

NO MORE MR. NICE GUY

After years of lenience, the Canada Revenue Agency has taken vulnerable taxpayers by surprise with tough new tactics

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From CERB to child benefits, Ottawa's debt collections are clobbering the poor and punishing for small mistakes. Erica Alini reports



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“IF YOU HAVE LOST YOUR JOB, WE HAVE YOUR BACK. IF YOU CANNOT WORK BECAUSE YOU ARE SICK WITH COVID-19, WE HAVE YOUR BACK. IF YOU HAVE TO STAY HOME TO TAKE CARE OF A LOVED ONE FOR REASONS RELATED TO COVID-19, WE HAVE YOUR BACK,” EMPLOYMENT MINISTER CARLA QUALTROUGH TOLD PARLIAMENT ON SEPT. 29, 2020. SEAN KILPATRICK/THE CANADIAN PRESS

The Trudeau government's refrain in the earlier days of the COVID-19 pandemic was clear and reassuring. "We have your back," Prime Minister Justin Trudeau told Canadians on March 11, 2020, the day the World Health Organization declared the virus outbreak a pandemic.

"If you have lost your job, we have your back. If you cannot work because you are sick with COVID-19, we have your back. If you have to stay home to take care of a loved one for reasons related to COVID-19, we have your back," Employment Minister Carla Qualtrough repeated in Parliament on Sept. 29 that year, as Ottawa rolled out unprecedented income support programs and, for additional financial relief, the Canada Revenue Agency (CRA) held off on some of its routine debt collection.

"We have your back, as long as this crisis lasts," the Prime Minister said again on June 4, 2021.

But with the crisis now over, the zeitgeist has changed.

The federal government is under pressure to recover billions of dollars in pandemic benefits it sent to ineligible people and businesses, and it is fending off accusations of excessive largesse and carelessness with taxpayers' money.

But critics say the debt recovery rampup so far has been ham-handed, unnecessarily harsh toward low- and modest-income Canadians, and intransigent toward some who made small mistakes, in some cases based on inaccurate information from the CRA itself.

Ottawa is largely going about the collection of pandemic debts "as if it's business as usual," said Elizabeth Mulholland, chief executive of Prosper Canada, a national anti-poverty charity. But the aftereffects of the massive pandemic-era income supports and of a nearly three-year hiatus in some CRA debt collection activities have been "totally unusual," she said.

The government sent \$4.6-billion to individuals who weren't eligible for pandemic benefits such as the Canada Emergency Response Benefit (CERB) and the Canada Recovery Benefit (CRB), Canada's Auditor-General found in December. The same report said at least another \$27.4-billion in pandemic payments, including subsidies to employers, need a close second look.

But in trying to recoup the overpayments, the Trudeau government and the CRA seem to have given little consideration to the fact that the pandemic benefits were hastily designed and their rollout messy, with changes and errors in the government's own communication about eligibility criteria, said John Stapleton, a social policy consultant and retired social assistance benefits designer for the Ontario government.

There's also the issue that the CRA stopped its practice of withholding or reducing bene-

fit payments to offset taxpayers' government debts in May, 2020. The agency restarted clawbacks of tax credits last October, and of the Canada Child Benefit (CCB) this past March.

The CERB, and later the CRB, provided taxable payments of \$500 a week. The CCB, which is linked to household income, pays up to \$583 a month per child for families with young kids.

Some Canadians who received overpayments of pandemic income supports and other benefits for extended periods now owe the government more than \$10,000 or \$20,000. Among them are low-income parents, who typically receive larger child benefit payments, and Canadians who live in poverty.

Now, excessively strict and opaque rules for accessing financial relief, along with poor communication about the restart of the benefit clawbacks, are unnecessarily hurting some of the country's most financially vulnerable households, said Jennifer Robson, a professor of political management at Carleton University.

The leniency and compassion Ottawa showed during the pandemic have evaporated, according to Prof. Robson. Now, she said, the feeling among many on the receiving end of the federal debt-collection crackdown is likely, "they have my ass."

In London, Ont., Yvonne Spicer, 45, who has a learning impairment and lives on social assistance, has an annual income of around \$20,800 but owes \$21,730 in Employment Insurance benefits. She started receiving EI through the CERB program at the beginning of the pandemic, when she lost her job as a supply assistant working in early childhood education.

At issue is the fact that she kept receiving unemployment benefits even after she returned to school in the fall of 2020 to obtain an early childhood education diploma, after receiving a grant to do so. While Canadians can pursue training programs while on EI in some cases, they must seek permission to do so or be able to show they continue to actively seek – and be available for – employment.

With the help of a legal clinic, Ms. Spicer argued before the Social Security Tribunal of Canada that she satisfied those conditions, but her appeal was dismissed in early June.

Ms. Spicer said she couldn't get the diploma because of a lack of accessible services at the college she attended. Since 2020, she hasn't been able to find another job at a child-care centre. She also tried working at call centres but couldn't complete the training because of her learning disability, she said. She's currently looking for "any kind of job," she said.

Living on social assistance alone, Ms. Spicer said she's struggling to afford even gro-

“I have to go to food banks. I have to go to church dinners to feed myself,” she said.

That hasn’t stopped the CRA from clawing back her tax refunds and some of her benefits. Ms. Spicer has seen her 2021 and 2022 tax refunds – which, together, are worth a total of about \$1,500 – applied to her government debt, according to documents reviewed by The Globe and Mail. The CRA also held onto several payments of her Ontario Trillium Benefit, which helps offset energy costs and taxes, the records show.

What’s especially troubling about the government’s hubris in chasing pandemic debts from Canadians on social assistance is that social-security workers often told them to go on the CERB and, later, the CRB, said Mr. Stapleton.

That was the case for Ms. Spicer: When she lost her job in the spring of 2020, her case worker suggested she apply for the CERB, she said.

Anti-poverty groups have reported numerous cases in which employees of social-assistance administrations in several jurisdictions encouraged recipients of provincial income support to enroll in the federal pandemic programs or told them they had to do so.

Because social assistance is supposed to be a social safety net of last resort, all provinces and territories require that welfare recipients pursue any other financial resource for which they may be eligible, said Jennefer Laidley, a researcher and consultant at Maytree, a foundation committed to poverty reduction.

But months or years after enrolling in the pandemic benefits, some social-assistance recipients discovered they’d applied for money they weren’t entitled to or, like Ms. Spicer, found themselves embroiled in complicated disputes about their eligibility.

Employment and Social Development Canada (ESDC), which oversees EI and designed the CERB and the CRB, did not directly address a question from The Globe about whether it considered implementing targeted measures to lessen the financial burden of pandemic benefit repayments for Canadians on social assistance.

“We recognize that this is a very difficult time for many individuals. To mitigate financial hardship for vulnerable Canadians who are required to repay emergency benefits overpayments, the CRA and ESDC will both work with clients to establish flexible repayment schedules. In addition, no penalties or interest will be charged on the emergency benefit overpayment,” Employment Minister Qualtrough’s press secretary, Tara Beauport, said via e-mail.

At West Scarborough Community Legal Services in Toronto, lawyer Carol Drumm said she has assisted several clients on social assistance with pandemic debts of more than

\$10,000 set up repayment plans for as little as \$5 a month. A legislated six-year limit on the collection of most COVID-19 benefits means Canadians such as Ms. Drumm's clients will be free of those repayments in a few years in most cases.

But repayment plans don't prevent the CRA from withholding tax refunds and government benefits to offset overpayments – and social-assistance recipients are no exception. Ms. Drumm said the clawbacks have made it harder for some of her clients to pay for medical needs.

The way the CRA has resumed clawbacks of government benefits has also come under fire. In March, the agency resumed the practice of withholding child benefit payments – in full or in part – to taxpayers who had previously received overpayments of the same benefit. The move, which happened after a nearly three-year pause, came with little warning, catching many families off guard and throwing some low-income households into financial disarray.

Some cash-strapped parents – many of them single mothers – took to Facebook and TikTok wondering why their child benefits hadn't come in and how they'd pay for groceries and bills on budgets that were suddenly hundreds of dollars short for the month.

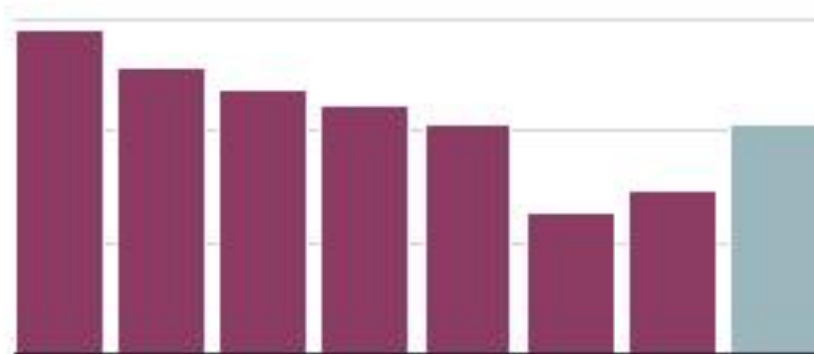
The CRA sent individual notices to people with outstanding government debts, including child benefit overpayments. In some cases, though, the notification of a debt outstanding came months before the benefit offsets restarted, and it was easy to miss.

In Saint John, for example, Rhiannon Cormier, a single mother of two on social assistance, combed through her CRA online account when she saw her child benefit payment of \$1,324 a month cut in half in March.

It was only then that Ms. Cormier, who is recovering from cancer, discovered electronic correspondence from the CRA dating back to July, 2022, advising her that she owed \$1,066 in child benefits. The note about her debt was near the bottom of a document listing her benefit entitlements from July, 2022, to June, 2023 (the benefit amount is reset every July).

Ms. Cormier said she couldn't understand the cause of her child benefit overpayment.

In Toronto, Bridget Tougas, a recently separated mother of two, found out only in February that she owed nearly \$12,000 in federal and Ontario child benefits, the result of a re-assessment after she made a mistake updating her child custody arrangements.



Note: 2022=expected

JOHN SOPINSKI / THE GLOBE AND MAIL , SOURCE: STATISTICS CANADA

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IN LONDON, ONT., YVONNE SPICER, 45, WHO HAS A LEARNING IMPAIRMENT AND LIVES ON SOCIAL ASSISTANCE, HAS AN ANNUAL INCOME OF AROUND \$20,800 BUT OWES \$21,730 IN EMPLOYMENT INSURANCE BENEFITS. DUANE COLE/THE GLOBE AND MAIL

Ms. Tougas, who said she had a household income of around \$45,000 in 2022, before a raise recently bumped her pay to around \$70,000, has seen her child benefit payments reduced to zero since March. That has shrunk her monthly budget by about \$550, money

she says used to help pay for therapy for one of her children, who has severe disabilities.

The CRA also said it announced the resumption of offsets on a few Government of Canada web pages, on the login portal where Canadians can access their online CRA accounts and in social-media posts, among others.

But it wasn't until April 18 that the agency sent out a plain-language e-mail warning about the resumption of offsets to all benefit recipients who might be affected and who had signed up for electronic notifications. The agency did not say why it waited until then to send out such messages.

What the CRA should have done was roll out a broad communication campaign months before it actually restarted clawing back benefits, Ms. Mulholland said.

“Engage members of Parliament and say, ‘Look, your constituents need to know this is coming. Encourage them to check their CRA account to look at the notices in there,’ put some ads out on the subway or on the radio, you know, whatever you need to do,” she said.

An early warning would have given low-income Canadians a chance to plan ahead and to reach out to the CRA to set up repayment plans that may have resulted in smaller benefit clawbacks, said Prof. Robson.

Instead, by the time many Canadians became aware of the offsets, it was too late to avoid at least a first round of drastic benefit cuts. The CRA normally needs three to four weeks' notice to set up a repayment plan, the agency said by e-mail.

And when taxpayers do reach out to the CRA about spreading their repayments over a longer period of time, some benefit recipients with modest incomes and large debts are finding out that's not an option for them.

To help determine whether a taxpayer faces financial hardship, the agency relies on the so-called low-income cut-off thresholds, the lowest of three measures of low income established by Statistics Canada. According to those metrics, individuals with an after-tax annual income of less than \$15,000 in rural areas, and less than \$23,000 in cities with a population of at least 500,000 people, are considered low income.

Canadians such as Ms. Tougas, who do not meet the low-income threshold, also have the option of setting up a repayment plan if they're struggling financially. But in an e-mail discussing child benefit offsets, the CRA told The Globe it targets a default timeline of 12 months to recoup the full amount of overpayments.

“Adjustments beyond 12 months are the exception and may be considered in extenuating circumstances for humanitarian reasons,” CRA spokesperson Paul Murphy said via e-

For Ms. Tougas, who owes around \$12,000 in child benefits, a repayment schedule of 12 months implies payments of about \$1,000 a month.

The CRA did not directly respond to a question about whether it also targets a default timeline of 12 months to recoup pandemic benefit overpayments for recipients who aren't deemed to be facing financial hardship.

Canadians who owe money because of a mistake by the CRA may also find there are few relief options for them.

The agency's best-known slip-up during the rollout of the pandemic benefits revolved around the CERB eligibility guidelines for self-employed Canadians. The information provided on government websites, including by the CRA, initially neglected to specify that a \$5,000 income requirement to qualify for the benefit referred to net income for self-employed applicants – that is, gross income minus applicable expenses.

Because of that omission, hundreds of thousands of people erroneously applied for the benefit based on their gross selfemployment income.

In the end, though, those Canadians got to keep their benefits. Following public outcry about the CRA's attempts to recoup those payments, the Trudeau government backpedalled on the net-income requirement, allowing people who had applied based on their gross self-employment income to hold onto the money provided they met all other eligibility criteria.

Other Canadians in a similar situation are having no such luck. In a recent Federal Court case, for example, a taxpayer named Jonathan Bellerose Bastien was told he'd have to repay CERB payments he'd received at the start of the pandemic, even though his mistake stemmed from unclear phrasing in the CRA's web communication.

The question of Mr. Bastien's eligibility also hinged on the \$5,000 income threshold. He believed he qualified, based on having earned \$5,000 in the 12 months before the beginning of the period for which he had applied for the CERB, which was March 15, 2020. But, in fact, the legislation required Mr. Bastien to have earned the \$5,000 in the 12 months before the date he submitted his application for the CERB, which happened to be May 25.

That difference of days mattered tremendously in Mr. Bastien's case, as he did not meet the income threshold if one counted the 12 months starting from May 25, 2019. However, Mr. Bastien was unaware of that nuance, as the CRA's online instructions simply describes that eligibility requirement as "You earned at least \$5,000 (before taxes) in the last 12 months or in 2019."

While the judge found Mr. Bastien was, in fact, not entitled to the CERB, he noted such an outcome raised “a suspicion of injustice.”

Canadians facing pandemic-related tax quandaries such as Mr. Bastien’s can request relief through a so-called remission order, which can provide full or partial relief from taxes owed.

Such orders “could be applicable if CERB repayments are considered unreasonable or unjust, or otherwise not in the public interest,” according to Amin Mawani, a professor of taxation at York University’s Schulich School of Business. Remission orders have also been used for child benefit overpayments when repayments would cause hardship, he said.

However, “very few requests” for remission orders are granted, the Government of Canada’s website warns.

Some experts argue it’s up to the Trudeau government to pro-actively come to the rescue of Canadians who are facing financial hardship or unjust predicaments linked to the extraordinary tax and benefit measures implemented during the pandemic.

After all, Ottawa already stepped in to do exactly that on several occasions, notes Leila Sarangi, national director of Campaign 2000, a national movement that focuses on child poverty.

In addition to backtracking on the \$5,000 CERB self-employment income threshold, the Trudeau government also swooped in to reverse clawbacks of a monthly payment for low-income seniors that had been triggered by the CERB and the CRB.

In the fall of 2021, the government declared it would provide up to \$742-million to repay seniors who’d seen their Guaranteed Income Supplement payments reduced or stopped because the pandemic benefits had temporarily boosted their income. The government also introduced amendments that ensured the pandemic support program would be excluded from the income test for GIS entitlements.

Ms. Sarangi argues the government should do the same for families with children, reversing and eliminating child benefit clawbacks that were triggered by the pandemic benefits.

In a report requested by New Democratic Party MP Daniel Blaikie, the Office of the Parliamentary Budget Officer estimated that excluding CERB and CRB benefits from what counts as income to determine child benefit entitlements would have cost taxpayers \$1.45-billion.

The Trudeau government has also been understanding toward students, allowing those who’d mistakenly applied for the CERB rather than the dedicated Canada Emergency

Student Benefit to offset their CERB-related debt by the amount they would have received through the studentspecific benefit, which provided \$1,250 per four-week period from May to August in 2020, to a maximum of 16 weeks.

Such after-the-fact adjustments were the right thing to do in the exceptional circumstances of the pandemic, said Mr. Stapleton.

“What you get wrong going out the door, you certainly have the opportunity to make right on appeal,” Mr. Stapleton wrote in a recent blog post.

But Ottawa’s approach to fixing the shortcomings and unintended consequences of its hastily adopted pandemic emergency measures has been ad hoc and incomplete, helping some groups and not others, Mr. Stapleton says.

As a blanket measure to address the financial aftershocks of the pandemic benefits, some anti-poverty advocates have been asking for a repayment amnesty for those living in or near poverty and for the federal government to repay low-income Canadians who have seen their benefits cut back because they received the pandemic income supports. The NDP has advanced similar demands.

A repayment amnesty would help to financially stabilize low and modest-income households, who are currently struggling with soaring living costs, argues Ms. Mulholland. Think of forgiving those pandemic benefit debts as a “poverty reduction payment,” she says.

Critics of that idea argue large repayment forgiveness measures could undermine Canadians’ confidence in the fairness of the tax system and their trust in the government’s ability to manage the money collected through it.

Some of the Liberal government’s patch-ups around the pandemic benefit programs were unfair to Canadians who correctly refrained from applying for income supports for which they didn’t qualify, said Bill Robson, chief executive of the C.D. Howe Institute.

For example, some self-employed taxpayers didn’t enroll in the CERB because they suspected – often after consulting tax professionals – that the \$5,000 threshold referred to net income.

In the end, Canadians who applied based on gross income were able to keep their money. But those who had interpreted the CRA’s vague wording correctly and refrained from applying got nothing because Ottawa had already wound up the program when it announced the retroactive rule change.

But Mr. Robson worries a lot more about the psychological impact of a large amnesty, which could cause “potentially millions of people to say, ‘Hey, I, who paid my taxes and

played by the rules, am now a chump,’ ” he said. “And that’s what you really need to avoid.”

The long-term concern is that this could hurt what economists call “tax morale,” the collective willingness to pay taxes, Mr. Robson said. The government must show it is serious about recouping overpayments from people and from businesses, he added.

But Ottawa could still adopt more targeted relief measures, which would be “easier to justify when it comes to that larger question of fairness,” Mr. Robson said.

The government could pro-actively forgive at least a portion of pandemic debts or offer extended repayment deadlines for Canadians who are likely to be facing financial hardship and unlikely to have committed fraud, Prof. Mawani said.

The CRA already has information, such as earnings, investment income, number of dependants in a household and government debt outstanding, that it could likely use to devise indicators of financial fragility based on taxpayers’ profiles, he said. It could then combine those with indicators of fraud to identify Canadians in need who made good-faith mistakes, and target them for extra help, Prof. Mawani said.

But whether the prescription is a broad amnesty or more limited tax-relief measures, many scholars, advocates and public policy experts agree on this: Ottawa could have – and should have – done more to ensure its debt-recovery effort didn’t clobber low-income Canadians and people who made errors because of the government’s own mishaps.

“Here I want to be categorical,” Prof. Mawani said, speaking about the impact of the CRA’s clampdown on low-income households. “They should absolutely take it easier.”