

Fact Sheet

Income Support Benefits in New Brunswick

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Important Note: Laws, regulations and policies regarding income support benefits may change from time to time. Readers are encouraged to make sure that they are using up-to-date information when preparing an estate plan.

What are Income Support Benefits?

Income support (also known as income assistance or social assistance) is a provincial government program that provides monthly income benefits to people who are in financial need. Financial need is determined by the amount of income and assets that a person has (or sometimes the income and assets of people who live together).

What are the Different Categories of Income Support?

There are two main categories of income support benefits:

- Benefits under the **Transitional Assistance Program** are designed for people who are considered to have some training and employment potential, but also people with long-term health needs who are not eligible for the Extended Benefits Program.
- Benefits under the **Extended Benefits Program** are designed for people who are considered to be disabled, blind or deaf. “Disabled” is a status that must be verified by a Medical Advisory Board. A disability must be likely to continue indefinitely without substantial improvement and cause a person to be severely limited in their activities of daily living. People who receive income support benefits under this category receive the highest amount of income support per month. They are also entitled to a monthly “disability supplement”.

A limited percentage of people with a disability meet the eligibility criteria to receive income support benefits under the Extended Benefits Program. This is because the Medical Advisory Board determines that many people do not meet the criteria of being “disabled”, blind, or deaf. These decisions cannot be appealed, although people may re-apply for disability status at a later time. Generally, people with disabilities who are not eligible for Extended Benefits will

receive income support benefits under the Transitional Assistance Program.

What Kind of Benefits are Available?

Based on a person's other sources and amounts of income and assets, they can receive a monthly income support cheque, a health card (to help pay for the cost of prescription drugs, basic dental and eye care, and other health needs), emergency benefits, and assistance with funeral expenses.

What Income or Assets can a Person Have and Still be Eligible for Income Support Benefits?

Generally, government considers all income and assets that a person may have when determining eligibility for income support benefits. However, the government does allow people who receive income support to receive some types of income and benefits and keep some assets and still receive benefits. These exemptions include the following (this is not the complete list of exemptions):

Asset Exemptions

- Up to \$1,000 in "liquid assets" for a single person receiving or applying for Transitional Assistance Benefits and up to \$10,000 in liquid assets for a single person or family unit receiving or applying for Extended Benefits (that is, people who are certified disabled, deaf or blind). "Liquid assets" are assets such as money, bank accounts, assets that can be sold or other investments (for example, Canada Savings Bonds, RRSPs, and interest accounts).¹
- Up to \$50,000 in RRSP assets for a person eligible for Extended Benefits.
- A pre-paid funeral arrangement (any value).
- The cash surrender value of the life insurance policy.
- A person's home that is used as a principal residence and the property on which the home is located.
- A motor vehicle that is used for routine transportation, work, medical reasons, etc.
- Property which is necessary for a person to earn a living (for example, equipment, tools, etc.).
- The principal and the accumulated interest of a documented trust fund up to \$200,000 established for the person eligible for Extended Benefits (certified disabled, deaf or blind) to help that person live in their home or community.
- Assets in a Registered Disability Savings Plan including contributions,

1. Section 8(2)(i) of General Regulation 95-60 under the *Family Income Security Act* states that the \$10,000 liquid assets exemption is "subject to other asset exemptions" (such as Registered Disability Savings Plan, Registered Retirement Savings Plans, and documented trust funds). The impact of this is unclear. The Social Assistance Policy Manual simply states that there is a liquid asset maximum of \$10,000 for unit consisting of one or more people with no further comment.

Grants or Bonds provided by the federal government, and income earned by the Plan.

Income and Benefit Exemptions

- Net income from employment up to \$500 per month plus a 50% exemption on the balance for people receiving income benefits. This exemption does not apply to people who are in the process of applying for income benefits, only those who are currently receiving income benefits.
- Up to \$800 per month from a documented trust fund and/or a Registered Disability Savings Plan. (The monthly income of up to \$800 per month from a trust only applies to people who are eligible for Extended Benefits).
- Additional amounts from a documented trust and/or Registered Disability Savings Plan that are to be used to help a person to live in their home or community and which are approved in advance by the Department of Social Development.
- Retirement pension or other benefits under the Canada Pension Plan or the Quebec Pension Plan to a maximum of \$200 monthly for a unit consisting of one or more persons receiving assistance under the Extended Benefits Program or the Transitional Assistance Program. This does not apply to people who are in the process of applying for income benefits, only those who are currently receiving income benefits.
- The Canada Workers Benefit.
- The Canada-New Brunswick Housing Benefit.
- The Direct to Tenant Rental Benefit granted by the New Brunswick Housing Corporation.

What are the Rules About People Having Access to Trust Funds?

The following is a summary of the rules and policies affecting trust funds under the provincial government's income support program. This summary is based on a review of income support regulations, policies, and discussions with officials from the Department of Social Development.

- Only people who are entitled to receive Extended Benefits (that is people certified disabled, deaf or blind) are entitled to have assets in trust funds while maintaining their eligibility to receive income support benefits and health card benefits. (However, please read the comments on absolute discretionary trusts below).
- A trust fund can be established in a living trust (established while you are alive) or testamentary trust (established in a Will).

- When the value of the trust is *under* \$200,000, a trust can accumulate interest income that is not required for beneficiary in a given year without affecting income support benefits.
- Trustees of a trust fund permitted under the income support rules must have access to both the capital and income of the trust for the benefit of the beneficiary.
- A person who is receiving income support benefits is required to authorize the Department of Social Development to receive information about the trust fund through a trust fund reporting form or from a financial institution.
- The trust capital and accumulated interest must be intended to be used solely to assist a person with a disability to live in their home or community. This means that the trust fund (including the interest it earns) can be used for general living expenses associated with housing or life in the community.
- Up to \$800 per month can be used or paid from a trust fund (and/or a Registered Disability Savings Plan) without affecting a person's monthly cheque.
- Additional withdrawals from a trust fund (and/or a Registered Disability Savings Plan) can be made only with the advanced written approval of the Department of Social Development. These additional amounts must be used to help the person live in their home or the community.
- A trust fund should be able to receive additional funds or be replenished without affecting eligibility for income support benefits so long as it does not exceed \$200,000. (The rules do not mention anything about replenishing a trust fund but there is also nothing mentioned in the rules prohibiting this from happening.)
- If money is left in the trust at the death of the person receiving income support benefits, this will be expected to pay for the cost of the person's funeral and burial expenses.

What about Discretionary Trusts?

The provincial government's income support rules do not mention the use of absolute discretionary trusts. This is a type of trust in which trustees have complete discretion about decisions regarding payments from the trust for the benefit of named beneficiaries. They are sometimes called "**Henson**" Trusts. Courts (including the Supreme Court of Canada) have noted that this type of trust is not seen as the asset of the beneficiary.

It could, therefore, be possible to establish an absolute discretionary trust for a person receiving income support benefits without having that asset affect his or her entitlement to receive these benefits. In addition, an absolute discretionary trust may not be subject to the limit of \$200,000. This type of trust may also be

available to people with disabilities who are receiving income support benefits under the Extended Benefits Program and the Transitional Assistance Program. However, payments from the trust would still be subject to the income exemptions under government regulations. As noted above, the only exemption for payments from a trust are those that apply to people receiving Extended Benefits (up to \$800 per month and additional amounts that are approved by government).

What happens if a Person with a Disability who Receives Income Support Shares a Home with Someone Else?

In many situations, people with a disability who receive income support benefits can live with other people without having this impact their monthly benefits.

When people share living accommodations, they might be considered to be a combined “unit” or a separate “unit” for the purposes of determining their eligibility for income support benefits or how much they may receive if they are eligible. This is sometimes called the “household income policy”.

- If they are a combined unit, the income and assets of people living in a home is counted together.
- If they are a separate unit, only the person’s own income and assets is considered. People who are separate units will receive their own monthly income assistance payment which is not reduced because they live with other people.

For people with a disability, there are some rules that need to be considered:

- A person who is eligible for Extended Benefits (certified ‘disabled’, Deaf or blind) and who lives in the parental home is considered to be a separate unit.
- A person who is eligible for Transitional Assistance Benefits (but designated as having “long term needs”) and who lives in the parental home is considered to be a separate unit.
- Typically, people who are married are considered to be a combined unit and their income and assets are counted together when determining eligibility. However, two people who are **both** eligible for Extended Benefits will be considered separate units and each receive their own monthly payment. If only one person is eligible for Extended Benefits, then the income and assets of their spouse will be considered in determining eligibility or how much the person will receive.

- People who are not married or living together as a couple (common law), can share a home and expenses without any impact on eligibility for income support benefits.
- A person with a disability can also share a home with one or more caregivers without having their level of benefits affected (unless the caregiver is a spouse).

For more information on these policies and issues, contact the New Brunswick Department of Social Development.