

The Disability Tax Credit: A Practical Guide for those Suffering from Fibromyalgia

The Disability Tax Credit or DTC is a fairness measure enacted in 1988 as a way to ease the tax burden of Canada's disabled citizens. The idea behind the DTC is that a reduced tax burden will allow the disabled to more effectively deal with the extraordinary healthcare costs associated with their particular disability. Since its enactment the DTC has been hailed as a groundbreaking piece of legislation and an invaluable tool in the struggle of the disabled to regain control of their lives and reclaim a productive position in society.

Qualifying for the DTC

In order to qualify for the DTC the disabled person must have taxable income and be able to prove a prolonged and significant impairment of their physical or mental abilities. This impairment must result in the person's inability to perform at least 1 of their basic daily life activities and/or require Life Sustaining Therapy for at least 14 hours per week.

DTC Benefits Amounts

For fiscal year 2016 the DTC limit is \$40,000. This is the maximum benefit you may receive. The actual amount you ultimately receive will depend on your taxable income as well as other factors. This does not mean however, that \$40,000 is a lifetime cap on total benefits you may receive via the Disability Tax Credit, since once approved for the DTC you may be able to claim retroactive benefits for up to 10 years as well.

Supporting Persons

It is also possible for a supporting person to receive the disabled person's DTC benefit. A "supporting person" is defined as a person who typically supplies the disabled person with food, shelter, clothing and other necessities of daily life. This supporting person can be a:

- Husband or Wife
- Parent or Grandparent
- Aunt or Uncle
- Sister or Brother
- Son or Daughter
- Niece or Nephew
- Common Law Partner

Fibromyalgia

Fibromyalgia is a disorder of the somatic nervous system which can significantly undermine a person's quality of life through chronic pain and an acute sensitivity to pressure. Although fibromyalgia is a relatively new diagnosis it has gained increasingly widespread acceptance in recent years. It is estimated that up to 1.5 million Canadians may suffer from fibromyalgia.

Fibromyalgia Symptoms

Fibromyalgia is often characterized by debilitating pain that can make carrying out even the simplest tasks of everyday life an excruciating struggle. Fibromyalgia currently has no cure which means the suffering of those afflicted with the disorder can and does go on for years. For many total disability becomes their reality and it is not uncommon for the afflicted to lose hope. In such cases depression can set in as well, compounding an already complex situation.

Fibromyalgia Treatment

Treatment for fibromyalgia can take different forms but typically involves drug therapy and/or various types of physical therapy. Some commonly prescribed medications include Cymbalta, Savella and Lyrica which work to block pain and restore function. While these drugs hold promise the fact that the exact mechanisms of fibromyalgia are not yet completely understood mean that not everyone who takes these medications will experience relief.

Physical therapy focuses on taking direct aim at the various physical manifestations of fibromyalgia including fatigue, muscle weakness and of course chronic pain. Various physical therapies include cardiovascular training, whole body cryotherapy, deep tissue massage therapy and trigger point injection. In addition to these and other physical therapies acupuncture has proven effective on occasion in reducing the chronic pain associated with the disorder.

Fibromyalgia Costs

Over the counter and prescription drugs, various physical therapies, doctor visits and more can wind up costing fibromyalgia sufferers thousands of dollars each month; much of that not covered by their insurance. Those costs don't take into account unpaid sick leave, emergency room visits and even loss of employment; which can in many cases result in financial catastrophe.

Fibromyalgia and the Disability Tax Credit - FAQs

I have Fibromyalgia. Am I eligible for the Disability Tax Credit? - Yes. If you or someone you support (in accordance with DTC guidelines articulated above) suffers from Fibromyalgia you are eligible to apply for the DTC.

I was just diagnosed with Fibromyalgia. Can I apply for the DTC Right Away? - In order to be eligible for the DTC your disability must have lasted or be expected to last at least 12 months. You may be eligible to apply for the DTC right after diagnosis provided your doctor is willing to attest to the above stipulation.

What constitutes "Life Sustaining Therapy?" - The DTC defines Life Sustaining Therapy as that which is necessary to support a vital life function and is required to be performed no less than 3 times a week for no less than 14 hours per week. Where fibromyalgia is concerned there are two main types of therapy administered: "Passive" therapy in the form of massage and the like and "Active" therapy which includes things like flexibility and mobility exercises. Either or both can be considered life sustaining if they provide the support necessary for the conduct of a vital function.

How do I determine how much time is spent on Life Sustaining Therapy? - Determining the amount of time you spend undergoing Life Sustaining Therapy to treat your fibromyalgia is not difficult. Simply keep track of the amount of time you spend engaged in different types of passive or active therapies and record the totals on form T2201.

Passive treatments may include:

- Various forms of massage, including deep tissue massage.
- Heat or Hydrotherapy
- TENS (transcutaneous electrical nerve stimulation)
- Ultrasound therapy

Active treatments typically include:

- Strengthening exercises
- Flexibility training
- Low-impact aerobics

How do I apply for the DTC? - Your first step will be to obtain the required diagnosis so that you know you are on sound footing. Your next step will be to download and complete CRA form T2201. No Disability Tax Credit application will be considered without a completed version of this form. Form T2201 includes a questionnaire designed to help CRA benefit specialists determine your eligibility for the DTC. It also provides you with vital information about the application process as it moves forward.

Form T2201 is comprised of two parts that must each be filled out completely lest the application be summarily rejected.

- **Part A** provides the CRA personal information about you including your SIN number and date of birth. If there is a “Supporting Person” involved this is where their information must also be entered in full, including their SIN number and their relationship to you.
- **Part B** is to be filled out by a doctor or other qualified medical practitioner. An applicant suffering from fibromyalgia will typically be required to have Part B of form T2201 filled out by an Occupational Therapist, Physiotherapist or MD.

It will be up to the qualified medical practitioner to determine if you are “markedly restricted” by your fibromyalgia as required by the DTC. It will also be the responsibility of the medical practitioner to determine the date when the restriction first manifested itself. This date is typically different than the date of first diagnosis. Determining and recording this date on form T2201 is crucial as it is this date which the CRA will use as the date you became DTC eligible.

Once both parts of form T2201 have been completed and signed by all parties it must be forwarded to the CRA for consideration. Remember: don’t send anything to the CRA without first making a copy of it. This will help save you time and trouble should problems arise.

Do I have to live with the “supporting person?” - No. But if the you (the disabled person) and the supporting person live apart evidence must be provided detailing your financial dependency on the supporting person.

Will I automatically qualify for retroactive benefits? - No one is automatically entitled to retroactive benefits. Eligibility is dependent on being able to prove to the satisfaction of the CRA that a marked impairment has existed for the years in question. Even if approved the CRA may require you to reapply every year, or every few years. In some cases they may grant permanent eligibility (though such a grant is rare).

I already filed my taxes for this year. Do I have to wait until next year to apply? - No. You may download and complete form T2201 at any time, regardless of your tax filing status. During the submission process simply alert the CRA to the fact you have already filed taxes and request they reassess your tax liability for the year.

What happens if I am rejected? - The CRA reserves the right to reject any DTC application. Should an application be rejected you may amend your submission materials with additional relevant information and resubmit. Should it transpire that you are rejected yet again you may launch a Formal Objection to the decision in order to try and obtain a reversal. Again though, the CRA reserves the right to make any final decisions.

Additional Information Regarding the Disability Tax Credit Application Process

Elevated Burden of Proof

The Canada Revenue Agency has adopted a more stringent burden of proof in recent years with regard to Disability Tax Credit claims. As a result it is not uncommon for the CRA to request ever more detailed medical records relevant to a claimant's condition. In many cases approval will not be granted without a second, corroborating medical opinion as well. As this is all part of the CRA's attempt to stamp out fraud it should be a welcome development and any requests the CRA makes should be met in full and without delay.

Also, due to the more rigorous level of scrutiny the CRA is applying it is more important than ever that any applicant make sure form T2201 is completed in full and that all information contained within is completely accurate and verifiable.

Request for Doctor Clarification

You may feel you have a legitimate claim and have supplied adequate verification of your fibromyalgia diagnosis to be approved for the DTC. However, the Canada Revenue Agency has stated that diagnosis alone - whether for fibromyalgia or any other condition - is not sufficient to qualify for DTC benefits. As a result the doctor or qualified medical practitioner must provide clarifying details relative to your impairment and how it affects your ability to perform at least 1 of the basic activities necessary for daily living.

Duration of Impairment

One of the fundamental requirements for DTC approval is that your disability has lasted or is expected to last for at least 12 consecutive months. The qualified medical practitioner must provide confirmation of this fact and must also indicate whether they believe your marked restriction will, in their opinion, improve and when that may be expected to occur.

The MD or other qualified medical practitioner must satisfy the CRA with regard to the above matters before a claim can be expected to proceed to the approval stage. It's not uncommon for the CRA to make additional requests for information throughout the application process and so having a qualified representative advocating for you and handling the details throughout this time will be key in increasing your odds of being approved.

Filing for Future Years

If your Disability Tax Credit application has been approved you or your supporting person may then claim the DTC for all future years during which the impairment remains. As mentioned earlier it is possible to receive a judgement of permanent impairment in which case you or your supporting person will be able to automatically claim the DTC on your or their tax return every year. Keep in mind though that, as mentioned earlier, such grants of permanent disability are rare.

Conclusion

The CRA's Disability Tax Credit has proven time and again to be a substantial aid in helping persons with disabilities restore a modicum of financial stability to their lives. As an economic fairness tool it has few equals. Approved applicants can on occasion receive significant retroactive settlements from the CRA for their disability and so it behooves anyone whose life has been compromised by the scourge of fibromyalgia to consider applying for benefits.

If you are unable to complete the necessary forms and gather the necessary paperwork yourself you should not hesitate to actively seek out the assistance of a qualified organization or individual to help.

About the author

Josh Pugen is a disability benefits specialist with over 8 years of experience in the disability tax credit and social work fields.

Josh and Disability Credit Canada Inc. advocate for disabled Canadians, helping them maximize their disability tax credits and benefits.

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