

2022 Budget Consultations Submission

to the Ontario Minister of Finance

February 11, 2022

Income Security Advocacy Centre
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INCOME SECURITY ADVOCACY CENTRE
Centre d'action pour la sécurité du revenu
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The Income Security Advocacy Centre

The Income Security Advocacy Centre (ISAC) is a specialty legal clinic funded by Legal Aid Ontario. ISAC's mandate is to advance the rights and interests of low-income Ontarians with respect to income security and employment. We carry out our mandate through test case litigation, policy advocacy, community organizing and public education.

Founded in 2001, we are governed by a community Board of Directors representative of all regions of Ontario. Our Board includes legal clinic caseworkers and people who identify as low-income, with representation from Indigenous communities, racialized communities, people with disabilities and clients of income support benefit programs.

Recommendations

Informed by ongoing consultation with our community partners on issues relevant to our mandate, we make the following seven recommendations for the Spring 2022 budget:

A. Invest in Justice for Workers:

- **Recommendation #1:** Legislate 10 Personal Emergency Leave days in the *Employment Standards Act, 2000* that can be used for employer-paid sick leave. Legislate an additional 14 days of employer-paid sick leave during declared public health outbreaks.
- **Recommendation #2:** Immediately increase the minimum wage to \$20 per hour and implement laws to ensure that workers who do similar work receive equal pay.
- **Recommendation #3:** To protect workers and curb the spread of COVID-19, mandate increased and ongoing proactive inspections of Ontario workplaces for health and safety violations with at least quarterly inspections for high-risk sectors and impose deterrent penalties on violators.
- **Recommendation #4:** To protect app-based gig workers and end misclassification of employees, enact a presumption of employee status and the ABC test within the *Employment Standards Act* (ESA). This will ensure workers have access to the full protections of the ESA.

B. Invest in Income Security Programs

- **Recommendation #5:** Raise social assistance rates and broaden access
 - a) Raise social assistance rates immediately to \$1087 for Ontario Works and \$1525 for Ontario Disability Support Program (1995 levels adjusted to inflation) and implement as a flat-rate structure.
 - b) Implement measures to bring Ontario Disability Support Program rates to the Market Basket Measure and Ontario Works clients to 75 per cent of Market Basket Measure within five years, with annual increases indexed to inflation.

- c) Ensure access to social assistance to all people who live in Ontario, regardless of immigration status.
- **Recommendation #6:** Allow low-income Ontarians to keep more money in their pockets
 - a) End all clawbacks on COVID-19 related federal benefits including the Canada Workers Lockdown Benefit (CWLB), the Canada Recovery Sickness Benefit (CRSB), the Canada Recovery Caregiving Benefit (CRCB), and other federal benefits including Canada Pension Plan Disability (CCP-D) and Employment Insurance (EI).
 - b) Forgive all overpayments for social assistance clients who have accessed temporary federal pandemic-related benefits.
 - c) Ensure access to all health and other benefits for social assistance clients who access federal benefits for the duration of the pandemic.
 - d) Eliminate the \$10,000 limit on voluntary gifts and payments and raise the limit on cash and other liquid assets to \$20,000 for Ontario Works clients. For Ontario Disability Support Program clients, eliminate the \$10,000 limit on voluntary gifts and payments and raise the asset limit to \$100,000.
- **Recommendation #7:** Ensure the success of modernization of social assistance
 - a) Ensure the transformation of Employment Ontario is evidence-based, that there is sufficient job training, and that jobs are long-term, stable, and provide decent wages and meaningful work.
 - b) Invest in robust trauma-informed and client-centred wraparound services including childcare, disability, housing, and literacy, mental health and addiction, settlement, translation, and transportation supports to provide life stabilization services and to address barriers to employment for those who are ready and able to work. These supports must be culturally appropriate and responsive to the needs of Indigenous, racialized, and newcomer communities and the language rights of Francophone communities.
 - c) Engage in in-depth consultation and co-design with social assistance clients on all aspects of modernization of social assistance.
 - d) Implement a new \$100 per month digital access benefit for essential cellphone and Internet services, a \$200 digital access benefit every two years to pay for digital equipment and hardware, and digital literacy training that will assist with using new digital tools and platforms.

C. Invest in Access to Justice

- **Recommendation #8:** Immediately appoint more full-time, qualified, and competent adjudicators to the Human Rights Tribunal of Ontario to ensure timely and effective case hearings
- **Recommendation #9:** Increase Legal Aid Ontario funding to cover future potential shortfalls and develop a longer-term, and structurally stable funding plan. This will support low-income Ontarians in accessing justice throughout the pandemic and for the future.

A. Invest in Justice for Workers

1. Legislate 10 employer-paid sick days and 14 additional paid days during public health outbreaks

Paid sick days are key to public health and saving lives. This has never been clearer than during the COVID-19 pandemic. Despite relatively high vaccination rates in Ontario, the COVID-19 virus has continued to evolve and appears to be far from over. Over eleven thousand Ontarians have died of the disease¹ and the new Omicron variant has infected individuals at a staggering rate. If Ontario is to contain and curb the pandemic, there must be universal, accessible and permanent employer-paid sick leave for all.

Staying home when sick is one of the most effective containment strategies for infectious diseases. But workers without paid sick days must choose between caring for their health or earning an income to support themselves and their families. Inevitably, many will choose to go to work while sick, leading to the spread of illness, costs for businesses and the economy and avoidable health care expenditures with long-term impacts.² Conversely, numerous studies have shown that when workers have access to paid sick days, the spread of illness is contained, the workers and their co-workers are more productive, and the burden on public health resources decreases.^{3,4,5,6}

Paid sick days are also critical to achieving equitable protections for workers in Ontario. Low-wage and racialized workers have been hardest hit by the pandemic. They are more likely to be engaged in the precarious work deemed “essential,” including work in grocery stores, cleaning, delivery, long term care and farm work.⁷ These workers are at higher risk of contracting COVID-19 and yet are less likely to have paid sick days. In other words, those workers most in need of paid sick days do not have access to them.

It should come as no surprise, then, that low-wage and racialized individuals constitute disproportionate numbers of those who have contracted the illness.⁸ In Ontario, despite making up only approximately 33% of the population, racialized Ontarians constituted approximately 80% of COVID cases.⁹ The pandemic alone has not produced these inequities but has reinforced and exacerbated existing inequities among poor and racialized communities and has hit them the hardest. Not only is this unjust, but this is a threat to public health and the economy.

Ontario’s Worker Income Protection Benefit program is not an adequate substitute for employer-paid sick days:

- The program is limited to illness for COVID and fails to recognize that workers need sick days for other illnesses, to the benefit of both worker and employer;
- The program only provides for three sick days, which is simply not enough for workers who contract COVID and may need to isolate for 14 days;
- It only covers up to \$200 per day, which means workers who earn more may not be able to afford to take time off and will attend at work sick, likely endangering their co-workers;
- Because employers are reimbursed up to \$200 by the government, the program is taxpayer funded and comes out of workers’ own pockets; and,
- The program is only temporary.

The Canada Recovery Sickness Benefit is also not an adequate substitute. It is not accessible to workers who earned less than \$5,000 in the previous year, nor to undocumented and migrant workers; and it provides only partial income replacement for many workers.

Legislating employer-paid sick days is crucial to containing the pandemic and to longer term public health benefits. In order to protect the health of Ontarians, minimize health care expenditures and restore our economy, Ontario must legislate paid sick days for all.

Recommendation #1: Legislate 10 Personal Emergency Leave days in the *Employment Standards Act, 2000* that can be used for employer-paid sick leave. Legislate an additional 14 days of employer-paid sick leave during declared public health outbreaks.

2. Increase the minimum wage to \$20 and reinstate “equal pay for equal work”

Increase the minimum wage. The increase in Ontario’s minimum wage to \$15 starting on January 1, 2022 was a welcome improvement for workers struggling to get by during the pandemic. However, \$15 an hour is no longer enough. When the provincial government cancelled the planned raise to the minimum wage in 2018, it also froze the wage for the following two years. The cancellation and subsequent freeze imposed a real dollar wage cut on the province’s lowest paid workers because the cost of living increases each year.

As a result, workers’ wages have fallen behind. At the same time, the cost of basic household goods, transportation, and other essential goods and services has risen significantly as a consequence of the pandemic. Year over year inflation in Ontario rose to 5.2% in December.¹⁰ A study of rental rates of 100 towns and cities across Ontario found that a one-bedroom apartment is unaffordable for a full-time, minimum wage worker in 98 out of 100 communities.¹¹ In short, the current minimum wage has left vulnerable and essential workers struggling to get by at a time when they need income security the most, and has particularly hurt equity-seeking groups including persons with disabilities and racialized and Indigenous communities. They deserve a living wage.

Raising the minimum wage is good for the economy. After the minimum wage increased by 21% from \$11.65 to \$14 in 2018, Ontario’s unemployment rate dropped to the lowest level since 2000; the province saw the creation of 78,000 full time jobs that year;¹² and, job and wage growth outstripped the rest of Canada in low-wage sectors such as food and accommodation.

Increases in the minimum wage also encourages consumer spending and boosts local businesses that are much needed in this pandemic. Household spending constitutes nearly 60% of Canada’s gross domestic product.¹³ Low-income households in particular spend increased wages on essential goods and services and on their families. This puts money back into local economies and would support businesses that have been hurt by the pandemic. By way of contrast, tax breaks for the wealthiest do not have the same benefit, as they tend to save more and spend a smaller percentage of their income.

Legislating a \$20 minimum wage with annual adjustment in line with increases in the Consumer Price Index is the best strategy for reducing poverty and boosting the economy, both during the pandemic and beyond.

Reinstate equal pay for equal work. Workers who are doing similar work should be paid the same. Under the current *Employment Standards Act, 2000* employers are entitled to pay temp agency workers, contract and part-time workers at different rates compared to full-time permanent workers doing similar jobs. Differential pay on the basis of employment status is an arbitrary and unjustified distinction affecting more than one in five employees in Ontario. The failure to ensure

“equal pay for equal work” puts less money in the pockets of Ontarians to reinvest into the economy, and disproportionately affects women, recent immigrants, young and older workers and racialized workers.

Conversely, implementing “equal pay for equal work” would not only help to address those inequities, but would also enhance key health protections in essential work as well. For example, low-paid, part-time and insecure work in care homes has long forced many care workers to work at multiple homes. During the COVID-19 pandemic, this has contributed to the spread of the virus among staff and patients alike, with tragic consequences in some cases. Requiring “equal pay for equal work” would lower the economic incentive for employers to use part time and casual jobs and increase incentives for permanent full-time work.

Recommendation #2: Immediately increase the minimum wage to \$20 per hour and implement laws to ensure that workers who do similar work receive equal pay.

3. Strengthen enforcement of workplace health and safety laws

On May 30, 2020, Bonifacio Eugenio-Romero tragically died of COVID-19. He contracted it while labouring at a farm in southwestern Ontario before passing away in hospital.¹⁴ Since then, three more migrant farm workers have died of the virus, while over 1,600 have contracted it.¹⁵ The staggering numbers reflect the squalid living and working conditions that migrant farm workers in Ontario are regularly forced to endure.

Regular, widespread enforcement of workplace health and safety standards can help prevent similar tragedies in the future – and contain the pandemic. The SARS Commission, which investigated Ontario’s response to the 2003 SARS epidemic, reported that enforcement of workplace safety laws is an “integral” infection control measure.¹⁶ That report also highlighted the Ministry of Labour’s “sidelined” role as a key failing during the deadly outbreak.

In January 2021, the Province expanded its workplace safety inspections to sectors vulnerable to COVID-19 outbreaks. At that time, 11,400 workers in Ontario had contracted the disease due to work-related exposures. Now, with the rapid spread of the highly contagious Omicron variant, Ontario’s Chief Medical Officer of Health estimates that as many as 30% of the workforce may be forced to take time off work for sickness.¹⁷ It is more important than ever that Ontario conduct workplace inspections that are proactive and ongoing, rather than one-time inspection blitzes. Violations must be accompanied by meaningful penalties if they are to be deterrent to other employers. Workers must also be educated about their rights and how they can report workplace violations without fear of reprisal by the employer.

Failure to adequately enforce workplace legislation, which in Ontario includes both the *Occupational Health and Safety Act* and the *Employment Standards Act, 2000*, has the greatest impact on historically disadvantaged groups and communities. Women, racialized workers, recent migrants (including temporary foreign workers) and single parents, are more likely to be working in precarious jobs,¹⁸ including the low-paid work deemed essential during the pandemic.¹⁹ Workers in these forms of “non-standard” employment, including temporary, part-time, or contractual employment, are more vulnerable to employer exploitation and abuse.^{20,21} Not surprisingly, employment standards violations such as unpaid wages are more likely to be found in workplaces with these features.^{22,23}

Workers deserve safe working conditions. Investment in proactive and ongoing enforcement can save lives and curb the spread of COVID-19. A swift and strong enforcement response to uphold the health and safety rights of Ontarians is needed.

- **Recommendation #3:** To protect workers and curb the spread of COVID-19, mandate increased and ongoing proactive inspections of Ontario workplaces for health and safety violations with at least quarterly inspections for high-risk sectors and impose deterrent penalties on violators.

4. End misclassification and support app-based gig workers

Throughout the pandemic frontline workers have provided vital services to our communities, such as grocery shopping, transportation, food delivery and cleaning. Unfortunately, many of these workers whose labour we collectively rely upon are misclassified as independent contractors. As a result, they are denied basic protections afforded to employees under the *Employment Standards Act*, *Employment Insurance Act* (ESA), *Canada Pension Plan*, and other protective legislation.

When workers are misclassified as independent contractors, it makes their working conditions more precarious. For instance, app-based gig workers who are sick or experiencing COVID-19 symptoms do not have access to paid sick days. They cannot stay home, get tested for COVID-19, or self-isolate without risking their pay. The Ontario government's Worker Income Protection Benefit, which introduced limited paid sick days for Ontarians, did not cover app-based gig workers and other misclassified workers.²⁴

When misclassified workers lose their jobs through no fault of their own, as when Foodora left Canada in April 2020, they have no access to statutory termination and severance payments to tide them over while they search for new employment.²⁵ Misclassified workers are also unable to access basic protections in the ESA, such as the minimum wage and overtime and vacation pay, and job-protected leaves such as parental leave. This creates conditions for employers to exploit vulnerable workers in precarious work, and disincentivizes them from complying with basic workplace standards.

Workers in Ontario including app-based gig workers deserve full employment rights with no carve-outs from minimum wage, sick leave, vacation and public holiday pay, rest periods, pregnancy and parental leave, and the other basic workplace protections available to employees under the ESA.

In other jurisdictions across the world courts and governments are starting to recognize that app-based gig workers and other workers who are systematically misclassified are employees and are entitled to basic employment protections.^{26,27} The Ontario government should not create a new and separate category of workers' rights. Rather, it should aim to strengthen and enforce the laws already in existence to protect app-based gig workers and other misclassified workers.

In order to achieve this, the ESA should be amended to (1) reinstate the reverse onus on employers to prove that a worker is an independent contractor, and (2) use the "ABC test" for determining the worker's classification. The classification of employee status currently rests on a multi-factorial test that places the burden on workers to challenge and prove their status. Individual workers must make employment standards claims, making complex legal arguments, to access their ESA rights

when they have been misclassified. The test for determining employer-employee relationships must be consistent with the remedial purposes of the ESA. The onus must be on the employer or hiring entity to prove that a worker is not an employee. Over 25 States in the United States use this presumption of employee status and the “ABC test” to determine who is an employee to access employment rights such as workers’ compensation, unemployment insurance and labour standards protections.²⁸ This is a clear, comprehensive, and fair test for determining who is truly an independent contractor and not an employee.

The “ABC test” provides that a worker is presumed to be an employee unless the hiring entity can establish each of the following three factors: a) The worker is free from control and direction of the hiring entity in connection, both under the contract and in fact, for the performance of the work; b) The worker performs work that is outside the usual course of the hiring entity’s business; and, c) The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

- **Recommendation #4:** To protect app-based gig workers and end misclassification of employees, enact a presumption of employee status and the ABC test within the *Employment Standards Act* (ESA). This will ensure workers have access to the full protections of the ESA.

B. Invest in Income Security Programs

5. Raise social assistance rates and broaden access

The Province has seen significant savings from several sources during the COVID-19 pandemic and we recommend reinvesting these to support social assistance clients and address increased poverty during the pandemic. This will support vulnerable populations and save the Province money.

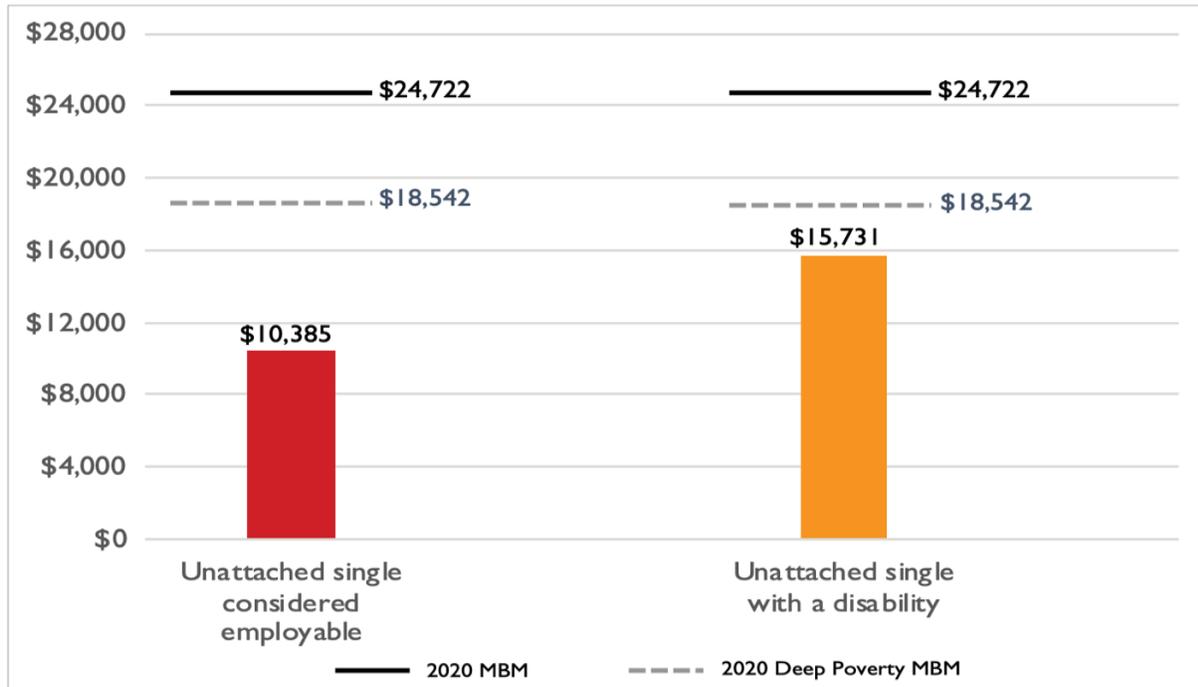
Under Ontario’s social assistance system, a single person receives only \$733 per month or \$8786 per year from Ontario Works (OW) and, if they qualify as a person living with a disability, \$1,169 per month or \$14,028 per year from the Ontario Disability Support Program (ODSP).²⁹ Rates have not kept up with inflation since the 21.6% cut in 1995 and even though inflation has increased nearly eight per cent since 2018, rates have been frozen.³⁰ This means that rates have decreased in real terms.

The Market Basket Measure (MBM) is Canada’s Official Poverty Line and “identifies households whose disposable income is less than the cost of a basket of goods and services that represent a basic standard of living.”³¹ With the current rates, Ontario Works clients experience a shortfall from \$1081 in rural Ontario to \$1422 in Toronto; Ontario Disability Support Program clients have a shortfall of \$646 in rural Ontario to \$986 in Toronto,³² and this calculation does not include the extraordinary costs associated with living with a disability.³³ This means that Ontario Works clients live over 64% below the poverty line while Ontario Disability Support Program clients live over 43% below that line. Even with federal and provincial tax credits and benefits, including the federal GST/HST credit (and one-time COVID-19 pandemic-related top-up payment), the federal climate action incentive (CAI), and the provincial Ontario Trillium Benefit, social assistance clients live

well below the deep poverty line, which “identifies households whose disposable income is less than 75 per cent of MBM,³⁴ as demonstrated by the following graph.³⁵

The province is currently pursuing a transformation of social assistance plan to “achieve the goals

Welfare incomes and poverty thresholds for single adults, 2020



of life stabilization”³⁶ without raising the rates. It is impossible to stabilize one’s life if the rates are not immediately and significantly increased.

Housing security requires support. Higher rates are vital to afford safe, affordable and adequate housing. Ontario has the highest percentage of “tenant families in core housing need” at just under 30 per cent.³⁷ The average price of bachelor apartments is \$1202 in Toronto, \$1000 in Ottawa, and \$819 in Peterborough; even in Greater Sudbury and Windsor, where the rate is \$699, the shelter allowance of \$390 for Ontario Works and \$497 for Ontario Disability Support Program does enable clients to afford a place to live.³⁸

Housing precarity and homelessness is on the rise. Because of loss of employment and reduced hours during the pandemic, there has been a rise of rent arrears and evictions, with 12,000 eviction hearings in Ontario in October and November 2020 alone and following the rise of the eviction ban in August 2020.³⁹ Many renters on social assistance are experiencing access to justice issues with the majority of hearings now occurring online. These evictions disproportionately impact Black, Indigenous, and queer people, and women and their children, particularly if their children are under the age of six.⁴⁰ In Ontario, over 70 per cent of food bank users are in private rentals and over 30 per cent said the cost of housing was the reason for their need to turn to food banks.⁴¹

ISAC supports all recommendations to address the housing crisis and to protect tenant right made by our fellow clinic, The Advocacy Centre for Tenants Ontario (ACTO).

Food security is vital. Life stabilization is only possible if one can afford nutritious, fresh, and culturally appropriate food. Food is expected to increase between five per cent and seven per cent,

which represents “the highest increase in both percentage and dollars in 12 years.⁴² Food costs in Ontario are expected to rise above the national average,⁴³ including on basics like meat, fruits and vegetables, and dairy.

In desperation there is increased use of food banks. From April 2020 to March 2021 there was a 10% increase in food bank use in Ontario, which represents the “largest single-year increase since 2009;”⁴⁴ the increase in Toronto was 47 per cent increase and the increase in new food bank clients outnumbered existing clients for first time.⁴⁵ In Ontario, almost 60 per cent of food bank users are on social assistance and access to insufficient income is the “largest barrier” to accessing food.⁴⁶ In one survey, two-thirds of respondents with disabilities in Ontario “have less than \$100 per month (\$3.33 left per day) after paying for housing and utilities” to pay food.⁴⁷ In Toronto, people with disabilities and people born outside of Canada are the majority of food bank clients at 51 per cent and 72 per cent respectively.⁴⁸ Across Canada, Indigenous people face “moderate or severe food insecurity at more than double the rate of the overall population.”⁴⁹ These numbers are shameful.

From the basic needs allowance of \$343 for Ontario Works clients and \$672 for clients on the Ontario Disability Support Program, clients are expected to pay not only for food, but for other basic services that have increased in cost during the pandemic. These include: utilities, personal protective equipment, higher costs associated with accessing the Internet with public libraries and drop-in centres closed for extended periods of time, telephone and data plans, transportation – the cost of which is the second largest factor in food bank use⁵⁰ – and the extra costs that people with disabilities experience based on their specific needs.⁵¹ Certain communities are already at a disadvantage due to systemic barriers. The poverty that low-income Ontarians’ experience, disproportionately impacts recent immigrants who have a low-income rate of 31.4% or more than twice the rate of non-immigrants at 12.5%.⁵² This rate particularly impacts people who have precarious immigration status and may not be able to access benefits. Further, racialized people have almost double a low-income rate at 21.3% compared to 11.5% for non-racialized Ontario residents.⁵³

Life stabilization is impossible without income security and the modernization of social assistance will fail without raising the rates. Though the Province has only consulted with 0.1% of clients regarding the life stabilization framework⁵⁴ of the modernization of social assistance, rate increases are repeatedly the single most important ask from clients with lived experience. ISAC strongly recommends major investments in social assistance that will save the Province money and assist social assistance clients to live a life of autonomy, health and basic human dignity.

- **Recommendation #5:** Raise social assistance rates and broaden access
 - a) Raise social assistance rates immediately to \$1087 for Ontario Works and \$1525 for Ontario Disability Support Program (1995 levels adjusted to inflation) and implement as a flat-rate structure.
 - b) Implement measures to bring Ontario Disability Support Program rates to the Market Basket Measure and Ontario Works clients to 75 per cent of Market Basket Measure within five years, with annual increases indexed to inflation.
 - c) Ensure access to social assistance to all people who live in Ontario, regardless of immigration status.

6. Reinvest provincial savings and stop unnecessarily deepening poverty

While there have been increased costs for the Province during the pandemic, there have also been savings in four areas. First, the province spent \$452 million less on Ontario Works and Ontario Disability Support Program in the first two quarters of 2021-22 compared to 2020-21,⁵⁵ Due to reduced caseloads,⁵⁶ this is the second year in a row that the province has had decreased spending on social assistance. Second, for the duration of the pandemic 87 % of supports have been federally funded, easing the financial burden on the Province.⁵⁷ Third, by treating the Canada Recovery Benefit, the Canada Recovery Caregiver Benefit (CRCB) and the Canada Recovery Sickness Benefit) as non-exempt income and clawing back benefits dollar-for-dollar, the province has accumulated significant savings while placing clients into overpayment. Recovery of these overpayments only deepens clients' poverty. Fourth, in early January 2021, the Ministry of Children, Community and Social Services decided to end health and other benefits access to social assistance clients who are able to access federal pandemic benefits including the CRCB and the CRSB, or the newer Canada Workers Lockdown Benefit (CWLB), which will result in further savings.

Pre-pandemic costs of poverty were \$3.9 billion in the health care system and \$1.1 billion in the justice system.⁵⁸ The Province has even more to lose if it does not invest in social assistance clients to curb the increase of evictions⁵⁹ and risk of homelessness, food insecurity, and subsequent worse health outcomes⁶⁰ that are a result of the pandemic. If action is not taken immediately, shelters and emergency rooms will continue to be inundated at increased cost to the Province.

To further help alleviate poverty among social assistance clients in the present and in future, the Province should also follow the lead of provinces such as Alberta and British Columbia and increase asset limits. Both Alberta and British Columbia have liquid asset exemption levels of \$100,000 for people with disabilities.⁶¹ This is an easy and low-cost way to alleviate further poverty for Ontario Disability Support Program clients. Similarly, raising the asset limit to \$20,000 for Ontario Works clients will allow those who have experienced job losses or other difficult circumstances during this pandemic to avoid liquidation to the point of deep poverty before receiving assistance. Finally, the need is greater now more than ever for external financial assistance during the pandemic. Eliminating the \$10,000 limit on voluntary gifts and payments – such as occasional money from family for groceries – for both Ontario Works and Ontario Disability Support Program clients, will assist greatly.

- **Recommendation #6:** Allow low-income Ontarians to keep more money in their pockets
 - a) End all clawbacks on COVID-19 related federal benefits including the Canada Workers Lockdown Benefit (CWLB), the Canada Recovery Sickness Benefit (CRSB), the Canada Recovery Caregiving Benefit (CRCB), and other federal benefits including Canada Pension Plan Disability (CCP-D) and Employment Insurance (EI).
 - b) Forgive all overpayments for social assistance clients who have accessed temporary federal pandemic-related benefits.
 - c) Ensure access to all health and other benefits for social assistance clients who access federal benefits for the duration of the pandemic.
 - d) Eliminate the \$10,000 limit on voluntary gifts and payments and raise the limit on cash and other liquid assets to \$20,000 for Ontario Works clients. For Ontario Disability Support Program clients, eliminate the \$10,000 limit on voluntary gifts and payments and raise the asset limit to \$100,000.

7. Ensure that modernization serves and supports social assistance clients.

In addition to the life stabilization goals of the Province's social assistance modernization plan,⁶² there are changes to employment services and increased digitization, automation, and centralization. We urge the Province to recognize that life stabilization services including childcare, disability, housing, and literacy, mental health and addiction, settlement, translation, and transportation supports are chronically underfunded and overwhelmed. Referrals to wait-lists cannot be considered life stabilizing. The modernization process will fail if these supports are not well-funded. We also urge the Province to ensure its modernization process is inclusive, supportive, and includes a full consultation process with the social assistance clients it affects.

Employment Ontario transformation may not be in clients' best interests. As part of the Province's modernization of social assistance, Ontario is moving forward with a plan to integrate employment services for social assistance clients with services available to the general public through Employment Ontario. This will move employment services for social assistance clients from the Ministry of Children, Community and Social Services (MCCSS) to the Ministry of Labour, Training and Skills Development (MLTSD) and includes funding for third-party and sometimes international and private Social Service Managers (SSM) to oversee local service delivery organizations. Even though there has been no "large-scale data collection and analysis"⁶³ from the first three prototype regions, the Province is moving forward in the next nine regions.

When a similar pay-for-performance model was piloted in 2008 in Ontario with WCG, one of the SSMs in the Peel region, only "13% of all participants found sustained employment for the full 18 months of the pilot".⁶⁴ Further, 72% of participants earned \$10 or less (approximately \$12.70 or less in 2021 dollars).^{65,66} While there was some job satisfaction, roughly half of the jobs were part-time and one third lasted three months or less.⁶⁷ Ultimately, this model cost the Province money.⁶⁸

A similar model that was used in Australia in 1998 found that participants "cycled on and off the program" because of precarious and short-term work options, that there was higher caseloads for caseworkers and higher staff turnover, and that some clients experienced increased mental health because of the program.⁶⁹ In the United Kingdom in 2011, a similar model placed only 3.6 per cent of clients in employment in the first 14 months, representing 30 per cent of the target and cost the government "significantly more" than expected.⁷⁰ Ontario's transformation is already showing some of these same concerns.

Employment supports are essential, however, there are serious concerns with preliminary findings and the transformation process so far. First, lack of "planning, preparedness, and communication" between the two Ministries,⁷¹ is causing particular difficulties for clients seeking employment supports while still on social assistance. This undercuts the goal of service integration. Second, the "increased administrative burden" and higher caseloads⁷² on employment service providers translates to less time being spent with clients. This counters the goal of a client-centred approach. Third, pay-per-performance funding is not recognizing pre-employment work, which is extensive for clients who experience several barriers to labour force attachment including challenges related to childcare, disability, housing, and literacy, mental health and addiction, settlement, translation, and transportation. Fourth, the 20-hour work week as a measure of success is problematic on two fronts: it is impractical if clients are simultaneously engaged in life stabilization or training; and, with little consideration for the quality of jobs, it is unrealistic that 20-hour work week will provide long-term financial independence.

In general, there is a lack of recognition that many clients require significant "life stabilization, upskilling and training supports to become employment and retention ready."⁷³ A single-minded

focus on moving people into any job, in a context where almost a quarter of new jobs in Ontario offer very low pay and little security,⁷⁴ may not lead to financial independence but instead, to work in unsafe and precarious working conditions. It is the increase in precarious employment, growing levels of working poor and cuts to other social and disability programs that force people to rely on social assistance, a point that was missed in the Auditor General's 2019 report on the Ontario Disability Support Program.^{75,76} These issues have intensified during the COVID-19 pandemic and, the realities of the labour market that the pandemic has skewed, must be considered.

There is no plan for how the ongoing employment transformation impacts Ontario Disability Support Program clients who are able to work. For people with disabilities who require accommodation, existing stereotypes that disabilities are continuous, permanent, and change very little over time contribute to barriers to accessing work, and do not paint an accurate picture of what the majority of persons with disabilities experience.⁷⁷ A more comprehensive understanding of disability includes people with episodic disabilities such as multiple sclerosis, rheumatoid arthritis, some forms of cancer and mental health issues.⁷⁸ The labour market remains ill-equipped to accommodate disability-related employment barriers, with compliance rates with the *Accessibility for Ontarians with Disabilities Act, 2005* hovering between the 40% and 67%.⁷⁹ It is imperative that all of these complex interactions are considered during the proposed integration of employment services for social assistance clients with Employment Ontario.

Digital access is essential. The pandemic has made digital access an essential service. However, without increased IT support, social assistance clients are further isolated. Clients with lived experience want choices around connecting with a caseworker. While some digital improvements as part of modernization will assist some clients with reaching caseworkers, the reality is that the automation, centralization and digitization that are part of modernization are having the opposite effect for many. Further, with current Canadian cellphone data plan rates at “the highest or among the highest in the world,”⁸⁰ access is out of reach for many social assistance clients. 29 per cent of people with disability who also use food banks have “‘no access’ to regular or reliable high-speed Internet”.⁸¹ Some clients must skip a meal to afford the cost of these services.^{82,83} In addition, the cost of equipment such as computers or cellphones to access digital platforms can be out of reach.

Many clients have experienced reduced access to computers and the Internet during the pandemic because free services such as libraries and drop-in centres have remained closed or had limited hours. Even after the pandemic, these service may not allow for the privacy required while communicating with caseworkers. Some clients lack the technical literacy to use these means of communication, may have low literacy skills, or may not speak English or French and may require interpretation services. The emphasis on the “digital first” approach that is part of modernization will contribute to further isolation of social assistance clients from caseworkers, particularly when assistance is required for complex cases. Clients need to receive funds to help them deal with increased IT support. This includes ensuring that clients have access to Internet with adequate broadband as well as technological hardware needed to be able to participate in digital and remote hearings at any tribunal.

- **Recommendation #7:** Ensure the success of modernization of social assistance
 - a) Ensure the transformation of Employment Ontario is evidence-based, that there is sufficient job training, and that jobs are long-term, stable, and provide decent wages and meaningful work.

- b) Invest in robust trauma-informed and client-centred wraparound services including childcare, disability, housing, and literacy, mental health and addiction, settlement, translation, and transportation supports to provide life stabilization services and to address barriers to employment for those who are ready and able to work. These supports must be culturally appropriate and responsive to the needs of Indigenous, racialized, and newcomer communities and the language rights of Francophone communities.
- c) Engage in in-depth consultation and co-design with social assistance clients on all aspects of modernization of social assistance.
- d) Implement a new \$100 per month digital access benefit for essential cellphone and Internet services, a \$200 digital access benefit every two years to pay for digital equipment and hardware, and digital literacy training that will assist with using new digital tools and platforms.

C. Invest in Access to Justice

8. Human Rights Tribunal of Ontario

The Human Rights Tribunal of Ontario is an accessible forum where Ontarians can seek individual and systemic redress for discrimination and harassment. This has made the Tribunal an important forum for low-income individuals from marginalized backgrounds, including those who identify as Black, racialized, Indigenous, migrants, disabled, and/or 2SLGBTQI+.

The Tribunal is only as effective as it is appropriately resourced. Since 2018, staffing shortages and the hiring of unqualified members have undermined the Tribunal’s capacity to hear cases in a timely way. Prior to 2018, the Tribunal had 22 full-time adjudicators handling over 3,000 claims per year.⁸⁴ It now has only 16 full-time adjudicators, while the number of new discrimination claims has risen to over 4,200 in the past four years.⁸⁵ In other words, there are not enough experienced and full-time adjudicators needed to manage the case load. Although some competent human rights adjudicators have been appointed, many of the new appointees lack the human rights and legal training required for the job.

This has led to very significant delays. In 2016-2017, 92% of parties were offered mediation dates within five months of agreeing to mediation, but in 2019-2020, only 27% of cases received mediation dates within the same time frame.⁸⁶ Multiple hearing dates are sometimes scheduled years apart, with decisions provided well over a year later. The backlog is so great that timely access to justice is no longer possible.

For applicants before the Tribunal, justice delayed is justice denied.

- **Recommendation #8:** Immediately appoint more full-time, qualified, and competent adjudicators to the Human Rights Tribunal of Ontario to ensure timely and effective case hearings

9. Legal Aid Ontario

Ontario’s network of legal clinics provides critical legal services to low-income communities in such areas as social assistance, housing, health, employment and human rights. Clinics are small,

independent, non-profit agencies that are governed by community-elected boards of directors and funded by Legal Aid Ontario (LAO).

The COVID-19 pandemic has put that funding at risk. LAO has historically depended on funding from the Law Foundation of Ontario, funding that is variable and tied to market forces. This funding has been significantly reduced due to the pandemic. At the same time, demand for legal aid services has risen during the pandemic from low-income Ontarians facing job loss, evictions, domestic violence and other issues. Legal Aid clinics have been instrumental to helping them secure much needed supports during the pandemic.

We therefore urge Ontario to immediately increase its LAO funding to cover potential future shortfalls resulting from decreased Law Foundation of Ontario contributions. We also urge the Province to work with LAO to develop a funding plan that ensures structural certainty. Crucial services such as those provided by LAO cannot be dependent on variable Law Foundation of Ontario funding.

Investing in legal aid is fiscally prudent. A report by the Canadian Forum on Civil Justice, which comprehensively reviewed the return on investment that comes from investing in legal aid, found that each dollar invested in legal aid could multiply in vast costs savings in other areas such as healthcare, housing and welfare programs.⁸⁷ It also leads to better individual and community well-being as low-income Ontarians access legal help to stay in their homes, maintain their incomes and overcome socio-economic barriers.

- **Recommendation #9:** Increase Legal Aid Ontario funding to cover future potential shortfalls and develop a longer-term, and structurally stable funding plan. This will support low-income Ontarians in accessing justice throughout the pandemic and for the future.

Thank you for your consideration of our submission.

Endnotes

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