

Inside this issue:

ID Clinic in High Demand	2
A Couple of Good-Byes	3
Tapas for TAPS	3
Changes to TAPS' Board	3

## A DEAL WITH THE DEVIL

### MINISTRY OF SOCIAL DEVELOPMENT DEBTS AND RECOVERY PROCESSES

By Jen Matthews

Debt to the Ministry of Social Development and Poverty Reduction got you feeling down? Unsure how the debt was calculated or how the Ministry will collect on it? You're not alone. TAPS' income assistance advocates regularly speak to people who have questions and concerns about debts to the Ministry. So we've decided to do a breakdown of the most common debts people incur and the ways the Ministry collects on these debts.

TOGETHER  
AGAINST  
POVERTY  
SOCIETY

#### TYPES OF MINISTRY DEBTS

##### 1. Repayable Hardship Assistance

Section 8 of the *Employment and Assistance Regulation* disqualifies people from receiving



income assistance when they've applied for another type of income. This does not apply to employment income, or types of "exempt" income, like child support, GST credits,

or Canada Pension Plan (CPP) children benefits, but does apply to income from Employment Insurance (EI), non-exempt CPP, spousal support, and other non-exempt sources.

When someone is prevented from receiving income assistance because they've applied for income from another source, they may be eligible for repayable hardship assistance while waiting for the other income to come in. However, as a condition of receiving hardship assistance, the person must agree in writing to repay the amount of hardship assistance received.

(See Ministry Debts, page 4)

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#302 – 895 Fort St.  
Victoria, BC  
V8W 1H7  
Tel: 250-361-3521  
Fax: 250-361-3541  
[www.tapsbc.ca](http://www.tapsbc.ca)



## ID CLINIC IN HIGH DEMAND

*By Doug King*

Last November TAPS joined forces with the Pro Bono Students of Canada, Our Place Society, the Greater Victoria Public Library, and the constituency office of MLA Carole James to start Victoria's first ever ID clinic. The ID clinic is a place where low-income people can come to get help filling out applications for replacement ID, and obtain financial support to cover any applicable fees. While the idea behind the clinic is relatively simple, word about

our service quickly spread, and before long we started seeing line-ups to access the two UVic law students who volunteered as clinicians.

Low-income people often rely on government services to access much needed benefits for their health, income, and housing security, and to access those benefits you invariably need to prove who you are through identification. Even people who have been able to access benefits may find it hard keeping those benefits flowing without ID.

But if someone loses their ID, replacing it can be harder than you think. Many applications require significant fees, have complicated processes, and force an applicant to engage with a notary or guarantor to vouch for who they are. We have seen the barriers to obtaining identification be responsible for shocking hardships on people, and the ID clinic was created to break down those barriers.

Thanks to generous funding from the Victoria Foundation and the Vancouver Island Public Interest Research Group (VIPIRG), we have already helped well over 100 people apply for replacement ID, and after going on a short

## PERSONS WITH DISABILITIES

TAPS has advocates who can help you apply for Person With Disabilities status (PWD) through the Ministry of Social Development and Poverty Reduction. TAPS can also help you with an appeal if you have been denied. Call us at 250-361-3521 for more information. If you are at the appeal stage, get in touch with us as soon as possible after receiving your letter of denial, and tell the receptionist you are calling about a disability appeal.

break in April, we are optimistic that we will be able to keep the clinics running over the summer and beyond.

*ID Clinics are held every two weeks and rotate between the Our Place Shelter and the downtown branch of the Greater Victoria Public Library. For information on upcoming clinic dates in the summer and fall of 2018, call TAPS, drop in to the TAPS office, or follow TAPS on social media. ■*

## FEDERAL DISABILITY ADVOCACY PROJECT

TAPS' Federal Disability Advocacy Project can provide information on CPP-Disability, the Disability Tax Credit and the Registered Disability Savings Plan. If you would like to speak with an advocate about any of these benefits, or would like help applying, contact Caitlin or Daniel at TAPS at 250-361-3521.

*Save the Day*

*Tapas*  
*for*  
**TAPS**

*Thursday*  
*June 7*

Full information on time,  
location, and tickets  
will be available  
after April 12th.

Contact Doug King  
at [ed@tapsbc.ca](mailto:ed@tapsbc.ca)  
or call the TAPS office  
at 250-361-3521.

## CHANGES TO TAPS BOARD

There have been a couple of changes on TAPS' board of directors: our new board president is Sarah Cunningham; Patricia Cochran steps into the vice-president's position. Ryan Tonkin continues as secretary and Nathan Cartwright continues as treasurer.



## A COUPLE OF GOOD-BYES

We can't believe we're saying good-bye to our wonderful Employment Standards legal advocate David Huxtable at the end of April. David, at TAPS since 2016, has fought hard for the rights of workers in Victoria. He has developed ongoing relationships with labour unions and has helped grow TAPS' Employment Standards Legal Advocacy Project into a very effective machine for fighting for workers' rights. As everyone at TAPS knows, David gets a certain glint in his eye whenever he has a chance to take on a boss who is trying to get away with a particularly sneaky way of cheating workers. It has been great fun having David at TAPS. His karaoke skills will not be surpassed.

Our board president, Marika Albert, has stepped down from the board to take a job as Director of Policy at the BC Non-Profit Housing Association in Vancouver. Marika has contributed so much to TAPS during her three and a half years on the board, and we thank her for all her work. We will miss David and Marika and wish them the best in Vancouver.

*All of Us at TAPS*

## TAPS STAFF

**Doug King**  
Executive Director

**Khalela Bell**  
Outreach Legal Advocate

**Izzy Dehler-Hyde**  
Coordinator of the  
Volunteer Disability  
Advocacy Project

**David Huxtable**  
Employment Standards  
Legal Advocate

**Daniel Jackson**  
Income Assistance Legal  
Advocate, Federal Disability  
Legal Advocate, and Tenant  
Legal Advocate

**Yuka Kurokawa**  
Tenant Legal Advocate

**Jen Matthews**  
Income Assistance Legal  
Advocate

**Emily Rogers**  
Tenant Legal Advocate

**Caitlin Wright**  
Federal Disability Legal  
Advocate

**On Leave**  
John Cooke  
Thea McDonagh  
Stephen Portman

Taproot is published bi-monthly. Newsletter artists:  
Mitch Lindsay Joan Stiebel

# TAPS TAX CLINIC

Thursdays

8:30 to 4:30

First come, first  
served.

Call TAPS to check  
clinic hours for  
May.

Check us out at  
[www.tapsbc.ca](http://www.tapsbc.ca)

*(Cont'd from Ministry Debts, page 1)*

## 2. Repayable Supplements

Some Ministry supplements are also considered repayable, meaning the amount issued for the supplement must be repaid to the Ministry. Before receiving the supplement, a person is required to sign a document agreeing to repay the Ministry for the amount received. For some supplements, like security or utility deposit supplements, the agreement allows the Ministry to begin collecting on the debt immediately, while for other supplements, like reconsideration or appeal supplements, collection is

dependent on the outcome of the reconsideration or appeal, and so begins at a later date, if applicable.

## 3. Overpayments

An overpayment occurs when a person receives Ministry assistance—either hardship, income, or disability assistance—that they were not entitled to under the legislation. If a person receives income or has assets over the allowable limit, if their family size changes, or if they have a reduction in shelter costs below their shelter assistance amount (\$375), they may become ineligible for part or all of their forthcoming benefit. Overpayments typically occur when a person does not report these changes to the Ministry, and is often discovered through investigative processes like file or compliance reviews. At TAPS, we most often see overpayments result when clients have misunderstood the Ministry's complicated reporting requirements, or have not received the help they need to complete their monthly reports. It is also important to note that an overpayment can be the result of an administrative error on the part of the Ministry, which, as frustrating as it is, still results in a debt owed to the

Ministry.

An overpayment is calculated by totalling the amount of assistance the person received that they were ineligible for, and should never exceed that amount. For example, say Serena, who receives \$710 in income assistance, forgot to report her earnings of \$1,310 and continued to receive her full income assistance entitlement. Because her earnings exceeded her total assistance amount and her \$400 earnings exemption, she was technically ineligible for the assistance she received the following month. Therefore the Ministry should calculate an overpayment of \$710 (the amount of assistance Serena received that she was ineligible for), not \$1,310.

The Ministry has a duty to inform clients about any alleged overpayment and typically does so by written notice. The written notice should include the reason(s) for the alleged overpayment, a breakdown of how the alleged overpayment was calculated, and information about the recovery process. The Ministry also has a duty to inform clients of their right to appeal through the Ministry's appeal processes. TAPS routinely helps people dealing with overpayment issues, so if you have

*(See Ministry Debts, page 5)*

(Cont'd from Ministry Debts, Page 4)

concerns about an alleged overpayment being applied to your file, please don't hesitate to contact us.

### MINISTRY RECOVERY PROCESSES

Section 28 of the *Employment and Assistance Act* and Section 19 of the *Employment and Assistance for Persons with Disabilities Act* give authority to the Ministry to collect on client debts owed to it, regardless of whether the debt is the result of Ministry error, and also permit various collection

processes. The type of recovery action the Ministry undertakes varies depending on the nature of the debt, and whether or not the person is still receiving assistance from the Ministry.

#### 1. Assignments/Consent to Deduct

The Ministry requires that a person sign an assignment or consent to deduct form when there is a possibility of a person receiving forthcoming income from another agency, like those outlined above in the "Repayable Hardship Assistance" section. By signing an assignment/consent to deduct, a person

is authorizing the other agency to send forthcoming funds directly to the Ministry as a way of repaying the debt. For example, say Philippe is waiting for the outcome of an EI application he submitted several weeks ago, and in the meantime he receives hardship assistance from the Ministry. By signing the assignment/consent to deduct, Philippe is permitting Employment and Social Development Canada to send a portion of his forthcoming EI payment (typically an initial EI payment is a lump sum payment, as EI is backdated to the date of

(See Ministry Debts, page 6)

## BECOME A TAPS MEMBER!

Want to support TAPS? Why not become a member! We are happy to waive the fee, so it doesn't have to cost you anything. You will get the Taproot mailed or e-mailed to you.

### Together Against Poverty Society Membership Registration 2018

Together Against Poverty Society, #302 - 895 Fort Street, Victoria, BC, V8W 1H7

Annual Membership Fees:  Unwaged \$5 (we are happy to waive this fee)

Waged \$20

Organization \$80

Method of payment:  Cash  Check  N/A

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ e-mail: \_\_\_\_\_

I would like to join TAPS' mailing list to receive:  E-mails from TAPS about its work

Taproot—TAPS' newsletter

>>>  by e-mail

by postal mail

*(Cont'd from Ministry Debts, page 5)*

application) directly to the Ministry to repay the debt. It is important to note that the payment provided from the agency, in Philippe's case, Employment and Social Development Canada, to the Ministry should not exceed the debt amount.

While technically people "choose" to sign the assignment/consent to deduct, for most people there's no real choice at all, as people typically only apply for Ministry help when they have no other option (it's actually a requirement, as Ministry programs are considered programs of "last resort"), and completing the

**Check TAPS out on  
facebook**

## **VOLUNTEER AT TAPS!**

**Come and volunteer  
on our busy front  
desk—  
a great way to  
participate in the fight  
against poverty!**

**Call Heidi  
at 250-361-3521**

security of repayment form specified by the Ministry is a condition of eligibility for hardship assistance.

### **2. Repayment Agreements**

If a person who has incurred a debt to the Ministry continues to receive monthly assistance, the Ministry may request that the person sign a Repayment Agreement. By doing so, the person acknowledges the debt to the Ministry and agrees to begin repaying the Ministry immediately through a deduction from their monthly assistance. The minimum monthly repayment (or amount to be deducted from assistance) is \$10 a month for most overpayments, though it increases to \$20 a month for debts from security and utility deposits.

### **3. Promise to Repay**

The Ministry requires that a person sign a Promise to Repay before they are issued certain types of repayable hardship or repayable supplements. Similar to the Repayment Agreement, the Promise to Repay is also an acknowledgement of debt, but instead of authorizing the Ministry to begin collection action immediately, it is an agreement to pay the debt at a later date. Typically this type of agreement is used when the person is waiting

## **TAPS**

for an outcome that will determine whether or not a debt will be incurred. For example, a reconsideration supplement issued for assistance deducted from someone's monthly entitlement would only be repayable if their request for reconsideration is unsuccessful.

### **4. Overpayment Notifications**

Instead of a Repayment Agreement, which requires that a person acknowledge their debt to the Ministry, a person who incurs an overpayment because of personal error should be provided with an Overpayment Notification. By signing the Overpayment Notification, a person acknowledges that they were advised of the overpayment and of their right to appeal through the Ministry's appeal processes. It is not an acknowledgment of debt, and does not prevent a person from exercising their right to appeal. The Overpayment Notification should be accompanied by a chart breaking down how the Ministry calculated the overpayment. It should also include an outline of the Ministry's collection action. As with a Repayment

*(See Ministry Debts, page 7)*

(Cont'd from *Ministry Debts*, page 6)

Agreement, if the person is still receiving Ministry assistance, the overpayment debt will be paid back to the Ministry through a monthly deduction from their assistance (minimum \$10 per month).

### 5. Offense Overpayments/ Litigation

In situations where the alleged overpayment exceeds \$5,000, the Ministry *may* refer a person's file to a Ministry Investigator (MI) to consider whether criminal charges will be recommended to Crown Counsel. Criminal prosecution may result in incarceration and/or a restitution order requiring the person to repay an amount ordered by the court. If the restitution determined is less than the full debt owed to the Ministry, the Ministry may also initiate collection action on the balance.

If a person is convicted either for fraud or for falsely misleading the Ministry, and continues to receive assistance, the minimum amount they are required to repay is \$100 per month, though there are exemptions for people experiencing or at risk of homelessness, or if the deduction would result in danger the person's health.

### 6. Collection Agencies

Debts to the Ministry do not go away, even if the person is no longer receiving Ministry assistance. For example, if a person turns 65 and is now receiving seniors' benefits, if they have employment income high enough to make them ineligible, or if they have moved outside of the province, the person would no longer receive income assistance, but they would still have a debt to the Ministry.

If a person has an outstanding Ministry debt and is no longer receiving Ministry assistance, the debt is automatically sent from the Ministry's Financial and Administrative Services Branch (FASB), which is tasked with reviewing the collectability of Ministry debts, to Revenue Service of British Columbia for collection within 90 days of the file closing. Once transferred, a repayment agreement will be created with Revenue Services, who will take on collection action from there on in. ■



## BECOME A MONTHLY TAPS DONOR!

With your support, individuals and families living in poverty in our region will have access to critical legal advocacy and educational services. TAPS' services are unique in their design and delivery, and offer knowledge, empowerment and, in many cases, a new sense of hope.

Select a monthly amount that's affordable to you, and TAPS will automatically deduct it from your checking account each month. You'll never have to write a check, buy a stamp or find an envelope again.

Monthly donors receive the following benefits:

- Updates on TAPS programs
- Annual tax receipt for all your donations during the year
- Taproot delivered to your e-mail.

See the monthly donor form on page 8 of this newsletter.

## ABOUT TAPS

TAPS was established and registered as a society in 1989. We provide legal information and representation on issues relating to income assistance, provincial and federal disability benefits, residential tenancy, and employment standards to people in the Greater Victoria area. We also provide public legal education in these areas and on broader poverty issues.

You can reach us between 9:30 am and 4:30 pm, Monday to Friday, by phone at 250-361-3521 or in person at #302 - 895 Fort Street. The office is closed daily for lunch between noon and 1:00 pm and is closed to walk-in clients on Monday and Friday mornings.

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## Thank You for Supporting TAPS' Legal Advocacy!

The best way to support TAPS is by becoming a monthly donor! Please submit this form and your voided check to: Together Against Poverty Society, #302 - 895 Fort Street, Victoria, BC, V8W 1H7

Date: \_\_\_\_\_

*Please debit my bank account (attach VOID cheque):*

\$10   \$25   \$35   \$50   \$100   Other amount \$\_\_\_\_\_ (please specify)

*I would like this donation debit to be processed through my account on the 25th of each month.*

Signature: \_\_\_\_\_

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*A tax receipt for your total monthly donations will be sent to you at the end of the calendar year.*

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