

# Ontario Disability Support Program - Income Support Directives

## 13.3 - Recovery of Interim Assistance

### Summary of Policy

The Social Benefits Tribunal (SBT) has the authority to order the Director to pay interim assistance where the Tribunal is satisfied that the recipient is experiencing financial hardship, where there are grounds for the appeal and when other conditions of eligibility (except those under appeal) have been met.

If the appellant loses an appeal to the SBT, the amount of interim assistance that exceeds the amount the recipient would have been eligible to receive is recovered as an overpayment.

Overpayments calculated to recover interim assistance payments should include amounts provided for benefits, except where the amount of the benefit cannot be quantified. (See [Directive 11.1 Recovery of Overpayments.](#))

### Legislative Authority

[Section 27 of the ODSP Act](#)  
[Sections 66 and 67\(4\) of the ODSP Regulation](#)

### Summary of Directive

This directive explains how to calculate overpayments of interim assistance payments where an applicant/recipient loses an appeal to the SBT.

### Intent of Policy

To ensure an overpayment is established for the amount of interim assistance paid in excess of the amount that would have been payable under the final order of the SBT.

### Application of Policy

#### Standards

- A copy of the appeal decision must be kept on file.
- ODSP staff must review the appeal decision and the amount of interim assistance paid.
- The overpayment calculation must be documented on the file.

Where the Tribunal's decision indicates that the recipient was not eligible for income support, the entire amount of interim assistance will be considered an overpayment.

Where the Tribunal determines that the recipient was eligible to receive income support, but at a lower amount than was paid as interim assistance, the difference between these two amounts would be recovered as an overpayment.

Notice must be given to the recipient of the amount of the overpayment, the reason, the period for which it was incurred and their right to appeal. If a recipient had a dependent spouse when an overpayment was incurred, the Director must also give notice in writing to the spouse respecting the overpayment.

### **Calculating an Overpayment Due to Interim Assistance**

#### **Example 1**

A recipient is terminated effective November 1, 2008. The recipient subsequently proceeds through the internal review process and then to the SBT. The recipient requests and is granted interim assistance effective November 2008. His monthly income support would have been \$779 per month (board and lodging rate). The interim assistance paid is \$779 per month.

Interim assistance is paid until the appeal decision is received in January. The termination decision is upheld. The total amount of interim assistance paid during November to January is an overpayment:

$$3 \times \$779 = \$2,337$$

The case is terminated effective November and the interim assistance paid for September, October and November is an overpayment.

#### **Example 2**

A recipient with two children ages 10 and 17 receives income support of \$1,543. In November 2008 the 17 year-old does not attend school and the Director reduces the recipient's assistance to \$1,423. The recipient appeals the deduction and requests interim assistance.

The SBT orders interim assistance effective November 1, equal to the amount of income support the recipient would have received prior to the removal of the dependent child.

Interim assistance is paid in the amount of \$1,543 until the appeal decision is received in February 2009. The Director's decision to exclude the dependent child from the benefit unit is upheld.

The difference between the interim assistance and the amount of income support that should have been paid for four months is an overpayment.

$$\$1,543 - \$1,423 = \$120$$

$$4 \times \$120 = \$480$$

### **Hyperlinks Associated with this Policy Directive**

#### **Related Directives:**

[13.1 Notice of Decision and Internal Review](#)

[13.2 Appeals](#)