

# **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

## **DIRECTIVE 6.2**

### **DISPUTE RESOLUTION**

#### **SUMMARY OF DIRECTIVE**

A dispute resolution process is available to applicants and clients if they disagree with a decision related to eligibility or the suspension/cancellation of Employment Supports.

#### **LEGISLATIVE AUTHORITY**

[Section 36 \(1\), \(2\) and \(3\) of the ODSP Act](#)

#### **INTENT OF POLICY**

To ensure that applicants/recipients have a fair and accessible mechanism for disputing decisions made regarding eligibility for Employment Supports or the cancellation or suspension of Employment Supports.

#### **APPLICATION OF POLICY**

##### **Principles**

The Employment Supports System Manager is responsible for establishing a dispute resolution process that meets the following principles:

- Dispute Resolution Committees are convened in accordance with the timelines set out in these Directives;
- The review process will not be adversarial in its approach to hearing disputes;
- Confidentiality will be maintained at all times; and
- The process will be accessible to all applicants/clients.

##### **Decisions That Can Be Disputed**

Applicants or clients may request a review of the following decisions:

- the cancellation or suspension of Employment Supports; and
- ineligibility for Employment Supports.

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

It should be noted that all other decisions, including the amount or level of goods and/or services to be provided, are not subject to the dispute resolution process.

### **The Dispute Resolution Process**

#### **Cancellation or Suspension of Employment Supports**

1. Prior to making a decision to suspend or cancel Employment Supports, Employment Supports staff will first notify the client of the intention to suspend or cancel supports.

Service providers working with ODSP Employment Supports clients are expected to alert Employment Supports staff at any point there is a concern or issue that could lead to terminating their relationship with a client. This notification should happen early enough in the process so that attempts may be made to resolve the situation, if appropriate. Employment Supports staff will consult with the service provider and contact the client (either by phone or in writing) to discuss the situation and possible next steps.

The client will be invited to respond and work with Employment Supports staff to find a solution other than suspension or cancellation. Attempts to remedy the matter will be documented. Discussions between Employment Supports staff and the client do not have to take place face-to-face unless the client specifically requests a face-to-face discussion or his/her disability necessitates a face-to-face meeting.

The following outcomes may result, depending on the situation:

- the client may decide to voluntarily withdraw,
- the service provider agrees to continue working with the client under new terms and conditions or commitments,
- the client may be referred to another service provider for job placement and retention services/supports, or,
- ODSP Employment Supports staff informs the client that his/her employment supports are being suspended or cancelled.

Discussions between Employment Supports staff and the client constitute notification of the intention to suspend or cancel and the client's opportunity to respond in accordance with the dispute resolution process.

If no solution is found, Employment Supports staff have the authority to suspend or cancel Employment Supports. The Employment Supports System Manager will review the decision before any further steps are taken.

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

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2. If the Employment Supports System Manager agrees with the decision of the Employment Supports staff, the client will be informed, in writing through regular mail, of the decision to suspend or cancel supports. This notification must be made within 30 days of notification of the intent to suspend or cancel.

The letter must clearly state:

- the reason(s) for the suspension or cancellation;
- the date the suspension or cancellation is effective;
- the conditions upon which Employment Supports may be reinstated, if applicable;
- if funding has been provided directly to the client, the client will be informed of his/her obligation to repay the unexpended funds previously advanced;
- the client can request the decision be reviewed by a local Dispute Resolution Committee;
- the client has 30 days from the date of the notice to make a written request to the Employment Supports System Manager for the Dispute Resolution Committee to review the decision;
- the recommendation of the Committee will be forwarded to the ODSP Regional Manager;
- the ODSP Regional Manager will consider the Dispute Resolution Committee's recommendation and decide whether to confirm or change the decision; and
- the client must provide the reasons for disputing the decision in order for Employment Supports staff to prepare an appropriate response for the Dispute Resolution Committee and ODSP Regional Manager.

Where there are reasonable extenuating circumstances, the Employment Supports System Manager may extend the period in which the client must request a review.

Employment Supports can be suspended or cancelled once written notification to the client has been sent out. The Employment Supports System Manager may choose to allow supports to continue, notwithstanding the decision to suspend or cancel, until the dispute resolution process is complete.

3. Upon receipt of the client's written request for a review of the decision, the Employment Supports System Manager will examine the request to determine if any new arguments or information has been provided. If so, the Employment Supports System Manager may reconsider the decision. The Employment Supports System Manager has 14 calendar days in which to rescind the decision. Otherwise, the Employment Supports System Manager must convene

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

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a Dispute Resolution Committee.

The client must be given at least 15 calendar days written notice of the date of the review by the Dispute Resolution Committee. The review must take place within 45 calendar days of receiving the client's request for a review. The written notice of the review will ask the client to advise the Employment Supports System Manager in the event that he or she does not wish to proceed with the review.

The review will be convened in the same community that the client would normally seek service.

4. The Dispute Resolution Committee can convene a face to face meeting to hear the dispute or deal with the dispute through written submissions from each of the parties. If a face to face meeting is convened, the client, Employment Supports staff, and the service provider, if appropriate, will have the opportunity to present their views, in person or in writing. Clients have the right to appoint an advocate to gather or clarify information or to support them before the Dispute Resolution Committee, if they choose.

The Dispute Resolution Committee should keep in mind that the meeting is not adversarial and act accordingly. Where the client or ministry is represented in person, the Committee may ask questions in order to clarify any issues that may arise from the presentations and to assist them in making a recommendation.

The Regional Office will be responsible for providing administrative support to Dispute Resolution Committees and for reimbursing out of pocket expenses and disability accommodation, if any, for Committee members.

Before its proceedings are completed, the Dispute Resolution Committee will remind the client that the Committee will be providing a recommendation, and that the final decision remains with the Ministry.

5. Dispute Resolution Committees will consider all information provided and, consistent with the legislation, regulations and ministry policies, will write a recommendation to the ODSP Regional Manager, along with reasons, either to:
  - confirm the original decision; or
  - change the original decision.

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

6. The recommendation of the Dispute Resolution Committee, along with the reasons for the recommendation, will be sent to the ODSP Regional Manager within 14 calendar days of the review, with a copy to the Employment Supports System Manager.
7. The ODSP Regional Manager will, upon consideration of the Dispute Resolution Committee recommendation and supporting documentation, and consistent with the legislation, regulations and ministry policies, make the final decision to confirm or change the original decision. This decision will be made within 14 calendar days of receiving the recommendation. The ODSP Regional Manager will send notification of her/his decision to the client, along with the recommendation of the Dispute Resolution Committee. The Employment Supports System Manager will be copied.

The ODSP Regional Manager will carefully consider the recommendation of the Dispute Resolution Committee before rendering a final decision. If the decision does not follow the recommendation, the ODSP Regional Manager will provide reasons specifically explaining why she/he does not agree with the Dispute Resolution Committee.

A copy of the final decision, including the recommendation of the Dispute Resolution Committee with identifying client information removed, will be forwarded to the Social Assistance and Municipal Operations Branch, who will forward it to all Employment Supports System Managers. The Employment Supports System Managers will circulate the recommendation to members of their regional Dispute Resolution Committee pool as a resource for future decisions.

### **Ineligibility of an Applicant**

1. If Employment Supports staff determine that an applicant does not meet the eligibility criteria, the Employment Supports System Manager must review the decision. If appropriate, Employment Supports staff can discuss the decision with the applicant to clarify his or her application, or request further information or documentation.
2. If the Employment Supports System Manager agrees with the decision of the Employment Supports staff, the client will be informed, in writing through regular mail that the ministry intends to make the applicant ineligible.

The Notice of Intent letter must clearly state:

- the reason(s) for the determination of ineligibility;
- that the client can request that the decision be reviewed by a local Dispute

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

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- Resolution Committee;
- the client has 30 days from the date of the notice to make a written request to the Employment Supports System Manager for the Dispute Resolution Committee to review the decision;
- the recommendation of the Committee will be forwarded to the ODSP Regional Manager;
- the ODSP Regional Manager will decide whether to confirm or change the decision; and
- the applicant must provide the reasons for disputing the decision so that the Employment Supports staff can prepare an appropriate response for the Dispute Resolution Committee and ODSP Regional Manager.

Where there are reasonable extenuating circumstances, the Employment Supports System Manager may extend the period in which the applicant must request a review.

If the applicant does not request a review within the 30-day period provided to respond, the finding of ineligibility becomes final. If the applicant makes the request within the 30 days period, the decision is not final until the dispute resolution process has been completed.

3. Upon receipt of the applicant's written request for a review of the decision, the Employment Supports System Manager will examine the request to determine if any new arguments or information have been provided, and if so, may reconsider the decision. The Employment Supports System Manager has 14 calendar days in which to rescind the decision. Otherwise, the Employment Supports System Manager must convene a Dispute Resolution Committee.

The applicant must be given at least 15 calendar days written notice of the date of the review by the Dispute Resolution Committee. The review must take place within 45 calendar days of receiving the applicant's request for a review. The written notice of the review will ask the applicant to advise the Employment Supports System Manager in the event that the applicant does not wish to proceed with the review.

The review will be convened in the same community that the applicant would normally seek service.

4. The Dispute Resolution Committee can convene a face to face meeting to hear the dispute or deal with the dispute through written submissions from each of the parties. If a face to face meeting is convened, the client, Employment Supports staff, and the service provider, if appropriate, will have the opportunity to present their views, in person or in writing. Applicants have the right to appoint an advocate to gather or clarify information or to support them before the Dispute

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

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Resolution Committee if they choose.

The Dispute Resolution Committee should keep in mind that the meeting is not adversarial and act accordingly. Where the ministry or the applicant is represented in person, the Committee may ask questions in order to clarify any issues that may arise from the presentations and to assist them in making a recommendation.

The Regional Office will be responsible for providing administrative support to Dispute Resolution Committees and for reimbursing out of pocket expenses and disability accommodation, if any, for committee members.

Before its proceedings are completed, the Dispute Resolution Committee will remind the applicant that the committee will be providing a recommendation, and that the final decision remains with the ministry.

5. Dispute Resolution Committees will consider all information provided and, consistent with the legislation, regulations and ministry policies, will write a recommendation to the ODSP Regional Manager, along with reasons, either to:
  - confirm the original decision; or
  - change the original decision.
6. The recommendation of the Dispute Resolution Committee, along with reasons for the recommendation, will be sent to the ODSP Regional Manager within 14 calendar days of the review, with a copy forwarded to the Employment Supports System Manager.
7. The ODSP Regional Manager will, upon consideration of the Dispute Resolution Committee recommendation and supporting documentation, and consistent with the legislation, regulations and ministry policies, make the final decision to confirm or change the original decision. This decision will be made within 14 working days of receiving the recommendation. The ODSP Regional Manager will send notification of her/his decision to the applicant, along with the recommendation of the Dispute Resolution Committee. The Employment Supports System Manager will be copied.

The ODSP Regional Manager will carefully consider the recommendation of the Dispute Resolution Committee before rendering a final decision. If the decision does not follow the recommendation, the ODSP Regional Manager will provide reasons specifically explaining why she/he does not agree with the Dispute Resolution Committee.

If the ODSP Regional Manager confirms the decision to find an applicant ineligible, the finding becomes final. If the decision is changed, the applicant will

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

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immediately be considered eligible for ODSP Employment Supports.

A copy of the final decision, including the recommendation of the Dispute Resolution Committee with identifying applicant information removed, will be forwarded to the Social Assistance and Municipal Operations Branch, who will forward it to all Employment Supports System Managers. The Employment Supports System Managers will circulate the recommendation to members of their regional Dispute Resolution Committee pool as a resource for future decisions.

### **The Dispute Resolution Committee**

A Dispute Resolution Committee will be convened on an “as needed” basis whenever there is a request for a review of a decision. Regional Offices may need to convene more than one committee concurrently where local factors or conditions warrant. In some circumstances, it may be appropriate for a Dispute Resolution Committee from one region to review a decision for a from another region (for example, where client travel would be reduced).

The Local Planning and Coordinating Group (LPCG) will nominate people to a “pool” of potential volunteers from which the members of a Dispute Resolution Committee will be selected. The three volunteer members who will comprise the Dispute Resolution Committee responsible for reviewing a specific decision(s) will be chosen from this “pool” by the co-chair of the LPCG. The committee members will then elect a chair, who will sign the recommendation report, on behalf of the other members.

Where Regional Offices have more than one LPCG, Regional Offices have the flexibility to determine how the groups will nominate members to the “pool”. Where volunteers are “shared” between Regional Offices, the Employment Supports System Managers in those Regions will come to an agreement on how members of the pool will be chosen.

Given the complexity of the program, it is anticipated that the members of the pool will require orientation. To the degree possible, the LPCGs should nominate people who are willing to make a commitment to participate in the dispute resolution process for a substantial period of time. As a guideline, Regional Offices should consider a minimum 2-year period of participation.

The “pool” will consist of consumers or advocates, members of disability groups, service providers/agencies, local businesses and professionals with experience in legal, rehabilitative, health or employment services. Where possible, people with mediation or conflict resolution skills and experience should be sought out to participate in this process.

While the LPCG nominates the people making up the “pool”, the Employment Supports

## **ONTARIO DISABILITY SUPPORT PROGRAM - EMPLOYMENT SUPPORTS**

System Manager will be responsible for working with the LPCG to ensure that the various sectors are represented and that the members have the appropriate qualifications.

The number of members in the “pool” must be sufficient to ensure availability of the required number of people to convene a dispute resolution committee within the timelines required. The number must also be sufficient to ensure that the various sectors are represented. As a guideline, an appropriate number may be 10 members.

Each Dispute Resolution Committee convened will be comprised of three members from the “pool” of which at least one member is a person with a disability. To the extent to which it is practical, members from the “pool” should be selected on a rotation basis to participate on dispute resolution committees. This will provide all members with experience in participating on the committees and will be more likely perceived as being an arm’s length process.

Where appropriate, dispute resolution training for volunteer members of the “pool” should be arranged by the Employment Supports System Manager. Members of the “pool” should be provided with an orientation to the legislation, regulations, ministry policies and program principles and other key aspects of ODSP Employment Supports to assist them in their role. In addition, as these volunteers will be working with confidential information, an oath of secrecy should be administered and confidentiality requirements included in the committee’s terms of reference.

### **RELATED DIRECTIVES**

[2.1 Program Eligibility](#)

[3.2 Employment Information Session, Employment Supports Funding Agreement, and Selection of Service Providers](#)

[6.1 Client Progress and Cancellation/Suspension of Supports](#)

[6.3 Local Planning and Coordination Group](#)