

SOCIAL SECURITY AND SOCIAL
WELFARE LEGISLATION IN CANADA

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POLITICAL AND SOCIAL AFFAIRS DIVISION
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SOCIAL SECURITY AND SOCIAL WELFARE LEGISLATION IN CANADA

INTRODUCTION

The Canadian social security system has been achieved by the introduction of legislation in different areas, largely since World War II. Measures have been introduced not as part of an overall scheme but rather in a piecemeal fashion, in response to particular needs and pressures.

Social changes resulting from the great depression, the Second World War and the growth of industrialization, accelerated public demands for national policies to protect the individual against serious risks and to ensure the provision of fundamental necessities. A basic minimum standard of living became a common objective.

The development of national programs toward this goal was complicated by the constitutional division of powers between the federal and provincial governments. Various approaches were developed to overcome jurisdictional complications and establish a network of systems to ensure provision of the fundamental needs of the individual. Toward this end, Parliament has legislated to provide income security and social insurance as well as to assist provincial governments in the development of various social welfare measures.

The principle of social insurance, represented for example in the unemployment insurance plan, involves the sharing of risks and the concept of average rather than individual needs. Rights to benefits are essentially based on the payment of premiums. Social security, on the other hand, is "the legislative acknowledgment of the state's responsibility for the welfare of its citizens, the benefits of this concern accruing to citizens 'as of right' and not necessarily as the

consequence of contribution."⁽¹⁾ The Old Age Pension, for instance, was made to apply universally to those over a certain age.

In addition to plans in these categories are the programs which may be termed social welfare or social services. Basically, these are complementary anti-poverty measures in which the federal government has played a funding role. In some cases, programs may be considered to have elements of more than one of these categories. These have been arbitrarily characterized in this paper under one heading.

Canada's social security system, as it has developed, is based on federal transfers of funds to individuals and to provincial and territorial governments. The former category accounts for the largest block of social spending, including payments to the elderly, the unemployed, families and veterans. Inter-governmental transfers include federal expenditures related to federal-provincial fiscal arrangements legislation, the Canada Assistance Plan and manpower training programs, as well as payments to the territorial governments. The federal government, in addition, provides funds for some direct services to the public, for example, for housing, and to certain groups, such as Native people.

Legislation creating social programs has often been followed by pressures for their expansion. Important aspects of developments in this field, therefore, are the structure and extent of government offices which interpret the intent of the legislation and facilitate the application and growth of programs. A wide range of departments are involved in federal social policy, including Health and Welfare Canada, Veterans Affairs, Indian Affairs and Northern Development, and Employment and Immigration Canada.

This paper provides a very brief account of the development of federal income security, social insurance and social welfare legislation in Canada and of the government department most involved in its implementation, Health and Welfare Canada. The length of this review does not

(1) Charles Rachlis, "A Farewell to Welfare: The Politics of Social Security Reform and Fiscal Federalism in the 1970s," paper presented to the meeting of the Canadian Political Science Association, Ottawa 1982, p. 10.

permit detailed analysis or a description of all the enactments made in this field. Only those considered of major importance are discussed.

INCOME SECURITY

A. Old Age Security

Income security for the elderly in Canada may now be considered as a three-tier system. In addition to private pension plans and employer-sponsored private schemes, there is the public system consisting of Old Age Security, Guaranteed Income Supplements, and the Canada and Quebec Pension Plans.

The development of a national scheme of social security in Canada, as mentioned previously, was made difficult by the federal-provincial division of powers under the Constitution. Following a period of agitation for a national old age pension scheme and completion of a study of the question by a parliamentary committee in 1924, it was decided that "although a contributory scheme with a federal collection of premiums would be unconstitutional, federal grants for a means-test plan funded from general revenues would be acceptable."⁽¹⁾

This approach to the constitutional problem opened the door to subsequent social security legislation using a similar funding formula.

1. Old Age Pensions

Under the Old Age Pensions Act, 1927,⁽²⁾ the federal government shared with the provincial administrations the cost of old age pensions which were means-tested and restricted to persons 70 years of age and over. This legislation was eventually repealed and superseded by the

(1) R.A. Badgley, C.A. Charles and G.M. Torrance, The Canadian Experience with Universal Health Insurance: Final Report, University of Toronto, Toronto, 1975, p. 44.

(2) S.C. 1926-27, c. 35.

Old Age Security Act⁽¹⁾ which became effective on 1 January 1952. It established a two-tier program. Henceforth, universal old age pensions would be available to people in Canada from the age of 70 years as a right, without a means test, subject to Canadian residence requirements. The federal government assumed full responsibility for this demogrant program, financed from general tax revenues.

The Old Age Assistance plan, however, was to be provincially administered and cost-shared between the two levels of government. The 1951 Old Age Assistance Act provided for means-tested pensions for the age group from 65 to 69 years, inclusive.

The amount of the old age pension increased gradually over the years. In 1965 the Act was amended to add a cost-of-living adjustment to the basic monthly pension (then \$75) to a maximum 2%. This change became effective in 1968. A further amendment in 1965 provided for a gradual lowering of the age at which the pension would be paid. By 1970 eligible persons were entitled to receive it at 65 years of age.

During the 1970s there were several changes made to the Old Age Security system. In 1973, the pension was raised to \$100 per month and provision was made for its quarterly (rather than annual) revision with escalation of payments in accordance with increases in the Consumer Prices Index.

In June 1982 it was announced that the indexing of Old Age Security payments would be limited to 6% in 1983 and to 5% as of 1 January 1984. These changes became effective after Bill C-131 received Royal Assent on 15 February 1983. Full indexation, however, was soon restored. The basic OAS monthly benefit for a single person has increased from \$266.28 in 1984 to \$323.28 in January 1989.

2. Guaranteed Income Supplement

The Old Age Security Act was amended in 1966 to provide for the Guaranteed Income Supplement (GIS) for low-income Canadian residents receiving Old Age Security payments.⁽²⁾ Under the GIS program, which was

(1) S.C. 1951 (2nd Sess.), c. 18.

(2) S.C. 1966-67, c. 65.

introduced in 1967, provision was made for the payment of a supplement to the pension in appropriate cases, following ministerial approval of a pensioner's application. The supplement was based on an income test rather than an income and assets test.

It was expected that the income guarantee formula would provide a higher level of income support for a given outlay of funds than a flat-rate increase would achieve. In 1971 and 1972 the amount of the supplement was increased. As of 1 April 1973 the GIS became subject to full escalation in accordance with the cost-of-living increases. A further change enacted that year allowed for quarterly escalations in the supplement, to be effective from 1 October 1973.

Amendments to the legislation further increased the GIS payments as of 1 January 1978 and 1 January 1980.

Although increases to Old Age Security payments were subjected to the "six and five" percentage restraints, there was no limitation placed on the indexing factor as it applied to GIS payments. In effect, with the indexing of Old Age Security payments limited to 6% in 1983, needy pensioners were able to have their GIS payments augmented so that they would not suffer a loss of income. Changes to the legislation provided for increases in July and December 1984 in payments to GIS recipients. The GIS has been referred to as "the most effective instrument for diverting scarce tax dollars to the elderly most in need of them."⁽¹⁾

3. Spouse's Allowance

The Old Age Security Act was amended in 1975 to provide for payment of a spouse's allowance under certain circumstances. This allowance became payable on 1 October 1975, on an income-tested basis, to pensioners' spouses (aged 60 to 64) who satisfied residence requirements. The Old Age Assistance Act, no longer needed, was repealed.

Originally, the spouse's allowance ceased with the death of the pensioner. In 1978 the benefit was extended to the surviving spouse

(1) W. Irwin Gillespie, "Canada's Poor Staying that Way," Perception, January/February 1979, p. 6-7 at p. 7.

for a six-month period. An amendment in 1979 provided for continuation of the allowance in such a case until the surviving spouse either reached age 65 or remarried. In September 1985, the "Widowed Spouse's Allowance" was made available to all low-income widowed persons aged 60 to 64 years, regardless of the spouse's age at the time of death.

(In 1986 there were some 2.8 million Canadians receiving benefits under the Old Age Security, Guaranteed Income Supplement and Spouses Allowance plans, taken together.⁽¹⁾ This was an increase from about 2.5 million in 1983.)

B. Veterans' and Civilian War Allowances

In addition to these major income security programs, other federal initiatives have been taken to provide income support for war veterans and their dependants.

Following World War 1, The Pension Act of 1919⁽²⁾ authorized pensions for disabled veterans, and their dependants and those of deceased servicemen. The War Veterans' Allowance Act⁽³⁾ in 1930 introduced monthly allowances for needy veterans. Amendments to this legislation in subsequent years extended its scope.⁽⁴⁾

In 1962 the Civilian War Pensions and Allowances Act⁽⁵⁾ entitled certain civilians to benefits comparable to those previously made available to veterans. In 1973 the War Veterans' and Civilian War Allowances were adjusted with a formula to gear allowances to a modified income test and to allow for annual adjustment of monthly rates.⁽⁶⁾

In 1974 amendments to the existing legislation provided for equality of status for male and female veterans under The War Veterans

(1) Canada, Health and Welfare Canada, Inventory of Income Security Programs in Canada, Minister of Supply and Services, Ottawa, February 1988, p. 155.

(2) S.C. 1919, c. 43.

(3) S.C. 1930, c. 48.

(4) R.S.C. 1985 c. W-3.

(5) S.C. 1962, c. 11.

(6) S.C. 1973-74, c. 9.

Allowance Act⁽¹⁾ and extended the definition of persons who may be deemed a spouse or widow for the purposes of the Act.⁽²⁾ A new section identified the groups eligible for allowances as orphans, male veterans or widowers aged 60 or more; female veterans or widows aged 55 and over, and any veteran, widower or widow who is permanently unemployable because of physical or mental disability or is incapable of maintaining himself or herself because of disability or insufficiency combined with economic handicaps or because of the need to care for a dependent child.⁽³⁾

The national government, therefore, provides two war veterans' financial benefit programs: Veterans' and Civilians' Disability Pensions and War Veterans' and Civilian War Allowances. Benefits under the former were extended as of May 1986 to the surviving dependants of veterans who had been entitled to disability pensions of between 5% and 47% of the maximum amount. The surviving dependant's pension had previously been limited to cases where the veteran had been entitled to 48% or more. At the same time, the age limit for a dependent child under this program was raised to 18 from 17 years.⁽⁴⁾

Changes were also made to the War Veterans' and Civilian War Allowances program, effective in April, 1986. An individual's income, to determine eligibility, is defined generally as it is for the GIS, although any Veterans' Disability Pension is considered as income and exemptions are permitted for casual earnings and income from interest. As in the case of Disability Pensions, the age limit for a dependent child was raised to 18 from 17 years.⁽⁵⁾

(1) Statute Law (Veterans and Civilian War Allowances) Amendment Act, 1974, S.C. 1974-75-76, c. 8, s. 2.

(2) Ibid., s. 3(7).

(3) Ibid., s. 4(1).

(4) Health and Welfare Canada, Inventory (1988), p. 36.

(5) Ibid., p. 37.

C. Child Support Programs

1. Family Allowances

Another major approach of the federal government towards the provision of universal income security for Canadians was the family allowances program. Although there was some interest in such a program in Canada as early as 1929, it was toward the end of World War II that the idea came to be seriously considered as a means of redistributing income and bolstering purchasing power in anticipation of post-war unemployment.

In 1944, the Family Allowances Act⁽¹⁾ was passed. The federal government undertook to pay, without any means test, a monthly allowance for every child under 16. There were some residence requirements for eligibility. The new scheme began on 1 July 1945. The plan was financed from general revenues and benefits were not taxable. This Act "introduced a new element to the welfare state by providing the first universal social assistance program, meaning that neither eligibility to receive benefits nor the amount of benefits is tested with respect to income, means or need."⁽²⁾

Nearly three decades later, major changes were wrought by a new Family Allowances Act.⁽³⁾ This legislation authorized payments, beginning on 1 January 1974, of family allowances of \$20 per month for each child under 18 and resident in Canada. Payments would be indexed annually to cost-of-living increases shown in the Consumer Price Index. Family allowances were made part of parents' taxable income, their ultimate value declining as taxable income increases. In this way, benefits to those not in need were reduced. Residence requirements were relaxed.

It was provided that any province could vary the payments according to the age of the child or the number of children in a family. Monthly allowances, however, were required to be at least 60% of the national rate and the average monthly payment for all children to be the

(1) S.C. 1944, c. 40.

(2) Frank Strain and Derek Hum, "Canadian Federalism and the Welfare State," in Jacqueline S. Ismael (ed.), The Canadian Welfare State, University of Alberta Press, Edmonton 1987, p. 359.

(3) S.C. 1973-74, c. 44.

same as the monthly national rate. Quebec adopted its own system, providing increasing amounts for second and third children in a family. Alberta chose to provide payments that increased with the age of the child.

In 1976, indexing of family allowances was suspended for that year as part of an anti-inflation program.

Major changes to the program were made by legislation in 1978 which amended the Income Tax Act and the Family Allowances Act.⁽¹⁾ Family allowances were reduced, as of 1 January 1979, from \$25.68 to \$20 for each child under 18 years of age in most provinces and the territories, with provision for continued annual indexing to the cost of living. The federal budget in June 1982 as a restraint measure proposed that escalation of family allowances by indexing be limited to 6% in 1983 and 5% in 1984.

An amendment to the Family Allowances Act, (Bill C-70) introduced in the Commons in September 1985 and passed in January 1986, had the effect of indexing family allowance benefits only by the amount that inflation exceeds 3%.

2. The Child Tax Credit

In 1979, at the same time as Family Allowances were reduced, the refundable Child Tax Credit program (legislated in 1978) was instituted. This new child benefit was delivered through the income tax system. Unlike the universal family allowance scheme, the Child Tax Credit is a selective program, designed "to provide additional assistance in meeting the costs of raising children in low to middle income families."⁽²⁾ Its net effect is to provide an annual sum for each child under 18 in lower income families and amounts reduced in accordance with increased levels of income for other families. At the time of its introduction, the credit was valued at \$200 per child in families with annual incomes up to \$18,000. Although family allowances were made subject to the restraint program announced in 1982, it was decided that the tax credit would continue to be fully indexed.

(1) An Act to amend the Income Tax Act and to amend the Family Allowances Act, 1973, S.C. 1978-79, c. 5.

(2) Canada, Health and Welfare, Family Allowances, Ottawa 1981, p. 9.

Changes were made to the program, effective in the 1986 tax year. An annual advance payment of part of the credit was begun in the case of families reporting a net income in the previous year of less than \$15,000, with the balance payable after the filing of a tax return for the current year. Where family income exceeds \$15,000, the credit is payable to those eligible after the filing of a current income tax return.

The level of income at which the maximum credit becomes payable was decreased to \$23,500 for the 1986 tax year and increased to \$23,760 for the 1987 tax year.⁽¹⁾ Beginning in 1988, the amount of the refundable child tax credit was increased.

D. Income Tax Provisions

The importance of the Income Tax legislation in effecting measures of social security should not be overlooked. Although the Income Tax Act⁽²⁾ and its amendments deal primarily with the collection of money for the government, in some cases enactments of exemptions from tax have been introduced to provide financial assistance to individuals in certain categories. Because tax benefits are not usually thought of as part of the social security system, they have been referred to as "the hidden welfare system."⁽³⁾

1. Provisions for Dependants

Some income security provisions in the Income Tax Act reduce the taxpayer's income subject to tax in accordance with the number of persons dependant on the income. These are the exemption for a spouse, (the "married or equivalent" category), exemptions for dependent children and for other eligible dependants. These exemptions are available in cases where the spouse or another dependant of the taxpayer has little or no

(1) Health and Welfare Canada, Inventory (1988) p. 16.

(2) Income Tax Act, S.C. 1970-71-72, c. 63.

(3) Michael J. Prince (ed.), How Ottawa Spends 1987-88, Restraining the State, Methuen, Toronto 1987, p. 214.

personal income. In addition, the Child Tax Credit, described previously, provides support for children in low-income families.

**a. The Married/Equivalent
to Married Exemption**

A taxpayer may claim an income tax exemption for a dependent spouse. Changes in 1986 required a taxpayer who marries during a given year to reduce the married exemption by the amount of the spouse's income for the whole year. That income must include any GIS or other benefits.

The Equivalent to Married Exemption permits a sole supporting parent to claim the spousal exemption for one child, instead of the child tax exemption, a lower amount.

b. The Child Tax Exemption

The tax exemption for dependent children is "the oldest, yet probably the least familiar federal child benefit."⁽¹⁾ Deductions from taxable income for dependent children have been allowed in Canada since 1918. The exemption for a dependent child under 18 years of age was frozen at \$710 in 1982 and decreased to \$560 for the 1987 tax year.

A change in 1986 permitted an exemption, up to a maximum of \$1,440, for dependants over 17 with a physical or mental infirmity. (In addition to this exemption, a limited deduction is permitted for child care expenses. The maximum amount of this deduction was increased in 1988 by an amendment to the Income Tax Act (Bill C-139) which is discussed later.)

c. The Refundable Child Tax Credit

The refundable child tax credit scheme, discussed previously, has been called "the most revolutionary step in the use of the federal income tax system since its inception in 1917."⁽²⁾ It involves a plan not only to collect money for the government but also to deliver cash benefits to individuals in need.

(1) National Council of Welfare, Family Allowances for All? Ottawa, 1983, p. 15.

(2) B. Kitchen, "The Refundable Child Tax Credit," Canadian Taxation, Fall, 1979, p. 44-51 at p. 44.

2. Age and Disability Provisions

Other income security provisions of the Act reduce the taxable income of individuals granted special consideration. In this category are the provisions enacted to assist the elderly and the disabled.

The amount of a specified deduction from taxable income allowed for many years in the case of persons aged 65 and over, was increased from \$1,000 in the 1970s to \$2,640 in 1987.

Provisions were made for a disabled taxpayer in certain circumstances to claim an extra personal allowance under the Act if he were totally blind or confined to a bed or wheelchair for 12 months.⁽¹⁾ The amount of this deduction was increased by amendment to the legislation early in the 1970s.⁽²⁾ The definition of disability was broadened in 1986 to include prolonged impairment which markedly restricts daily activities, and the deduction respecting disabled persons was increased.

3. Refundable Sales Tax Credit

A refundable sales tax credit was introduced in 1986 to be claimed in full by those with net family incomes of less than \$15,000.⁽³⁾ The credit of \$50 per eligible adult and \$25 per child is reduced by 5% of the amount by which income exceeds \$15,000.

Bill C-139, which was passed and received Royal Assent in September, 1988, amended the Income Tax Act to increase the refundable sales tax credit and to increase, from \$15,000 to \$16,000, the amount of the threshold income, beginning in 1988.⁽⁴⁾

(1) Income Tax Act, S.C. 1970-71-72 c. 63, s. 110(1)(e).

(2) S.C. 1973-74, c. 14, s. 35(4).

(3) Bill C-23, An Act to Amend the Income Tax Act and a related Act, S.C. 1986, c. 55.

(4) S.C. 1988 c. 55.

4. Unemployment and Retirement Plans

A further group of income security provisions of the Act involves the deduction from taxable income of contributions to private or public plans providing a substitute for earnings lost through unemployment or retirement. In this category are deductions for Canada/Quebec Pension Plan contributions, Unemployment Insurance premiums and contributions to company or union pension plans or to Registered Retirement Savings Plans (RRSPs).

In 1975 the pension income deduction was introduced, allowing for an exemption of \$1,000 in retirement income from private pension plans.⁽¹⁾

Changes in the area of retirement savings were made in 1986 by Bill C-23, which received Royal Assent on 19 December 1986. This bill amended the Income Tax Act by increasing (from \$5,500 in 1985 to \$7,500 in 1986) the maximum limit for an RRSP contribution by an individual without a regular pension plan. The limitation to 20% of earned income, however, remained the same. Bill C-23 also provided that all individual contributions toward a defined benefit pension plan by employees belonging to it would be tax-deductible. Other changes allowed greater flexibility to persons wishing to withdraw contributions from their RRSPs.

The Pension Benefits Standards Act, 1985, enacted on 27 June 1986, came into effect on 1 January 1987. It established standards for registered pension plans under federal jurisdiction, such as those of Crown corporations, but not those covering public service employees. Among the numerous pension reform provisions of the Act were requirements for portability, survivor benefits, early retirement benefits and the inclusion of part-time workers.

Very briefly, the examples discussed illustrate ways in which social security measures have been introduced by means of the Income Tax legislation. The value of the various income security programs of the Income Tax Act in 1976 was reported to be \$5.3 billion, equal to 45% of total federal government spending during 1976-77 on family allowances, pensions for the aged, Unemployment Insurance payments, Canada Pension Plan

(1) S.C. 1974-75-76, c. 26, s. 70(1).

benefits and contributions to the provinces for cost-shared provincial welfare programs under the Canada Assistance Plan.⁽¹⁾ The value of the "hidden welfare system" was reported to be \$8.8 billion for 1983.⁽²⁾

It was stated in 1988 that there are "more than 50 federal tax expenditures ("tax breaks") in the social development field. About half of these selective tax measures are in the social welfare category for purposes of income assistance and security."⁽³⁾

Many provisions of the Income Tax Act have been amended in recent years. In particular, in 1988, Bill C-139, mentioned previously, contained numerous provisions affecting individual tax liability. Brief reference has been made here only to some of the new amendments which affect the hidden welfare system.

SOCIAL INSURANCE

A. Health Legislation

Canada's medicare system provides comprehensive health care insurance for residents of all the provinces and the territories. Because it provides for universal coverage, it is broader in concept than most insurance plans. It forms an important element of the welfare system.

Since health matters in general fall within provincial constitutional responsibility, the role of the federal government in this area has been largely one of funding. However, by attaching conditions to its financial contributions, it has been able to shape policy and, with provincial cooperation, to establish the present national health insurance program.

(1) National Council of Welfare, The Hidden Welfare System Revisited, Ottawa 1979, p. 10.

(2) Prince (1987), p. 215.

(3) G. Bruce Doern et. al., Public Budgeting in Canada, Carleton University Press, Ottawa 1988, p. 157.

Long before the national plan was established, some provinces had enacted health care legislation. During the depression years, municipal and provincial support of hospitals broadened generally, as patients' ability to pay declined.

By the late 1930s some provinces were paying statutory per diem amounts for hospital patients, thus establishing precedents for later health insurance plans.

To assist the federal government in planning for the post-war era, the 1943 Marsh Report⁽¹⁾ on social security was prepared. It called for a comprehensive system of social security for Canada, including national health insurance. The Heagerty Report,⁽²⁾ prepared following the research of an advisory committee, called for a compulsory, contributory health insurance program involving conditional grants from the federal government to the provinces and provided a detailed model act which the provinces might follow.

Saskatchewan in 1947 implemented a universal, government-sponsored hospital insurance program. British Columbia and Alberta followed with the introduction of their hospital insurance plans in 1948 and 1949.

In 1948 the federal government introduced the National Health Grants program involving federal-provincial cost-sharing. This program in effect paved the way for an eventual national health insurance plan.

At the federal-provincial conference in 1955, Ontario proposed a federal-provincial hospital insurance, diagnostic services and home care plan, to be cost-shared. Following the conference, agreement was reached to introduce a hospital insurance program.

The Hospital Insurance and Diagnostic Services Act⁽³⁾ came into effect on 1 July 1958. By providing for federal contributions it

(1) L.C. Marsh, Report on Social Security for Canada, University of Toronto Press, Toronto, reprint version, 1975.

(2) Canada, Advisory Committee on Health Insurance, Health Insurance, King's Printer, Ottawa, 1943.

(3) S.C. 1957 c. 28 (amended 1958); repealed, S.C. 1984 c. 6.

made possible the provincial establishment of hospital plans that came to have nearly universal coverage. The four western provinces and Newfoundland immediately joined the scheme.

The Hospital Insurance legislation required universal coverage and provided benefits including standard hospital ward care, chronic care and special services in acute-care hospitals. Out-patient services were included on an optional basis.

Medical insurance remained as an issue to be resolved. Legislation providing for medical care insurance was passed in Saskatchewan in 1961, taking effect on 1 July 1962. This plan established a precedent in Canada for universal medical care insurance supported by taxes and administered by a public body. The report of the Hall Commission in 1964 favoured a universal compulsory program for the nation, on the model established by Saskatchewan.

The federal Medical Care Act⁽¹⁾ was passed and proclaimed in 1966 and implemented in 1968. It established a national grant-in-aid program of medical care insurance covering physicians' services (medicare) with the federal government contributing financially, in essence on a 50-50 basis, to provincially-operated plans. Because health care is a provincial responsibility, medicare in Canada consists of 12 separate plans operated by the provinces and territories. A provincial plan, to be eligible for federal contributions, has to meet certain criteria, as follows:

1. Public, Non-profit Administration

The provincial plan must be administered and operated on a non-profit basis by a public authority responsible to the government of the province or to a provincial minister designated for such purpose, and be subject to audit.

2. Accessibility

It is required that the plan provide insured services upon uniform terms and conditions to all insurable residents. The establishment

(1) S.C. 1966-67, c. 64; repealed, S.C. 1984 c. 6.

of a tariff of authorized payments is called for, on a basis that provides for reasonable compensation for insured services and that does not impede reasonable access to insured services by insured persons.

3. Universality

Coverage under a provincial plan was required to be universally available to all eligible residents of the province and to cover at least 95% (now 100%) of the total eligible population.

4. Portability of Benefits

There must be no requirement for a minimum period of residence of more than three months (in a province) before eligibility for insured services is achieved. A plan must provide for coverage of the costs of insured services furnished to insured persons while temporarily absent from the province or, upon their moving to another participating province, until the plan of that province provides coverage.

The national medicare plan provided for comprehensive coverage for all medically required services rendered by a physician or surgeon, with no dollar limit. Some surgical dental services in hospital were also covered.

The arrangements for federal contributions under the plan were changed by the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act in 1977.⁽¹⁾ Federal funding thenceforth was not directly related to provincial costs under the plan, but took the form instead of a transfer of tax points to the provinces and a three-part cash payment.

In time, the practice of extra-billing by physicians for services rendered became a public issue. On 12 December 1983, the Canada Health Act (Bill C-3) was introduced in the House of Commons. One purpose of the bill was to eliminate extra-billing by physicians and the practice of charging user fees for hospitalization. It provided, in essence, for the withholding of federal funds to a provincial health insurance program in accordance with the amounts charged in the province by means of

(1) S.C. 1976-77, c. 10.

extra-billing or hospital user fees. The Act was passed by Parliament in April 1984 and received Royal Assent. It replaced the previous medicare legislation.

B. Unemployment Insurance

The experience of the great depression lent impetus to the enactment of unemployment insurance provisions in Canada. From that time of national crisis the popular conviction grew that the federal government should be responsible for assisting the unemployed. The Unemployment Relief Act⁽¹⁾ of 1930 provided for financial assistance from the national government to the provinces and municipalities attempting to cope with the enormous unemployment problems at that time. A number of federal laws to provide for relief and assistance for the unemployed were passed between 1931 and 1939 but, although unemployment insurance schemes were considered, the government was reluctant to undertake primary responsibility for what it considered a provincial and municipal problem. A National Employment Commission, established in 1936, involved the federal government in the unemployment issue mainly to ensure efficiency in relief expenditures. Other limited measures were taken during this decade in part to improve employment opportunities. These included legislation for Public Works Construction, Municipal Improvements Assistance and National Housing.

The outbreak of World War II, however, finally decided the government to proceed with a national unemployment insurance plan, both to develop an efficient national employment service and to prepare for the depression that was expected after demobilization. In 1940, therefore, Parliament enacted provisions for a national unemployment scheme which became effective in 1941.⁽²⁾ It was based upon principles of social insurance, with benefits dependent upon contributions. In order to ensure its constitutional validity, an amendment was made to the British North America Act (now the Constitution Act, 1867), designating unemployment

(1) S.C. 1930, 2nd Sess., c. 1.

(2) Unemployment Insurance Act, S.C. 1939-40. c. 44.

insurance as a class of subject specifically within the legislative authority of Parliament.

The Unemployment Insurance Act was a landmark in Canadian social legislation, leading to the creation of federal offices across the country and the involvement of the national government as never before in the lives of Canadians.

The Act was revised in 1955. Provinces were allowed the choice of opting out of the plan with respect to their employees directly hired. About 80% of the nation's labour force was now covered by the Act. Subsequently, universal coverage was urged to provide uniform standards of unemployment insurance to all Canadians and "to bring the plan into closer alignment with pure or private insurance principles."⁽¹⁾

In view of the growth of provincial spending in the social policy field, however, the provinces were reluctant to undertake contributions to the plan on behalf of their employees. Universal coverage became a main issue of federal-provincial discussion. The plan which evolved followed lengthy federal-provincial negotiations. The position of the federal government was that unemployment insurance was a scheme of social insurance and not social assistance; therefore, it did not invade provincial jurisdiction.

The new Unemployment Insurance Act, 1971⁽²⁾ established a revised system which provided for regulations to be made to extend the categories of insurable employment. In particular, any employment not under a contract of service would be included as insurable "if it appears to the Commission that the terms and conditions of service of and the nature of the work performed by persons employed in that employment are similar to the terms and conditions of service of and the nature of the

(1) Andrew F. Johnson, "Federal-Provincial Interaction on Social Spending and Unemployment Insurance in the 70's," paper presented at the Canadian Political Science Association Conference, Ottawa, June 1982, p. 6.

(2) S.C. 1970-71-72, c. 48.

work performed by persons employed under a contract of service."⁽¹⁾ Therefore, with very few exceptions, employment, whether under a written or oral contract of service, became insurable. Benefits were extended in 1971 to cover not only unemployment because of work shortage, but also situations resulting from sickness, non-occupational accidents, pregnancy or quarantine.

During the 1970s some "fine tuning" amendments to the Act were made. Modifications involved reduced benefit rates and lengthened qualification for eligibility periods. A 1975 amendment limited the maximum number of weeks for which benefits would be payable in the event of pregnancy, illness, injury or quarantine.⁽²⁾

Concern over the effect, particularly in the Maritimes, of proposed 1978 changes to the law (Bill C-14) led to certain modifications. It was decided that the re-entry qualification period for unemployment insurance would vary according to regional unemployment rates and there would be extended benefit phases for regions of high unemployment. Federal cutbacks in spending on unemployment insurance were to be offset by increased disbursements in the national employment strategy.

Under the new legislation, claimants whose income exceeded a certain level were made liable for repayment of part of the benefits received.⁽³⁾

As of 1 January 1979, the weekly unemployment insurance benefit was set at 60% of insurable earnings. The maximum insurable earnings for 1987 were \$530 per week, and maximum weekly benefits were \$318.

Even with the modifications made to the plan, the national cost of unemployment insurance benefits rose from \$4,394 million in 1980 to \$10,029 million in 1986.⁽⁴⁾

(1) Ibid., s. 4(c).

(2) An Act to Amend the Unemployment Insurance Act, 1971, S.C. 1974-75-76, c. 80, s. 9.

(3) S.C. 1978-79, c. 7.

(4) Prince (1987), p. 212.

Since January 1986, pension income relating to employment has been considered as earnings in determining the amount of benefit payments under the plan. (Pension income is taken to include any benefits from private pension plans as well as from the Canada and Quebec Pension Plans.)

Amendments to the Act in 1986 (Bill C-16) and in 1987 (Bill C-90, which came into effect in January 1988), provided that the Unemployment Insurance Commission may, with parliamentary approval, extend the period during which an insured person may qualify for benefits, taking into account the applicable regional rate of unemployment. Bill C-158, which received Royal Assent on 30 December 1988 and came into effect on 4 January 1989, provided that the period during which qualification for benefits may thus be related to the regional rate of unemployment will end in January 1990. Provision was made, however, for further extension of the period as before, by the Commission with the approval of Parliament.

C. The Canada Pension Plan

The Canada Pension Plan (CPP) was enacted in 1965,⁽¹⁾ providing a comprehensive, contributory pension scheme. Contributions to the program began in 1966, payment of retirement benefits in 1967 and of survivor's benefits in 1968. The legislation establishing the plan permitted the opting out of any province preferring to introduce its own comparable plan. Quebec opted out of the federal plan, choosing instead the Quebec Pension Plan. However, the two plans have been coordinated to provide in Canada a nation-wide system of contributory pensions which cover over 90% of the labour force.

The CPP is integrated with the Old Age Security program. Its objective is "to provide protection to contributors and their families against the loss of earning power in the event of the retirement, disability or death of the contributor."⁽²⁾ It is intended to supplement rather than replace alternative private retirement plans. Under the CPP, benefits payable after retirement are related to the previous earnings of

(1) Canada Pension Plan, S.C. 1964-65, c. 51.

(2) Canada, Health and Welfare, 1984-85 Estimates, Part III, p. 5-27.

eligible recipients. In addition to regular pension benefits, the plan also provides for supplementary benefits to orphans, spouses and disabled spouses.

The scheme was amended in 1974 to provide, among other things, for equal treatment for male and female contributors.⁽¹⁾ Legislation in 1977 further amended the Act to provide for the equal division between spouses of pension credits acquired during marriage in the event of a legal dissolution of the marriage.

A number of major revisions were made to the CPP in 1986, becoming effective on 1 January 1987. Among them were the following provisions:

- While a regular pension is payable at age 65, an adjusted benefit may be payable between ages 60 and 70, with decreased amounts before age 65 and increased amounts afterwards.
- Pensions are only payable under age 65 if the applicant has ceased working.
- The contributory period ends at age 70 or when pension payments begin, instead of at age 65 or on retirement, as before.
- Disability pensions were increased and provisions made for earlier coverage.
- The surviving spouse's pension will no longer cease upon remarriage.
- The definition of "spouse" was revised.
- Provisions for the disabled contributor's child's benefit were changed. Henceforth, a child may receive up to two benefits, rather than only one, if both parents were contributors.
- The maximum permissible amounts of combined surviving spouse's and retirement or disability pensions were increased.
- The amounts of maximum annual contributions and of basic exemption were increased.

Other important modifications of the plan included provisions for the division of pension credits in the event of divorce or separation of spouses.

(1) S.C. 1974-75-76, c. 4.

SOCIAL WELFARE PROGRAMS

A. The Canada Assistance Plan (CAP)

The provision of social services in Canada falls within provincial jurisdiction. Federal involvement, however, came about through measures to provide national funding for provincial programs. A major step in this direction was the enactment of The Canada Assistance Plan (CAP) by Parliament in 1966.⁽¹⁾ In effect it laid the basis for a national welfare program. The federal government under this plan undertook to pay half of the costs of social services provided by the provincial governments to persons in need. Welfare services provided under this cost-sharing arrangement included mothers' allowances, child welfare support, certain health care services for those in need and programs, such as day care and counselling, to remove causes of dependency. Through the CAP, the national government achieved a means of indirectly influencing provincial welfare programs and of speeding the development of programs in disadvantaged areas. The CAP formed an essential part of Canada's developing social security system enabling the provinces, through the cost-sharing formula, to provide a variety of services to the needy. Under the plan, assistance benefits are administered by the provinces.

The Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, previously mentioned, covered the major inter-governmental transfer programs, including the CAP, providing provincial governments a share of national resources for social welfare spending.

In July 1988 the Canada Child Care Act (Bill C-144) was introduced in the House of Commons. If enacted, it would have committed the federal government to share with provincial governments the operating and capital costs of child care provisions up to a maximum of \$4 billion over a period of seven years. The bill, however, did not become law, since it was not passed by the Senate before the parliamentary session ended with the calling of the election.

(1) S.C. 1966-67, c. 45; R.S.C. 1985, c. C-1.

B. Manpower Training and the Vocational Rehabilitation of Disabled Persons

The federal government shares responsibility for employment and economic development. In order to attain the national goal of realizing the productive potential of Canadians, several programs and services have been developed with the cooperation of the provinces.

Federal participation in these areas is not new. In 1912, the Agricultural Aid Act⁽¹⁾ was passed, providing for federal subsidies to the provinces to encourage agriculture. In 1913 the Agricultural Instruction Act⁽²⁾ made available to the provinces per capita grants for the establishment of such institutions as veterinary schools and agricultural colleges. This was the first major conditional grant program.

Since that time various Acts have been passed by Parliament involving federal participation in manpower and vocational training in response to particular needs. In 1967 the Adult Occupational Training Act⁽³⁾ led to the creation of the Canada Manpower Training Program and other plans.

The federal government, through the Department of Employment and Immigration, has paid the costs of occupational training of adults, financing programs provided by the provincial governments in technical institutes and community colleges as well as practical industrial training plans. The main objective is to provide workers with necessary skills to qualify for employment.

The Canada Employment and Immigration Commission administers and funds a variety of programs and services to combat unemployment, involving both training and job creation. These have included in past years the Canada Manpower Training Program, Critical Trade Skills Training, the New Technology Employment Program, the Canada Manpower Mobility Program and the Work-sharing program.

In accordance with the terms of federal-provincial agreements, the central government provides funds for training while the

(1) S.C. 1912, c. 3.

(2) S.C. 1913, c. 5.

(3) R.S.C. 1970, c. A-2; repealed 1982.

provinces generally are responsible for the content and methodology of training courses. Federal funds are provided in various categories. These have included basic and occupational skills, work adjustment, apprenticeship, job readiness and language training.

Trainees not eligible for unemployment insurance benefits may qualify in particular circumstances for certain living allowances.

Under the Vocational Rehabilitation of Disabled Persons Act,⁽¹⁾ the national government entered into agreements with provinces to share the costs of services providing retraining for disabled persons.

In 1985 the Canadian Jobs Strategy reorganized federal training and job development programs with new Job Development and Job Entry categories.

Section 15 on Equality Rights in the Charter of Rights and Freedoms took effect on 17 April 1985. The federal government that year endorsed measures to achieve employment equity for women, native people, the disabled, and visible minorities.

IMPLEMENTATION OF LEGISLATION: THE DEPARTMENT OF NATIONAL HEALTH AND WELFARE

The vehicle for the implementation of many of the social security and social welfare measures discussed has been the Department of National Health and Welfare. The Department was established by statute in 1944⁽²⁾ as part of the federal government's strategy for reorganizing society so as to insure against social and economic hazards. Its role was to coordinate plans with the provincial authorities to ensure that the provinces would progress socially at the same rate.

The scope of involvement of the Department has grown considerably since its early years. It now has the responsibility for administering extensive, federally legislated programs relating to the

(1) S.C. 1960-61, c. 26; amended by S.C. 1977, c. 54.

(2) Department of National Health and Welfare Act, S.C. 1944-45, c. 22; R.S.C. 1985, c. N-10.

health, social security and welfare of the people of Canada. Now included within its domain are three main branches dealing with health matters, two with income security or social services and others with service or advisory functions available to either.

The Health Protection Branch is responsible for setting standards for the sale of food, drugs and other items and for the control of communicable diseases. The Health Services and Promotion Branch administers the federal responsibilities for hospital and medical care insurance and is responsible for the promotion of health and prevention of illness.

The Medical Services Branch is responsible for providing health services to native Indians and residents of the territories as well as quarantine and immigration medical services.

On the welfare side, the Income Security Programs Branch administers the income maintenance programs - the Canada Pension Plan, the Family Allowance and Old Age Security programs. The Social Service Programs Branch administers various programs, most of which are cost-shared with the provinces. These include: the Canada Assistance Plan, Social Service Development, National Welfare Grants and New Horizons.

Although National Health and Welfare in recent years has had the largest departmental budget in the government, its expenditures are among the least discretionary of the total budget because "they involve a high proportion of statutory and federal-provincial obligations. About 97% of NHW expenditures are 'fixed' by legislation and varying obligations."⁽¹⁾ A high proportion of these expenditures are in the nature of transfer payments to provincial governments and to individuals. Changes to statutory payments by the Department require in practice not only federal legislative amendments but also consultation and agreements with the provinces.

The following is a list of some of the programs and activities of the Department:

(1) G. Bruce Doern (ed.), How Ottawa Spends Your Tax Dollars, James Lorimer and Co., Toronto 1981, p. 95.

- Old Age Security
- Guaranteed Income Supplement
- Family Allowances
- Canada Pension Plan
- Spouse's Allowance
- Health Services
- Health Promotion
- Health Insurance
- Fitness and Amateur Sport
- Medical Services

CONCLUSION

This paper presents only a brief overview of federal social security and social welfare legislation. The present Canadian system has developed through the creation of a variety of programs, some of universal application and others of benefit to particular groups. Provincially legislated programs, such as Workers' Compensation, have complemented national plans to protect Canadians to some extent from the major risks of life involved, for example, in old age, illness, disability and unemployment.

Since many of these subject areas are within provincial jurisdiction, national programs generally have been developed through negotiations and cooperation between the federal and provincial governments. Provincial initiatives have sometimes prompted the development of national legislation, as was the case with medicare. Generally, the funding capacity of the federal government has provided the power to influence the planning and composition of national schemes.

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