

DIRECTIVE #3.1: RESIDENCY REQUIREMENTS

LEGISLATIVE AUTHORITY

Sections 7(3), 13, 37, 71, 72, and 74(1) of the Act.

Sections 1(1), 4, 5, 6, 7, 8, 13, 15(1), 16, 17, 43, 44.1, 46, 47, 47.1 and 58.3 of Regulation 134/98.

AUDIT REQUIREMENTS

Only eligible applicants and participants receive assistance.

Adequate documentation is on file to support eligibility as it relates to residency requirements, including status in Canada.

APPLICATION OF POLICY

Ontario Residency

To be eligible for Ontario Works, an applicant or recipient must be a resident of Ontario, and must reside in the geographic area where he/she applies for or is receiving assistance.

Residency for the benefit unit depends on the applicant or recipient. All dependents in the benefit unit, which includes a spouse, dependent adults and dependent children, must live with the applicant or recipient. A spouse who is absent from the dwelling of the applicant or recipient may still be considered a dependent unless the Administrator is satisfied that there is a breakdown in the relationship with no reasonable prospect of reconciliation.

Where the applicant has no permanent address, an application is made to the delivery agent in the geographic area where he/she clearly intends to live.

The length of time that an applicant has resided or plans to reside in a specific geographic area is not relevant for the purposes of eligibility.

Transient or Homeless Persons

A transient or homeless person is deemed to reside in the geographic area of the delivery agent in which he/she applies for assistance. Assistance to a transient or homeless person cannot be refused on the basis that there is no fixed address or conventional, structural dwelling place.

It is not acceptable practice, without an investigation into individual circumstances, for a delivery agent to urge or pay for a transient or homeless person to go to another delivery agent's geographic area. If, however, an investigation leads the Administrator to conclude that it would likely be in the best interest of the applicant or recipient to relocate, then such action may be warranted.

Absence from Ontario

If a recipient or member of the benefit unit is absent from Ontario for a period of more than 7 days, assistance will be reduced or cancelled unless the Administrator has determined the absence to be necessary for health reasons or reasonable due to exceptional circumstances (see Directive #9.2: Absence from Ontario for more information).

Status in Canada

In addition to being a resident of Ontario, an applicant or recipient must also be a Canadian citizen or must be legally entitled to reside in Canada permanently.

All applicants and recipients who are not Canadian born citizens must provide documentation to verify their status in the country. Acceptable documentation must be kept on file (original or copy) (see Directive #2.1: Application Process for a list of acceptable documentation).

The following types of applicants are not eligible for Ontario Works given their status in Canada:

Tourists

Tourists are people who are in Canada for a short period of time. They are not eligible for Ontario Works.

Visitors

Visitors are people who are in Canada for a temporary purpose. A visitor may have a tourist visa, student visa or work permit/authorization or may be temporarily re-located from another country (e.g., a natural disaster has forced a community evacuation).

Visitors are not eligible for Ontario Works unless they have made a claim for refugee protection or applied for status as a permanent resident under the federal *Immigration and Refugee Protection Act (IRPA)*.

If the spouse of an applicant or participant is a visitor and is living with the applicant or participant, he/she is included in the benefit unit as a non-contributing member. Although the spouse's visitor status does not prevent eligibility for the rest of the benefit unit, the calculation of assistance does not include an amount for the spouse. No further boarder charge is imposed on the benefit unit (see Directive #6.3: Shelter and Directive #6.4: Board and Lodging for more information).

Convention Refugees

Convention refugees are selected by the federal Immigration and Refugee Board (IRB) based on the United Nations Convention Relating to the Status of Refugees. Convention refugees may be sponsored by either the federal government or a private sponsor (e.g., community group).

Individuals who are selected as convention refugees while residing outside of Canada are conferred landed immigrant status upon their arrival. Resettlement assistance is arranged by the federal government through the Resettlement Assistance Program (RAP), the Private Sponsorship of Refugees Program (PSR) or the Joint Assistance Sponsorship Program (JAS).

Convention refugees are not eligible for Ontario Works during the period in which they are eligible for the RAP or the PSR and JAS programs. When the sponsorship/eligibility period for these assistance programs expires, a convention refugee may be eligible for Ontario Works.

Inland Refugees

Individuals who wish to make a refugee claim while residing within Canada must contact a local Citizenship and Immigration Canada (CIC) office to schedule an appointment for their claim to be reviewed. They will receive an appointment letter indicating the date and time their claim can be made to a CIC officer.

Inland refugees are not eligible for Ontario Works unless a CIC officer makes a determination that their claim is eligible to be heard by the Refugee Protection Division (RPD) of the IRB. In such cases, the claimant will be issued a Temporary Resident Permit (IMM-1442).

Deportees

Deportees are individuals who are under removal or deportation orders and who must leave the country within a specified period of time. A deportee may be:

- a landed immigrant who has been convicted of a serious crime;
- a person who is in Canada illegally; or
- a failed refugee claimant (i.e., a person who the RPD has determined not to be a convention refugee or a person in need of protection).

Deportees may be eligible for Ontario Works only in situations where:

- a pre-removal risk assessment is pending;
- the removal order has been stayed;
- he/she has been granted permission to stay in Canada for humanitarian, compassionate or other reasons under the authority of the *IRPA*; or
- the removal order cannot be carried out for reasons entirely beyond the control of the individual, such as:
 - travel documentation and arrangements are delayed or have not been finalized by the CIC;
 - CIC has determined that the safety of the deportee cannot be assured in the home country due to strife or political unrest; or
 - criminal charges have been laid, but not yet heard.

Convention refugees/protected persons, temporary residents, refugee claimants and refugee claimants with temporary status are not eligible to apply for the Canada Child Tax Benefit (CCTB) and will receive neither the Ontario Child Benefit (OCB) nor the National Child Benefit Supplement (NCBS). See Appendix A for definitions of these classes of persons.

However, convention refugees/protected persons, temporary residents, refugee claimants and refugee claimants with temporary status who meet eligibility requirements for Ontario Works may be eligible for the Transition Child Benefit (TCB) provided they meet the criteria (see Directive #7.7: Transition Child Benefit for more information).

In a shared custody situation, 50% of the monthly TCB will be provided to each parent, as long as they share custody and are not eligible for the CCTB/OCB (see Directive # 3.9: Dependent Children for more information).

APPENDIX A - Definitions

Citizenship - A landed immigrant can apply for and achieve Canadian citizenship three years after becoming a landed immigrant. A sponsor's obligations continue for the duration of the sponsorship period even after the landed immigrant has applied for and become a Canadian citizen.

Convention Refugee/Protected Person – A refugee selected by the federal Immigration and Refugee Board (IRB) based on the United Nations Convention Relating to the Status of Refugees. A convention refugee may be sponsored by either the federal government or a private sponsor (e.g., community group).

Deportee – An individual who is under a removal or deportation order and who must leave the country within a specified period of time

Family Class Immigrant – An immigrant sponsored by eligible relatives who are living in Canada. Sponsorship obligations remain effective up to and including ten years.

Immigrant - A person who seeks permission to land in Canada.

Immigrant Class - There are three classes of admissible immigrants: convention refugee immigrants, family class immigrants and independent class immigrants.

Independent Class Immigrant – An immigrant who has been selected based on his/her likely ability to establish successfully in Canada and contribute to the economy. The assessment categories are: Business (Entrepreneurs, Self-Employed Persons and Investors); Other Independent or Skilled Workers; and Assisted Relatives. Until February 1993, Assisted Relatives were sponsored or nominated.

Landing - Lawful permission to come to Canada and establish permanent residence.

Live-In Caregiver - A person admitted to Canada as a temporary resident for the purpose of working in a 'live-in' situation. He/she can apply for landed status after completing two years of employment as a Live-In Caregiver.

Minister's Permit - Provides a person who is inadmissible as a landed immigrant, often due to technical reasons or a serious medical disability, with permission to reside in Canada. Landed status may be granted after three years, usually on compassionate grounds.

Refugee Claimant - A person who makes a refugee claim on or after his/her arrival in Canada. A refugee claimant is not a landed immigrant and is not eligible

for an Ontario Health Card, however basic health care is provided under the Interim Federal Health Program.

Refugee Claimant with Temporary Status – While waiting for status in Canada, a refugee claimant may be granted a temporary permit.

Sponsorship - A legal undertaking in which the sponsor(s) is obligated "to provide for essential needs" of day to day living for the sponsored person and his/her dependants for the duration of the sponsorship undertaking. It is expected that there will not be a need to apply for social assistance or other government benefits during the sponsorship period.

Temporary Resident – A person who is normally a resident of another country but who is in Canada temporarily to study, work or visit. Citizenship and Immigration Canada (CIC) will issue a permit to support the individual's status in Canada.

Tourist - A person in Canada for a short period of time.

Visitor - A person in Canada for a temporary purpose. A visitor may have a tourist visa, a student visa or a work permit/authorization.