

# Recommendation on an Alternate Fare Program for Disabled Riders

## *Background on Accessible Transit*

As mentioned in the staff report PW23024 B on 15 October 2024: “Fare Assist was designed to contribute to fare affordability, freedom to travel by transit and increase ridership through making fares more affordable. It is a means-tested approach which could be consistently applied to all applicants.”.

While this may be true for persons who can afford to pay for transit, it is not at all the reality for many disabled persons, particularly those living at or below the Low Income Measure. We know that our community is disproportionately impacted by costs to transit and the changes to HSR’s fare policy has not remedied this situation widely enough.

As is well understood by this Committee, City Councillors, and much of the public: persons with disabilities in Hamilton have received complimentary bus fares aboard HSR conventional buses for decades including CNIB cardholders post WWII since at least the early 1950s and persons using mobility devices since the installation of Accessible Low Floor (ALF) buses in the mid 1990s. Moreover, as stated in the 2022 *Canada Survey on Disability*, 27% of Canadians live with a disability, and that 40% of all persons who live with a severe disability live at or (far) below the poverty line.

Current requirements, then, to impose a maximum 30% discounted rate for persons with disabilities who live near, at or below the Low Income Measure (LIM) imposes a significant financial hardship upon many persons with disabilities in Hamilton. We also know that all measures of the LIM itself are behind many other measures of the ability of disabled people to thrive and not just survive in Hamilton. For example, according to a recent report from the Wellesley Institute, disabled people live with higher than average costs of daily living by as much as 39% above that of non-disabled persons making transit even more unaffordable and the rate of disability poverty higher than these estimates reasonably reflect.

As laid out in legislation and past legal precedent, along with its own decisions, Hamilton City Council has more than just a moral obligation to be responsive to the accessibility needs of all disabled people. This especially applies to critical services in our community, such as transportation, where these services provide the means of access to everything in our community from health care to employment, recreation, social inclusion, housing, retail or hospitality needs.

## *Consultation with the Community*

Prior to the establishment of the current *Fare Assist* program, the HSR failed to sufficiently consult widely the community of persons with disabilities about their transit needs including fares, and to date still have not taken any meaningful steps to consult persons with disabilities

most affected by the implementation of the Fare Assist program by the time of this recommendation.

While we acknowledge there have been some efforts to connect with the community by HSR, these efforts were not made in consultation with the ACPD, or disabled peoples' organizations in Hamilton in its efforts to assess the impact of fare programs on our communities—particularly for those of us who live at or below the Low Income Measure. Subsequent consultations from the HSR have been held, but no changes have been made to the program to preserve the pilot process' integrity.

To assist in this wider process, a coalition of disability, transit, and environmental organizations came together to and conducted the only community consultation of disabled Hamiltonians in order to be adequately informed of bus fare transit issues locally, and which now inform the recommendation presented in this report-back.

Ultimately, disabled people want accessible transit that works for everyone in this city, particularly low income Hamiltonians. However, Fare Assist program in its current design is not fully meeting the needs of all Hamiltonians—specifically those part of disabled communities.

Therefore, the following recommendations set out a complimentary design for a new transit fare program for disabled people in Hamilton that is to be a sibling to existing fare programs.

## *Recommendations*

Therefore be it resolved the Advisory Committee for Persons with Disabilities strongly recommends that the following proposal of the Accessibility Hamilton Alliance and Disability Justice Network of Ontario, and their community coalition, be accepted by Hamilton City Council as follows:

- The HSR make recommendation to Hamilton City Council on the establishment of a new and second fare program, one that is designed specifically for persons with disabilities and designed to complement the existing Fare Assist program, and;
- That this new sibling program be specifically focused on ensuring access for all persons of all disabilities who live at or below the current Low Income Measure as is determined annually, and;
- That the HSR meaningfully consult persons with disabilities across the City, and beyond the ACPD, including representatives from disability organizations serving persons with disabilities, persons with disabilities themselves via community consultations (including persons with disabilities living within residential institutions), and outreach to disabled students in secondary and post-secondary education, and;
- That, in the development of this new sibling program, direct program enrollment (through proof of social assistance enrollment and organizational program membership) be considered including: ODSP, Ontario Works, CPP-Disability, WSIB, CNIB Membership, and related social service and membership programs, and;

- That, in the development of this new sibling program, fare rate discounts be considered for all forms of transit, all fare types, and that the amount of discount be based on the above consultation with disabled riders; and,
- The program apply to all modes of transportation under the auspices of the HSR (specialized and conventional transit including end of route services), and;
- This new sibling program be a pilot in the same way as the Fare Assist program, with a specified start and end date, and;
- That reports on this new sibling program provide a recommendation to Hamilton City Council on what to do with bus fares once the pilot is complete and pending any recommendation on a more permanent bus fare program, and;
- That the HSR undertakes regular evaluations of the new sibling program's effectiveness through surveys, in-person consultations, and user data collection with this data being reported to Council according to a schedule consistent with that of the existing Fare Assist program. This data collection and reporting include a summary report at the completion of the program with recommendations on what to do with the program moving forward, and;
- That this new sibling pilot bus fare program recommendation for persons with disabilities be brought to Council in a reasonable timeframe determined by city staff.

## *Appendix A: Community Consultation Findings*

In our consultation with Community members, what we've heard is that many perceive the changes to transit fares as "being punished for being poor" and as an extension of "legislated poverty" enacted throughout various parts of our social service system. Further, while ODSP and OW recipients are part of the Fare Assist pilot program, these costs are still too high as low social assistance rates make it impossible to afford to pay for services. Residents are choosing between food, shelter, and transit—and even for those with mobility issues, transit is having to be chosen last... even when this causes other health issues.

One example given at our Town Hall was regarding a homeless individual with an amputated leg who uses a walker and, seeing as they have no fixed address, can't apply for city programs and would have difficulty accessing ODSP or OW. Before, such an individual would be able to ride for free. Now, they don't ride the bus at all.

While we have talked extensively about issues with the HSR around some physical disabilities, at our town halls, residents reported that HSR support for cognitive disabilities is near zero. Across experiences of disability, concerns regarding Presto accessibility and wider cost remained the same.

Across all our sessions and means of feedback, disabled community members reported that more low income, disabled people (including themselves) are opting to walk rather than ride HSR than before fares changes. Consistent concern was expressed with how this will impact low income, disabled people during harsher weather periods and the winter months. Access to critical services like the library, grocery stores, and medical clinics all rely on low income,

disabled people having the freedom to move through the city—which is now a deeper concern for many.

Consistently across our consultations, we also noted that expanded eligibility—as reflected in the motion—was a desire for residents. CNIB Card holders, other social assistance users, and folks who use mobility devices all felt left out of the new fare system. In the end, anxiety about the changes, the increased costs, and wider feelings of social isolation dominated the impressions left by many residents.

In terms of setting up the existing fare system, at least one resident—the only one in their session able to fully access the program—noted that once set up, they didn’t have a further problem. However, they did not that the initial setup and websites for the program were confusing. They were positive about the new program, but noted that the paperwork wasn’t easiest to fill out, pathways for help were unclear, and annual paperwork would be a hassle. They did however acknowledge experiences of others running into barriers or costs with the program.

From our consultations, the majority of residents were in favour of free transit for disabled people. We are not asking for that in this motion, but wanted to make it clear that was the majority opinion of those who spoke to us. Folks present did raise that improving DARTS also service needs to be part of the solution and continued investment in making DARTS useful to those who need it and not investing in a Family of Services model like the TTC in Toronto.

Finally, we know that this process is not where we will resolve some of our issues with PRESTO and need to bring these issues to Metrolinx. Those consulted wished to have more data from Metrolinx on PRESTO for solutions, but also raised issues with PRESTO reader accessibility, reader placement, transit network connectivity across the Region. Discounts need to be coordinated across the GTHA and use of separate cards for different discounts creates confusion.

## *Appendix B: Ontario Legal Framework and Statute References*

As part of a wider background of this motion, we wanted to provide relevant regulations from a Provincial perspective.

In developing a new program, HSR and the community will need to consider the Accessibility For Ontarians with Disabilities Act Transportation Standard O. Reg. 191/11 regulation 46 which states:

**46. (1) No conventional transportation service provider shall charge a higher fare to a person with a disability than the fare that is charged to a person without a disability where the person with a disability uses conventional transportation services, but a**

conventional transportation service provider may charge a lesser fare for a person with a disability. O. Reg. 191/11, s. 46 (1).

(2) Conventional transportation service providers that do not provide specialized transportation services shall make available alternative fare payment options to persons with disabilities who cannot, because of their disability, use a fare payment option. O. Reg. 191/11, s. 46 (2).

And, further to the above, will also need to consider fare parity between conventional and specialized transit services for persons with disabilities as discussed in the Accessibility For Ontarians with Disabilities Act Transportation Standard O. Reg. 191/11 regulation 66

**66.** (1) Where conventional transportation services and specialized transportation services are provided by separate transportation service providers in the same jurisdiction, the specialized transportation service provider shall not charge more than the highest fare charged for conventional transportation services in the same jurisdiction. O. Reg. 191/11, s. 66 (1).

(2) Specialized transportation service providers shall meet the requirements of subsection (1) by January 1, 2017. O. Reg. 191/11, s. 66 (2).

(3) Where a transportation service provider provides both conventional transportation services and specialized transportation services, the transportation service provider shall ensure that there is fare parity between conventional transportation services and specialized transportation services. O. Reg. 191/11, s. 66 (3).

(4) Revoked: O. Reg. 165/16, s. 13.

(5) Where a transportation service provider provides both conventional transportation services and specialized transportation services, the transportation service provider shall ensure that the same fare structure is applied to conventional transportation services and specialized transportation services. O. Reg. 191/11, s. 66 (5).

(6) Where a transportation service provider provides both conventional transportation services and specialized transportation services, the transportation service provider shall ensure that the same fare payment options are available for all transportation services, but alternative options shall be made available to persons with disabilities who cannot because of their disability use a fare payment option. O. Reg. 191/11, s. 66 (6).

(7) Revoked: O. Reg. 165/16, s. 13.

(8) In this section,

“fare structure” means the fare price determined by fare media, such as cash, tickets, passes and bulk quantity discounts and by fare category, such as adults, seniors and students, but does not include promotional fares that a transportation service provider may employ from time to time. O. Reg. 191/11

Further, as noted to Hamilton City Council in a letter dated March 14 2013 by the Ontario Human Rights Commission, the establishment of a special bus fare program specifically for persons with disabilities fits within the Ontario Human Rights Commission classification of Special Programs:

“Special programs cannot leave out people from a group who may benefit from the program, without reason.” and,

“Programs like voluntary / free pay policies could be considered bona fide and reasonable” and,

“special programs within the meaning of section 14 of the Code and the OHRC's special programs guideline if it can be shown that the purpose of the programs is to address hardship, economic disadvantage, unequal opportunity or discrimination faced by the targeted group or groups, and that the eligibility criteria are appropriate in the circumstances.”

Current fare programs do “leave out people from a group who may benefit from the program” by not considering the wider impacts and difficulties of illustrating income for some members of the community *and* by removing the rights to access services for those who were part of previous programs. To avoid liability and challenge, it would be prudent to revise and expand eligibility as Council has now been made aware of these issues, as described in the aforementioned Recommendations.

## Appendix C: Past Council Decisions and Reports

### *Program Structure*

Following the letter from the Ontario Human Rights Commission, Hamilton City Council made the decision on April 10, 2013 to establish a new affordable bus fare program for persons with disabilities who are unable to afford the high cost of bus travel in the City in line with the OHRC's statements. In our view, implementation of the Fare Assist program Council failed to adhere to the wider precedents of this program and—as mentioned in Appendix B—have some concerns.

In our view, HSR report PW 23005 provided very little information related to consultation with persons from the disability community before making its recommendation to Council for only a 30% discount to persons with disabilities when using either the HSR conventional bus service or the DARTS specialized transit services.

Yet, the HSR continued to recommend free bus fares to seniors over 80 years of age, children under 12 years of age and a significantly discounted fare to postsecondary students with no evidence that these special program discounts are based at all upon the affordability of these passengers to pay.

## *Program Assessment*

In Report PW 23024B submitted by HSR staff on October 15, 2024, it was noted that the Fare Assist program would be assessed for the effectiveness of the program and its impact upon disabled people. However, in our view, these reports provided insufficient details as to how this impact is to be measured, assessed or even reported. Further, as mentioned in community members' delegations at the time, gaps and contradictions in the data make assessment difficult or incomplete. Additionally, there is no mention at all of any plan to consult disabled Hamiltonians or the ACPD regarding the collection, assessment and reporting of this data.