

March 31, 2017

[REDACTED]
[REDACTED]
[REDACTED] s.40(1)
[REDACTED]

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: FIN-12-2017]

On March 3, 2017, the Department of Finance received your request for access to the following records/information:

“A copy of the following briefing materials from January 2017 -Borrowing Program - Guaranteed Income Supplement Renewal - Retroactive Payments”

The Department is pleased to advise that access has been granted in part for the portion of your request for the Guaranteed Income Supplement Renewal – Retroactive Payments, and is attached.

Please note that some information is considered Policy Advice or Recommendations and has been severed pursuant to section 29.(1)(a) of the *Access to Information and Protection of Privacy Act, 2015* (ATIPA).

With respect to the portion of your request above for the Borrowing Program, please be advised that a decision has been made by the Department of Finance to provide partial access to the requested information. However, the records you have requested may contain information that, if disclosed, might affect the business interests of a third party (as described in section 39 of the *Access to Information and Protection of Privacy Act, 2015* (the Act)). The Department therefore advised the third party accordingly on **March 31, 2017**, pursuant to section 19 of the Act.

Under section 19 of the Act, the third party has **15 business days** to file a complaint with the Commissioner (under section 42) or appeal directly to the Trial Division (under section 53). The records you requested therefore cannot be released until the expiration of this notification period.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the Act).

A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact the undersigned by telephone at 709-729-2082, or by email at bethbartlett@gov.nl.ca.

Sincerely,



Beth Bartlett
ATIPP Coordinator

Attachment

Information Note
Department of Finance

Title: Guaranteed Income Supplement Renewal – Retroactive Payments

Issue: To provide background information on retroactive lump sum payments from the federal government to residents of Newfoundland and Labrador related to Guaranteed Income Supplement Renewals.

Background and Current Status:

- The federal Department of Employment and Social Development Canada (ESDC) administers both the Old Age Security (OAS) program and the Guaranteed Income Supplement (GIS). The GIS is a monthly non-taxable benefit provided to low income OAS recipients living in Canada.
- GIS entitlements are reviewed every year, in July, using the client's income information from the Canada Revenue Agency (CRA). Although the vast majority of accounts are renewed automatically, in past years, there has been a small percentage of GIS clients who could not be automatically renewed given gaps in their files (because they did not file their tax return or because of changes in their personal circumstances). There were approximately 141,000 cases in Canada to be reviewed.
- ESDC initiated a manual review of these client accounts at the end of May 2015, and clients were contacted and received retroactive payments if they were found to be eligible. Effective July 2015, as part of continuous improvements in the delivery of pension programs, this type of manual intervention will no longer be required.
- While the majority of retroactive payments cover only one or two years, some may go as far back as 2008. Those who may potentially receive the largest change to their ongoing entitlement will be addressed on a priority basis before the end of July 2015 (Group 1 clients). Subsequently, clients who may be eligible for an increase in their current entitlement will be reviewed on a priority basis (Group 2 clients). The remaining accounts will be reviewed once these first two groups have been completed (Group 3 clients). This review was completed in May 2016.
- Of the 141,000 seniors identified for review, approximately 86,500 individuals were found to be entitled to a GIS retroactive payment, while 45,500 were found not to be entitled. ESDC has contacted the remaining seniors – around 9,000 clients – and is awaiting further information from them to determine whether they are entitled. The total value of the payments made as part of this review is approximately \$258 million. Of all the files reviewed, the average retroactive payment is approximately \$1,950.
- As receipt of the GIS may factor in the administration of some provincial programs, retroactive GIS payments may have an impact on some seniors who may have received financial assistance from provincial programs.

Analysis:

Potentially Eligible Individuals in Newfoundland and Labrador

- In Newfoundland and Labrador, approximately 1,000 clients had been identified as potentially eligible for a retroactive GIS benefit. Based on the national review, ESDC estimated that approximately 75 percent (or about 750 clients) may be eligible for a retroactive GIS payment.
- Within NL, the groups and retroactive payments were made over three phases:

Group 1:	76
Group 2:	237
Group 3:	714
- The review of most clients in NL is complete. Of the 1,027 clients reviewed, 734 were eligible for a retroactive payment.
- The total retroactive payments made to eligible clients is about \$1.26 million. The average payment based on the accounts paid to date (December 2016) was approximately \$1,245. There were less than 10 people that received over \$10,000 and the majority of payments were a couple of thousand dollars.
- Clients that received a retroactive GIS payment may have also received a cost-of-living compensatory payment before the end of June 2016. The amount an individual received depended on the amount of their GIS retroactive payment.
- As well, any individual who, as a result of the retroactive GIS payment, experienced a loss or reduction in credits or benefits administered by the CRA in 2016 or 2017 (depending on when the retroactive payment was received) may receive an additional compensatory payment equal to the value of the lost CRA-administered credits or benefits. Service Canada began issuing these payments in fall 2016.

Implications for Provincial Programs

- Eligibility for provincial programs may be impacted for clients that received a lump sum retroactive payment. Many provincial programs determine eligibility and/or the amount of provincial funding based on net income from an individual's income tax return. The GIS payment would be included in net income but is deducted when determining an individual's taxable income.
- A letter was received by the Ministers of Finance and Children, Seniors and Social Development from the NL Coalition of Pensioners, Retirees and Seniors Organizations (the Coalition) with respect to this issue. The letter was also copied to the Premier, the Minister of Health and Community Services (HCS), the Office for Seniors and Aging and all NL MPs. In the letter, the Coalition requests that "government provide an "act of forgiveness" to those persons who have received this back payment to which they were rightly entitled and not penalize them for the means tested services that they might currently be receiving".

- A conference call was held on Monday January 9, 2017 with federal ESDC officials and provincial departments that were identified in the letter to obtain further information on the issue.
- During the call a background and current status of the issue was provided by ESDC. Initially when this issue was identified in May 2015, ESDC was only working with provincial departments with which they had Information Sharing Agreements (i.e. HCS (with respect to the NL Prescription Drug Program (NLPLP) and the Department of Advanced Education, Skills and Labour (AESL)). In June 2015 AESL provided preliminary information on the issue to Finance so that Finance could assess the impact on the Seniors' Benefit. It was determined that there was no impact on the Seniors' Benefit and no further action was taken.
- ESDC has provided a detailed listing of the impacted clients to the Department of Health, NLPDP Division. They noted however, that officials with the NLPDP are not able to share this information with any other provincial government department. In order to share the information with other departments a letter of agreement between the department and ESDC would be required for health to share the information or ESDC could directly disclose the information if there was an Information Sharing Agreement put in place. Finance (or any other department) would have to provide the specific purpose for which the information would be used.

Programs Administered by the Department of Finance

- There is no additional personal income tax liability for the affected clients as the GIS is a non-taxable benefit. With respect to the Low Income Tax Reduction (LITR), a senior may have adjusted family income above the LITR threshold as a result of the retroactive payment. However, there should be no tax payable for that senior so the fact that adjusted net income exceeds the LITR threshold is irrelevant.
- With respect to provincial benefits that are administered by the federal government, such as the Seniors' Benefit, the Income Supplement and the NL Child Benefit, as stated above, ESDC will be providing compensatory payments for any client that was negatively impacted by the receipt of the retroactive payment.
- The Home Heating Rebate (HHR) appears to be the only provincially administered program within Finance that may be impacted. This program provided a payment of up to \$250 (\$500 in Coastal Labrador) per household for residents of the province to assist with the high costs of heating their homes. This program required eligible households to apply for the rebate.

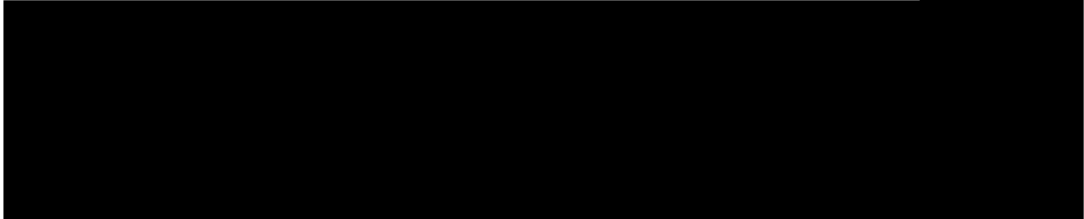
29.(1)(a)

[REDACTED] The department does not have the data from ESDC to determine if any of the clients that received the retroactive payments applied for the HHR program. As identified above, the department would have to request the required information from ESDC to determine if any clients were impacted. [REDACTED]

29.(1)(a)

- The GIS retroactive payment would be included in net income which is one of the determining factors for eligibility of the HHR. The beginning phase-out income for the HHR begins at a family net income of \$35,000.
- A single senior receiving only OAS and GIS would have net income of approximately \$16,000. For a senior couple, the family net income would be approximately \$26,000. There were less than 10 seniors that received greater than \$10,000 with the average payment being a couple of thousand dollars.

29.(1)(a)



- Beginning on July 1, 2016 the Temporary Deficit Reduction Levy (the levy) requires individuals with taxable income of greater than \$50,000 to pay up to \$1,800 depending on the amount of their taxable income. The Coalition requested that impacted individuals be exempt from the levy if the retroactive GIS payment puts them over the threshold of \$50,000. The retroactive GIS payments will not impact the calculation of the levy as the amount payable is determined by reference to an individual's taxable income and the GIS is not included in taxable income.

Other Provincial Government Department Programs

- There are many programs within HCS that use receipt of GIS or net income to determine eligibility for a program.
 - For example, the NLPDP 65Plus card is provided to seniors in receipt of GIS.
 - Income is used to determine eligibility and/or the amount of government subsidy a client would receive for home care, long-term care and for personal care homes.
- AESL also has programs that use net income to determine eligibility. AESL provided a list of their clients to ESDC and they confirmed whether any would be negatively impacted.



29.(1)(a)

- Other provincial government departments are in the process of preparing decision notes to determine what course of action will be taken for impacted clients.

Action Taken by Other Jurisdictions

- Other jurisdictions noted that there might be impacts on provincial health, housing and income support programs.



29.(1)(a)

Action Being Taken:

- No action is required from the Department of Finance as there are no provincially administered programs that would need to be re-evaluated as a result of the impact of the retroactive GIS payments.

29.(1)(a)

- [REDACTED] The Office for Aging and Seniors is preparing a draft response to the Coalition's letter.

[REDACTED]

29.(1)(a)

Prepared/approved by: L. Ivey /J. Griffin

Ministerial Approval:

January 18, 2017