These maximums apply to the combined total of all awards (NEL, *Family Law Act*, pain and suffering) arising from the same incident.

**Damage awards for loss of care, guidance and companionship of a spouse or parent under the *Family Law Act*:** Families who lose a spouse

or parent, and receive damages from a court for loss of care, guidance or companionship, can now keep these awards up to a maximum amount of \$25,000 (OW) or \$100,000 (ODSP). These maximums apply to the combined total of all awards (*Family Law Act*, NEL, pain and suffering) arising from the same incident.

#### **Personal loans, grants or awards for educational or training**

**purposes:** The new rules allow you and your dependents to receive loans/grants/awards from a broader range of sources without affecting your benefits, if approved by the government. Loans/grants/awards can now also be put towards training, as well as education. The portion of the loan/grant/award that is received to pay for tuition, books, fees and other education or training-related expenses will be exempt. The portion of the loan/grant/award received for living expenses is not exempt, and will be treated as an asset or income.

**Insurance Payments:** Insurance payments made for loss or damage due to flood, fire, theft, etc. are not treated as income or assets if they are made for temporary living expenses or to replace damaged assets. However, payments made for loss of income are not exempt and will be treated as income and as an asset.

#### **Earnings of dependent children:**

Under the old rules, children could receive earnings from a job without having it affect the family's benefits, but they could not save this money because the savings would be treated

as an asset. Children of social assistance recipients will now be able to save the money they earn from a job, without having it treated as an asset and without having it affect the family's benefits.

**Grants or loans for home and vehicle modification:** If you get a loan or grant through the Residential Rehabilitation Program or the Home and Vehicle Modification Program, it will no longer be treated as income. Under the old regulations, such loans were treated as income.

## 2. BENEFIT ENTITLEMENT CHANGES

**Sponsored immigrants:** The \$100 deduction for sponsored immigrants living separate from their sponsors has been eliminated. The automatic deduction of the shelter portion for immigrants living with their sponsors has also been eliminated. Immigrants living with their sponsors can get assistance for shelter/housing, if they show a legal obligation to contribute to the shelter/housing (e.g., their name is on a lease or mortgage, a property tax bill, etc.), or they satisfy the Administrator/Director that they must pay rent to their sponsor in order to stay in the home.

**Community Start-Up and Maintenance Benefit (CSUMB):** This replaces the former Community Start-Up Benefit (CSUB). You are eligible for CSUMB if, for example, you need to move, pay rent arrears in order to avoid being evicted, or pay

utility arrears or reconnection fees. Unless there are exceptional circumstances, you can receive the maximum CSUMB amount only once in a 24 month period (used to be once in a 12 month period with CSUB). The maximum amount for a single recipient is \$799. The maximum amount for a family with one or more dependent children is \$1500.

**Women living in Shelters:** Women who leave violent/abusive situations and temporarily live in shelters for abused women are now eligible for the shelter and basic needs allowance if they are trying to keep their housing in the community (i.e. still paying for the home). The allowance will be granted for 3 months, and it may be extended for a longer period. If a woman does not maintain her right to return home, she and each of her children will only get \$116 each per month while living at the shelter. When accommodation is found, a woman will be eligible for a shelter allowance and possibly the CSUMB.

**Drug cards:** Drug cards will no longer be suspended for recipients with a serious illness or health condition who are not participating in employment assistance programs.

**Liens:** People will no longer have to consent to a lien on their residence or land in order to be entitled to benefits. Existing liens will be discharged, but only at the request of the recipient.

**Eligibility Date:** OW recipients are entitled to benefits back to the date on which they completed the first stage (financial eligibility portion) of the application.

**Energy Conservation:** This is a new discretionary benefit to help pay for low-cost energy conservation measures (e.g., caulking, sealing, weather-stripping around doors and windows, insulating pipes, etc.).

**Back-to-school and Winter Clothing Allowances:** In the past, a back-to-school allowance was payable only in July (ODSP) or August (OW), and a winter clothing allowance only in October (ODSP) or November (OW). The new regulations allow a back-to-school allowance to be paid any time from July-December (ODSP) or August-December (OW). A winter clothing allowance can now be paid any time from October-December (ODSP), or November-December (OW).

**Extended Health Benefits:** OW recipients may still receive extended health benefits, even if they are no longer entitled to financial assistance, if they have high health costs. If a recipient has income from other sources that makes them financially ineligible for OW benefits, they can still get extended health care benefits (e.g., dental & vision care for dependent children, diabetic supplies, etc.) in the month after they go off benefits.

### 3. ODSP APPLICATIONS & APPEALS CHANGES

**ODSP Forms:** The “Activities of Daily Living Form” can now be completed by Registered Social Workers, Speech Language Pathologists, and Nurses. In the past, only physicians, psychologists, optometrists/ophthalmologists, occupational therapists, physiotherapists, registered nurses in the extended class, chiropractors or audiologists could complete this form.

**New medical evidence submitted at time of Internal Review:** If a person sends new information about their condition at the time of the Director’s decision on whether or not they are eligible for ODSP, ODSP must consider the new information during the internal review.


**New medical evidence on appeal to the Social Benefits Tribunal (SBT):** The SBT must consider new medical evidence about an existing condition if it is sent to the SBT and ODSP at least 30 days before the hearing date. (Prior to the changes, new medical evidence could be provided up to 20 days before the hearing date.)

**In addition to the above, OW issued additional changes in May, which took effect August 1, 2005. These include a 50% exemption for employment income, a \$500 Full-time Employment Start-up Benefit, an increased maximum deduction for informal child care,**

**and extended employment health benefits. For more information on OW changes, please consult the Income Security Advocacy Centre website at: [www.incomesecurity.org](http://www.incomesecurity.org).**

**Changes at the Social Benefits Tribunal (SBT):** The SBT has instituted a new policy concerning the type of hearing it conducts. Prior to the change in policy, people who filed appeals to the SBT were entitled to an oral, in-person hearing. If you wanted to, you could petition them for a paper or telephone hearing when there were no facts in dispute. Under the new policy, the SBT chooses whether to give you an oral hearing or a telephone hearing. If an appellant objects to a telephone hearing and wants an in-person one instead, he or she has to object in writing with reasons within fifteen days of receiving the notice of telephone hearing.

The SBT is also introducing block hearings in 2006. The normal practice has been for many years that when you get a notice of hearing with a date, time and place on it, you can expect that the hearing will start at the time on the notice. Next year, instead of getting a notice of hearing with a specific time for your hearing, your notice will have a "block hearing" time - the same hearing time on it as other people with appeals that day. Then, after you all arrive, the SBT will decide who goes first. This means that waiting time on the date of your hearing may increase for some people quite substantially. It also means that there is an increase in the chance you may

see someone you know in the waiting area - someone who also is on ODSP and also has an appeal that day. As a result, it may lead to some loss of privacy, particularly in smaller communities. 

## HIV & The Law Advocate's Manual

Get Your Copy Today!

Just a reminder to everyone that our manual is available on-line ([www.halco.org](http://www.halco.org)) as well as in hard copy.

The manual covers a number of legal issues of relevance to low-income PHAs and their advocates, such as landlord and tenant, prisons and prisoners, immigration, employment, human rights, disability insurance and powers of attorney.

If you are interested in receiving a copy of the manual, please contact Catharine Allan, Community Legal Worker, at (416) 340-7790




## HALCO's 10<sup>th</sup> Year Anniversary!



2005 has been a particularly special year for us here at HALCO – it's been 10 years since HALCO first opened its doors to the community, and so this year we have taken the time to recognize these years of service providing legal advice and representation as well as outreach, community development and law reform activities. On September 7<sup>th</sup>, we joined with our past and present Board Directors, staff, members, community partners, funders and supporters for our "10<sup>th</sup> Year Anniversary Gala & Annual General Meeting," held at the Buddies and Bad Times Theatre in Toronto.

We wish to thank everyone who attended and participated in our event, along with the organizations, community leaders, MPP's and politicians from every level of government who sent us letters of congratulations. (We were delighted to see Matthew Perry – our Community Legal Worker for 7 years - in attendance as well!)

\*A special thanks goes out to our Office Manager – Rick Lobodzinski – who, as always, pitched in to lend a hand wherever needed with our AGM. Did you know that Rick has been with HALCO since...THE VERY BEGINNING! (Wow, that's a lot of years, Rick!) Many of you will know him officially as HALCO's Office Manager, but many more of us know Rick as the warm and friendly face that is HALCO. He is ready to assist clients in whatever way he can and is always going out of his way to ensure

everyone, including those people accessing our clinic for the very first time, or staff who are new to HALCO, are made to feel comfortable. His warm and friendly nature, his personal and professional advocacy efforts, his professionalism, his willingness to go above and beyond, and finally, his love for HALCO and what we try to accomplish each and every day, make us proud to be his colleagues and friends. Thank you Rick. Job exceptionally well done. 



## Medical Marihuana Regulation Amendments now in Effect...

Proposed amendments to the Marihuana Medical Access Regulations were approved earlier this year and are now in effect. The amendments were published in the Canada Gazette Part II on June 29<sup>th</sup>, 2005.

Health Canada has released an information package (available through HALCO) that describes how the amendments will impact authorized individuals or applicants. Below is a summary of these changes. If you have additional questions, contact HALCO.

### Amendment Highlights:

- The number of eligibility categories, under which a person may apply for authorization to possess, has been reduced from 3 to 2. Former Categories 1 and 2 have merged to become Category 1 – anyone being treated within the context of palliative care or for a medical condition recognized by Health Canada (like HIV/AIDS). Former Category 3 has become Category 2 – anyone with debilitating symptoms associated with any other kind of medical condition.
- New Category 1 applicants will only need the signature of a general practitioner (and not a specialist) to obtain an authorization to possess marihuana. New Category 2 applicants need the signature of a

general practitioner confirming that they have also consulted with a specialist.

- Applicants are required to acknowledge and declare their acceptance of risks associated with using marihuana for medical purposes. The responsibility will rest more on applicants (and less on physicians) to choose marihuana as part of their therapy. This may encourage more physicians to support applications.
- Information regarding an individual's medical condition will no longer appear on the authorization document.
- Required photographs will be good for 5 years instead of 2.
- Expired I.D. cards will not need to be returned to Health Canada. (However, they will need to be returned if an amendment is required while your authorization or license is still valid.)
- Clarification of provisions on how a designated grower is to ship marihuana to an authorized recipient has been provided.
- Renewal forms have been made easier for applicants who have been approved at least once using a full application form, and who have no changes since their last renewal or amendment.
- Applications forms have been made more user-friendly.
- Health Canada now has the authority to communicate limited information related to the authorization or license to Canadian police in response to a

request received regarding a “relevant enforcement investigation.”

- Health Canada now has the authority to conduct a pilot project to test the feasibility of distributing marihuana through Canadian pharmacies. The project will be conducted over 2005 – 2007.

As stated when the regulations were being proposed, HALCO continues to have concerns in two areas:

**1.** The first area of concern is that the regulations still do not address the problems with provisions that have been declared unconstitutional. As the regulation reads now, a person who grows marihuana for people with exemptions can legally only be named as the supplier for one person. In *R. v. Hitzig*, the Ontario Court of Appeal stated that this limit was contrary to the *Charter*. This means that Compassion Clubs are still not recognized suppliers under the regulations. Presumably, the proposal to pilot studies where marihuana is distributed through local pharmacies is a step to addressing this problem, but in the meantime people will continue to have supply problems unless they purchase their marihuana directly from the federal government.

**2.** The second area of concern is that Health Canada now has the explicit authority to disclose personal information of exemption holders to Canadian police, without consent. Health Canada has made it clear that it will not release any details about the person's medical history or illness. Nonetheless, if the fact that you are an exemption holder is in the

possession of the police, that information will probably be available on CPIC, the police computer. CPIC files are available to others - like the American immigration authorities. As possessing marijuana is illegal in the United States, and being HIV+ is already a bar to entry into the US, it remains to be seen if exemption holders will encounter additional problems crossing at the border. Perhaps more importantly, the fact that an exemption holder may be HIV+ will be known to the police as many exemption holders are.

On June 29, 2005, The Canadian AIDS Society issued the following press release in response to these new regulations – “Medical Marijuana Access Regulations: Missed Opportunity:”


“The Canadian AIDS Society (CAS) is very disappointed with the new *Marihuana Medical Access Regulations*, published today in the *Canada Gazette Part II*. The new regulations do not adequately address two key areas identified by the Society in their submissions to the proposed amendments last fall: the process for gaining access to the medical marijuana program and the limitation of choice of legally supplied medical marijuana.

Thousands of seriously ill Canadians who find relief from medical marijuana still have to hope that they can find a supportive doctor to access the federal government’s program. The application forms must be filled out by a doctor. In the old regulations the forms had to be signed by a specialist. Will this be enough to increase access to a

program that has managed to register only 821 medical marijuana users out of an estimated 400,000 in Canada?

Lynne Belle-Isle of CAS is not convinced. “National and provincial medical associations have rejected their imposed role of gatekeeper to the program from the beginning. Unless a way is found to bring the medical community on board, most medical marijuana users will continue to have to choose between using a therapy that provides them relief and living in fear of prosecution, or go without.”

Even if they manage to find a supportive physician and obtain an authorization to possess medical marijuana, their choice of a legal supply is limited. The Society has repeatedly asked for Health Canada to expand the distribution of medical marijuana to allow designated growers to grow for many authorized medical users. The new regulations do not allow for that. In fact, Health Canada’s vision is to phase out issuing licenses to grow starting in 2007.

“The Canadian AIDS Society believes that seriously ill Canadians have a right to a safe and affordable therapy of their choice without fear of prosecution” says Paul Lapierre, Executive Director of CAS.” 

## DID YOU KNOW?

The **Advocacy Centre for Tenants Ontario (ACTO)** works to better the housing situation of residents who have low incomes including tenants, co-op members and people who are homeless. ACTO achieves this through:

- test case litigation;
- lobbying & law reform;
- housing policy work;
- community organizing;
- public legal education

On ACTO's web site, you will find information for tenants about illegal eviction, mediation of disputes, rental agreements, tenant organizing, & a whole lot more.

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## “Social Justice in HIV/AIDS” Award Presented to HALCO...

The history of the AIDS movement in Ontario has been marked by an ongoing commitment to social justice. On November 27, 2005, the Ontario AIDS Network (OAN) presented HALCO with the “Social Justice in HIV/AIDS” Award. This award is a special honour which was created in 2004 to recognize “the contributions that so many have made to create a just and effective response to HIV/AIDS.” Ms. June Callwood – activist, author and founder of Casey House was the first award recipient. Mark Blans (Chair of the Board) received the award on behalf of all HALCO staff and volunteers from the Honourable George Smitherman, Minister of Health and Long-Term Care. We are honoured to have received this prestigious award and will continue in our work, embracing our new mission statement: “Dignity. Equity. Justice. Serving People with HIV/AIDS through Legal Advocacy.” Thank you OAN!



## YOU ASKED US!

**Q.** I live in an apartment and the heat keeps going off. It went off again last week. When I called the landlord they said they'll get it back on right away but it's been almost a week and there's still no heat. I got a thermometer and checked the temperature and it's hovering around 16 or 17 degrees Celsius during the day and it's even colder at night. I know my legal remedy is to make an application to the Ontario Rental Housing Tribunal, but that can take weeks and even if the Tribunal orders the landlord to restore the heat and keep it on they might just ignore the order. Is there anything else I can do to get the landlord to put the heat on right away?

**A.** You're right in that your legal remedy in this situation is to make an application to the Ontario Rental Housing Tribunal. The Tribunal can issue an Order for the landlord to provide heat up to the required standard (21 degrees Celsius in most parts of Ontario). However, you are also right when you say that it can take time to go through the necessary procedure to get the Order, and even if you succeed, some landlords will ignore the Order.

There *are* some other options to deal with this situation. The Ontario Ministry of Municipal Affairs and Housing has a Compliance and Investigations Branch (CIB). Part of their mandate is to investigate

offences under the *Tenant Protection Act* (TPA). This includes some situations where the landlord has denied vital services such as heat and water, or where they have locked a tenant out of their unit, or any other offence under section 206 of the TPA. They will also investigate when a landlord has failed to follow an Order of the Tribunal or has lied to or misled the Tribunal.

The CIB has the authority to prosecute landlords for offences under the TPA, so some landlords will comply with their obligations for fear of prosecution when they get a call from the CIB.

Although we can't vouch for their success rate, they claim that approximately 65% of the more common types of complaints are resolved at the initial stage of intervention.


To contact the CIB, call them at 1-888-772-9277 or, in Toronto at (416) 585-7214.

If the reason you have no heat is because the landlord has cut off the gas or oil supply then the CIB can intervene. If the problem is a repair problem with the heating system they can't help. However, if you call them they will investigate to find out the source of the problem.

You can also contact the Municipal Licensing and Standards (MLS) office in your municipality and ask

that a building inspector come to your home. If the inspector finds that the landlord is not complying with municipal standards they can issue a work order. It is an offence under the TPA if the landlord does not comply with the work order and they can be prosecuted by the CIB. A work order from the building inspector is also excellent evidence at a Tribunal hearing.

We would advise anyone in this situation to pursue all available options. You don't have to choose just one. You can call the CIB and see if they can help. At the same time you can contact the MLS office and ask that an inspector come to do an inspection. You can also simultaneously start the process at the Tribunal by filing an application, and you can request an expedited hearing due to the emergency nature of your situation. If the Tribunal issues an Order and the landlord does not comply, the CIB can force them to comply.

Stay warm this winter! 



## Two HALCO Board Directors receive the Ontario Volunteer Service Award!

This year, HALCO nominated 2 Board Directors – James Kreppner and Martha Mackinnon – for the “Ontario Volunteer Service Award.” James and Martha were recognized by the Government of Ontario for their service to the community in a special awards ceremony held on November 29, 2005. Mark Blans, Chair of the Board, was in attendance to lend his support and congratulations.

James Kreppner received the 10 Year Service Award. James is a retired lawyer who has served as a member of the HALCO Board of Directors for 10 years. He's been on our Personnel Committee, Policy Committee and served as HALCO's Vice Chair. As a person living with AIDS and struggling with health issues, his dedication is admirable and his contributions extremely valuable. Thank you James!

In addition, Martha Mackinnon received the 5 Year Service Award. Martha is the Executive Director of Justice for Children and Youth (a legal aid clinic for kids). Despite being a busy lawyer, Martha still finds the time to serve on HALCO's Board of Directors. We thank her for her ongoing support and contributions to our clinic. Thank you Martha!

Congratulations to the both of you!!



## The Last Word: Message from the Chair of the Board – Mr. Mark Blans

“This past September, the clinic celebrated its tenth year of operation at our AGM. Ten years, in HIV ‘speak’ is a very long time as many of us know!

I thought I’d take an opportunity in this issue to let you know about someone who’s not only been there for us for ten years but, even longer! That person is Ruth Carey, our Executive Director.

Ruth, as many of you know, has been a pillar of the clinic since its inception, as a matter of fact even longer. While still in law school in our nation’s capital, she worked with the AIDS Committee of Ottawa. As an articling student she joined AIDS Action Now!’s Legal Issues Committee in 1991 and stayed on that committee until HALCO was founded in 1995, with monies from the Ministry of Health and the Ministry of the Attorney General.


The clinic operated for many years, with only three staff members, out of its cramped Church Street address. These were, at times, very frustrating days as the need for services rapidly increased each year, especially in light of the clinic’s mandate to serve the entire province. This made for a lot of long nights and early mornings in order to meet the demand. Fortunately, the clinic has been able to expand over the past few years in order to meet this demand, having

moved into our new offices & adding more staff, again with Ruth’s help.

To add to the mix, Ruth was (and still is) very active within other provincial organizations and has been asked to attend and give presentations all across the country. Ruth’s experience and in-depth knowledge serving clients in many areas of law has not gone un-noticed, with the clinic being inducted into the Ontario AIDS Network Honour Roll in 2001.

During my tenure on the Board of Directors, I have witnessed Ruth’s incredible dedication to the position she holds and I know of the personal sacrifices she’s made - being away from home and family and long hours spent working nights and weekends – as well as the financial sacrifices she has made in order to make the clinic stronger, better and bigger. I’m not the only one who has noticed this dedication and commitment as the many letters of congratulations and thanks from other organizations, community leaders, MPP’s and politicians from every level of government can attest to.

Ruth truly has been instrumental in protecting and promoting the rights and enriching the lives of those of us living with HIV & AIDS. I, along with our current and past Board members, have seen this amazing commitment and dedication that is pretty much un-matched these days in any organization, be it whatever the cause.

On behalf of our current Board, past Board members and PHAs across the province (and perhaps the country), I’d like to sincerely congratulate and thank Ruth for her past ten years of incredible commitment to our issues. Without committed people like Ruth, a lot of us would be in much different circumstances. Thank you again Ruth, you’re quite simply, wonderful!” 

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