

CHAPTER 12

Social
assistance

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12.1

What is social assistance?

The South African Government accepts that it has a responsibility to care for people who cannot take care of themselves. When people are too young, sick, old or injured to look after themselves, then government will provide social support where possible. This kind of support is called 'social assistance'.

Social assistance and social insurance make up what we call 'social security'.

EXAMPLE



SOCIAL INSURANCE

Unemployment insurance – as a worker, you give money to a fund to help you when you are unemployed.

People with HIV are able to work and support themselves. However, eventually many people with HIV become sick and unable to look after themselves. Then they can apply for social security.

Children may have special health needs because of HIV/AIDS, or they may be orphaned as a result of the HIV epidemic. Their care-givers can also get social security for their special needs.

Section 27 of the **Bill of Rights** in the **Constitution** says:

“ Everyone has the right to have access to social security including, if they are unable to support themselves and their dependants, appropriate social assistance. ”

In January 2000, the Minister of Social Development introduced the Department of Welfare 10-Point Programme to improve welfare in the country. One of the priorities identified in the programme is to provide services to support community-based care and support for **people living with HIV or AIDS, or affected by HIV or AIDS** (eg orphans).

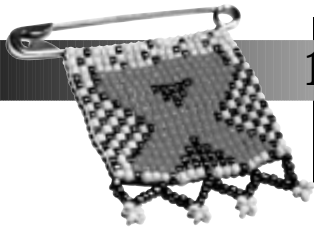


KEY POINTS

THE NEW GOVERNMENT WELFARE APPROACH

- *HIV and AIDS are also disabling conditions.*
- *People living with HIV or AIDS will qualify for social security and assistance, where necessary, which includes nutrition, transport, rent, burial costs and school books.*
- *Staff in the Department will be educated about the need for confidentiality.*

To find the 10-Point Programme, see References and resource materials on page 289.



12.2

Different types of social assistance

There are different kinds of assistance available to people who need help. Non-governmental welfare organisations (NGOs) give support like food, items of clothing, or emergency housing. Find out which organisations operate in your area, as there are many charities giving social assistance to people in need.

EXAMPLE



A SOCIAL ASSISTANCE CHARITY

In Johannesburg, an organisation called Friends For Life offers counselling and emotional support to people with HIV or AIDS, and gives assistance with food-parcels, home and hospital visits.

The *Social Assistance Act* is the law that says when and how people can qualify for government assistance. It aims to protect and provide assistance to people who cannot support or maintain themselves for different reasons – because of their age, illness, or a physical or mental disability.

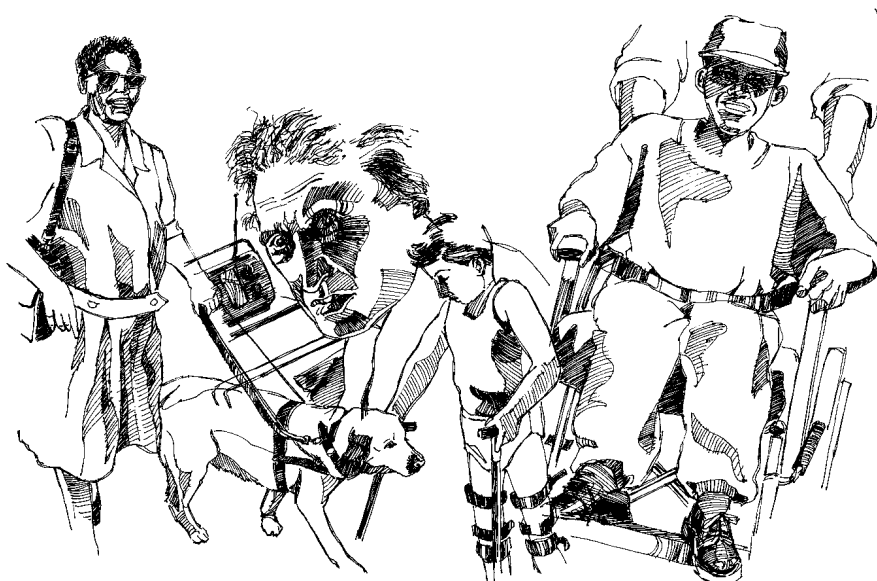
When people become unable to support themselves and their families because of HIV or AIDS, the *Social Assistance Act* says that government is supposed to provide some assistance to them.

EXAMPLES



SOCIAL ASSISTANCE

- Old age pensions
- Disability grants
- Grants-in-aid
- Foster care grants
- Care dependency grants.



**12.3.1 WHO QUALIFIES FOR A DISABILITY GRANT?**

To receive a disability grant, you must have a physical or mental disability that prevents you from generating income or getting employment.

QUALIFYING FOR A DISABILITY GRANT

The Social Assistance Act says that you can get a disability grant if you:

1. *Are a South African citizen.*
2. *Are 18 or older.*
3. *Have consulted a doctor and the medical report shows that you are unable to support yourself. If your private doctor says that you are sick, you will not automatically qualify for a disability grant. You have to be examined by a government doctor or district surgeon, and then your medical report must be approved by the Pension Medical Officer.*
4. *Have an **incapacity** that means that you are unable to get any kind of employment. Your illness or disability must be permanent, or at least be expected to last over 6 months. You will lose your grant if you become healthy enough to work.*
5. *Your **spouse** cannot afford to support you and your spouse has also passed the **means test** (see 12.3.3 on page 278).*
6. *Do not live in a government-run institution, eg a prison, a psychiatric hospital, an old age home, a care and treatment centre, or a centre for drug dependants.*
7. *Do not receive any other social grant.*

GUIDELINES

12.3.2 HOW DO YOU APPLY FOR A DISABILITY GRANT?

To apply for a disability grant, you have to go to the nearest Department of Social Development (previously called Welfare) or Pension Office.

GUIDELINES



DOCUMENTS TO TAKE WITH YOU

1. A bar-coded Identity Document (ID).
2. Proof of income or **assets** (possessions) – including the income and assets of your husband or wife.
3. Proof of marital status (single, married or divorced).
4. A letter from your own doctor.
5. Any other medical records you have.

GUIDELINES



STEPS TO GET THE GRANT

1. The pension official will take your documents.
2. The pension official will give you a medical report that must be filled in by a medical officer at a government hospital or by the district surgeon. They will examine you and say if you qualify for a disability grant.
3. A medical report must explain that your disability is likely to continue for longer than 6 months.
4. Make a copy of the medical report to keep.
5. Take the medical report back to the Pension Office.
6. The pension official will give you a receipt as proof that you applied. The stamp should have the date of your application and the signature of the official accepting your application.
7. Applications usually take 3 months to process. The Department of Welfare will decide if you have a disability and if it prevents you from supporting yourself.

If your health prevents you from applying for the grant yourself, you can ask someone else to go to the office on your behalf. This person will need to fill in your details on the form.

If you qualify for a disability grant, you receive a grant of about R700 a month.

12.3.3 WHAT IS THE MEANS TEST?

Even if you qualify for a grant, you will not automatically receive the full amount available. The Department uses a formula called 'the means test' to work out how much a person should receive – the more income you have, the less help you will get.

So when you apply for a grant, you will have to write down:

- Your assets (eg your house).
- Your income (eg rent you receive).
- Your spouse's assets or income.

12.3.4 CAN PEOPLE WITH HIV OR AIDS GET A DISABILITY GRANT?

Having HIV or AIDS is regarded by law as a disability in many countries. Illnesses caused by HIV can also lead to incapacity. But a disability grant is only given to someone who is unable to work, so you can't automatically get a grant just because you are living with HIV.

If you are unemployed but are still fit for work, even though you have HIV or AIDS, the Department of Social Welfare will not give you a social grant.

PROOF OF INABILITY TO WORK

Shadrack is no longer able to work because of an AIDS-related illness. Shadrack must go to his doctor and ask her to fill in the medical form which explains that he is unable to work, and will be unlikely to work in the next 6 months. Then he must give the form back to the Department of Social Development. Shadrack should remember to ask the pension office for a dated receipt.



EXAMPLE

QUALIFYING FOR A DISABILITY GRANT WITH HIV

The present policy of the Department of Social Development is only to provide benefits to a person with HIV if:

- You have a **CD4 cell count** below 50, and
- A major **opportunistic infection**.

This policy can be challenged if a person living with HIV does not meet these conditions, but is still unable to support him/herself.



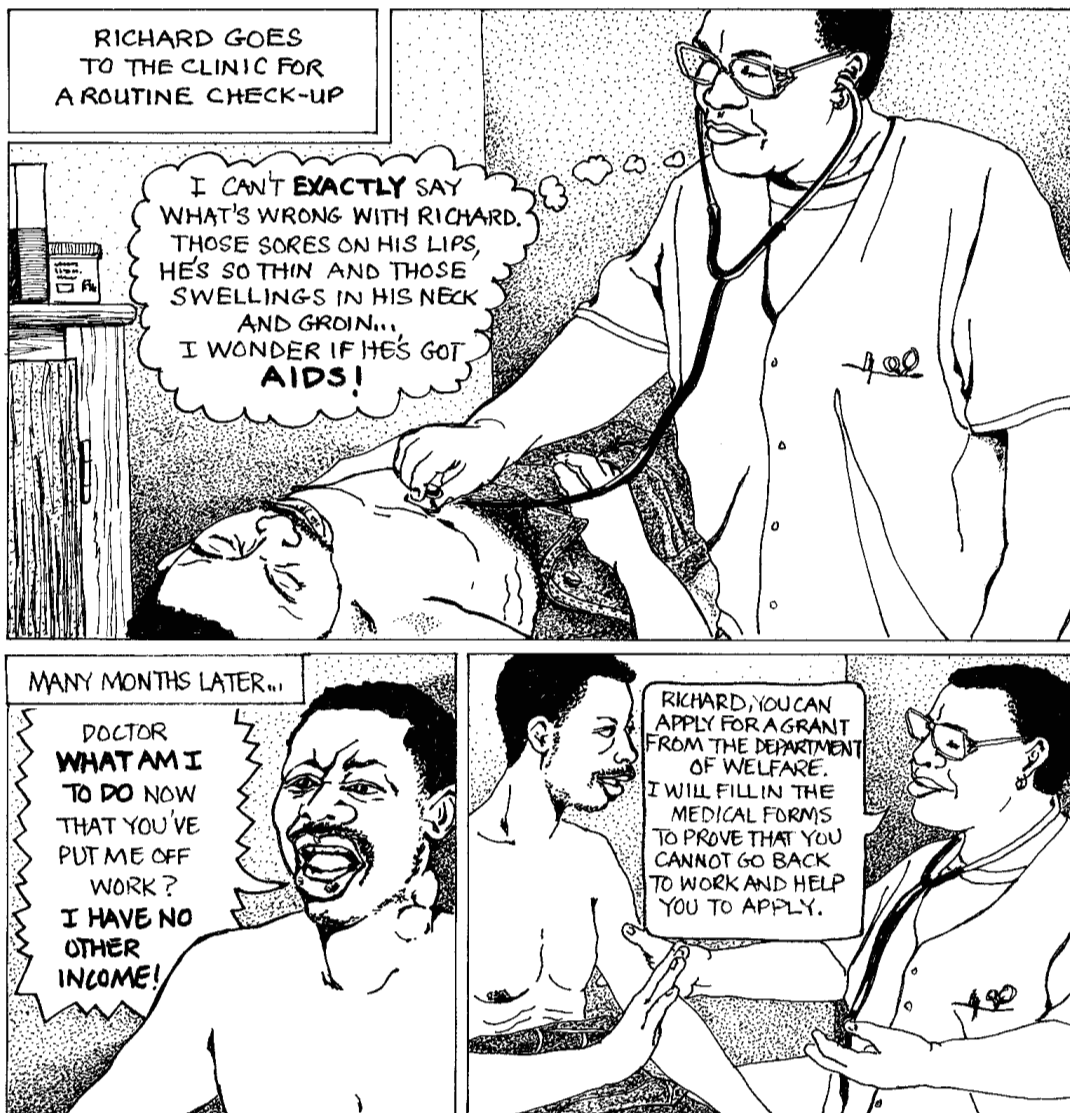
KEY POINTS

For more on CD4 cell counts and opportunistic infections, see 1.6 on page 22.

12.3.5 WHAT ABOUT CONFIDENTIALITY?

For more on confidentiality, see 6.2 on page 120.

No one is allowed to disclose any information that you put in your disability grant application. If they tell anyone else, they are breaking the law, and you have the right to take action against them and the Department.





12.4

Grants to support children

Under the Social Assistance Act, three kinds of grants are available for the support of children, including children with HIV, children living in families affected by HIV/AIDS, or children orphaned by HIV/AIDS:

- Foster care grants
- Child support grants
- Care dependency grants.

12.4.1 FOSTER CARE GRANTS

A foster care grant is paid to somebody who takes care of a child that has been placed in their care under the Child Care Act.

A foster grant is different from the child support grant because the child support grant is given to a care-giver, but the foster care grant is only given to a foster parent.

A child can only be placed in the care of a foster parent by a court, and foster parents are usually not related to the child.

There is no means test for the foster parents if they want to apply for a foster care grant. But if the child receives a certain amount of money (eg from an inheritance), then there will be no grant.

GUIDELINES



DOCUMENTS YOU NEED TO GET THE GRANT

- *Bar-coded ID of the person applying for the foster care grant.*
- *Bar-coded birth certificate or ID of the child.*
- *Proof that the child receives no income.*
- *A court order placing the child in your custody.*
- *Proof that the child is attending school.*



If the child attends school away from home, he/she must come home during holidays. You also need to show that the child is well cared for, for example:

- Safe accommodation
- Enough food and clothes
- Good medical care.

For more on the rules for fostering, see 11.3.2 on page 255.

12.4.2 CHILD SUPPORT GRANTS

The child support grant is a grant given to a person who is caring for a child.



REPLACEMENT OF MAINTENANCE GRANT

- *The child support grant replaced the maintenance grant in April 1998.*
- *People can no longer apply for maintenance grants.*
- *People who are getting maintenance grants now will have the grants reduced by 25% each year until the amount they get reaches the same amount as the child support grant.*

The child support grant is R160 a month. The child support grant is intended for the support of poor children. Until 2003 the grant was paid for children from age 0 to 7 years old. This will now change as grants for children up to 14 years old will be phased in over a 3 year period. From April 2003, children from 0 – 8 years old (in other words, children that are younger than 9 years) can register for a grant. From April 2004, the grant will extend to children who are 9 and 10 years old (children who are younger than 11 years) and in April 2005 this will extend to children who are 11, 12 and 13 years old (children who are younger than 14 years). So, for example, this means a child who is 13 years old in 2003 will be 15 years old in 2005 and will never qualify for a child support grant.

Who qualifies for a child support grant?

The primary (main) care-giver of the child.

The care-giver does not have to be the mother of the child. Anybody who takes full-time care of the child and who the child lives with, can apply for the grant.

If the child is in a home or special institution, then you cannot apply for a child support grant.

What is the means test?

To get the child support grant, you have to pass a means test:

- If you live in a rural area, then the combined income of you and your spouse must not be more than R9600 a year (R800 a month).
- If you live in a urban area or informal settlement, then the combined income for you and your spouse must not be more than R13 200 a year (R1 100 a month).
- You should also not receive any other payment for taking care of the child.

The Committee on Comprehensive Social Security is busy examining possible changes to the means test.

GUIDELINES



DOCUMENTS YOU NEED TO GET THE GRANT

1. Bar-coded ID of yourself and your spouse.
2. Bar-coded birth certificate or ID of the child.
3. Proof (eg an **affidavit**) that the person making the application is the primary care-giver.
4. Proof of marital status.
5. Proof of income of yourself and your spouse.



If you live in a rural area, your combined income must not be more than R800 a month for you to get a grant.

12.4.3 CARE DEPENDENCY GRANTS

A care dependency grant helps you to care for a child who is ill or needs special medical attention. The child must be in your full-time care. A child living permanently in a psychiatric hospital, or a care or rehabilitation centre, does not qualify for a care dependency grant.

GUIDELINES



DOCUMENTS YOU NEED TO GET THE GRANT

- Bar-coded ID of the person applying for the care dependency grant.
- Bar-coded birth certificate or ID of the child.
- Proof of income and assets.
- Medical reports showing that the child needs care.

You will need to show that you can give proper care to the child, for example:

- Safe accommodation
- Enough food and clothes
- Good medical care.

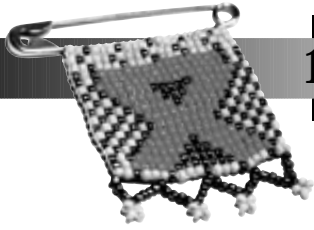


GETTING A CARE DEPENDENCY GRANT FOR CHILDREN WITH HIV

Children with HIV, and especially children with AIDS-related illnesses should qualify for a care dependency grant.

Very few people receive care-dependency grants and the amount that is paid is very little. It is currently R700 a month.

The Committee on Comprehensive Social Security is a committee made up of social security experts, with representatives from government, non-governmental organisations and academic institutions. It is examining changes to the care dependency grant, and will make recommendations in 2001.

**12.5.1 SOCIAL RELIEF OF DISTRESS**

Social relief of distress is temporary help that you can receive from government for not more than 3 months.

Social relief is usually given as coupons that can be exchanged at some supermarkets.

Who qualifies for a social relief of distress grant?

You do not automatically qualify for social relief of distress – it is up to the Pension Office to decide if you should get this type of help.

You can get a social relief of distress grant:

- If you are medically unfit to work, and
- You do not qualify for or have not yet received another grant – you cannot qualify for social relief and a social grant at the same time.

WHO QUALIFIES

- *You have applied for a disability grant or old age pension, and you are waiting for it to be paid.*
- *You do not qualify for a disability grant because you are sick for 6 months or less.*
- *You are a parent and your partner has been sent to hospital, prison or other government institution for less than 6 months.*

**EXAMPLES****EMERGENCY HELP**

Nomsa supported herself and her 5 children until she became unable to work because of an AIDS-related illness. She may qualify for a disability grant, but she will not receive any money for several months while her application is processed.

**EXAMPLE**

The Department of Social Development may give her food and money to help with her rent because it is an emergency situation. Once Nomsa starts to receive her disability grant, she will no longer qualify for emergency assistance. When Nomsa receives her money, the amount or cash equivalent that she received in social relief will be deducted from her grant.

12.5.2 MEDICAL CARE

Sometimes, people with HIV or AIDS are unable to pay for medical care. Government helps people get basic health care services in different ways – for example, pregnant women and children below the age of 6 can get free medical services. For people who can't afford medical services and who don't have medical aid, they are charged 'on a sliding scale' – in other words, they only pay for what they can afford.



KEY POINTS

To find the National Health Bill, see References and resource materials on page 289.

WHAT THE NATIONAL HEALTH BILL SAYS

When the National Health Bill becomes law, Government hospitals will have to give:

- Free medical services to pregnant women and children below 6.
- Free primary health care to all people, except those who are covered by medical aid or the Compensation Commission.
- Free termination of pregnancy services to all women.



People like Thendo who can't afford medical services are charged on a sliding scale at state hospitals. This means they pay only what they can afford.



12.6

Social grant checklist

1	You must have a bar-coded ID to apply for a social grant.
2	Every person who receives a grant has to have a review at least once a year – this is to prove that you are still alive and suffering from an illness. If you do not have a review, your grant will stop. You can find out when and how to have a review from the Pension Office.
3	You can collect your grant from the Pension Office or pay-point, or have the money deposited into your bank account. You should discuss this with the pension official.
4	If your application for the grant is refused, you can appeal against the decision. The Department of Welfare should give you their reason for turning down your application in writing. You should write a letter to the Department of Welfare explaining why you think you qualify for a grant. You must appeal within 90 days after receiving the letter turning down your application.
5	You do not have to pay anyone to get a grant.
6	If you move, you can get your grant transferred to the new area. You will have to sign some forms asking for your grant to be transferred.
7	If you are too sick or old to collect your grant, you can get someone to do this for you. You must sign special forms for this and you must also have a review to prove that you are still alive.
8	It should take 3 months for you to receive your grant. Your first payment should include money from the time you applied (back-pay) But if it took more than 3 months for your grant to be processed, you will not receive back-pay for more than 3 months.
9	If you do not receive your grant regularly or if it suddenly stops, you should go to the Pension Office to find out why. You should ask for reasons in writing for why your grant was stopped. Remember: sometimes a grant will stop because you did not go for a review. Once you have the review, you should start receiving your grant again.
10	If you are unable to solve your problem around not receiving your grant, you can: <ul style="list-style-type: none">● Go to an advice office to make enquiries for you, or (if this doesn't solve the problem)● Go to a lawyer for help, or (if you still have problems)● Contact the Public Protector for assistance.

GUIDELINES



For the contact numbers of organisations for HIV/AIDS referral and advice, see R8 on page 483.

For Black Sash office contacts, see 1.7.3 on page 405.

SOME HELPFUL ORGANISATIONS

- *Black Sash offices for general problems around getting grants.*
- *Your nearest counselling centre or advice office can refer you to organisations that have been established to help people with HIV or AIDS, and their families. They can also help you to fill in application forms for social assistance, and give you other assistance.*
- *You can also contact the AIDS Consortium or AIDS Legal Network.*



Talking points



1 What do you think of the present test to decide if someone living with HIV is 'unable to work'?

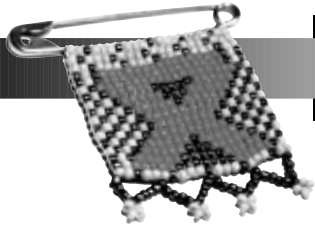
- *Do you think it is reasonable?*
- *What test should we use?*

2 The present Department of Welfare policy on qualifying for a disability grant if you are living with HIV or AIDS says your CD4 cell count must be below 50 and you must have a major opportunistic infection.

- *Is this policy reasonable?*
- *What can you do if you do not meet these conditions?*
- *Imagine you and friends are a committee with the task of drawing up a new policy. Write up this policy, and motivate for it and a budget to carry it out.*

3 You apply for a disability grant and give details of your lesbian partner. The Department of Welfare Office turns you down because they say that they only accept proof of income and assets of a husband or wife.

- *How can you challenge this?*



References & resource materials

LAWS

Constitution of the Republic of South Africa Act, No 108 of 1996.

Maintenance Act, No 99 of 1998.

Draft National Health Bill, 9 November 2001.

Social Assistance Act, No 59 of 1992.

POLICY DOCUMENTS

Department of Welfare: 10 Point Programme of Action, January 2000.

CASES

Fraser v The Children's Court, Pretoria North and Others, 1997 (2) SA 261 (CC) 1997 (2) BCLR 153 (CC).

REPORTS, MANUALS AND OTHER USEFUL MATERIALS

AIDS Law Project and Lawyers for Human Rights: HIV/AIDS and the Law: A Trainer's Manual (First Edition), July 1997.

Community Law Centre: Socio-Economic Rights in South Africa (A Resource Book), October 2000.

Legal Resources Centre (Durban): A Guide to Disability Grants (booklet), 1998.

WEBSITES

AIDS Law Project: www.alp.org.za

AIDS Legal Network: www.redribbon.co.za/legal

AIDS Consortium: www.aidsconsortium.org

Department of Social Development: www.welfare.gov.za

Department of Health resources: www.aidsinfo.co.za

