

**A Principled Approach: Considering Eligibility Criteria for Disability-Related Support Program through a Rights-Outcome Lens by Lora Patton, Brendan Pooran, and Rita Samson**

**Summary and comments by Colin Phillips**

**Introduction**

The provision of government income support programs that are intended to improve the independence of Canadians with disabilities have historically been guided by bio-medical or functional conceptualizations of disability. Under these models, the disabled person is seen as biologically flawed and/or unable to participate fully in society. They are therefore seen as a member of the “deserving poor” and worthy of assistance. With little regard for the lived experiences of people with disabilities, and the social barriers they encounter, these programs actually do very little to advance the equality of their beneficiaries.

In their research, Patton, Pooran, and Samson call upon governments to develop eligibility criteria for income support programs that is based on the rights and self-worth of the applicant. Using the Ontario Disability Support Program as an example, they offer eight policy and programmatic changes that would achieve this goal. Three recommendations are summarized below, and analyzed for their particular relevance for people with communication disabilities. However, it is first necessary to understand the core principles that underpinned this work.

**Core Principles**

In their call for papers about disability and the law, the Law Commission of Canada articulated six guiding principles for the project. Patton et al. subsequently adopted these statements as the framework for their analysis of income support programs. They are briefly summarized here:

- *Respect for the dignity and worth of persons with disabilities.* Fundamental to liberal democracy is the understanding that everyone is equal under the law and contributes to society. The worth of people with disabilities is not realized if they are seen as recipients of charity.
- *Autonomy and independence.* Canadians have the right to self-determination and independence in how they achieve their goals. However, eligibility criteria for income supports force an applicant to become financially dependent on a spouse and limit their ability to build financial security.

- *Inclusion and participation.* Fully integrating people with disabilities into society means that meeting their needs must be seen as essential, not a question of charity.
- *Equality and non-discrimination.* The concept of equity promotes fair treatment, despite recognized differences. In the context of income supports, equity embodies a broader understanding of the effects of disability and recognition that program recipients should not be living in extreme poverty.
- *Recognition that humans vary infinitely along a spectrum of abilities and that society must accommodate these variances into its mainstream.* Disability must be seen as an integral part of human existence; supporting people with disabilities must likewise be seen as integral public policy.
- *Respect for the diversity among persons with disabilities in the experience of disability.* A disabled person's experience is influenced by other characteristics such as age and gender. Support programs must recognize this.

## **Recommended Policy Changes**

These principles were applied to current practices at ODSP. The authors suggest eight outcome measures that, if achieved, would represent a shift to a rights-based administration of the program. Three outcomes are summarized here and analyzed for their specific applicability for people with communication disabilities.

### *Definition of Disability that Recognizes Individual Experience.*

ODSP has a comparatively broad definition of disability. However, evidence suggests that applications from people with lesser known, or less visible disabilities are being denied by adjudicators who doubt the seriousness of the impairment. Therefore, a more individualized assessment of how the disability affects the lived experiences of the person is needed.

### *Definition of the Benefit Unit that Empowers the Individual.*

Current ODSP guidelines stipulate that if the applicant has a spouse, their combined income and assets must be calculated to determine financial eligibility. The authors argue that this must be stopped as it creates financial dependency and robs the applicant of dignity.

\*One has serious concerns about the likelihood of this situation occurring to a person who acquires their communication disability later in life, through a stroke or other brain injury.

*Income Allowance that Promote Acceptable Living Standards.*

The maximum yearly income for an ODSP recipient falls approximately \$5,000 below the poverty line for most Ontario questions. Allowing their disabled citizens to live in such extreme poverty compared to their able bodied counterparts calls into question the government's commitment to equality. Furthermore, having such limited income is a major impediment to being able to fully engage in society. Recipients are permitted to supplement their benefits with a limited amount of employment income.

\*However, people with communication disabilities face such significant barriers to employment that finding a job is often out of reach.