

BC's Child Support Clawback Hurts Kids

by Rachel Goodine - Tuesday, October 15, 2013

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British Columbia's Child Support Clawback for Children of Parents on Government Assistance Hurts Kids

When I bring up the issue of the child support clawback in British Columbia affecting single parents on temporary or disability assistance through the Ministry of Social Development and Social Innovation, most people are completely unaware of this mean-spirited policy. It requires that all single parents receiving assistance report the child support they bring in on a monthly basis so the Ministry can then deduct it, 100%, dollar-for-dollar, off of their next monthly cheque.

This is problematic for so many reasons. The most obvious is that *it does not allow for any child living in poverty with a single parent on assistance to be lifted out of poverty, no matter how well the non-custodial parent is doing financially*. According to the [Legal Services Society in BC](#), laws surrounding child support are “based on the idea that a child should benefit from both parents' ability to support him or her in the same way he or she would if the parents lived together.” Furthermore, the law states that, “Child support [...] is the legal right of the child.” Therefore, the provincial government is breaking the law by enriching itself on the backs of children who receive child support and also have a parent on assistance.

The facts about income assistance and child support

I'm about to get personal here and detail my specific situation as an example. Let's break down what it's like for a single parent living on temporary or disability assistance in BC:

I am on disability for severe episodic bouts of major depression that I was diagnosed with 17 years ago. Without a child, I would receive \$906 per month to live on. With my daughter, I receive \$1241 per month, so that means the ministry provides \$335 extra to provide food, clothing, and shelter for her. According to the child support table, based on the wages of my daughter's father, he should pay \$634 per month to her. Take that amount away from \$1241 and you get a figure of \$541 that the Ministry will cut for my daughter and me to live on for the month. The money provided by my ex is intended solely for the care of our child. Keeping myself fed and clothed is next to impossible, as is evident by my 30 pound weight loss since being a single parent on disability for the past year and a half. It doesn't make a lot of sense that the child support (I do not have a spousal support order) paid to my daughter cuts into the \$906 a single person would receive, which keeps disabled people in abject poverty, unable to maintain a dignified standard of living in the first place.

This all guarantees that my daughter cannot live in a household that has an income of more than \$1241 per month, ensuring that she consistently lives around 50% below the poverty line. After rent and bills, this leaves us with a little less than \$200 per month for food, clothing, toys, educational materials, and outings.

Strangely, I am allowed to bring in employment income of up to \$800 per month that will not be deducted from our monthly cheque from the Ministry, and I have attempted to take advantage of this with little success. The idea behind this policy is that many disabilities, physical and mental, are episodic and that folks can and should be able to bring in a little extra income when they are feeling well. I have casual employment as a clinical secretary in a hospital, and have gone months without being called into work. When I did get the occasional call, there was only one month where I worked enough to surpass the \$800 limit. I am lucky to have even been able to do this. Most people on disability cannot work at all, ever, and for those who can when they are feeling well, it is virtually impossible to find a job that will allow you to work little enough to not go over the \$800 threshold, (many see earning money that will be clawed back as “working for free,” and frankly would not be on disability if they could work more than that anyway) let alone here and there, off and on, when one is feeling well. It’s a policy that only benefits a few and doesn’t do much to resolve child poverty. The government has called this a “common sense move” in terms of making the lives of people on government income assistance easier.

Why isn’t the same “common sense” applied to the child care clawback?

The sole purpose of deducting child support dollar-for-dollar from assistance cheques is to save the government a couple of bucks. Well actually, \$15 million per year, according to [First Call BC, West Coast Leaf, and the Community Legal Assistance Society](#), which is actually only less than 1% of the total budget the Ministry allocates for social assistance. That’s not much to the Ministry, but if that money stayed in the hands of the children it was intended for, each family experiencing the clawback would be up \$3750 per year; a significant difference for the poorest kids in the province. *Why is the province enriching itself on the backs of the most poor and vulnerable children in BC?*

“You’re ‘double dipping,’ lazy, and should get back to work!”

I’ve heard the argument made in comment sections about this topic that allowing children of single parents on temporary or disability assistance to keep their child support is “double dipping,” as if children would be unfairly advantaged if they were allowed to keep what is rightfully their money. Let’s look at this from the perspective of a single parent who does not receive any government assistance:

A hypothetical single mother brings in an employment income of \$2000 per month. She uses a certain portion of that money every month to feed, clothe, entertain, and educate her child. Her former spouse is ordered to pay \$500. That money also goes into the care of the child, making it possible for the mother to provide a home with separate bedrooms, Internet access, a healthy diet for the child, and whatever else she can do to improve the life chances and opportunities for said child. In this situation, both parents are pitching in to financially take care of their child, as the law and general basic morals require.

Why should a single mother or father on assistance not be able to also financially contribute to their child’s well-being the same way the paying parent does? It is in the child’s best interest that both parents contribute, and the child support clawback policy ensures this is undermined. [Clicklaw Wikibooks states that:](#)

The legislation on family law issues also assumes that the payment of support by one parent under the Guidelines is not going to be a complete payment of all of the child's needs. Section 1(b) of the Guidelines says that the purpose of the Guidelines is to ensure that children benefit "from the financial means of both

spouses after separation." In other words, payment according to the Guidelines child support tables are not assumed to cover all of a child's costs, and the parent receiving the support payments is assumed to contribute towards the child's needs as well.

As the child of a disabled person, my daughter should be able to benefit from the \$335 that the government allocates for me to care for her with *as well as* the amount her father contributes.

Besides, what incentive does it give the non-custodial parent to pay child support owed, when he or she knows that no matter how much income is earned, no matter how hard he or she works, that their money will not go into improving the life of the child? Saving the government a few dollars is hardly motivation to pay.

"But it's not fair to people who aren't getting any help from their former spouse!"

Those who make the argument about double dipping also tend to claim that the \$335 is actually meant for children of single parents who do not receive child and/or spousal support, and that by keeping support paid by the non-custodial parent it is unfair to families that do not have maintenance coming in. This argument is so ridiculous I feel silly even addressing it. There are many deadbeat, non-custodial parents out there who are not paying child support to children whose custodial parents aren't on assistance. Does that mean that the children from families where the non-custodial parent responsibly and consistently pays their child support should have to forfeit their maintenance to the government because others have trouble getting the former spouse to pay? Of course not.

Speaking of responsible and consistent payments of child support, what about those parents on assistance whose former spouses only periodically pay the amount they have been ordered to pay? The amount paid by the payee is deducted off of the next month's assistance cheque received by the single parent and child. If the paying parent does not pay the next month's payment, the receiving parties are left with a cheque hundreds of dollars short, making payment of next month's bills, rent, groceries, and other necessities difficult or impossible. Families living in poverty cannot afford to hold the money over to the next month. Any extra money received goes into unpaid bills that the primary caregiver was previously unable to pay, or special expenses that everyone who has children knows come along with raising a child (school supplies, new jacket or shoes, etc.); the necessary expenses that were unattainable in the previous months because of the low assistance rates. When a family lives 50% below the poverty line, in abject poverty, saving money into the next month isn't an option.

It's time this society and this government start thinking first and foremost about what's fair for the child who is being deprived of his or her right to child support, as it seems the focus is often on what's fair for everyone but the actual child.

Let's tone down the poor, single-mother hating, ok?

It is important to remember that this issue is about the children, and not enriching the single parent. Throughout this piece, I've referred to the parents receiving child support payments as just that; parents. But it is important to acknowledge that a hugely disproportionate number of single parents are women.

Society seems to have a lot of animosity towards single mothers, especially those on welfare, but this

isn't about the mothers, how much people hate them, or how badly their life decisions are perceived to have been; it's about keeping children out of poverty. Many say that poor women should never have had children in the first place, without acknowledging that poverty often happens after the children are already here, due to illness, a breakup, or safety reasons, for instance.

The fact that **this country does not have a universal childcare system** means that single-income families whose head does not have an opportunity for high paid employment (women still make only 75% of what men do, and we all know that wages don't match cost of living in the first place) are stuck at home on assistance due to the high costs of childcare (it can cost more than rent does, per child). Mothers don't want to be at home wondering where the next meal will come from. Being on temporary assistance or disability is not a comfortable life.

Mothers want what's best for their children and don't want to see them suffer, experiencing less opportunity than the next child due to poverty. If we can move away from the misogynistic, single-mom-on-welfare bashing and focus on the needs of the kids, this problem can begin to be addressed.

What can be done about this?

I've been protesting this policy with BC ACORN for months, only to receive copy-and-paste responses in the media from Minister Don McRae that were also sent in emails from predecessor, Minister Moira Stilwell, claiming that it's not fair to taxpayers to raise assistance rates and/or let children keep their child support. Recently we received a more detailed response from Minister McRae, stating that there are no plans to raise assistance rates or end the child support clawback, as the clawback is something that happens across the country (a bad policy across the board does not equal a good policy!). He did state that that the Ministry will be developing a white paper on the problems people with disabilities face in BC, saying that it will be an opportunity for stakeholders to "share their thoughts." I suspect this is intended to pacify those of us who take issue with policies that hurt kids of disabled parents, but somewhat impatiently await the white paper nonetheless.

I met with my MLA, Sue Hammell, who promised to take this issue to the NDP Social Issues Caucus as well as the NDP Women's Caucus, in order to fight the BC Liberals on this Charter-violating policy (yes, this violates the child's section 7, 8, and 15 Charter rights), only to have Premier Christy Clark declare that the legislature will not be sitting this term. I've had enough. I want the best for my daughter and she will not be punished by this government because I have a disability. I've decided to take another route.

I recently found [this article](#) talking about a Winnipeg mother who was suing the province of Manitoba for the right for all children of parents on assistance in that province to be able to keep their child support. She had been part of a class action lawsuit to return all child support paid to Manitoban children as well as to keep future support payments by the paying parent. Unfortunately, [Miss Miyai dropped her involvement in the suit](#) after receiving massive amounts hate online from people who believe that single mothers on assistance, as well as their children, don't deserve to live in dignity. Fortunately, her lawyer, Norman Rosenbaum, is continuing with the class action suit, substituting Miyai's name with another custodial parent.

I want this to happen in BC.

As lawyer Norman Rosenbaum points out, the Supreme Court of Canada ruled in a case in 2009 that children are entitled to child support payments (this seems like it should have been obvious). Also, since May 1, 1997, in British Columbia, child support has not been considered income for tax purposes for the custodial parent. The government cannot have it both ways. It cannot say that child support isn't income and then turn around and state to parents on assistance that it is. By forcing parents of children receiving child support to turn over their payments, the government is breaking the law and the Charter rights of children of single parents on assistance, plain and simple.

I urge you to join me in the fight to end child poverty in BC. Contact the webmaster of this site (stephen@politicsrespun.org) if you are interested in mobilizing to end the child support clawback that hurts so many kids. Ending the clawback won't completely wipe out child poverty in this province, but it is an excellent start in tackling the shocking levels of poverty that we are currently seeing children experience. In the meantime, I will be contacting lawyers, politicians, and everyday citizens to organize and work to change this policy through petitioning, protesting, and whatever other strategies we think of. I don't plan on giving up on this, even if my daughter gets too old to receive child support before this policy is changed. Stay tuned.