

The Honourable Carla Qualtrough
Minister of Minister of Employment, Workforce Development and Disability Inclusion
House of Commons *
Ottawa, Ontario,
Canada
K1A 0A6

Open Letter

December 25, 2020 (Christmas Day)

Dear Minister Qualtrough,

I take this opportunity to write to you concerning recent actions by your government to order repayment of the Canada Emergency Response Benefit (CERB) by recipients of this program where the Canada Revenue Agency (CRA) has found them to be ineligible.

You were recently quoted in MACLEAN'S magazine in the following question and answer sequence:

“Q: Will CERB recipients who don't meet the net income requirements, but applied and received the CERB in good faith and still face tough circumstances, still be asked to repay the benefit?”

A: I think people are going to have to repay it. We're going to work with them on when, how much per month. Right now, CRA is doing no collections of new debt. People don't have to repay it now. The CRA is saying that until it's reasonable to do so, they won't be collecting anything. Their collection activity has been halted.

At some point, I don't know when that would be; we're going to start collecting. We have a commitment to be as compassionate as we can be. Maybe you're paying \$25 a month. There are circumstances where interest can be forgiven. There are programs in existence that will help minimize the difficulty that people will face. But right now, no, there is no commitment to basically forgiving debt that was incurred in good faith.”

The purpose of my letter is to make the case as to why your government ought to forgive CERB and other COVID19 program debt for all low income Canadians who received benefits from these sources.

In this letter, I make the assumption that your government fully understands the CERB, how it was rolled out and how it works on the ground. I make the assumption that you have been well 'briefed' and that there is little in what follows that your government doesn't already know.

Context: One of many programs with different pedigrees

With the onset of the pandemic, your government rolled out six different direct income security payments to Canadians, not counting payments to landlords, students and businesses:

1. A one-time hike in GST credits
2. A special non-taxable Old Age Security (OAS) payment
3. A special non-taxable Guaranteed Income Supplement (GIS) payment
4. The CERB
5. A special payment to families with children through the Canada Child Benefit (CCB); and
6. A special payment to Canadians with disabilities.

Three of these payments were paid in the form of refundable tax credits (The GST, the CCB and the disability payment). Two of them were paid in the form of non-taxable special payments to recipients of other programs (OAS and GIS); and one (CERB) was paid out as a taxable earnings replacement benefit.

Put into perspective, the government paid out three different types of payments (refundable credits, special non-taxable payments and taxable earnings replacements). The CERB was the only one of these six payments that a prospective beneficiary had to apply for in order to obtain it and the only generally available program that was taxable with a pedigree of 'earnings replacement'. The CERB is also the only (non-student) program to attract a T4A.

More than \$80 billion was spent on the CERB and it instantly became the largest income security program in Canada, representing about 30% of all income security expenditures. Your government then proceeded to dismantle this program and replace it with both the Canada Recovery Benefit (CRB) and Employment Insurance (EI).

To say that the CERB is one of the most important and remarkable programs in Canadian history is almost an understatement - especially as it was mounted with blinding speed. It was a momentous achievement in terms of time elapsed to implementation, size, coverage, effectiveness and expenditure.

It is also the case that almost everyone would give the government an enormous amount of credit for the program even though it was spectacularly badly designed, particularly as it relates to low income Canadians.

Unlike the other five programs mentioned above, where eligibility for another program signaled eligibility for the benefits provided, the CERB was the only program whose eligibility did not depend on eligibility for other programs. And in many ways, its lack of dependence on eligibility for other benefits meant that from the beginning, there would be a very significant number of recipients who would later prove not to be eligible for it.

In contrast, the only people who will prove to be ineligible for the other five programs are those who are found ineligible for the underlying program that proffered eligibility.

What your government knew from the beginning – A top ten things they knew:

- They knew there would be widespread confusion among applicants regarding how the rules worked
- They knew that people with income one dollar under the \$5,000 threshold would be ineligible for the entire program.
- They knew that people with one dollar over the earnings ceiling would (similarly) be disqualified
- They knew that qualifying incomes such as Honourariums (that many very poor people frequently obtain) are not reported to CRA if they are under \$500 a year
- They knew that people with precarious employment often do not receive expected pay from employers whose businesses may have become chaotic because of COVID19
- They knew that people with precarious work often do not receive their records of employment (ROE) confirming their employment earnings from their employers
- They knew that low income employees are often surprised to learn that they will be paid with 'gift cards' and cash payments that are highly likely to be unrecorded and therefore ineligible for the CERB minimum threshold.
- They knew that people applying for the CERB often don't know what they will be paid each month in 2020 and that the amounts could exceed the threshold of \$1,000 (thus disqualifying them)
- They knew that people who suffered clawbacks of their CERB to pay subsidized housing rents would keep far less money from the CERB; and
- They knew that a significant portion of social assistance recipients in Canada would be disqualified from receiving social assistance and would lose all their social services and social supports

What your government may not understand concerning social assistance recipients

- They may not understand that social assistance recipients – 5.1% or 2 million Canadians would be asked by provinces and territories to apply for the CERB since laws across the country are in place in each jurisdiction that call for all recipients to apply for any and all benefits for which they 'may' be eligible.
- They may not understand that if they did not apply for the CERB that their allowances and benefits could be cancelled, and that they would not be able to pay their rent or buy food if they did not apply for the CERB.
- Further, they may not understand that most social assistance recipients in Canada have disabilities placing them in Canada's immune compromised population - people who could face catastrophic sickness or death if they were forced to leave the safety of their homes. Truly they were over a barrel. Apply or possibly lose their lives to the pandemic.

The most important thing you knew was what you announced publicly

But most of all, you knew that your government had made a mistake concerning the status and pedigree of the CERB because, 19 days following the announcement of the CERB as a taxable benefit, you told provinces and territories to treat the CERB 'as if' it was a refundable credit for the purposes of provincial social assistance programs

You did not explain why the CERB had not been created as a refundable credit or as a non-taxable benefit compared to all the other benefits that were announced. You told the provinces in essence to 'pretend' that the CERB did not exhibit the pedigree of its creation.

Then, on top of that, your government refused to treat the CERB as a refundable credit for the purposes of programs that your own government administers. For example, at the same time as you called on provinces and territories to exempt the CERB for their programs, your government was freely clawing it back from benefits under the programs that your own government administers such the federal Guaranteed Income Supplement (GIS).

The clear message is the same as one hears from bad parents: 'Do as we say, not as we do'.

Business as usual?

Following the introduction of the largest income security program in Canada's history and its dismantling in the context of a once a century pandemic, your government's approach appears to be that it's now time simply to dust ourselves off and declare that we are back to normal.

In that context, programs are contracts. You apply and if you are eligible – you get the money and if you aren't eligible, you pay it back.

The answer to that is simply 'No'.

This is not business as usual. The pandemic has not reached its apex. Canadians continue to be out of work. Deaths continue to set new records. Families are in disarray. Schools are out.

And your answer is to confiscate future refundable credits from Canadians, but you will wait until the time is right?

You will choose a date to confiscate their child benefits, their carbon credits, their Canada Workers benefit, their GST credits and their provincial tax credits because it is important for them to return money where there was a set of bad rules and few clear rules respecting eligibility?

Poverty and the CERB design

There are clearly people who can repay the CERB without pain in instances where they were truly ineligible for the benefit. One example is earners whose income last year exceeded \$100,000 where retroactive income exceeded CERB limits. We must recall that the CERB did not have an income or a needs test and a significant number of very well-to do people received full benefits.

So let's look more deeply into the CERB design. The CERB was actually designed with two threshold tests. More accurately, the design is an example of what we might call 'precipice testing'.

The first precipice was the floor of \$5,000 in a designated 12 months. Fall below it and one is ineligible for the entire benefit. Rise above it and one is eligible for the full benefit.

The second precipice was a ceiling of \$1,000 a month. Rise above it and one is ineligible for the entire benefit. Fall below it and one is eligible for nothing. This design was an 'all or nothing' proposition on two counts.

This 'back of the envelope' design rushed out the door had the singular merit that it was fast and big. But it had all the elements of bad design with no on or off ramps; just two precipices, both of which were easy to fall off.

Fall off if you had less than \$5,000 in designated income and fall off if your designated income rose above \$1,000 a month.

Only the very poor fall off both CERB precipices

It is important to examine who was most likely to fall off the two precipices and it is clear that only the poorest CERB applicants were likely to fall off the first precipice. Failing to earn the \$5,000 threshold in designated income can only occur where people are living in deep poverty.

Full time minimum wages at \$14 an hour in yearly terms gross \$27,000. The \$5000 threshold is equivalent to less than 20% of yearly minimum wages.

Those whose designated income was just above the \$1,000 a month threshold, would realize just above \$12,000 in yearly terms. Add the two thresholds together (\$17,000) and it becomes clear that those who stand to lose the most from CERB ineligibility are people living in deep poverty.

In contrast, someone who loses their job due to COVID19 making \$100,000 in 2019, earns many multiples of the \$5,000 threshold, and when they secure a new job at the same pay at the end of 2020, they earn many times the disqualifying upper threshold of \$1,000 a month. They keep their full CERB entitlement. Their eligibility for full CERB benefits, ironically, is very clear; much clearer than for the poor.

It is evident that the people hurt the most by CERB disqualification are the very poorest and most vulnerable of all those disqualified. This is an inevitable function of the CERB design and there are literally no other income security programs in Canada that threaten complete disqualification to people living in deep poverty, while providing benefits to the well to do with no upper limit.

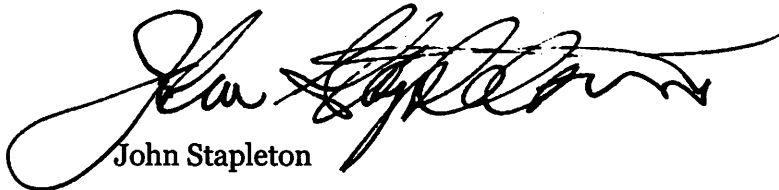
It is also inevitable that the very poorest CERB recipients are among those who face the highest likelihood of disqualification, and who will suffer the greatest hardship downstream when you confiscate their future refundable credits to repay benefits where they may have missed eligibility by a few dollars.

In closing, the time will never be right for your cruel agenda. The reality is that no matter what schedule you choose, the very poorest CERB recipients who made the right decision to stay safe will be hobbled in years to come by your decision to enforce collection of benefits from a program plagued by both misinformation and a design that openly preys on people living in poverty.

Dickens' character Scrooge tells Bob Cratchit on Christmas morning that he has not lost his senses; rather, that he has come to them. Fortunately, there is still time for you to put an end to the misery of thousands of very low income people ensnared in an unfortunate set of rules, where there was no time to think through the unintended consequences of policy.

Two wrongs do not make a right. Postponing the misery of very low income CERB recipients is not a solution. It simply prolongs and magnifies the problem. It is time to announce that you will not collect repayments from very low income earners who applied for the CERB in good faith.

Respectfully

A handwritten signature in black ink, appearing to read "John Stapleton", written in a cursive style.

John Stapleton

Principal

Open Policy Ontario