

DIRECTIVE 2.5 TOURISTS, IMMIGRANTS, REFUGEES AND DEPORTEES

SUMMARY OF POLICY

Income support may be provided to a person with a disability who is a resident of Ontario. The Director may require information with respect to a person's status in Canada.

A person under a deportation order, departure order or exclusion order is not eligible for income support unless the Director is satisfied that he/she is unable to leave the country for reasons wholly beyond his/her control.

A tourist or a visitor is not eligible for income support unless he/she has made a claim for refugee protection or an application for permanent resident status.

All applicants/recipients must make reasonable efforts to realize any available financial resource. This includes support from a sponsor under a sponsorship undertaking made under the *Immigration Act* or the *Immigration and Refugee Protection Act*¹. The Director may require an ODSP applicant/recipient to agree to reimburse Ontario for any income support out of funds paid under a sponsorship agreement.

If an applicant/recipient is living with a defaulting sponsor and the sponsorship agreement is still in effect, income support may be reduced. The reduction in income support is the greater of:

- the amount the sponsor is paying to the applicant/recipient, or,
- the amount of income support that would otherwise be calculated under section 30 of the ODSP Regulation less the applicable basic needs amount.

Where the sponsored immigrant is living with his/her sponsor (or in a place owned or controlled by the sponsor), a shelter allowance may be paid only where 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
- satisfies the Director that he/she will not be allowed to remain in the current residence unless he or she pays shelter costs.

The Minister may enter into information sharing agreements with respect to the collection, use and disclosure of information and may share the information with a delivery agent under the *Ontario Works Act* if necessary.

¹ The federal *Immigration and Refugee Protection Act* (IRPA) was proclaimed on June 28, 2002. IRPA replaces the previous *Immigration Act*, proclaimed in 1979.

LEGISLATIVE AUTHORITY

[Sections 5\(1\), 9, 53\(1\) to \(7\) and 54 of the ODSP Act](#)
[Sections 8, 11, 12\(1\) and \(2\), 13, 14\(2\) and 40 of the ODSP Regulation](#)

SUMMARY OF DIRECTIVE

This directive provides an overview of:

- Confirming Status in the Country
- Family Class Sponsored Immigrants
- Sponsor's Obligation to Repay Sponsorship Debt
- Sponsorship Process at Time of Application
- Refugees
- Deportees
- Definitions
- How to Calculate Sponsorship Debt

INTENT OF POLICY

- To ensure that income support is only provided to permanent residents of Ontario, or to persons without immigration status whom Citizenship and Immigration Canada (CIC) has allowed to stay in the country.
- To ensure that sponsored immigrants access resources available from their sponsors.
- To reduce sponsorship default and recover sponsorship debt.

APPLICATION OF POLICY

Standards

The following standards must be met:

- applicants must meet the eligibility requirements under the Act and Regulations to receive assistance;
- applicants must have exhausted all other financial resources with respect to the provisions under the [Immigration and Refugee Protection Act](#).

CONFIRMING STATUS IN THE COUNTRY

All applicants and recipients who are not Canadian born citizens must verify their status in Canada.

Acceptable documentation must be provided and copies kept on file. Acceptable documentation includes one of the following:

- Certificate of Canadian Citizenship (large and/or wallet size);
- valid Canadian passport;
- Record of Landing;
- Permanent Resident Card;
- letter issued by Citizenship and Immigration Canada (CIC) verifying permanent residence status;
- proof of application for landed immigrant or permanent resident status;
- Determination of Eligibility for refugee status (CIC form IMM1442 or IMM5292);
- Refugee Protection Claimant Document (CIC form IMM1442);
- Temporary Resident Permit (IMM1442 or IMM1263); or
- other acceptable document that confirms that the person is in Canada legally (such as the Request for Family Class Information (RFCI) form completed by CIC).

Ontario has an information sharing agreement with CIC. The nearest CIC office may be contacted for confirmation of an applicant/recipient's status in Canada.

Note: where the applicant or recipient is a sponsored immigrant, verification of the length of the sponsorship undertaking and the name of the sponsor must be on file (ie. RFCI, record of landed status, etc.).

Persons Not Eligible for ODSP Income Support

The following persons are not eligible for income support due to status in Canada:

- temporary resident visitors (tourists, students, foreign workers and live-in caregivers) unless they have made a claim for refugee protection or an application for permanent resident status under the *Immigration Act* or *Immigration and Refugee Protection Act* ;
- persons against whom a deportation order has been made under the *Immigration Act*;
- persons against whom a departure order or exclusion order under the *Immigration Act* has become effective* ;
- persons against whom a removal order has become enforceable under the *Immigration and Refugee Protection Act**.

* includes persons under a deportation order or arrest warrant because of serious criminal convictions and persons who are unsuccessful claimants who have been denied leave (permission) to appeal the decision of the Immigration and Refugee Board (IRB) or whose appeal of the IRB decision has been denied.

- Note: A deportee may be eligible for income support if the Director is satisfied that he/she is unable to leave the country, for reasons that are beyond his/her control or has made an application for permanent resident status on humanitarian or compassionate grounds.

Spouse as Visitor

Where a spouse is a visitor, and has not made a claim for refugee status or has not made an application for status as a permanent resident, the conditions of eligibility have not been met. Where a member of the benefit unit is non-compliant with a condition of eligibility, the benefit unit remains the same but the amount of income support is reduced by an amount equal to the income support paid on behalf of the non-compliant member of the benefit unit. Therefore, the portion of social assistance payable to the recipient on behalf of the spouse is reduced.

When the income support for a benefit unit is reduced due to non-compliance, any income received by the non-compliant member is still included in the calculation of assistance for the benefit unit.

FAMILY CLASS SPONSORED IMMIGRANTS

Permission for a family class sponsored immigrant to come to Canada is given when an eligible family member (sponsor) signs an undertaking to the federal government to look after the needs of the sponsored family member(s). Since May 1997, the Family Class sponsorship agreement includes two documents and involves three parties (the sponsor, the sponsoree and the Government of Canada). The two documents are:

- Undertaking: signed by the sponsor (and co-signer, where applicable). The sponsor commits to the Government of Canada that he/she will look after the basic requirements of the sponsored immigrant and his/her dependants as applicable;
- Sponsorship agreement: signed by the sponsor and (and co-signer, where applicable) and the sponsored immigrant. The sponsor commits to provide the basic requirements for daily living for the sponsored immigrant and his/her dependants included in the undertaking so that the sponsored immigrant and their dependants will not need to apply for 'social assistance' (ODSP income support or Ontario Works financial assistance). The sponsored immigrant agrees to seek help from the sponsor if he/she is unable to provide for his/her own basic requirements.

In addition, the sponsored immigrant consents to the release of information to the sponsor (or co-signer, where applicable) concerning social assistance that the sponsored immigrant or his/her family members applied for or received during the period of the undertaking.

Sponsorship Period

Sponsorships that took place before June 28, 2002 will be in force for a 10 year period pursuant to the former *Immigration Act*. Sponsorships after June 28, 2002, under the *Immigration and Refugee Protection Act*, 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 immigrant:

Sponsored Immigrant:	Sponsorship agreements signed after June 28, 2002 under IRPA	Sponsorship agreements signed before June 28, 2002 under the Immigration Act
Spouse, common-law partner or conjugal partner	Sponsor must provide financial support for 3 years from the date that person became a permanent resident	Sponsor must provide financial support for 10 years from the date that person became a permanent resident
Dependent child who is less than 22 years of age	Sponsor must provide financial support for 10 years from the date that person became a permanent resident or until the child turns 25 years of age , whichever comes first	Sponsor must provide financial support for 10 years from the date that person became a permanent resident
Dependent child who is 22 years of age or older	Sponsor must provide financial support for 3 years from the date that person became a permanent resident	Sponsor must provide financial support for 10 years from the date that person became a permanent resident
Any other person not mentioned above	Sponsor must provide financial support for 10 years from the date that person became a permanent resident	Sponsor must provide financial support for 10 years 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 sponsorship period even if the sponsored immigrant becomes a Canadian citizen during that time.

Requirement to Pursue Sponsorship Support

A family class sponsored immigrant may be eligible for income support while a sponsorship agreement is in effect if the sponsor is not meeting his/her obligations.

As a condition of eligibility, a sponsored immigrant must pursue all available financial resources, including support from his/her sponsor (unless the requirement is waived). Where the sponsor is a spouse, the applicant/recipient must pursue support under the [Family Law Act](#) or the [Divorce Act](#) providing there is no evidence of family violence, the sponsor is alive and the sponsor is not in receipt of social assistance.

An applicant or recipient cannot be found ineligible if the sponsor does not honour his/her obligation. However, an applicant or recipient can be found ineligible if he/she is unwilling to provide information about their sponsor; or has not made reasonable efforts to pursue support from their sponsor.

Exemptions from Pursuing Sponsorship Support

There are circumstances under which it is not feasible to pursue support. The requirement to pursue sponsorship support should be **permanently** waived in the following situations:

- the sponsorship agreement is no longer in effect;
- the sponsor is deceased.

The requirement to pursue sponsorship support may be **temporarily** waived in the following situations:

- the sponsor is in receipt of [Ontario Works](#), ODSP, Guaranteed Income Supplement under the [Old Age Security Act](#) or Gains-A;
- the sponsorship has been determined by the Director to have broken down due to family violence verified by a third party and the recipient has moved out of the sponsor's home.

The sponsored person will be granted a period of three months to establish the allegation of abuse by obtaining third party verification.

Documentation of abuse from a professional with knowledge of the person's situation is acceptable third party verification. This would include a letter on appropriate letterhead from any of the following:

Law Enforcement Officer	Member of the Clergy
Lawyer	Guidance Counselor
Teacher	Victim Service Worker
Doctor	Settlement Services Worker
Social Worker or Social Service Worker Shelter Worker	Community Health Care Worker

If the applicant/recipient is unable to obtain third party verification within three months, additional time may be provided, as required.

Calculating the Income Support of a Family Class Sponsored Immigrant

If an applicant/recipient is a sponsored immigrant, budgetary requirements are calculated in accordance with the appropriate section(s) of the ODSP Regulation. (see Section 6 or 8 of the ODSP directives)

Sponsored Immigrants living apart from their sponsors

Any actual support that the sponsored immigrant receives from the sponsor will be treated as income and deducted from the sponsored immigrant's income support.

Sponsored Immigrants living with their sponsors and eligible for shelter costs

If an applicant/recipient is living with a defaulting sponsor (or in a place owned or controlled by the sponsor) and the sponsorship agreement is still in effect, shelter costs can only be paid if:

- the sponsor is in receipt of Ontario Works, ODSP, the Guaranteed Income Supplement under the *Old Age Security Act* or Gains-A;
- there is a breakdown in the sponsorship relationship due to family violence and/or abuse;
- 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
 - satisfies the Director that he/she will not be allowed to remain in the current residence unless he or she pays shelter costs.

Any actual support that the sponsored immigrant receives from the sponsor will be treated as income and deducted from the sponsored immigrant's income support.

Sponsored Immigrants living with their sponsors and not eligible for shelter costs

Where the sponsored immigrant is living with his/her sponsor and is not eligible for shelter costs, income support will be reduced.

The sponsored person's income support will be reduced by the greater of:

- the amount the sponsor is paying to the applicant/recipient, and
- the amount of income support that would otherwise be calculated under section 30 of the ODSP Regulation less the applicable basic needs amount.

Example 1

A single recipient who is not receiving any funds from the sponsor will have their income support calculated in the following manner:

Amount single recipient receives under s. 30	\$1020
Less: basic needs amount for single recipient	<u>566</u>
Amount calculated under ODSP Reg. s.40	\$ 454

Income support is calculated as follows:

Basic needs	\$566
Shelter	454
<i>Reduced by amount calculated under ODSP Reg. s. 40</i>	<u>454</u>
Entitlement	\$566

A single recipient in a board and lodge situation receives income support in the amount of \$325 (\$779 less the amount calculated under ODSP Reg. s.40 which is \$454).

Example 2

Income support for a single recipient who is living rent-free with the sponsor and receiving \$100 support is calculated as follows:

Basic needs	\$566
Less: <i>Sponsorship support</i>	<u>100</u>
Entitlement	\$466

SPONSOR'S OBLIGATION TO REPAY SPONSORSHIP DEBT

Under the former *Immigration Act* and the *Immigration and Refugee Protection Act*, all social assistance payments received by a family class sponsored immigrant are considered a collectable debt owed by the sponsor. When a sponsored immigrant receives social assistance during the period of the sponsorship undertaking, the defaulting sponsor will:

- incur a debt for the amount of social assistance paid to the sponsored person;
- have action taken against him/her by the provincial and/or federal government to recover the sponsorship debt; and
- be barred from sponsoring again until the sponsorship debt is repaid.

A person who co-signs a sponsorship undertaking and agreement is equally responsible for repaying any debt incurred if the sponsored person receives social assistance.

In cases where the sponsor is providing some actual support to the sponsored person, it will be treated as income and deducted from social assistance. The amount of the debt owed by the sponsor is the net amount of social assistance paid to the sponsored person.

Where there are multiple members in the benefit unit, the sponsor is responsible to repay only the amount of social assistance paid on behalf of the person(s) sponsored for the period of default.

Calculation of Sponsorship Debt

The amount of the sponsorship debt is based on the number of persons in the benefit unit who are sponsored and the period of default (the length of time the sponsored person(s) received assistance during the sponsorship period).

The amount of the debt owed by the sponsor is the net amount of social assistance paid to the sponsored person after the monthly entitlement is reduced for earnings, other income and unassigned support payments. It is also the net amount after overpayment recovery and other deductions. An overpayment incurred during the “default period” is a debt of the sponsored person, not of the sponsor.

All Member(s) in Benefit Unit Sponsored by the Same Sponsor

Where all members of the benefit unit were sponsored by the same sponsor, the T5007 amounts for the period of default should be used to determine the amount of the sponsorship debt. The T5007 is the amount of income support/basic financial assistance paid to a benefit unit in a tax year, i.e. January -December. The T5007 amount is the net amount of social assistance.

Multiple Members in Benefit Unit

Where there are multiple members of a benefit unit who were not all sponsored or, 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 is attributable 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 (see examples - Appendix B).

Cross Program/Delivery Site Sponsorship Debt

The entire amount of social assistance paid to or on behalf of the sponsored person(s) is included in the sponsorship debt. This includes social assistance paid to sponsored persons who may be included in other benefit units or may have previously received social assistance under Ontario Works or ODSP.

Persons on Temporary Resident Permits becoming Sponsored Persons while in Receipt of Social Assistance

A person who is inadmissible to Canada for medical or other reasons may be granted permission to stay in the country on a Temporary Resident Permit (TRP). The person may subsequently be sponsored under the Family class.

The sponsor for a person who is granted permission to stay in Canada on a TRP has obligations in accordance with the sponsorship undertaking and agreement. When he/she signs the undertaking and agreement, the sponsor agrees to provide for the sponsored person's basic needs and the sponsored person will not need to apply for social assistance. If the sponsored person receives social assistance during the period of the undertaking, the sponsor must repay the social assistance paid to their relative effective:

- the date the sponsored person enters Canada on a temporary resident permit, or
- if the sponsored person is in Canada, the day on which the sponsored person obtains a temporary resident permit following an application to remain in Canada as a permanent resident.

SPONSORSHIP PROCESS AT TIME OF APPLICATION

Where a sponsored person applies for and receives social assistance because his/her sponsor fails to resume his/her obligation to support the sponsored person and/or fails to repay his/her sponsorship debt, ODSP staff must advise the applicant of the sponsor's (and co-signer's, if applicable) responsibility to provide support and his/her responsibility to seek support from the sponsor (and co-signer, if applicable).

The applicant's status in Canada and the expiry date of the sponsorship undertaking must be verified with CIC by faxing the Request for Family Class Information (RFCI) form to the Case Processing Centre in Mississauga (CPCM) at 905-803-7833.

(For cases that are transferred from Ontario Works to ODSP, another RFCI is not required if the Ontario Works office has verified the applicant's status. The granting ODSP office must notify the sponsor (and co-signer, if applicable) of the new amount at which the debt is accruing.)

Note:

The RFCI is a mandatory form, which must be faxed to the CPCM in all new cases where the applicant is a sponsored immigrant. This form, once faxed, triggers the CIC to send a warning letter to the sponsor (and co-signer, if applicable). *IF THERE IS AN ALLEGATION OF ABUSE and/or FAMILY VIOLENCE*, ODSP staff must indicate to CIC that a letter should not be sent.

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 co-signer, if applicable), i.e. address, phone number, date of birth, etc., except for cases where the

sponsorship undertaking was signed in Quebec. CIC will return the completed RFCI form to the ODSP office and, if there is a valid undertaking, will send the sponsor (and co-signer, if applicable) a warning letter (a letter will only be sent if the ODSP staff has indicated that a letter should be sent). The warning letter advises the sponsor (and co-signer, if applicable) that there is a potential sponsorship breakdown and reiterates the requirement to resume full support obligations.

As with all new cases, a Declaration of Support and Maintenance Form (Form 2212) must be completed. The applicant/ participant/recipient must demonstrate to the ODSP staff that they are making reasonable efforts to pursue support in order to be considered eligible for assistance, unless the requirement is waived (in cases of abuse and/or family violence). The information captured in the Form 2212 may assist with the recovery of sponsorship debts.

When a case is granted ODSP and CIC has confirmed that there is a valid undertaking in effect, ODSP staff sends a letter to the sponsor (and co-signer, if applicable):

- requiring that they provide full support to the sponsored relative(s);
- providing details of the accruing debt amount;
- advising that CIC will be notified of the default and debt if they do not resume full support obligations and fully repay the debt;
- advising of the risk of having future requests for sponsorship refused.

Where a sponsor (and/or co-signer, if applicable) provides some support to the sponsored person, the support is treated as income and deducted from the sponsored person's social assistance. The amount of debt is equal to the net amount of social assistance paid to the sponsored person.

If a defaulting sponsor (and/or co-signer, if applicable) repays the full amount of social assistance paid to the sponsored relative(s) while the sponsorship agreement was in force, ODSP 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-signer, if applicable) does not repay the sponsorship debt, the case will be referred to the ministry's centralized Overpayment Recovery Unit (ORU). The ORU staff will pursue the sponsorship debt by sending further letters and referring the case to Canada Revenue Agency's Refund Set-Off Program, if necessary.

Note: Where there is an outstanding sponsorship debt that was not addressed at the time of application under the previous policy, ODSP staff should accept voluntary re-payments 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 Family Violence

ODSP staff must address any alleged incident of abuse and/or family violence at Intake before the Request for Family Class Information (RFCI) form is sent to CIC. In cases where there is an allegation of abuse, CIC will register the default but no letters will be sent to the sponsor (and co-signer, if applicable) by either CIC or ministry staff.

A grace period of three months will be provided for the sponsored person to establish the allegation of abuse by obtaining third party verification. After three months, the situation must be reviewed. Where the allegation of abuse and/or family violence has been verified, debt collection may be deferred for up to 12 months. After 12 months, a follow-up review must be completed to determine if deferral of debt collection is still required or if the risk has been resolved.

Documentation of abuse from a professional with knowledge of the person’s situation is acceptable third party verification. This would include a letter on appropriate letterhead from any of the following:

Law Enforcement Officer	Member of the Clergy
Lawyer	Guidance Counselor
Teacher	Victim Service Worker
Doctor	Settlement Services Worker
Social Worker or Social Service Worker Shelter Worker	Community Health Care Worker

If the applicant/recipient is unable to obtain third party verification within three months, additional time may be provided, as required.

Where collection of a sponsorship debt is deferred due to abuse and/or family violence, the sponsor (and co-signer, if applicable) is still considered to be in default of their sponsorship agreement and will be barred from future sponsorship. If during a subsequent review by Ontario Works Delivery Agent or ODSP staff new information reveals that the alleged incident of abuse and/or family violence has been resolved, CIC and the ORU are to be informed. At that time, CIC can advise the sponsor (and co-signer, if applicable) of the default and recovery of the sponsorship debt can be pursued by the ORU.

Sponsorship Undertakings signed in Quebec or Humanitarian and Compassionate Cases

Ontario will pursue sponsorship debt repayment from a defaulting sponsor who signed the undertaking with Quebec. In these cases, where a sponsor contacts the ORU and is motivated to repay their debt, the ORU will obtain the length and time period of the sponsorship undertaking and may forward these details with a request for the ODSP staff to calculate the debt.

If a motivated sponsor contacts the local office directly, the sponsor should be referred to the ORU.

Cases where a sponsorship undertaking was signed in support of an application for permanent residence in Canada on Humanitarian and Compassionate (H&C) grounds will be processed as other sponsorship cases and should be referred to the ORU.

Terminated Cases

For terminated cases where defaulting sponsors wish to repay their debt, the debt is to be calculated and the case referred to the ORU.

Cases that Should Not be Referred for Debt Recovery/Voluntary Debt Repayment

In some circumstances, sponsors may be deferred from debt recovery activity. In such cases, the sponsorship debt continues to accrue until the end of the sponsorship period.

The following cases may be deferred from debt recovery:

- the sponsor is deceased with no estate and there is verification that the sponsor has been deceased for more than two years;
- the sponsor is incapacitated and unable to pay. For example, the sponsor is in a hospital or institution as defined in the regulations and has no current financial ability to repay the debt nor is likely to acquire any financial ability in the future;
- there is third party verification of domestic violence or abuse by the sponsor against the sponsored person or vice versa (refer to section regarding *Abuse and/or Family Violence*);
- the sponsor has undergone bankruptcy, and the entire sponsorship debt was covered by the bankruptcy discharge (if the sponsorship period has not ended, any sponsorship debt that accrues after the bankruptcy has been discharged is new debt and should be reviewed for referral to the ORU);
- the sponsor is in receipt of social assistance*. If there is a co-signer to the sponsorship agreement, and the co-signer is not on social assistance, the debt should be referred to the ORU for recovery from the co-signer;,,
- the sponsor is in receipt of Guaranteed Income Supplement (GIS) under the *Old Age Security Act* or Gains-A;
- the sponsor's net family income (based on the previous year's income tax return) is below the Low Income Cut Off amount which is published annually by Statistics Canada;
- the sponsor has documented extraordinary circumstances. For example, the sponsor has a serious health condition along with high, ongoing drug costs which have a significant impact on the sponsor's ability to repay the debt. This decision is subject to approval by the Regional Director or SAMO Director;
- an open eligibility review investigation has commenced for the sponsored person(s).

Generally, cases that are deferred from debt recovery should **not** be referred to the ORU for sponsorship debt collection. However, there may be sponsors who are otherwise deferred (e.g. sponsor on social assistance, OAS/GIS, etc.) who voluntarily come forward to repay their debt. In these cases, the sponsor must be allowed to repay their sponsorship debt and the cases should be referred to the ORU. A sponsorship debt can only be cleared if the full amount owing has been paid.

In cases where circumstances are likely to change (e.g. the sponsor is on social assistance), debt recovery may be deferred up to 12 months. A further review will take place to determine if debt recovery should commence. If debt recovery is to commence, the case should be referred to the ORU to begin debt recovery. If information to warrant deferral from debt collection is obtained after the file has been referred to the ORU, ODSP staff must notify the ORU immediately.

*Note: where the sponsor is in receipt of social assistance, the source of the money that is applied to the sponsorship debt should be reviewed to determine if there is an impact on the sponsor's eligibility for social assistance or the amount of income support.

Resumption of Partial Support Paid by Sponsor

Where the case has been referred to the ORU for debt collection and during discussions regarding resolving the default, it is determined that the sponsor can resume only partial support of the sponsored person, the ORU will refer the sponsor to the appropriate ODSP office. The ORU will notify the ODSP office that the sponsor has agreed to resume partial support and the amount of support the sponsor is able to provide, including the effective date with any supporting documentation. The sponsorship support will be treated as income and deducted from the sponsored person's social assistance.

If the sponsor provides partial support but the sponsored person continues to receive some social assistance, the sponsor remains in default. A debt continues to accrue and the sponsor is responsible for repaying the debt.

If the sponsor defaults on any of their partial support payments, ODSP staff are to notify the ORU immediately.

Re-application for Social Assistance

A sponsored person who has withdrawn from social assistance because his/her sponsor has resumed their support obligation and repaid the debt, may re-apply for social assistance if the sponsor stops providing support. Any social assistance paid to the sponsored person during the period of the undertaking would be a debt owed to the province that the sponsor must repay. CIC must be made aware that the sponsor is in default again and efforts to collect the debt must resume as per the established business procedures.

REFUGEES

Canada offers protection to people who are not able to return to their home country. Refugee protection claims can be made in Canada or from outside Canada. Protection is conferred when the Immigration and Refugee Board (IRB) determines that they are a Convention refugee or a person in need of protection.

A Convention refugee is a person who is outside of their country of nationality or habitual residence and who is unable or unwilling to return to that country because of a well-founded fear of persecution for reasons of race, religion, political opinion, nationality or membership in a particular social group.

A person in need of protection is a person in Canada whose removal to their country of nationality or former habitual residence would subject them to the possibility of torture, risk to life, or risk of cruel and unusual treatment or punishment.

Canada's refugee protection system consists of two main components:

1. The **Refugee and Humanitarian Resettlement Program**, for people seeking protection from outside of Canada. CIC selects refugees who are seeking resettlement in Canada. These refugees may be eligible for the federal government's Resettlement Assistance Program (RAP) and/or may be sponsored under the Private Sponsorship of Refugees Program. Refugees who are eligible for RAP or sponsored under Private Sponsorship of Refugees Program may be eligible for income support during their period of eligibility for the RAP or sponsorship as long as they have pursued all other available financial resources. Generally this period is for one year after arrival in Canada but under certain circumstances, CIC can extend the period up to 36 months.
2. The **In-Canada Refugee Protection Process**, for persons making refugee protection claims from within Canada at either a point of entry or at a CIC office in Canada. Under IRPA, there is now a mandatory in-person application process for all refugee claimants (i.e. at the point of entry or at an appointment scheduled by an in-land applicant). Claimants who apply for refugee protection at the port of entry i.e. airport are immediately seen by an immigration officer. In-land claimants are not seen by an immigration officer immediately; but rather, are given an appointment at a later date to see an immigration officer.

During the waiting period to see an immigration officer, the person remains a visitor and is therefore ineligible to receive income support.

Once the in-person application for refugee protection is made, Immigration officials have 3 working days to decide whether the claim can proceed. If a claim is eligible to proceed, the claimant will be provided with an IMM-1442 form that includes the eligibility decision and the claim is sent to the IRB for a decision on the risk on return. Protection is conferred when the IRB determines that the claimant is a Convention refugee or person in need of protection.

Protected persons may be eligible for income support while they are awaiting determination of their refugee claim by the IRB. They are to be assessed on the same criteria as other applicants. Most protected persons have permission to work while waiting for a decision about their claim.

It is important to note that protected persons who are eligible to receive essential health care services through the Interim Federal Health Program at CIC would not be eligible for a health card from the Ontario Ministry of Health and Long-Term Care (MOHLTC).

If Immigration officials determine that a claim is not eligible to proceed the claimant is issued an IMM-1442 form that includes the ineligibility decision and the claimant is issued a removal order and must leave the country. Unsuccessful claimants are not eligible for social assistance unless their reasons for not leaving the country are wholly beyond their control.

Pursuit of Available Resources for Convention Refugees

Persons who are Convention Refugees may be eligible for income support as long as they have pursued all other available financial resources including income through the federal government's Resettlement Assistance Program (RAP) or a private sponsor. Canada provides financial support to government-assisted refugees under RAP to cover their basic needs and shelter for up to 12 months. Where there is a private sponsor, the sponsor provides for the refugee's basic needs and shelter.

Unsuccessful Claimants

An unsuccessful refugee claimant may request permission to appeal the IRB decision. If he/she is not successful the IRB decision stands and the removal order will be re-activated.

If leave to appeal is granted and the appeal is launched, the claimant continues to be eligible for assistance. If the IRB decision does not result in the granting of Convention refugee status or refugee protection, the removal order will become active and the unsuccessful claimant will not be eligible for assistance.

An unsuccessful claimant who is granted permission to stay in Canada for humanitarian, compassionate or other reasons, under the authority of the *Immigration and Refugee Protection Act*, is no longer a deportee under an active order and may be eligible for financial assistance.

DEPORTEES

A person under an active deportation order, departure order or an exclusion order under the *Immigration Act* or a removal order enforceable under the *Immigration and Refugee*

Protection Act is a deportee and is to leave the country by a specified time. Failure to report for removal when ordered will result in the issue of a warrant for arrest. A person under an active deportation order or for whom a removal order is enforceable under the *Immigration and Refugee Protection Act* is not eligible for financial assistance.

A deportee may be a permanent resident who has been convicted of a serious crime, a person who is in Canada illegally or a refugee claimant whose refugee claim has been denied and whose removal and/or deportation order has been activated.

A deportee may be eligible for ODSP income support only if:

- an application for status as a permanent resident for humanitarian or compassionate reasons has been made under the authority of the *Immigration and Refugee Protection Act*; or
- the removal cannot be carried out for reasons wholly beyond the control of the applicant or recipient. A deportee may be unable to leave the country for reasons such as:
 - travel documentation and arrangements are delayed or are not finalized by 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.

HYPERLINKS ASSOCIATED WITH THIS POLICY DIRECTIVE

Related Directives:

[3.1 Consolidated Verification Information Requirements](#)

[6.1 Basic Needs Calculation](#)

[6.3 Board and Lodge Calculation](#)

Memos

March 19, 2007: Sponsorship Debt Recovery Update

April 29, 2008: Sponsorship Debt Recovery Update

APPENDIX A

Glossary of Terms

Citizenship – A permanent resident may apply for and achieve Canadian citizenship three years after becoming a permanent resident. A sponsor's obligations continue for the duration of the sponsorship period even after the sponsored immigrant has become a Canadian citizen.

Convention Refugee – A Convention refugee is a person who is outside of their country of nationality or habitual residence and who is unable or unwilling to return to that country because of a well-founded fear of persecution for reasons of race, religion, political opinion, nationality or membership in a particular social group.

Deportee – A person under a removal or deportation order to leave Canada on a specified date under the *Immigration and Refugee Protection Act*. He/she is not eligible for income support while under an active removal order unless reasons for remaining are entirely beyond his/her control.

Immigrant – A person who seeks permission to obtain permanent residence in Canada. There are three immigration classes:

1. *Family Class* – sponsored by eligible close relatives living in Canada;
2. *Independent Class* – assessed against selection criteria to establish successfully and contribute to the economy in Canada; and
3. *Skilled Worker Class*

Live-In Caregiver – A person who is admitted to Canada as a temporary resident to work in a live-in situation. He/she can apply for permanent resident status after completing two years in employment as a Live-In Caregiver.

Permanent Resident Card – The Permanent Resident Card confirms the permanent resident status of the cardholder and replaces the paper IMM 1000 *Record of Landing* form for travel purposes.

Person in Need of Protection – A person in need of protection is a person in Canada whose removal to their country of nationality or former habitual residence would subject them to the possibility of torture, risk to life, or risk of cruel and unusual treatment or punishment.

Protected Person – A protected person can either be a Convention refugee or a person in need of protection.

Refugee Claimant – A person who makes a claim for refugee protection upon arrival or after arriving in Canada. A refugee claimant is not a permanent resident. Refugee claimants who are eligible to receive essential health care services through the Interim Federal Health Program from CIC are not eligible for an Ontario Health Card.

Sponsorship – A legal undertaking under which the sponsor(s) is obligated "to provide for the basic requirements" for day to day living to the sponsored person(s) and his/her dependants for the length of the undertaking. It is expected that there will not be a need to apply for social assistance or other benefits under government programs.

Temporary Resident Permit – Formerly known as a Minister's permit. Provides a person who is inadmissible as a permanent resident with permission to reside in Canada. He/she may be eligible for social assistance. Permanent resident status may be granted, usually on compassionate grounds, after a three-year period of time, to enable the person to stay in Canada. A person with a temporary resident permit who is granted income support may seek Employment Supports. Consideration must be given to ensure that the person has a work permit before providing any supports.

Tourist – A person in Canada for a short period of time. A tourist is not eligible for social assistance or an Ontario Health card.

Temporary Resident Visitor – A person in Canada for a temporary purpose. A temporary resident visitor may have a tourist visa, a student visa or a work permit or authorization. A temporary resident visitor is not eligible for social assistance or an Ontario Health Card. A temporary resident visitor who applies for permanent resident status or applies as a refugee claimant may be eligible for social assistance.

APPENDIX B

ONTARIO DISABILITY SUPPORT PROGRAM SPONSORSHIP CALCULATION CHART

This chart provides examples of how to calculate the sponsorship debt where there are multiple members in a benefit unit but not all are sponsored or sponsored by the same person. Only the sponsored person's portion of financial assistance is recovered from the sponsor.

Benefit Unit (BU)	Budgetary Requirement	Sponsored Person(s)	Sponsored Person's portion of budget (Basic needs for BU - Basic needs for non-sponsored person) (Shelter for BU – Shelter for non-Sponsored Person)	Multiply by Period of Default	Less other Deductions	Calculation	Debt Amount (net)
Couple (non-disabled spouse) not living with Sponsor	\$1552 Basic Needs \$838 Shelter \$714	Spouse	\$532 Breakdown: Basic Needs \$838-\$566 = \$272 Shelter \$714-\$454 = <u>\$260</u> \$532	5 months	0	\$532 x 5 = \$2660	\$2660
Single Disabled with A Dependent Over 13 not living with sponsor	\$1441 Basic Needs \$727 Shelter \$714	Dependent Child	\$421 Breakdown: Basic Needs \$727-\$566 = \$161 Shelter \$714-\$454 = <u>\$260</u> \$421	5 months	\$1100 Support Payments (for sponsored dependent child)	\$421 x 5 - \$1100 = \$1005	\$1005
Couple (non-disabled spouse) living apart from sponsor in accommodation owned or controlled by sponsor and not legally obligated to pay shelter costs nor required to pay costs to remain in the home	\$838 Basic Needs \$838 Shelter: \$0 (not eligible for shelter allowance)	Recipient	\$566 (Basic Needs for Sponsored Person)	5 months	0	\$566 x 5 = \$2830	\$2830