



Review of the Registered Disability Savings Plan (RDSP) Program

Submission to the Department of Finance from the Schizophrenia Society of Ontario

December 16, 2011

Introduction

The Schizophrenia Society of Ontario (SSO) applauds the government's commitment to improve the quality of life for people with disabilities through enactment of the Registered Disability Savings Plan (RDSP) Program. We welcome this opportunity to participate in the review of this program and share our perspective on how it can be enhanced to reach its full potential as the vehicle for saving for people and families living with mental health disabilities¹.

The Schizophrenia Society of Ontario is a non-profit charitable organization with a mission to make a positive difference in the lives of people, families and communities affected by schizophrenia and psychotic illnesses. Reaching over 30,000 people each year, we are the largest organization representing people affected by schizophrenia in Ontario.

For 30 years, SSO has been promoting changes to public policy to improve the lives of people living with mental health disabilities and their families. Recognizing the impact of financial security on quality of life, SSO supported the establishment of the RDSP program, articulated the need to make it accessible for people with episodic disabilities, and advocated for RDSP to be exempt from the calculations for the Ontario Disability Support Program (ODSP).

SSO commends the government of Canada for recognizing that people with disabilities are often limited by the nature of their conditions and personal life circumstances from attaining long-term financial security. We believe that RDSP presents a unique opportunity to redress this situation and support the amendments that were made to this program since 2008, including: elimination of mandatory plan wind-up if a beneficiary's Disability Tax Credit (DTC) certification was rescinded; introduction of a 10-year carry forward of government contribution entitlements; allowing rollovers from RRSP or RRIF into the RDSP of a financially-dependent child or grandchild; and inclusion of special provisions for beneficiaries with shortened life expectancies.

While RDSP is an excellent initiative and a significant step forward, there are additional aspects of this program which require further consideration. In this submission, we would like to share the feedback that we have heard from individuals, families, health care professionals and our community partners. We will start by providing an overview of mental health disabilities and highlight general challenges that people experience with accessing RDSPs. We then propose specific amendments under the topics selected for this consultation process which we believe will increase the capacity of the RDSP program to better respond to the needs of beneficiaries living with mental health disabilities and their families.

¹ Note: When commenting on topics related to mental health, SSO uses terms such as mental health issue, mental health condition and mental illness, interchangeably. For the purposes of this submission, the term "mental health disability" was chosen to align our analysis with a disability framework used within the RDSP. It should be noted, however, that not all individuals living with a mental health issue would identify with this label.

Overview of Mental Health Disabilities

Mental health disabilities are prevalent and affect all people, irrespective of age, ethnic background, education or income level. In fact, one in five Canadians will experience one or more mental health disorders during their lifetime and approximately 2.5 % will be diagnosed with a mental illness that may significantly impair their day-to-day function².

Mental health disabilities influence the way people think, feel, or behave and have an impact on all aspects of person's life including education, employment, housing, social and family networks, recreation and day-to-day living. Symptoms are episodic in nature, occur on a continuum and can vary from mild to severe. It is common for people to experience recurrence of symptoms throughout their life, with varying degrees of impairment. Recovery is always possible but it is non-linear and no two people will experience it in the same manner, with some individuals recovering quickly while others continuing to experience challenges.

People with mental health disabilities experience a myriad of systemic, environmental and attitudinal barriers which often amplify, and overshadow, the impairment associated with their medical condition³. Stigma is a significant attitudinal barrier and because of stigma, people with mental health disabilities are often denied access to treatment and services, housing, education and employment opportunities.

Numerous social barriers and the changing nature of mental health disabilities often undermine long-term financial security of people living with these conditions. Indeed, people with mental health disabilities are disproportionately affected by poverty⁴, and are increasingly becoming the largest group of social assistance recipients in Ontario. As such, access to programs that recognize and address the socio-economic disparities of people with mental health disabilities is imperative.

Challenges with Accessing RDSPs

While RDSP program is progressive and has potential to significantly alleviate the financial hardship for people with mental health disabilities, many of these individuals cannot access RDSPs because they do not qualify for the Disability Tax Credit (DTC), which is a precursor to establishing these savings plans.

The eligibility criteria used for the DTC are not congruent with the nature of episodic disabilities. Specifically, the DTC conceptualizes disability as severe, permanent and non-changing. The DTC definition of disability is restricted to medical understanding of one's condition as a "substantial

² Office of the Auditor General of Ontario. (2008). 2008 Annual Report. Chapter 3.06 Community Mental Health (ISBN Publication No. 978-1-4249-8156-4). Toronto: Queen's Printer for Ontario.

³ National Council on Disability. (2009). The Current State of Health Care for People with Disabilities. Washington: National Council on Disability.

⁴ Battle, K., Mendelson, M., & Torjman, S. (2006). Towards a New Architecture for Canada's Adult Benefits. Ottawa: Caledon Institute of Social Policy.

physical or mental impairment”, with a requirement for the impairment to be present “all or substantially all of the time”. Yet mental health disabilities are often temporary, episodic and changing in nature with symptoms varying in severity and duration over the course of people’s lives. In addition, for many people living with these conditions, impairment becomes substantial not because of the nature of their disability but due to plethora of social factors which affect people’s opportunities to overcome the barriers they experience as a result of their medical conditions.

Accessing certified healthcare professionals to complete the DTC application is another significant barrier experienced by people with mental health disabilities. The current mental health system is wrought with lengthy wait times, regional disparities in access to services and overall limited capacity to adequately respond to the needs of people living with mental health disabilities. As a result, only three out of ten people with mental health disability are able to access care in Ontario, and across Canada. For people without a regular doctor, finding a physician willing to complete the DTC application is often a challenging and frustrating process. However, even individuals with access to health care practitioners often encounter difficulties with having their DTC forms certified due to criteria that do not reflect the nature of their conditions and general uncertainty of the medical professionals on how to complete these forms for patients with episodic disabilities.

Recommendation: Expand the current definition of disability and eligibility criteria used for the Disability Tax Credit to include specific provisions for assessing the impact of social and environmental factors on the degree of a person’s impairment. Additionally, include specific provisions to reflect the changing and episodic nature of mental health disabilities. The definition of disability in the *Ontario Disability Support Program Act, 1997* can be used as a model to achieve these.

Specific Feedback on Topics for Consultation

1. Basic Parameters

Existing parameters of the RDSP are generally effective in supporting the objectives of this program. At the same time, changing economic conditions and variance in life expectancy for people with mental health disabilities may undermine the capacity of RDSP to serve as an effective vehicle for long-term financial security for all beneficiaries.

Specifically, because the RDSP was initiated in 2008, the \$200,000 lifetime contribution limit may not provide for adequate financial security further in the future. This is particularly the case for families and individuals who are just initiating this savings plan for their children and those who opened RDSP’s for beneficiaries in early adulthood. Similarly, inflation and fluctuating costs of living can influence Canada Disability Savings Grants and Bonds, CDSGs and CDSBs, and make these contributions insufficient for the long-term needs of people with disabilities.

Of additional concern are age requirements in the RDSP: the life expectancy age and the concurrent duration of the plan. For many people with mental health disabilities using a life expectancy age of 83 is unrealistic considering that people with disabilities in general have a shorter life expectancy and that people with mental health disabilities on average die 25 years earlier than general population⁵. As such, requirement for a 30-year savings plan often discourages people with mental health disabilities and their families from opening RDSPs.

Recommendation: Increase the \$200,000 lifetime contribution limit to \$500,000 and establish a process to review contribution limit to ensure its alignment with cost of living and inflation.

Recommendation: Ensure that the amounts for Canada Disability Savings Bonds and Canada Disability Savings Grants are indexed to inflation and adjusted on a regular basis, just as income thresholds are.

Recommendation: Reduce life expectancy age to 65 and adjust other age related parameters accordingly.

2. Establishing Plans and Legal Representation

When establishing RDSPs, people with mental health disabilities and their families experience additional challenges due to the rules that govern who can be a plan holder. Of particular concern is the rule that limits potential plan holders to the beneficiary's legal representative when he or she has attained the age of majority but is not able to enter into a contract. Because symptoms of mental health disabilities often manifest during transition into adulthood, this rule has particular impact on people living with these conditions and their families.

For example, in Ontario, an RDSP can be opened for an individual who has attained the age of majority and is not able to enter into a contract *only* if the individual is declared legally incompetent and someone is named as their legal guardian. This process usually requires the support of a lawyer and involves a considerable amount of time and expenses. The need for guardianship further creates conflict for family members who often do not wish to have their loved one declared legally incompetent. As a result, this becomes a significant deterrent to establishing the RDSP.

With regards to legal representation, and capacity issues, there are further concerns about how the interests and financial security of beneficiaries are protected. For instance, what happens when parents set up the RDSP when the beneficiary is a minor and then when the beneficiary becomes an adult and is legally able to enter into a contract, the parent refuses to add the

⁵ National Association of State Mental Health Program Directors. (2006). Morbidity and Mortality in People with Serious Mental Illness. Alexandria: Medical Directors Council; Early Onset illness and Mortality Working Group. (2011). Forty is Too Young to Die: A Call for Action. Toronto.

beneficiary as a joint holder? It is further unclear what happens when a beneficiary is legally unable to enter a contract and the designated plan holder withdraws money from the RDSP for their own personal benefit.

Because questions of appropriate legal representation in these cases are a matter of provincial and territorial responsibility, providing a single recommendation without the accompanying review of relevant provincial and territorial capacity legislation and processes is beyond the scope of this submission. Nonetheless, such an analysis is necessary to ensure that the RDSP rules adequately protect the rights of beneficiaries without creating obstacles to establishing these saving plans.

Recommendation: Perform an in-depth analysis of various provincial and territorial legislative procedures around capacity and guardianship to determine how to streamline guardianship process and whether such streamlined process would be appropriate across jurisdictions.

Recommendation: Include specific provisions and safeguards in the RDSP to protect beneficiaries from financial abuse and mistreatment.

3. Savings Accumulation and Access

In order to achieve a greater balance between long-term saving goals of the RDSP and the need to have flexibility, two specific rules can be amended to achieve better outcomes for people with mental health disabilities: rollovers from other saving plans and the “10-year rule”.

Many parents establish Registered Education Savings Plans (RESPs) for their children; yet very few can predict whether their child will be unable to attain post secondary education as a result of a mental health disability. Because most of these conditions manifest during late adolescence and early adulthood, people with mental health disabilities are often unable to start or complete their post-secondary studies within the timeframe mandated by the RESPs. When this happens, their RESPs are collapsed and individuals lose any grants or bonds contributed to the plan by the government. For people on social assistance and those who are in the process of applying, a collapsed RESP becomes an asset and makes them ineligible for income supports. This does not work well from a savings perspective nor does it lead to improved quality of life for people with disabilities.

Another deterrent to improving financial security of people with mental health disabilities is the “10-Year rule” which requires that any CDSGs and CDSBs paid into the plan during preceding 10 years are repaid to the government upon a withdrawal from an RDSP, the cessation of a beneficiary’s eligibility for the DTC, or the death of the beneficiary. It has been noted that this requirement provides long term assurance in the context of the generosity of the program. At the same time, for many people with mental health disabilities it poses barriers to accessing their

financial savings when they need them most considering that they experience higher rates of poverty and shortened life expectancies when compared to the general population.

Recommendation: Allow rollover of RESPs into the RDSP.

Recommendation: Change the 10-year rule to five years and include additional provisions to allow plan withdrawals by the beneficiary for special circumstances (for example, financial hardship, buying a house, cover the cost of health services, vacation, training and education, etc) without the requirement to repay the CDSBs and CDSGs. Include a repayment clause, similar to an the Homebuyer's Plan and Lifelong Learning Plan under the RRSP where the withdrawn amount will have to be repaid into the RDSP within a period of no more than 15 years. This will improve access to savings, while still supporting the long-term savings objective of the RDSP.

4. Plan Termination

There are a number of factors that can cause an RDSP to be terminated, including death of the beneficiary, voluntary plan closure, or the cessation of DTC eligibility. For people with mental health disabilities cessation of DTC eligibility is highly probable and often causes undue stress and hardship for the beneficiaries and their families.

Because DTC is issued for a limited period of time under the “mental functions” category, people with mental health disabilities have to reapply and reconfirm that they are still ‘severely’ disabled. However, because of the nature of these disabilities many individuals find themselves ineligible for DTC at the time of reassessment. This means that their RDSP must be terminated by the end of the year following the first calendar year when their DTC was rescinded. The need to constantly “prove” their disability creates a high degree of stress for people with mental health disabilities. Particularly, when considered in the context of living in poverty, grants and bonds may be the only sufficient contributions put into an RDSP and losing these, essentially means losing one's savings for old-age. In such cases, the requirement to close the RDSP and repay CDSGs and CDSBs significantly limits the capacity of the RDSP to provide for the long-term savings needs of the beneficiaries.

Recommendation: In instances where one ceases to be eligible for the DTC, the RDSP should not be collapsed, unless it is a voluntary closure by the beneficiary. Instead, all CDSGs and CDSBs in the plan should be locked until the beneficiary is eligible for DTC again. The beneficiary should be able to withdraw funds from the RDSP to cover extenuating circumstances as mentioned in the prior recommendations but additional plan contributions should not be allowed during this period. Beneficiaries should be assisted with setting up another savings plan and provided with an option to rollover the accumulated savings from this plan into the RDSP once they are eligible for the DTC again.

5. Improving Administration and Reducing Red Tape

To ensure that RDSP transactions occur in a practical and timely manner, beneficiaries, plan holders, and financial institutions are required to comply with various administrative rules set out in the *Income Tax Act* and the *Canada Disability Savings Regulations*. Unfortunately, many of these rules and administrative process are highly confusing for people living with mental health disabilities and their families. People are often given conflicting information and application processes vary depending on which financial institution administers the plan. For individuals who transfer their plans between institutions or move to different jurisdictions, the administrative process is even harder to understand and navigate.

While providing an in-depth analysis on all of the administrative rules associated with RDSP is well beyond the expertise of our organization, we strongly feel that this process can be streamlined and simplified through improved access to information on RDSP.

Recommendation: Develop plain language educational materials which explain RDSP and all of the rules associated with it and distribute them across financial institutions, medical offices, employment and income support agencies and other community sectors serving people with disabilities and their families. We further recommend that a central RDSP resource centre is created with 1-800 line and a website which can be accessed by individuals, families, medical and financial professionals and others seeking detailed and up-to-date information on RDSPs.

The Schizophrenia Society of Ontario welcomes the opportunity to collaborate with the Department of Finance to improve the quality of life for Canadians with disabilities, including individuals and families affected by mental health disabilities.

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