

INVESTIGATION UPDATE

# SHORT-CHANGED:

Ensuring federal benefits paid to the province reach caregivers of children with disabilities



**OMBUDSPERSON**  
BRITISH COLUMBIA

Special Report No. 58  
January 2025


As an independent officer of the Legislature, the Ombudsperson investigates complaints of unfair or unreasonable treatment by provincial and local public authorities and provides general oversight of the administrative fairness of government processes under the *Ombudsperson Act*. The Ombudsperson conducts three types of investigations: investigations into individual complaints; investigations that are commenced on the Ombudsperson's own initiative; and investigations referred to the Ombudsperson by the Legislative Assembly or one of its Committees.

The Ombudsperson has a broad mandate to investigate complaints involving provincial ministries; provincial boards and commissions; Crown corporations; local governments; health authorities; colleges and universities; schools and school boards; and self-regulating professions and occupations. A full list of authorities can be found in the *Ombudsperson Act*. The Office of the Ombudsperson responds to approximately 8,000 enquiries and complaints annually.

Under the *Public Interest Disclosure Act* the Ombudsperson investigates allegations of wrongdoing from current and former public employees in or relating to a public body covered by the Act as well as allegations of reprisal.

The Public Authority Consultation and Training Team offers educational webinars, workshops and individual consultation with public organizations to support fairness and continuous improvement across the broader provincial and local public sector.

For more information about the BC Office of the Ombudsperson and for copies of published reports, visit [bcombudsperson.ca](http://bcombudsperson.ca).



**Our office is located on the traditional lands of the Lək'wəŋən (Lekwungen) People and ancestors and our work extends across the homelands of the First Nations Peoples within what we now call British Columbia. We honour the many territorial keepers of the lands and waters where we work.**



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January 2025

Raj Chouhan, MLA  
Speaker-designate of the Legislative Assembly  
Parliament Buildings  
Victoria BC V8V 1X4

Dear Mr. Speaker-designate,

It is my honour to present the Ombudsperson's Special Report No. 58, *Systemic Investigation Update: Short Changed: Ensuring federal benefits paid to the province reach caregivers of children with disabilities*.

The report is presented pursuant to section 31(3) of the *Ombudsperson Act*.

Yours sincerely,

Jay Chalke  
Ombudsperson  
Province of British Columbia

# INTRODUCTION

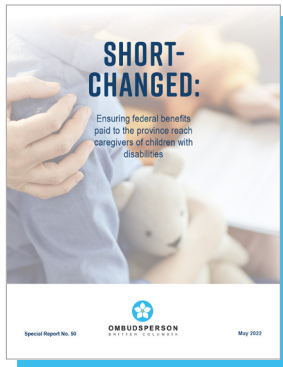
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One of the ways in which the Office of the Ombudsperson can effect change in the fair administration of government programs is by making recommendations. Our recommendations result from investigative findings of unfairness. In other words, when our investigation highlights a problem in fair administration, our recommendations aim to fix that problem.

Once a report is released, we begin monitoring the implementation of the recommendations by the authority. We collect information from the authority about the steps they have taken to implement the recommendations. We expect the authority to provide us with specific, relevant and verifiable information about its implementation steps; a general commitment to act is not sufficient. We then assess this information to determine whether we assess the recommendation to be fully implemented. While some recommendations may be implemented quickly, others may be implemented over time. As part of our monitoring work we publish updates on specific reports and their recommendations.

In this monitoring report, we identify the stage of implementation for each recommendation as fully implemented or no progress made.

# SHORT-CHANGED REPORT AND RECOMMENDATIONS



*Short-Changed: Ensuring federal benefits paid to the province reach caregivers of children with disabilities* was released in May 2022. The report outlined our investigation into the Ministry of Children

and Family Development’s administration of the Child Disability Benefit (CDB) for certain types of caregivers.

The report focused on the Taylors, grandparents who cared for their granddaughter, named Jesse.<sup>1</sup> The ministry supported a court order under section 54.01 of the *Child, Family and Community Service Act* that transferred custody and guardianship of Jesse to the Taylors. It then entered into Post Transfer of Custody Assistance Agreements with the Taylors, through which the Taylors received financial assistance to help care for Jesse.

As Jesse grew older it became apparent that she experienced mental and physical impairments, and health professionals recommended the Taylors apply for the federal Disability Tax Credit (DTC). The

Taylors applied for the DTC, which they thought would also entitle them to receive the CDB, “a tax-free monthly payment made to families who care for a child under age 18 with a severe and prolonged impairment in physical or mental functions.”<sup>2</sup> However, the Canada Revenue Agency informed the Taylors that while Jesse qualified for the DTC, they would not be able to claim the credit on their taxes, nor would they be entitled to receive the monthly CDB payment. Instead, because the ministry is considered to be “maintaining” Jesse under the federal *Children’s Special Allowances Act*, the ministry received the CDB on Jesse’s behalf.

Our investigation revealed that although the ministry received CDB payments for Jesse, it did not pass the funds on to the Taylors. Instead, it deposited the funds into provincial general revenue. During our investigation, we found that other families in the same position as the Taylors were similarly deprived of funds specifically intended to help them care for children living with disabilities. This unfairness was compounded because the ministry knew it was short-changing these families but took over two years to stop doing it.

<sup>1</sup> In our investigative report the complainants and their grandchild were given pseudonyms to protect their identities.

<sup>2</sup> Government of Canada, “[Child Disability Benefit](#).”

Our investigation focused on two types of caregivers under section 54.01 and section 54.1 of the *Child, Family and Community Service Act (CFCSA)*. These caregivers are persons other than the child's parent who have a pre-existing relationship with the child and who have been granted permanent custody by a court order under section 54.01 and 54.1 of the CFCSA.

Our investigation concluded that it was unjust for the ministry to receive the CDB and deposit it into its general revenue without ensuring that Jesse's caregivers received an equivalent amount. This practice prevented caregiving families like the Taylors from receiving these funds and enriched the province instead.

We made four recommendations to the ministry to address the unfairness experienced by the Taylors and other caregivers in similar circumstances.

We recommended that the ministry:

- provide ongoing funding to eligible families equivalent to the CDB
- provide retroactive payments to caregivers who had been eligible for the CDB since April 1, 2019, including caregivers who had an agreement with an Indigenous Child and Family Service Agency (ICFSA)
- provide financial and other assistance to ICFSAs, as needed, to help them implement the first two recommendations
- report to us on its progress in addressing the inequities resulting from the interaction between federal and provincial legislation

The ministry accepted all four recommendations. Our monitoring work has focused on assessing the ministry's implementation of each recommendation.

# ASSESSMENT OF THE MINISTRY'S IMPLEMENTATION WORK

## Providing ongoing payments to caregivers

**R1: By June 30, 2022, the ministry provide ongoing funding equivalent to the Child Disability Benefit to all eligible caregivers.**

The ministry identified the caregivers of Disability Tax Credit-eligible children and youth where the ministry has an ongoing contract with the caregivers, and the ministry receives the Child Disability Benefit (CDB) from the Canada Revenue Agency. The

ministry began ongoing supplemental payments equal in value to the CDB to those caregivers, beginning in February 2022.

In 2022/23, the ministry paid \$446,381.90 in supplemental payments to caregivers (see Figure 1), and in 2023/24, it paid caregivers \$666,096.69 (see Figure 2). The ministry told us these payments will continue to be made on an ongoing basis.

We are satisfied that these ongoing payments resolve the primary unfairness we identified in *Short-Changed* and the ministry will continue to deliver caregivers the funds equivalent to the CDB.

**Figure 1: CDB-equivalent payments to caregivers, April 2022-March 2023**

Month	Number of contracts	Number of children	Monthly rate per child
April 2022	89	89	\$242.92
May 2022	113	113	\$242.92
June 2022	118	118	\$242.92
July 2022	140	141	\$248.75
August 2022	138	139	\$248.75
September 2022	170	171	\$248.75
October 2022	152	152	\$248.75
November 2022	175	175	\$248.75
December 2022	165	166	\$248.75
January 2023	170	171	\$248.75
February 2023	175	176	\$248.75
March 2023	190	191	\$248.75

**Figure 2: CDB-equivalent payments to caregivers, April 2023-March 2024**

Month	Number of contracts	Number of children	Monthly rate per child
April 2023	168	169	\$248.75
May 2023	179	180	\$248.75
June 2023	187	188	\$248.75
July 2023	225	227	\$264.42
August 2023	202	203	\$273.42
September 2023	205	205	\$264.42
October 2023	207	208	\$264.42
November 2023	237	239	\$264.42
December 2023	262	264	\$264.42
January 2024	253	255	\$264.42
February 2024	237	239	\$264.42
March 2024	262	264	\$264.42

The ministry also collects CDB payments from the federal government on behalf of two Indigenous Child and Family Services Agencies – Vancouver Aboriginal Children and Family Services Society (VACFSS) and Métis Family Services (MFS). The ministry told us that it advised the agencies of the eligible children, with the expectation that the agencies will add an equivalent supplemental amount to their caregivers' contracts.

The ministry told us that from a financial perspective, it makes up the difference to VACFSS and MFS by providing an equivalent amount through their existing funding agreements.

As the ministry has implemented a process to ensure caregivers of eligible youth are given payments equivalent to the value of the CDB which the ministry receives from the federal government, we consider that **Recommendation 1 is fully implemented.**

## Providing retroactive payments to caregiver

**R2: The ministry make retroactive payments equivalent to the Child Disability Benefit to all eligible caregivers who had assistance agreements with the ministry or an ICFSA since April 1, 2019.**

The ministry told us that it began making ongoing payments in response to Recommendation 1 by February 2022. As a result, Recommendation 2 applies to the period between April 2019 and January 2022. The ministry told us that it provided retroactive payments to 213 caregivers for 236 children for the time between April 2019 and January 2022. The value of these payments exceeded \$1,000,000 (see Figure 3). Several caregivers received retroactive payments over \$7,000.

The ministry also identified 38 caregivers who had agreements with the ministry on or after April 1, 2019, but whose contracts ended before the ministry implemented changes in response to Recommendation 1. The ministry made *ex gratia* payments totalling \$157,602.78 to these caregivers in July 2023.



**Figure 3: Retroactive payments to caregivers of DTC-eligible children**

	Number of unique caregivers	Number of children	Total value of payments
Retroactive payments to caregivers with ongoing contracts	213	236	\$1,035,850.68
<i>Ex gratia</i> retroactive payments	38	40	\$157,602.78
<b>Total</b>	<b>251</b>	<b>276</b>	<b>\$1,193,453.46</b>

As the ministry has made retroactive payments to caregivers for the period between April 2019 and January 2022, we consider that **Recommendation 2 is fully implemented.**

### Providing assistance to Indigenous Child and Family Service Agencies

**R3: The ministry provide financial and other assistance to Indigenous Child and Family Service agencies (ICFSAs) to help them implement Recommendations 1 and 2.**

The ministry collects CDB payments on behalf of MFS and VACFSS. In these cases, the ministry advised the agencies of the eligible children and reimbursed the agencies through adjustments in their existing funding agreements.

The ministry told our office that all other ICFSAs in British Columbia collect the CDB directly from the Canada Revenue Agency. The ministry notified all ICFSA directors

that going forward and retroactive to April 1, 2019, ICFSAs are to provide 54.01 and 54.1 caregivers whose children are DTC-eligible with an amount equal to the monthly CDB. The ministry also delivered presentations and posted online instructional materials to support ICFSAs in determining eligibility and updating contracts. Further, according to the ministry, no ICFSA has reported an increased financial need due to implementing the adjustment, but that it has a process in place to address those financial needs should they arise. The information provided by the ministry indicates that it has taken necessary steps to assist ICFSAs in providing payments, going forward and retroactive to April 1, 2019, in an amount equal to the monthly CDB to all 54.01 and 54.1 caregivers of Disability Tax Credit-eligible dependents. **We conclude that Recommendation 3 is fully implemented.**

## Ongoing work to address unfairness

**R4: The ministry report to the Ombudsperson about its progress in addressing the inequities resulting from the interaction between federal and provincial legislation.**

In its first update to our office on October 31, 2022, the ministry reported “no planned actions” in response to Recommendation 4.

In subsequent updates the ministry told us that it raised the topic at a meeting of provincial directors of child welfare; however, the provinces chose not to raise the matter with the federal government. In November 2024, the ministry advised that it intends to review all kinship care supports in 2025 to determine how it can improve financial and service equity for all kinship care.

While the ministry has provided us updates, we remain concerned that the ministry has taken no steps with the federal government to address the inequity resulting from the interaction of the federal and provincial legislation as it relates to caregivers of

Disability Tax Credit–eligible dependants. Without federal legislative change, inequities will persist – for example, caregivers such as the Taylors will continue to remain ineligible for the federal Disability Tax Credit and other federal programs to support children and youth. We made this recommendation because the ministry has an important role in raising this matter with its federal counterparts. The ministry’s actions to date have been insufficient. Therefore, we consider that the ministry has made **no progress in implementing Recommendation 4.**

We encourage the ministry to continue to advocate and raise this matter at the federal level.

# CONCLUSION

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We are pleased to confirm the full implementation of three of the four recommendations in *Short-Changed* two years after the release of the investigative report and, for the most part, within the timelines set out in our recommendations. The ministry has addressed this unfairness by providing kinship caregivers with the funds they are entitled to. As a result of *Short-Changed* the ministry retroactively transferred payments totalling \$1,193,453.46 to 251 eligible caregivers as of the end of April 2024. It has also ensured an amount equal to the federal Child Disability Benefit – approximately \$264 per month per child – is paid to kinship caregivers of children with disabilities on an ongoing basis.

This implementation reflects the hard work and dedication of public servants in the ministry.

We expect the ministry to take meaningful steps to address the outstanding recommendation. We strongly encourage the ministry to continue to work with its federal, provincial and territorial counterparts to ensure that caregivers can access all the programs and services available to parents or other guardians, including the Disability Tax Credit. Our office will continue to monitor and seek periodic updates on government's progress in implementing the fourth and final recommendation.

# APPENDIX



# ASSESSMENT OF RECOMMENDATIONS

RECOMMENDATION	Status
<p><b>R1</b> By June 30, 2022, the Ministry of Children and Family Development provide ongoing funding to all 54.01 and 54.1 caregivers of Disability Tax Credit-eligible dependents who have an Assistance Agreement with the ministry or a Delegated Aboriginal Agency, in an amount that is equivalent to the amount of the Child Disability Benefit the ministry of the Delegated Aboriginal Agency receives each month from the federal government under the <i>Children's Special Allowance Act</i>.</p>	Fully Implemented
<p><b>R2</b> By June 30, 2022, the Ministry of Children and Family Development make a retroactive payment to all 54.01 and 54.1 caregivers of Disability Tax Credit-eligible dependants who had Assistance Agreements with the ministry or Delegated Aboriginal Agencies as of April 1, 2019, or later. The amount of the payments must be equal to the Child Disability Benefit and any other federal benefits that the ministry received on the dependant's behalf and that the ministry has not already passed on to the caregivers. These payments must cover the period from April 1, 2019, to the date on which the ministry changes its funding model for 54.01 and 54.1 caregivers in accordance with Recommendation 1.</p>	Fully Implemented
<p><b>R3</b> The Ministry of Children and Family Development assist, including by way of financial assistance, Delegated Aboriginal Agencies using the same funding practices for 54.01 and 54.1 caregivers under Assistance Agreements in implementing the payment process as outlined in Recommendations 1 and 2.</p>	Fully Implemented
<p><b>R4</b> By October 31, 2022, and on any other dates as requested by the Ombudsperson, the Ministry of Children and Family Development report to us on its progress in addressing the inequity resulting from the interaction of the federal and provincial legislation as it relates to caregivers of Disability Tax Credit-eligible dependants.</p>	No Progress



# **OMBUDSPERSON**

## BRITISH COLUMBIA