

## **DIRECTIVE #3.11: SPONSORED IMMIGRANTS**

### **LEGISLATIVE AUTHORITY**

Sections 13(1), 71(1) and 72 of the Act.

Sections 6, 13, 15, 17 and 51 of Regulation 134/98.

### **AUDIT REQUIREMENTS**

Adequate documentation is on file to support eligibility as it relates to sponsored immigrants.

Information on file demonstrates that the applicant or participant has made reasonable efforts to pursue support from their sponsor during the period of the sponsorship agreement.

### **APPLICATION OF POLICY**

Sponsorship is defined as legal undertaking in which the sponsor is obligated “to provide for essential needs” of day-to-day living for the sponsored person and his/her dependents for the duration of the sponsorship undertaking. It is expected that there will not be a need to apply for social assistance or any other government benefits during the sponsorship period.

Convention refugee and family class immigrants are sponsored immigrants. Applicants who are sponsored immigrants must access resources available from their sponsors and must have exhausted all other financial resources with respect to the provisions under the *Immigration and Refugee Protection Act (IRPA)* before eligibility for financial assistance is considered.

#### ***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, and are provided with resettlement assistance. Convention refugees are not eligible for social assistance during the period in which they are eligible to receive resettlement assistance (see Directive #3.1: Residency Requirements for more information).

### **Family Class Immigrants**

Family class immigrants are sponsored by eligible relatives who reside in Canada. In these cases, the sponsor signs an undertaking to the federal government to look after the needs of the sponsored family member(s). The family class sponsorship agreement is between the Government of Canada, the sponsor and the sponsored immigrant, and includes the following documents:

- *Application to Sponsor and Undertaking*: signed by the sponsor and his/her spouse or common-law partner (where applicable) committing to the Government of Canada that he/she will look after the needs of the sponsored immigrant and his/her dependent(s) as applicable; and
- *Sponsorship Agreement*: signed by the sponsor and his/her spouse or common law partner (where applicable) and the sponsored immigrant, in which the sponsor commits to provide the basic requirements for the sponsored immigrant and his/her dependent(s) as applicable. The agreement includes a promise that the sponsored immigrant and his/her dependents will not need to apply for social assistance.

Sponsorships that took place before June 28, 2002 will be in force for a 10-year period pursuant to the *IRPA*. Sponsorships signed on or after June 28, 2002 under *IRPA*, will be in force for 3 to 10 years depending on the age of the sponsored immigrant and his/her relationship to the sponsor.

The following chart summarizes the length of time a sponsor must provide for the basic requirements of the sponsored person.

<b>If sponsoring:</b>	<b>Sponsorship agreements signed on or after June 28, 2002 under <i>IRPA</i></b>	<b>Sponsorship agreements signed before June 28, 2002 under the <i>Immigration Act</i></b>
Spouse, common-law partner or conjugal partner	Sponsor must provide financial support for <b>3 years</b> from the date that person became a permanent resident	Sponsor must provide financial support for <b>10 years</b> from the date that person became a permanent resident
Dependent child who is less than <b>22 years</b> of age	Sponsor must provide financial support for 10 years from the date that person became a permanent resident or until the child turns <b>25 years</b> of age, whichever comes first	Sponsor must provide financial support for <b>10 years</b> from the date that person became a permanent resident

Dependent child who is <b>22 years</b> of age or older	Sponsor must provide financial support for <b>3 years</b> from the date that person became a permanent resident	Sponsor must provide financial support for <b>10 years</b> from the date that person became a permanent resident
Any person not mentioned above	Sponsor must provide financial support for <b>10 years</b> from the date that person became a permanent resident	Sponsor must provide financial support for <b>10 years</b> from the date that person became a permanent resident

The sponsor's obligation to provide for the basic requirements of the sponsored immigrant continues for the full sponsorship period even if the sponsored immigrant becomes a Canadian citizen.

***Requirement to Pursue Sponsorship Support***

A family class sponsored immigrant may be eligible for financial assistance while a sponsorship agreement is in effect if the sponsor is not meeting their support obligations.

As a condition of eligibility, a sponsored person must pursue all available financial resources, including support from their sponsor. If a sponsor provides partial support to a sponsored immigrant on social assistance, the amount that is received as support is treated as income and deducted from the sponsored immigrant's social assistance.

An applicant or participant cannot be declared ineligible because the sponsor refuses to honour their obligation to provide support or refuses to provide requested information. However, an applicant or participant can be found ineligible if he/she is unwilling to provide information about his/her sponsor.

Where the sponsor is the spouse of the applicant or participant, he/she is expected to pursue support both for themselves and their dependents under the *Family Law Act* (see Directive #5.5: Family Support for more information).

In situations where a former spouse has both sponsorship and support obligations, neither "obligation" takes precedence. A sponsor who makes child support payments pursuant to an order or agreement will still incur a sponsorship debt for the net amount of social assistance received by the sponsored person, less any child support payments.

### ***Waivers from Pursuing Sponsorship Support***

The requirement to pursue support from a sponsor may be temporarily waived for a period of 3-12 months depending on the individual merits of the case. Circumstances supporting the reason for and the length of the waiver should be clearly documented, and the waiver should be reviewed at the end of the waiver period. A sponsored immigrant is temporarily waived from the requirement to pursue support from their sponsor if:

- the sponsor is in receipt of or eligible for social assistance; or
- the sponsor is incarcerated;
- the whereabouts of the sponsor are unknown; or
- the Administrator is satisfied that there is a breakdown in the sponsorship relationship because of abuse and/or family violence. If at application, there is no clear evidence to establish abuse, the person is expected to make reasonable efforts to verify the claim of abuse to the satisfaction of the Administrator (e.g., reasonable third party verification from the police, a lawyer, or a community or health care professional).

A sponsored immigrant is permanently waived from the requirement to pursue support from their sponsor if:

- the sponsor is in receipt of a payment under Part II of the *Old Age Security Act* (Canada), known as the federal supplement, or a payment under the *Ontario Guaranteed Annual Income Act*;
- the sponsor is deceased;
- the whereabouts of the sponsor are unknown even after all search efforts have been exhausted, and there has been no contact for an extended period of time; or
- there is evidence of abuse or family violence over a prolonged period of time and the Administrator is satisfied that it is not in the best interests of the sponsored immigrant to pursue support.

### ***Procedure in Sponsorship Default Cases***

A *Declaration of Support and Maintenance* (Form 2212) is completed and signed by all sponsored applicants. This form assists in capturing relevant information about the sponsor and gives the sponsored person an opportunity to make a declaration of their intent to pursue support from the defaulting sponsor.

Staff must fax a Request for Family Class Information (RFCI) form to Citizenship and Immigration Canada (CIC) to confirm if the sponsorship undertaking is valid.

CIC will verify whether there is a valid undertaking in effect and whether a default has or will occur. CIC also provides up-to-date information on the sponsor and any co-signor (e.g., address, phone number, date of birth, etc.).

If there is a valid undertaking, CIC automatically sends a warning letter to defaulting sponsors to advise them that there is a potential sponsorship breakdown and reiterates the requirement to resume full support obligations and that they will not be allowed to sponsor again unless they meet their obligations. If the sponsored person is at **risk of domestic violence** as a result of the notice to CIC, this **must** be noted on the referral and **no letter is to be sent by CIC**.

Once a sponsored immigrant is in receipt of any amount of social assistance, Ontario Works staff sends a letter to notify the sponsor that debt is being incurred.

The letter reminds the sponsor of the obligation to provide for the sponsored person, advises that the federal government has been notified of the default, and advises that any social assistance paid to the sponsored person is a debt, which is subject to collection by the federal government. In addition, the sponsor will not be allowed to sponsor while the debt exists.

If a defaulting sponsor and/or a co-signor reimburses the delivery agent for the full amount of social assistance that was paid to the sponsored immigrant while the sponsorship agreement was in force, staff will notify CIC that the repayment has been made by sending the *Confirmation of Repayment of Social Assistance Benefits form to CIC*.

If a defaulting sponsor and/or co-signor does not respond after fifteen days and/or does not resume their support of the sponsored immigrant, the delivery agent uses the *Notification of Sponsorship Debt Form* to confirm the default to CIC.

The case is then referred to the ministry's centralized Overpayment Recovery Unit (ORU), by emailing the electronic *Validation of Sponsorship Debt* form to ORU. The ORU staff will pursue the sponsorship debt by sending letters at 45 and 90 day intervals to the defaulting sponsor. If the sponsor does not begin repaying the debt, the ORU will refer the case to the Canada Revenue Agency to begin the *Refund Set-Off* process.

Where there is an outstanding sponsorship debt that was not addressed at the time of application under the previous policy, the staff should accept voluntary repayments from sponsors. If the repayment is less than the total amount of the sponsorship debt, staff must advise the sponsor that reimbursement must be

made in full before CIC can be notified that the debt is satisfied. The amount of the sponsorship debt is not negotiable.

### *Abuse and/or Domestic Violence*

The delivery agent must address alleged incidents of abuse or family violence at intake, before the RFCI form is sent to CIC. In cases where there is an allegation of abuse, the delivery agent must advise CIC **not** to send the warning letter by selecting the applicable box on the RFCI. CIC will provide information on the sponsor and co-signer (if applicable) to the delivery agent, however the warning letter will not be sent to the sponsor and co-signer (if applicable).

If the sponsored person alleges that the reason for leaving the sponsor is due to abuse or family violence, the delivery agent indicates on the *Notification of Sponsorship Debt* form that the *Default Notification Letter* **must not** be sent to the sponsor and co-signer (if applicable) regardless of whether or not the abuse or family violence has been substantiated by a third party.

In these situations, CIC will register the default but will not send the Default Notification letter to the sponsor and co-signer (if applicable). The delivery agent does **not** send warning letters and the ORU does **not** send collection letters to the sponsor and co-signer (if applicable). Debt recovery is not pursued in these cases.

The sponsor and co-signer (if applicable) are still considered to be in default of their sponsorship agreement and will be barred from future sponsorship. If during a subsequent review by the delivery agent, new information reveals that the alleged incident of abuse or family violence has been resolved, the CIC and the ORU are to be informed. At that time, the Default Notification letter can be issued by CIC and recovery of the sponsorship debt can be pursued by the ORU.

### *Treatment of Cases Being Transferred to ODSP*

Delivery agents may be in the process of pursuing sponsorship support when the applicant or participant has been determined to be a person with a disability. Normal case file transfer guidelines apply to the transfer of these case files. However, Ontario Works delivery agents are responsible for completing all the necessary documentation and notifying CIC of the default. The case notes should be fully documented by Ontario Works staff on the SDMT (or First Nations technologies) indicating what documentation has been completed. Only in circumstances where a case is granted ODSP and the default notification to CIC has not been completed by the Ontario Works delivery agent, should ODSP staff provide notification to CIC.

### *Repayment of Social Assistance by Defaulting Sponsors*

Under *IRPA*, all social assistance received by a family class sponsored immigrant is considered a federal and provincial debt of the sponsor. Financial assistance received from Assistance for Children with Severe Disabilities is not considered “social assistance” under *IRPA*.

Sponsors who default on their sponsorship obligation need to know the amount of social assistance that they are required to repay. Prior to determining the debt amount for the defaulting sponsor, staff must verify the term and expiry of the sponsorship period and how long the sponsor was in default.

Where the same sponsor sponsored all members of a benefit unit, the T5007 amounts for the period of default should be used to advise the sponsor of his/her repayment obligations. The T5007 is the amount of financial assistance paid to a benefit unit in a tax year i.e. January – December. The T5007 amount is the net amount after the monthly financial assistance is reduced for earnings, other income and support payments (unassigned); it is also net of overpayment recovery and other deductions.

Where there are multiple members of a benefit unit who were not all sponsored or who were not all sponsored by the same person, the T5007 is not used.

In these cases, the debt amount is calculated by using the social assistance amount that applies to the sponsored person(s) only, less any earnings, income, unassigned support payments received and any overpayment, sponsorship or other deductions made during the sponsorship period. In addition, any outstanding overpayments that have not been recovered also must be deducted. The **net** amount is the sponsorship debt which the sponsor must repay.

### *Calculating Assistance when a Sponsor is in Default*

A basic needs amount is provided. Shelter allowance depends on whether the person is living with or apart from the sponsor.

1. Sponsored immigrants living with the sponsor or in a place owned or controlled by the sponsor:

A shelter allowance is provided only if one of the following criteria is met:

- the sponsored immigrant has a legal obligation to pay shelter costs (e.g., the sponsored immigrant is a lessee or named as a co-owner on a deed/mortgage); or

- the sponsored immigrant satisfies the Administrator that they cannot remain in the sponsor's residence or in a place owned or controlled by the sponsor unless they pay for shelter costs (e.g., documentation of an obligation to pay for heat or utilities).

2. Sponsored immigrants not living with sponsors:

As of December 15, 2004, there is no sponsorship deduction for sponsored immigrants who are living apart from their sponsors unless the sponsor is providing actual support (money or in-kind).

Elimination of deemed sponsorship deductions in the amount of \$100 has been automatically end-dated within the Service Delivery Model Technology (SDMT) as of December 1, 2004. Staff must review these cases, as well as cases where deemed sponsorship deductions are greater or less than \$100, to determine if the sponsor is providing actual support.