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What the Social Assistance Act Really Means

On June 12, 1997, the Community and Social Services Minister, Janet Ecker, unveiled the Social Assistance Reform Act (SARA), which includes the Ontario Works Act and the Ontario Disability Support Program Act (ODSP).

These Acts will replace the General Welfare Assistance Act, the Vocational Rehabilitation Services Act, and the provisions of the Ministry of Community and Social Services Act relating to the Social Assistance Review Board.

Confusion is evident. What exactly is going to change and how it is going to affect the average HIV+ John or Jane Doe?

New Definitions

Previously, you could get FBA if you were "...a person who has a major physical or mental impairment that is likely to continue for a prolonged period of time and who, as a result thereof, is severely

limited in activities pertaining to normal living, as verified by objective medical findings accepted by the medical advisory board". "Permanently Unemployable Persons" (PUE's) were also entitled to FBA.

The new definition requires a "substantial physical or mental impairment that is continuous or recurrent and expected to last one year or more and the direct and cumulative effect of the impairment on a person's ability to attend to his or her personal care (feeding, dressing, hygiene) and function in the community and function in the workplace must all be SUBSTANTIALLY RESTRICTED. The impairment and its duration and the restrictions must all be verified by a doctor or professional".

Alcohol and/or drug addictions are excluded as disabilities. If your impairment is caused by non-prescription drugs or alcohol, you are not eligible for benefits.

What it means is this:

1) The PUE category we bill eliminated. The social and economic factors (skills, level of education, employability) used to determine PUE status will no longer be important in determining eligibility for disability support.

2) People applying for benefits will be assessed based on their functionality (can they get up, get dressed, function in the community and in the workplace) and not on their employability (do they have the job skills, education, ability to work with others).

3) People who don't meet the new definition of disability will have to move to the Ontario Works Program (Workfare), and face a drop of up to \$300 per month more in their assistance levels.

4) Details about how HIV/AIDS will be treated under the new legislation are left to the regulations. We won't know the details until after the legislation has been passed.

5) People already receiving FBA will be automatically eligible for the new benefits but we do not know for how long they will remain eligible.

Here are a few examples of why those in the HIV/AIDS community (as well as front line Service-Providers and Community Workers) may be worried:

EXAMPLE A

Fred is HIV+, has a grade 5 education, and has worked at manual labour all his life. Because of HIV, he can't do manual labour, but is physically able to work a desk job. Under the current system he might be eligible for benefits as PUE because of his lack of skills and level of education. Under the new system, he would likely be ineligible as disabled, and would be moved to Ontario Works, receive less money and be required to participate in workfare.

EXAMPLE B

Julia is HIV+ and suffers from severe fatigue. The stress of working is a major strain on her health and, as a result she is no longer working. However, Julia volunteers once a week with Voices of Positive Women, and is able to go out and visit friends, meet them for coffee, etc. She is clearly functioning in the community, and attending to her personal care. Therefore, she doesn't meet the new definition either.

As one can see, the ramifications are quite serious and more far-reaching than what front-line poverty and community organizations are being led to believe.

Currently Receiving FBA

The government has said that people who get FBA now will be transferred to ODSP without an interruption in assistance. It is unclear when or how individuals will be reassessed after the transfer.

People with HIV/AIDS have been told not to worry, that the new legislation will pay particular attention to HIV/AIDS issues. Front line poverty and community organizations have no way to be sure of this without seeing the regulations. The Act certainly does not support these statements.

The fact remains that many individuals living with HIV/AIDS are poor and the stress caused by uncertainty around eligibility for benefits is substantial.

All this information can make you feel overwhelmed and quite helpless!

What Can I Do?

You can make sure your concerns are heard. Contact your MPP and let her or him know that you are concerned about the changes to social assistance. Call 321-3000 or 1-800-668-2727 to find out how your MPP is.

Or, you can register yourself or your organization to speak to the legislative committee about the changes to social assistance legislation. Hearings will be held sometime in September. Call Tanya Grannum at (416) 325-3519, or fax your request to (416) 325-3505, including your name, address, daytime phone or fax numbers and name of organization, if any. It is important to register your name as soon as possible.

There are additional changes which are troublesome as well. No appeals are allowed regarding the Ministry's decision in appointing a third party to receive payments, and direct payments e.g., to landlords, or utility companies. Sole support parents and seniors between 60-64 will be transferred to Ontario Works, and not to the new ODSP. These are but a few changes which give great cause for concern.

For more information, call the HIV & AIDS Legal Clinic (Ontario) at (416) 340-7790 and 1-888-705-8889 for the 3-part series of pamphlets entitled What's Going To Change? - How Replacing Family Benefits and General Welfare Might Affect You.

New Staff! New Board Member!

Alex Brooks resigned as Community Legal Worker on May 1, 1997 to pursue other career paths. Replacing Alex is Matthew Perry, who has a Master of Arts, Sociology in Education from the Ontario Institute for Studies in Education. He has been involved in issues of HIV and AIDS over the past 6 years, including activism (ACT UP), political advocacy work, and designing and implementing AIDS Action Week at McGill, reaching out to a student population of 30,000 with HIV prevention education. Matthew is fluently bilingual.

Another new addition to the HALCO team is Student-At-Law, Adwowa Nyame Rouse. Adwowa graduated in 1997 with a law degree from Windsor and is articling with us for a year. She brings with her a rich history in community involvement and extensive practical experience in all aspects of poverty law. One of the many highlights of Adwowa's life has been doing an internship for the Summer of 1996 at the United Nations, authoring an eight country

legal literacy document on international family law for use in the "Women's Rights as Human Rights" Conference in Asia.

Lisa Poultney resigned as Board Member earlier this year, as HALCO is fortunate to have Kelly Jordan on board. Kelly is a practicing lawyer of Family Law and Civil Sexual Assault and has extensive volunteer experience in the HIV/AIDS community, most notably with the AIDS Committee of Toronto.

We welcome these individuals into the HALCO fold, as we are sure you do too.

We at HALCO would like to extend our gratitude to Lisa Poultney and Alex Brooks for their commitment to HALCO, and wish them the best in all of their future endeavours.

The Tenant 'Rejection' Act

(The Following has been prepared with the help of notes from the Coalition to Save Tenants Rights News Flashes.)

January, 1998. Imagine yourself having to look for a new apartment. Now imagine your worst nightmare come true. With the enactment of the Tenant Protection Act, which might more aptly be called the Tenant 'Rejection' Act, tenants rights and affordable housing will head right out the window - assuming you're lucky enough to have a window.

The TPA (Bill 96) passed second reading in May of 1997, and public hearings are running throughout the summer. The Act brings sweeping changes to the relationship between landlords and tenants, the majority of which favours landlords. Tenants stand to lose many of the protections they currently hold under the Landlord and Tenant Act.

The most publicized aspects of the new TPA has been the removal of rent controls. The new legislation will allow for 'vacancy decontrol'. Essentially what it means is that once an apartment is vacated, the landlord has the right to raise the rent to whatever the market will bear. In the case of the Metro Toronto area, which has an extremely low vacancy rate, this change will provide landlords with a good incentive to find ways to evict low rent-paying tenants in order to increase their incomes. Vacancy decontrol also means that people with limited incomes are going to have increasing difficulty finding

affordable housing. In June, a tenant lawyer from New York City spoke at the public hearings and noted that New York's experiment with vacancy decontrol in the 1970s caused rents to increase by 52%, more than doubled the level of harassment of tenants, and produced no increase in the building of new rental housing.

But wait, that's not the worst of it. The new legislation also allows landlords to discriminate against low income tenants by allowing for the collection of information with regard to income. This means that not only will landlords be able to identify people on social assistance, they will be allowed to refuse to rent them an apartment based on that knowledge.

In public hearings to date, the Chief Commissioner of the Ontario Human Rights Commission, Keith Norton, has argued that the provision allowing landlords to ask for income information will also affect seniors, persons with disabilities, refugees and new immigrants, teenagers, and countless other disadvantaged persons. There has been some indication from Municipal Affairs and Housing Minister Al Leach that he will consider a recommendation to remove the section of the TPA which allows a landlord to use "income information" to refuse to rent to tenants.

Evictions Easier!

Landlords will have an easier time getting rid of tenants they don't like, and profiting from the new ability to raise rents as high as they like after eviction. The most significant change under the TPA is that landlords apply to the Ontario Rental Housing Tribunal, instead of the court, for an eviction order. The tribunal has many of the same powers the court has now, including the power to award damages to landlords, but does not have the power to order wrongfully evicted tenants back into their units.

Under the TPA, eviction notices, for the most part, will no longer have to include details of the reasons for the eviction. Any notice to tenants that they don't have to leave the unit right away is also no longer required. Tenants now have 14 days instead of 20 days to vacate their units after receiving a Notice of Termination for non-payment of rent, though the tenant still has the right to stay in his or her unit to dispute the notice.

The TPA also includes a provision that may prove particularly damaging to vulnerable tenants. Under the new legislation, agreements to terminate no longer have to be in writing in order

for the landlord to proceed with an eviction. This means the landlord can go to the tribunal without the tenant present and swear that the tenant has agreed to leave. For tenants with HIV or AIDS who may be too ill to be present at the tribunal, or who may even be in hospital, this is a critical concern. Also of concern to many of our clients are the new rules dealing with belongings left after a tenant leaves the apartment. Now, landlords can keep, sell or throw away belongings without any liability. If the tenant dies, the tenancy ends after 30 days unless other arrangements are made by the landlord with the tenants estate. It is not unusual that it would take more than 30 days for an individual's estate to be settled, or even brought to some kind of order.

Long Term Care Facilities Affected Also!

In smaller communities in the province where there is no hospice system for people living with HIV/AIDS (PHA's), people who require a significant amount of care often end up in long-term care facilities such as nursing homes. Under the TPA, there is little protection for individuals with HIV, and greater potential for abuses. The TPA allows landlords to evict a tenant who needs a level of care that the landlord is not able to provide. It is not hard to imagine a care home landlord making an argument that treatment of HIV/AIDS related illness is beyond their ability, and proceeding to evict, or refuse admittance, to PHA's. With few other resources for these individuals in their communities, they will be forced to consider moving to another area, hospitalization, or attempt to manage their care from home.

These changes to the TPA are of great concern to anyone in the province who rents housing. The changes are of particular concern to virtually all of our clients because so few of them own their own homes. For individuals facing an uncertain financial future given the changes to the social assistance legislation ([see accompanying article](#)), worries about the security of their housing are an added unwelcome pressure.

HALCO Publications

The HIV & AIDS Legal Clinic (Ontario) has many (free!) publications that are available for ordering when you call us, and they are:

- 1) [When Someone Dies and Leaves A Will](#);
- 2) [When Someone Dies Without A Will](#);

- 3) [HIV Testing in Ontario](#); and
- 4) What's Going To Change? How Replacing Family Benefits and General Welfare Might Affect You.

So call us at (416) 340-7790 or 1-888-705-8889 and order now!

Coroner's Inquest

Starting September 29 of this year, a Coroner's Inquest will be held in regard to an HIV+ prisoner who died while incarcerated in the Kingston Penitentiary.

The HIV & AIDS Legal Clinic (Ontario) has been retained by the Prisoners HIV/AIDS Support Action Network (PASAN) to intervene at the inquest. The issues which PASAN hopes to see addressed are: the lack of palliative care for prisoners with HIV inside prison, and the Government's failure to prisoners with AIDS out of prison before they die as they have promised.

To see the update on this subject: [click here](#)

Annual General Meeting

HALCO will be holding its Annual General Meeting on September 15, 1997, at 7:00pm at the 519 Community Centre, located half a block north of Church and Wellesley, on the east side.

If you are interested in running for the Board, you must be a member. Please send HALCO a letter declaring your interest, accompanied by a short bio, and a [membership application](#) form. Nominations will also be accepted from the floor at the AGM. Completed membership forms must be postmarked or date-faxed NO LATER THAN AUGUST 15, 1997. Failure to do so will render you ineligible, and you will get a nice letter from HALCO saying so!

Membership Drive

Boy-o-boy, do we need members, and do we need members now!

The AGM is coming up and we would like to have voting members! All members must reapply for membership every year! And that means we need you to fill out a form and return it to us by August 15th, either by mail or fax. The only requirements are that you be at least 16 years of age and be living in the province of Ontario. And while you're filling out that form see if you can find a friend/partner/relative/colleague (but please no small pets), to join as well. Just fill out the enclosed [yellow form](#) and POW! You're a member! It's that easy. So don't delay - send today....

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