



halco news

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Welcome to Welfare... please pee in the cup

On November 14, Community and Social Services Minister John Baird announced the Harris government's intention to conduct consultations on the implementation of Ontario's Mandatory Drug Treatment for welfare recipients. This move follows up their promise to bring such a program into place during the most recent election campaign. According to press information, the government plans to hold its "consultations" before the end of December and develop a plan in the New Year.

And don't be fooled by the fact that they're calling it a Mandatory Drug Treatment program. Government statements

clearly state that “individuals who refuse treatment or who won’t take tests on request will be ineligible for a welfare cheque” [emphasis added].

In his press release and his comments, Baird made it clear that the government has already decided who they wish to consult with, and what they want to hear. In his comments to the press, as he theatrically rummaged through a box of syringes, framed by posters showing a man injecting himself, Baird said “we want to consult with people on how we implement this initiative — not whether we move forward with this commitment”.

The announcement has caused significant concern from many quarters, including the addiction and treatment field, harm reduction workers, legal clinics, human rights advocates and welfare workers themselves. At a conference of the Canadian Union of Public Employees (CUPE), which covers welfare workers, there was strong support for a vote to refuse to administer this program.

Not surprisingly, very few details are known about how the government intends to structure such a program. Currently under Ontario Works, a substance abuse recovery program can be recognized as a valid activity for the purposes of a participation agreement, though it is in no way mandatory. If someone decides that they don’t want to go to a treatment program, they can’t be forced, though they do have to participate in some workfare activity or face a cut off of three months for failing to meet their participation agreement. A new mandatory system would set a treatment program as mandatory, as well as establishing mandatory drug screening and testing for those who are identified as needing it.

What will they test for?

As far as we know, testing and treatment will be for illicit drugs. There is still however very little information about how testing will be done, who will do it and what role welfare workers will be expected to play in this process. In the U.S., where a number of places have tried to start mandatory testing and treatment programs, some systems have had workers ask welfare recipients questions from a standard questionnaire, and based on the answers, made a referral for testing. Where tests are positive, presumably, there will

be a referral for treatment. However, testing tells you nothing about addiction. It tells you only about past drug use.

What about ODSP?

It's clear from the statements we've heard so far that this mandatory program would also involve ODSP recipients in some way. One of the groups of people specifically mentioned in Baird's press releases was grandparented ODSP recipients (those people who were on FBA at the time that the ODSP came into effect in June 1998 and who were automatically transferred to the new program. Some of these people had been on FBA in the permanently unemployable category, which no longer exists under the ODSP eligibility rules. Some of these may be individuals with addictions. Specific references to "some 200 people" who were grandparented onto ODSP "for no other reason than a drug addiction" make it pretty obvious that ODSP recipients will be impacted in some way as well.

What can you do?

Even though the government has indicated that they do not particularly want to hear from critics, there is no reason why individuals can't let the government know their thoughts on this issue. John Baird, the Minister of Community and Social Services can be reached at 325-5225, or by email at mailbox@johnbaird.com.

New Opportunities to Sell Your Life Insurance Policy on the Horizon

On December 6, 2000, Bill 119 received Royal Assent and became law. Bill 119 is a provincial "red tape reduction" bill of the Tories that amends dozens of laws in Ontario. One of the laws it amended was the law regarding viatical settlements in the Insurance Act.

Viatical settlements are where you sell your life insurance policy to someone else. In other words, they pay you money and you assign your life insurance benefits to them. When you die, they get your life insurance proceeds. People who buy insurance policies as viatical settlements are gambling that you will die soon and they will realise their investment.

Imagine they pay you 80% of the face value of the policy and you die next month – they’ve made a considerable profit in a short period of time. Viatical settlements are different than “living benefits”. Living benefits is money from your insurance company that is basically an advance on your life insurance. You borrow from the insurance company and they pay you a portion of the value of the policy. Normally, an insurance company will not issue living benefits unless your doctor says that you have less than two years to live. After you borrow living benefits from your insurance company, they charge interest on the loan and administrative fees that are deducted from what’s left of the value of the policy. When you pass away, if there is anything left after the insurance company finishes taking interest and administrative fees out of the insurance proceeds, the rest goes to your beneficiary.

Viatical settlements have in fact been illegal in Ontario since before the epidemic began. But the government turned a blind eye to the few viatical companies that did exist and simply left them alone. Now the situation has changed.

The Insurance Act has been amended so that the government can pass regulations in cabinet to create a viatical industry in the private sector, and exempt licensed viatical companies from the prohibition against buying and selling insurance policies. Leaving aside the moral issues as to whether or not viatical settlements are a good thing, licensing and regulating the already existing viatical industry in Ontario, is probably a positive development.

(Thank you to the OAN for bringing Bill 119 to our attention.)

Big Brother Mikey Wants to Watch You! A Health Information Privacy Legislation Update

On December 7th the provincial Tories introduced Bill 159 into the Legislature. The bill is called the Personal Health Information Privacy Act, 2000 but has very little to do with privacy. Its primary purpose is to make it easier for doctors and hospitals and other health care providers to share health information and to release it without worrying about getting into trouble. For example, under Bill 159, a doctor or nurse

could call up public health and report that you have practiced unsafe sex. There is no obligation for them to do so, but it is perfectly legal under Bill 159 if they do. And there will be nothing you can do about it. Bill 159 provides no remedies for breaches of privacy for individuals whose privacy has been invaded. You can't sue, you can't get damages, you can't force the Privacy Commissioner to investigate, and you can't force the province to prosecute. Bill 159 also does not apply to your health information in general. It only applies to people working within the health care sector. So employers and insurance companies can continue to do pretty much whatever they like with your health information.

Because Bill 159 is so deeply flawed, after first reading of the bill in the Legislature, it was referred to the Standing Committee on General Government for public consultation without second reading. Usually, public hearings occur after second reading. A bill must go through three readings in the Legislature before it can be passed into law. So there is an opportunity now to influence the redrafting of Bill 159. As many people living with HIV have discovered, there are very few privacy protections for people in Ontario. If someone goes around telling people you are HIV positive, there is nothing you can do to stop it unless they learned your status through delivering professional services to you. So, a colleague at work is free to disclose your status without you having any legal remedy at all. The redrafting of Bill 159 is an opportunity to address this lack of privacy protections.

You can obtain a copy of Bill 159 on line at www.ontla.on.ca, or you can call HALCO and we will mail you a copy.

CPP Survivor's Pension: Update

The latest on the impact of the same sex changes to the Canada Pension Plan Survivors benefit was recently announced through Svend Robinson's office in Ottawa. His message to the community indicated that all applications for Canada Pension Plan same-sex survivor benefits that were in the system before 11 February 2000, and still currently active, will be settled.

What does this mean? Basically, it means that if you applied for a surviving spouse pension before February 11, 2000,

regardless of when your same sex partner died, and your application is still pending, your application will be settled. The February 11, 2000 date is the date that Bill C-23 was initially introduced. An application is still pending if you have appealed a denial within the time limit (90 days from receipt of a negative decision).

This is a significant step in the process to addressing survivor's benefits which were denied to same sex survivors.

In July of 2000, when bill C-23 came into effect, the government agreed to allow same sex survivors to be eligible for the survivor's pension if their spouse died on or after January 1, 1998. This seemingly arbitrary date meant that anyone whose spouse died before this date was not eligible for the benefit, regardless of when they applied for the benefit.

To date, same sex survivors applying for the survivors benefit have had their applications routinely denied. The denial letter usually stated that the application was denied because the CPP legislation defined spouse as a person of the opposite sex, with whom you had lived continuously for at least one year, and with whom you were living at the time of death. After the changes brought about by C-23, these letters usually then stated that the reason for the denial was that the deceased died prior to January 1, 1998, and that the legislation was not retrospective.

Under the CPP legislation, there is in fact no time limit for applying for the survivors pension, but the benefit can only be paid 12 months in arrears. It is for this reason that survivors are encouraged to apply for the benefit as soon as possible after their partner's death. The benefit, for those who are eligible, is calculated by determining what the deceased partner's retirement benefit would have been had they been 65 when they died and then paying to the survivor a percentage of that amount which varies depending on your age at the time of death, whether you were disabled at that time and whether you are caring for any dependent children. For reference, the maximum survivors benefit for 2000 was \$457.75 for survivors 65 and older and \$420.80 for survivors under age 65. The average survivors benefits paid in 1999 were \$240.29 and \$307.08 respectively. Finally, it's important to note that if you are already in receipt of a disability benefit from CPP, the two benefits are not added simply added

together, but are combined using another complicated formula, with a maximum cap of \$917.43 for 2000.

A final, and important point is that if you are in receipt of benefits under the Ontario Disability Support Program, any additional benefits you get from the survivors benefit will be deducted dollar for dollar from your ODSP cheque, even though the CPP benefit is a taxable benefit.

A significant amount of work remains to address those individuals whose same sex partners died before January 1998 and who didn't apply before the February 11, 2000 cut off date. These individuals will have to continue to argue that the denial of same sex survivors benefits is a breach of the equality provisions of the Canadian Charter of Rights and Freedoms, which came into effect April 17, 1985.

If you disagree with a decision made by CPP, you can appeal, in writing, within 90 days of receiving a decision from CPP. Any negative decision letter will include information about how to appeal, and where to send your request.

For more information about CPP pensions, you can call 1-800-277-9914, or check out their web site at www.hrdc-drhc.gc.ca/isp/cpp.

2000-2001 Board of Directors

Mark Blans (Secretary-Treasurer) was appointed to the PWA board in November 1997, and subsequently appointed to the HALCO board as a PWA representative. Mark served as Secretary-Treasurer on the Executive Committee of the 1998-2000 HALCO Board of Directors, and has been a member of the Personnel, Outreach and Finance Committees. Mark has researched HIV and AIDS issues for 13 years and has been active with both PWA, ACT and HALCO during that period. Mark was instrumental in the development and implementation of HALCO's web site and continues to manage the site. Mark looks forward to continuing his work with the membership, staff and Board to ensure HALCO always offers both high quality and timely services.

Helen Daley has been practicing for 12 years as litigation counsel. Helen is a member of The AIDS Committee of Toronto and served as an ACT Board member from 1992 through 1995. In 1995 ACT appointed Helen as one of its two representatives to the founding board of HALCO. Helen returned to the board in 1998-99 as an elected community member serving as Chair of the Board, and has continued to serve on our board as a community member since 1999-2000.

James Kreppner is retired lawyer living with HIV and Hepatitis C, who has been involved with the HIV & AIDS Legal Clinic since its formal inception. He is one of the two members of the board appointed by the Toronto People With AIDS Foundation. In the past, James has been Co-Chair of the Toronto PWA Foundation, a member of the HIV/AIDS Clinical Trials Network (CTN) Steering Committee, a member of the Advocacy Resource Centre for the Handicapped (ARCH) Board of Directors, and a vice-president of the Canadian Hemophilia Society. He has sat on an advisory committee to the Canadian HIV/AIDS Legal Network, and is currently a Board member of the Toronto Central Ontario Regional Hemophilia Society, Hemophilia Ontario, and the Canadian Hemophilia Society. He has a long-standing interest in access to treatment issues and human rights issues related to HIV. James continues to sit on the HIV/AIDS Clinical Trial Network (CTN) Community Advisory Committee, and he is a council member of the Canadian Treatment Advocates Council (CTAC).

Martha Mackinnon is one of the PWA appointees to our board. Martha taught English and Drama in secondary school for eight years before she went to law school. She has concentrated her legal practice on education law and children's rights, serving as Board Solicitor to the York Region Board of Education for 8 years, and currently as a lawyer at Justice For Children and Youth, a legal clinic for low income youth. Martha has twice been the Chair of the Education Law Section of the Canadian Bar Association - Ontario and is an elected member of the Provincial Council. She is on the Board of Directors of CAPSLE, the Canadian Association for the Practical Study of Law and Education. Martha has been involved with the Toronto PWA Foundation almost since its inception and is

committed to helping it fulfill its mandate – to enhance the dignity of those affected by HIV and AIDS.

Alan Stewart has been on HALCO's Board of Directors for four years. Alan served as Chair of the Board for the 1997-98 Board year. He was on the Board of the AIDS Committee of Toronto from 1990 to 1994. During his time at ACT Alan served as Secretary and Vice Chair, sat on the Policy and Advocacy Committee and the Community Relations Committee, and acted as liaison with Dancers for Life. He is currently serving as a member of the Board of Casey House Hospice. Alan works as a teacher at the University of Toronto. This year, Alan is one of the AIDS Committee of Toronto's appointees to HALCO's Board of Directors.

Connie Vernon (Vice-Chair) is a graduate of Queens University Law School, and currently working in civil litigation at the Ministry of the Attorney General. Before attending Queens, Connie worked for ten years at Seneca College. While at the College, she worked in the areas of athletics and student leadership development. Connie first joined the board as a community member in 1998 and has served as Co-Chair for 1999-2000, and as a member of the Outreach Committee. Connie returns to the position of Co-Chair for 2000-2001.

Bob Watkin (chair) is a retired lawyer and former partner of several downtown law firms. He has served on HALCO's Board since February of 1995 and is a former Acting Chair, Vice Chair and Treasurer. Bob is also a past President, Director and a volunteer at the Teresa Group. Bob has been a delegate to the Ontario AIDS Network (OAN), the Canadian AIDS Society and is a past Coordinator of the Gay Men's Caucus of the OAN. Bob is a former member of the Advisory Committee for Positive Youth Outreach.

Gary Weagle has a Bachelor of Commerce degree and has had a successful career in taxation counseling and investment management. He has been involved in the implementation and development of a Canada Works Project designed to assist the underprivileged in the downtown Toronto core, and is active in community charitable works. FAB Magazine has named him as one of the persons who makes being Gay in Toronto fabulous,

principally because of his unpaid work with Gay, Lesbian, Transsexual and Transgendered youth. He has participated in HALCO meetings for many years. Gary's volunteer experience in the HIV/AIDS community is noteworthy, and he has the reputation of being a "down-to-earth" individual who enjoys working with groups and on a "one-to-one" basis with individuals. Gary has served on the Board of Directors of a private charitable organization in the past.

Lee Zaslofsky is one of our AIDS Committee of Toronto appointees, and replaced Joan Anderson on the HALCO Board in March of 1999. Lee works at ACT as Advocacy and Media Relations Coordinator. Prior to his arrival at ACT, Lee was a Community Health Worker at the Queen West Community Health Centre. Lee is a citizen member of City of Toronto Board of Health. He is Co-Chair of the Board of Health's AIDS Subcommittee.

1999 - 2000 Report from the Chair

The following is the text of a speech given by Bob Watkin, Chair of the HALCO board of directors for 1999-2000.

This year at HALCO we have cause to celebrate. When we opened our doors to our first clients in December of 1995, we had two small offices inside the AIDS Committee of Toronto, an annual budget of \$175,000, three inexperienced staff people, and no real idea of what we were up against. Now... I invite you to look around you. Things have changed...for the better!

Last year, we reported to you that we had run out of funding for an articling student reducing our staff complement to three from the four we had between June of 1997 and June of 1999. At the same time, demand had increased. We were then receiving 170 requests for services per month. There is no doubt that last year was a grueling year for HALCO's staff. People got sick, and vacation days were lost.

In May of this year, Legal Aid Ontario moved us to these new premises. This past summer, they restructured our funding arrangement in a way which allowed us to create one and a half new positions. These new positions are core funded

and will continue. The AIDS Bureau contributed extra funding for the 1999/2000 fiscal year, which combined with the ACT Community Partners Fund money, allowed us to once again have an articling student. Since October 2nd we have had five full time staff, including two lawyers, plus one part time person.

We intend to use our new resources to improve the quality of the services we deliver. We are now open for business from 9 to 5 Monday to Friday. And we intend to start targeting some specific issues through litigation in a strategic manner, to try and change more than one person's circumstances at a time.

We are in a period where we must manage growth and change. At HALCO demand for services seems to have stabilized at 200 requests for services per month in the current calendar year. We have to adjust to the larger staff and the expanded mandate it allows us. Legal Aid Ontario is still in a period of expansion, so there is a possibility that the next year will see us grow even larger. As we grow, it is important that HALCO maintain its focus on improving the lives of people living with HIV.

On the legal front over the past year, dozens of statutes have been amended to recognize same sex partnerships; the new life-time ban for welfare fraud has come into effect, but it will be a while before we see its impact; and both the federal and provincial governments have been developing privacy legislation. We have devoted staff resources to addressing these changes because we are seriously concerned about their impact. We will continue to try and influence the form these changes take to the extent that we are able to do so.

As Chair it has been my pleasure to work with the members of this year's board of directors at HALCO. Everyone who has served on this board has shown an unceasing commitment and generosity of time. It is a rare experience when a vision is so completely shared and diligently pursued by all of the members of a Board. All of the members of this year's Board, with one exception, are either being reappointed or are running for re-election. It has been our practice not to single out any individual member of the board if they are running for re-election or being reappointed. I do however want all of them to understand and appreciate that notwithstanding the outcome of tonight's meeting, their

efforts have been sincerely appreciated. One member of the board will not be standing for re-election. To John Plater we offer our sincere thanks and the certainty that we are grateful for all of the contributions he has made.

The success that HALCO has achieved is as a result of the tireless efforts of a great many people. Particular credit has to be given to our staff, Ruth Carey, Matthew Perry, Rick Lobodzinski and now as well, Glenn Betteridge, Sara Schaeffer, and Ryan Peck. They are all living proof that through hard work, you can make a difference. It has been a pleasure to work with all of them and to see them grow through their efforts and work on behalf of our community.

The work of HALCO is of necessity a collaborative effort. It takes all of us: members, directors, and staff, to make the work of HALCO a success. All of us can take pride in what we have accomplished so far. A lot remains to be done. Working together, we can and we will make a difference.

You Asked Us

Q. I have been on LTD through Group Insurance from work for about fourteen months now. The LTD carrier made me apply for Canada Pension Plan disability benefits. I just got notice that I have been approved for CPP-D. The notice from CPP-D says they have back-dated my CPP-D benefits for one year, but the back benefits are being paid to my insurance company. Can they do this? Isn't that my money?

A. They probably can do this, but you should check to make sure. Every contract for group disability insurance is different. But it is now standard practice in the industry to include a clause that says that any other income replacement benefits for disability may be deducted from your LTD benefits. So you should check the contract under which you receive your benefits. With group benefits, the contract is between your insurer and your employer, so chances are good you do not have a copy of the contract. You can ask your employer and the insurance company for it but they probably won't give you a copy. There is no law that says that the employer or the insurer has to give you a copy. If you write to the insurance company objecting to them taking your CPP-D back benefits away,

they will probably write back and quote the section of the contract which says that they can do this. If you have a benefits booklet outlining your benefits, you should definitely check it to see what it says about this issue. There have been cases where the contents of the benefits booklet have been found to be binding on the insurer, even where it contradicts the formal contract.

One other thing to check here is whether or not your LTD is tax free. If you contributed to the premiums for your benefits while you are working, then your LTD income is tax free. CPP-D is not tax free though, so when they insurance carrier deducts CPP-D from your LTD entitlement, they should be using the after tax amount, not the gross CPP-D amount. That would result in you getting more money from the insurer. If your LTD benefits are taxable though, this gross versus net issue does not apply.

Finally, it is curious that your CPP-D entitlement has only gone back one year whereas you have been on LTD for fourteen months. In processing your CPP-D application, Human Resources Development Canada has decided that you only became disabled under their legislation twelve months ago. That decision can be appealed, but as the insurance company appears to be scooping back your CPP-D, there would appear to be no advantage to you in doing so.

HALCO Grows

In our last issue, we were overjoyed to tell you all about our move into our new space – a space which provided us with more room to provide better service, and the opportunity to grow. Well, we're even happier to be able tell you that we have grown!

As a result of a restructuring of our funding, as well as an increase in our funding from the AIDS Bureau, we have now been able to increase our staff to six people!

Our explosive new growth started with the addition of Ryan Peck, our articling student for 2000-2001. We have been able to have a student this year, after a one year hiatus, thanks to the increased AIDS Bureau money, support from

the ACT Community Partners Fund, as well as private donations. Ryan started work in July, and has quickly been able to learn the ropes and help us help an increased number of clients.

In September, we were able to add a part time support staff person. Sara Schaeffer came to us with a wealth of legal clinic experience gathered as a volunteer at the Durham Community Legal Clinic. Sara is with us on Tuesdays, Wednesdays and Thursdays providing support at the front desk, and making it possible for Rick to fulfill more of his obligations as office manager.

Finally, we were able to hire a second staff lawyer to start at the beginning of October. Glenn Betteridge joined the HALCO staff after two years as a staff lawyer at West Scarborough Community Legal Services, and a year of articles at the Clinic Resource Office, the research and support office for all the community legal clinics in Ontario. In keeping with HALCO's plans for priority work if and when we ever got new staff, Glenn, in addition to undertaking some of our ongoing casework, public legal education and summary advice activities, will be devoting some of his time to working on issues affecting PHAs in prison.

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