

DIRECTIVE #2.4: REFERRALS TO THE ONTARIO DISABILITY SUPPORT PROGRAM (ODSP)

LEGISLATIVE AUTHORITY

Sections 13, 38(2), 38(3), 55(1) and 58 of Regulation 134/98.

Sections 4 and 5(1) of the Ontario Disability Support Program Act, 1997.

Sections 4, 18, 27 and 28 of Regulation 222/98

AUDIT REQUIREMENTS

Processes and local procedures for referral to the Ontario Disability Support Program (ODSP) are followed and occur within the five day standard.

Referrals where the ODSP asset limit exemption is applied is with the applicant's informed agreement and is allowed only once during the applicant's lifetime.

The *Agreement to Reimburse* form is voided where an Ontario Works applicant or participant applies for the ODSP and is determined to be eligible.

Adequate documentation is on file to support decisions.

APPLICATION OF POLICY

Anyone has the right to apply for the ODSP if they believe themselves to be “a person with a disability” or a member of a prescribed class as set out in the ODSP legislation.

In some cases, Ontario Works applicants or participants may not be aware of the ODSP. As such, all applicants and participants should be informed of the ODSP and their right to apply.

When completing an application for Ontario Works or reviewing an active file, staff may note circumstances that indicate the need for a referral to the ODSP, including:

- the applicant or participant appears to have medical reasons that prevent or restrict participation in employment assistance activities;
- the applicant or participant has been in receipt of Workplace Safety and Insurance Board (WSIB) benefits or some other insurance benefit which has expired;

- the applicant or participant has previously received ODSP income support as a person with a disability or a Family Benefits Allowance as a blind, disabled or permanently unemployable person;
- the applicant or participant believes they are a person with a disability as defined under the ODSP;
- the applicant or participant is a member of an ODSP prescribed class; or
- the applicant appears to qualify for ODSP rapid reinstatement.

Ontario Works applicants and participants who wish to apply to the ODSP must be assisted in making their application regardless of whether or not they are likely to be found eligible.

Where an assignment or direction is in place and the file is being transferred from Ontario Works to ODSP, all assignments and directions are closed in Ontario Works as of the last day of the month prior to ODSP date of grant. The assignment or direction will be opened in ODSP as of the ODSP date of grant.

Persons with a Disability

A “person with a disability” is defined under Section 4 of the *Ontario Disability Support Program Act, 1997* as a person who has a substantial physical or mental impairment that is continuous or recurrent and is expected to last one year or more.

Prescribed Classes

The following persons are considered prescribed classes:

- a person aged 65 or older who is not eligible for a pension under the *Old Age Security Act (Canada)*;
- a resident of a facility designated as a psychiatric facility, such as the Centre for Addiction and Mental Health or the Homewood Health Centre;
- a resident of a facility designated under the *Developmental Services Act (DSA)* or a former resident who ceased to reside in such a facility on or after June 1, 1998;
- a resident in a home established, licensed or approved under the *Homes for Special Care Act* or the *DSA*; and
- a person in receipt of disability benefits under the *Canada Pension Plan*.

Rapid Reinstatement

Rapid reinstatement is a re-application process for granting income support to a former ODSP recipient without re-adjudicating the applicant's disability. Former ODSP recipients may qualify for rapid reinstatement provided they are financially eligible and they:

- were previously adjudicated as a person with a disability under the ODSP and did not terminate ODSP as a result of a medical review it was determined they no longer qualified for ODSP as a person with a disability; or
- were grand-parented to ODSP from the *Family Benefits Act* and subsequently left ODSP due to income from employment, training or the operation of a business.

Direct Referrals to Local ODSP Offices

In some cases, Ontario Works delivery agents refer applicants or participants to a local ODSP office to apply directly to the program. A direct referral to a local ODSP office is made when the applicant or participant:

- is not in immediate financial need (including persons under 18 years of age);
- applied to the ODSP through Ontario Works and was subsequently found to be financially ineligible for Ontario Works, regardless of whether or not the Ontario Works eligibility decision is being appealed;
- appears to be eligible for ODSP rapid reinstatement, regardless of whether or not he or she is in immediate financial need; or
- is a member of an ODSP prescribed class.

Applicants or participants who are members of an ODSP prescribed class and who are in immediate financial need may, if found eligible, receive Ontario Works financial assistance before being referred to a local ODSP office.

Persons in Financial Need

Persons who are in financial need and who wish to apply for the ODSP may be eligible for Ontario Works financial assistance, if they meet eligibility requirements, pending ODSP eligibility determination.

ODSP asset limits may be applied for applicants applying to Ontario Works who have indicated their wish to apply for the ODSP. The ODSP asset limit exemption can only be applied once in a person's lifetime. The exemption is only

applied when:

- the applicant's assets are in excess of Ontario Works asset limits thereby making him or her ineligible for assistance;
- the applicant has not used the ODSP asset limit exemption in the past; and
- the applicant agrees to use the one-time ODSP asset limit exemption and signs an *Agreement to Reimburse* form in the event that he or she is found ineligible for the ODSP. If the applicant is found eligible for the ODSP, the agreement is voided.

Staff should refer to the ODSP Policy Directives for the appropriate asset limits. The ODSP Policy Directives are available on the Ministry of Community and Social Services website.

Once an exemption is applied, it remains in effect until a determination of eligibility for the ODSP is made and, where applicable, any subsequent internal review and/or appeal to the Social Benefits Tribunal (SBT) are completed and a final decision is provided.

If the applicant or recipient is determined to be ineligible for ODSP, the amount of the reimbursement will be the lesser value of the entire amount of financial assistance paid or an amount equivalent to the value of assets in excess of the Ontario Works asset limit for the benefit unit on the day of the final disposition of the ODSP application.

A person under the age of 18 is not eligible for ODSP income support in his or her own right. However, Ontario Works delivery agents may take an application to determine financial eligibility up to six months before the person's eighteenth birthday.

A person detained in a correctional facility or residing in a community residence that receives funding from the Ministry of Community Safety and Correctional Services Canada is not eligible for ODSP income support. However, Ontario Works Administrators have the flexibility to schedule an intake appointment for an applicant who may, due to an expected change in his or her circumstances (such as leaving a correctional facility), be eligible for assistance within the next ten working days.

In an effort to facilitate a smooth transition into the community, the Disability Adjudication Unit (DAU) has provided some correctional facilities with Disability Determination Packages (DDP). Where appropriate, correctional facility physicians can complete the DDP and return it directly to the DAU on behalf of

the person leaving a facility within three months of the determined date of departure.

Applicants Found Eligible for Ontario Works

When an applicant is determined to be eligible for Ontario Works, a referral is made to the DAU and he/she is provided with a DDP.

The DAU requires a completed DDP in order to make a determination of disability. The DDP consists of the Health Status Report and Activities of Daily Living Index, Self Report Form (optional), Consent to Release Medical Information and an instruction sheet. The DDP is only considered complete and can be submitted to the DAU for adjudication when the Health Status Report and Activities of Daily Living Index is completed by the appropriate prescribed health professional and the *Consent to Release Medical Information (2844)* is completed.

The applicant has 90 days to forward the completed DDP to the DAU, however he or she may request an extension to the deadline. If the DDP is not received within the time frame provided, the application is considered to be withdrawn.

Where it is determined by the DAU that an applicant is a person with a disability as defined under the ODSP, the DAU sends a confirmation letter to the applicant and notifies the appropriate Ontario Works and ODSP offices through a “task” in the SDMT, which acts as a trigger for the Ontario Works office to transfer the file to the ODSP.

Alternatively, for Ontario Works delivery agents without SDMT access, the DAU will provide a copy of the confirmation letter to the ODSP office, who then faxes a file transfer request to the Ontario Works delivery agent.

Ontario Works delivery agents must provide ODSP with electronic access to the file. The hard copy of the file should be transferred within 5 business days.

ODSP staff must review the information contained in the transferred file and contact the applicant within **15 business days** from the date the file is received. When making contact with the applicant, ODSP staff will reconfirm financial eligibility, request additional information if needed and arrange for any required forms to be completed and signed. Once ODSP income support is granted, financial assistance from Ontario Works must be cancelled.

Where the DAU determines the applicant is not a person with a disability as defined under the ODSP, a letter is sent to the applicant outlining the decision and the internal review process. The DAU also notifies the appropriate Ontario Works office of the decision.

The applicant has ten days to request an internal review. Ontario Works retains the file during the internal review and any subsequent appeal to the SBT, and the applicant remains eligible for Ontario Works until a final decision is made. If an internal review or appeal to the SBT results in the applicant being found ODSP eligible, regular file transfer policies and procedures are followed.

Extended Health Benefits for Applicants Pending ODSP

Extended Health Benefits (EHB) may be provided to ODSP applicants who are not eligible to receive assistance under Ontario Works because their income exceeds budgetary requirements, but who meet all other eligibility criteria (see Directive #7.3: Extended Health Benefits for more information).