



October 30, 2017

The Honourable William Francis Morneau  
Minister of Finance  
Department of Finance Canada  
90 Elgin Street  
Ottawa ON K1A 0G5

The Honourable Diane Lebouthillier, P.C., M.P.  
Minister of National Revenue  
7th Floor, 555 MacKenzie Avenue  
Ottawa ON K1A 0L5

Dear Ministers Morneau and Lebouthillier:

I am writing on behalf of the Canadian Psychological Association (CPA) about the administration of the Disability Tax Credit (DTC). The Canadian Psychological Association (CPA) is the national association for the science, practice and education of psychology in Canada.

By way of background, I was appointed as an individual to the Technical Advisory Committee (TAC), by the Ministers of Revenue and Finance in 2004, charged with reviewing and making recommendations to the Ministers on the DTC. The legislative changes made to the DTC in 2006 were based on the recommendations made by our committee.

I was charged with heading a subcommittee of the TAC whose purpose was to review that part of the DTC that applied to persons with impairments in mental function. Consistent with the TAC's recommendations, legislative changes made in 2006 included

- changing 'thinking, perceiving, and remembering' to 'mental functions necessary for everyday life' Subsection 118.4(1) (c) (i)
- providing for the cumulative effects of significant impairments in more than one activity of daily living which combine to produce a marked restriction 118.3(1) (a.1)

While these changes were an improvement, they did not go far enough and, in fact, created a higher bar for persons with mental disorders to be deemed eligible for the DTC that continues to this day. The legislation requires that the person with a mental disorder must have severe and prolonged impairments in problem solving, goal-setting and judgment to be deemed markedly restricted in mental functions.

It makes no clinical sense to require that all of these impairments be present in combination in order to meet eligibility criteria for the DTC. It is possible, for example, that a person could have a severe prolonged depression which compromises his goal-setting and judgment but not problem solving. Requiring that problem solving, goal-setting and judgment present together applies a degree of rigour for mental functions that is not exacted for the activities of daily living more relevant to physical functions. For example, a person is deemed markedly restricted in walking if they cannot walk – however caused.

Just as factors related to memory, goal setting, judgment, problem solving, and learning can singly or in combination be responsible for a marked restriction in the mental functions necessary for everyday life, neurological factors, orthopedic factors, and fatigue can singly or in combination be responsible for a marked restriction in walking. However, if a qualified practitioner deems that a person cannot walk, the person will likely be deemed eligible regardless of which, or how many factors, underlie the inability to walk. The same principle must, in all fairness, be applied to mental functions. If a person is markedly restricted in any of the mental functions necessary for everyday life, it should not matter which, or which combination of, factors underlie the marked restriction.

In 2014, I drafted a suggested revision to the definition of mental functions for the purposes of defining eligibility for the DTC on the basis of mental functions. That draft revision is appended to this letter – the draft more accurately and more fairly assesses eligibility based on mental functions while preserving the program’s requirements of marked restriction all, or substantially all the time.

Communities of persons living with mental disorders have voiced concerns to us and mental health alliances of which CPA is part, that people who had been receiving the credit are no longer receiving the credit, apparently because its administration has become more restrictive. Eligibility for the credit is supposed to be based on the restrictions imposed by a diagnosis, not the diagnosis itself. Eligibility for the credit is supposed to be based on the impact of the impairment, or a series of impairments, on the defined basic activities of everyday life. And yet, we hear from our communities that persons with mental disorders that result in marked restrictions, all or substantially all of the time, are being refused the credit.

Our recommendations to you are three-fold:

1. Revisit the eligibility criteria for persons with impairments in mental functions as per the draft appended to this letter. The draft makes more clinical sense and will make it far more straightforward for qualified practitioners to complete the T2201 forms on behalf of patients and for the CRA to make eligibility determinations. Currently, persons with mental disorders must meet more stringent eligibility requirements than persons with physical disorders to be awarded the DTC. There must be parity in how mental and physical disorders are treated under all of Canada’s policies and legislation.
2. The administration of the DTC should be accountable to the legislation. While the T2201 application form<sup>i</sup> requires that the restriction be present “90% of the time”, the legislation requires “all or substantially all of the time”<sup>ii</sup>.
3. The CRA should recommit to working with stakeholder communities – persons living with disabilities as well as their health providers – to ensure the fair and accurate administration of the DTC. Following the completion of the work of the Technical Advisory Committee (TAC), a Disability Advisory Committee was formed in its stead for a consultative and advisory purpose. The DAC should be reinstated.

Yours sincerely,



K. R. Cohen, Ph.D., C. Psych.  
Chief Executive Officer  
Canadian Psychological Association



DRAFT AND SUGGESTED REVISION TO DEFINITION OF MENTAL FUNCTIONS FOR THE PURPOSES OF DEFINING ELIGIBILITY FOR THE DISABILITY TAX CREDIT ON THE BASIS OF MENTAL FUNCTIONS USING THE CRA T2201

(K.R. Cohen, Canadian Psychological Association, May 2008 and revised December 2014 kcohen@cpa.ca)

Mental functions necessary for everyday life

Your patient is considered markedly restricted in performing the mental functions necessary for everyday life (described below) if, all or substantially all the time (at least 90% of the time), he or she:

- is unable to perform the mental functions necessary for everyday life, by himself or herself, even with appropriate therapy, medication and devices; or
- requires an inordinate amount of time to perform the mental functions necessary for everyday life, by himself or herself, even with appropriate therapy, medication and devices.

Notes :

- Mental functions necessary for everyday life refer to those functions necessary for a person to engage in adaptive activities.
- Mental functions include memory, problem solving, judgment, perception, learning, attention, concentration, verbal and non-verbal comprehension and expression, and regulation of behaviour and emotions.
- Adaptive activities of everyday life include those relating to self-care, health and safety, social skills and common simple transactions
- If a person has an impairment in a mental function, but is able to carry out the adaptive activities of everyday life as defined above, he or she would not be considered markedly restricted in mental functions.
- Devices for the mental functions necessary for the adaptive activities of everyday life include memory aids, adaptive aids, etc.
- An inordinate amount of time means that the mental functions necessary for everyday life take your patient three times longer to perform than the average person who does not have the impairment.

Examples :

- Your patient is unable to leave the house, all or substantially all the time (at least 90% of the time), due to anxiety, despite medication and therapy

- Your patient is independent in some aspects of everyday living. However, despite medication and therapy, your patient needs daily support and supervision due to an inability to accurately interpret his or her environment.
- Your patient is incapable of making a common, simple transaction, such as a purchase at the grocery store, without assistance, all or substantially all of the time (at least 90% of the time).
- Your patient experiences psychotic episodes several times a year. Given the unpredictability of the psychotic episodes and the other defining symptoms of his or her impairment (for example, lack of initiative or motivation, disorganized behaviour and speech), your patient continues to require daily supervision.
- Your patient is unable to express needs or anticipate consequences of behaviour when interacting with others.

Is your patient markedly restricted in performing the mental functions necessary for everyday life, as described above?

Is the marked restriction in performing the mental functions necessary for everyday life present all or substantially all of the time (at least 90% of the time)?

If yes, when did your patient's marked restriction in the mental functions necessary for everyday life begin (this is not necessarily the same as the date of the diagnosis, as with progressive diseases)?

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<sup>i</sup> <https://www.canada.ca/content/dam/cra-arc/migration/cra-arc/E/pbg/tf/t2201/t2201-16e.pdf>

<sup>ii</sup> <https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income-tax-folios-index/series-1-individuals/folio-1-health-medical/income-tax-folio-s1-f1-c2-disability-tax-credit.html#N102FA>