

Ontario Disability Support Program - Income Support Directives

4.1 Definition and Treatment of Assets

Summary of Policy

The prescribed asset limits for a benefit unit are \$5,000 for a single recipient, \$7,500 for a couple and \$500 for each dependant other than a spouse.

With the Director's approval, the allowable asset level for a benefit unit may be increased to permit the purchase of an item that is necessary for the health of a member of the benefit unit or for disability related items or services.

A number of assets are exempt including but not limited to a person's interest in a principal residence, one motor vehicle, a prepaid funeral, the cash surrender value of life insurance policies, all funds held in a Registered Disability Savings Plan, tools of the trade, student loans, and a loan used for the purchase of an exempt asset, a principal residence or an asset necessary for the health or welfare of a member of the benefit unit.

Legislative Authority

[Section 5\(1\)\(c\) of the ODSP Act](#)
[Sections 1\(1\); 27\(1\), \(2\); 28\(1\), \(2\), \(2.1\), \(3\); 43\(1\)2.1, 6 and 9 of the ODSP Regulation](#)

Summary of Directive

To define maximum asset limits, clarify what is included under assets and what assets are exempt.

Intent of Policy

To identify exempt assets and allowable asset limits for ODSP financial eligibility.

Application of Policy

ODSP staff must determine the value of an applicant/recipient's assets to decide if he/she is eligible for ODSP, given the maximum asset level of that particular

benefit unit.

Asset Limits

Under ODSP, the asset ceiling is \$5,000 for a single person, \$7,500 for a couple and \$500 for each dependant other than a spouse. All interest earned on assets within this ceiling is exempt from income under ODSP and may accumulate to the allowable asset limit for a particular benefit unit. Interest left to accumulate is also treated as an asset in the following month.

Valuable collectibles such as stamps, coin collections and antiques are treated as assets. If these valuable collectibles, together with other assets, exceed the permissible amount of assets, the applicant/recipient will be required to make reasonable efforts to dispose of such items at a fair market value. Where these efforts are deemed by ODSP staff to be satisfactory, the value of these items will not affect eligibility as long as such efforts continue. ODSP staff should review these cases at least annually. Antiques that are necessary for personal use (e.g. furniture) are not considered assets.

Necessities of living and items such as furniture, clothing and household effects, which are considered necessary for the reasonable functioning of the household, are exempt as assets.

ODSP staff may approve an accumulation of assets that is greater than the prescribed asset limit in order to purchase items or services necessary for the health of a member of the benefit unit or for disability related items and services up to a maximum of the sum of the prescribed asset limit plus the amount needed for the items and services.

Exempt Assets

Principal Residence

The principal residence of an applicant/recipient or the proceeds from the sale of a principal residence, provided those proceeds are used for the purchase of another principal residence within 12 months from the sale, are exempt as an asset.

Second Property

An interest in a second property other than the principal residence is exempt as an asset if the Director is satisfied that the property is necessary for the health or well-being of a member of the benefit unit. If the Director does not approve a health/well-being exemption, the property will be exempt as an asset for a period of six months provided that reasonable efforts are made to sell the property and that reasonable efforts continue to be made thereafter if the property remains unsold.

Ontario Disaster Relief Assistance Program (ODRAP) and Insurance Payments

Payments made under ODRAP, other than payments for loss of income, are exempt as assets as long as those payments are used for the purpose intended by ODRAP.

Insurance payments made for temporary living expenses in situations where the recipient has moved out of his/her dwelling place because of damage (e.g., fire or flood) are exempt. Insurance payments made to replace or repair damaged or destroyed assets that are either exempt assets (e.g., principal residence) or within allowable asset limits are also exempt. However, insurance payments for loss of income are not exempt.

Motor Vehicles

One motor vehicle owned by a member of the benefit unit is exempt regardless of the value. A second vehicle is exempt, provided that its net value is no more than \$15,000 and it is required to permit a dependant of the applicant/recipient to maintain employment outside of the home. [See Directive 4.5 Motor Vehicles](#) for additional information.

Trust Funds

A member of the benefit unit is entitled to retain, as an exempt asset, inheritances or the proceeds of a life insurance policy which are placed in trust for the benefit of that person, to a limit of \$100,000. Interest or dividends earned on the capital amount of the trust may be reinvested in the trust provided the capital does not exceed the \$100,000 limit. The combined capital of the trust and the total cash surrender value of a life insurance policy, if held, cannot exceed \$100,000. [See Directive 4.7 Funds Held in Trust](#) for additional information.

Life Insurance Policies

A member of the benefit unit is entitled to retain, as an exempt asset, the total cash surrender value held in an insurance policy to a limit of \$100,000. Dividends earned on the policy may be reinvested in the policy provided that the cash surrender value does not exceed \$100,000. The total cash surrender value of an insurance policy together with the capital of a trust cannot exceed \$100,000. For the treatment of funds or dividends received as a result of the demutualization of insurance policies, please [see Directive 4.8 Life Insurance Policies](#).

Compensation Awards for Injury or Death

The following compensation awards are exempt as assets up to a maximum of

\$100,000:

- pain and suffering as a result of injury to or the death of a member of the benefit unit;
- prejudgment interest awarded on or after November 30, 2007 as compensation for the delay in receiving damages for pain and suffering as a result of injury to or death of a member of the benefit unit;
- expenses actually and reasonably incurred or to be incurred as a result of an injury to or the death of a member of the benefit unit;
- damages for the loss of care, guidance and companionship under the Family Law Act as a result of injury to or death of a family member ; and
- non - economic loss under the **Workplace Safety and Insurance Act, 1997** or **Workers' Compensation Act**.

The \$100,000 exemption applies to each member of the benefit unit, per incident.

The Director may exempt the amount over \$100,000 where the Director is satisfied that:

- an appropriate arrangement for the administration of the amount exceeding \$100,000 has been made [**appropriate arrangement** may be to allow the member to self-administer the monies]; and
- the amount is paid for expenses actually and reasonably incurred or to be incurred as a result of injury to or the death of a member of the benefit unit and is used or is to be used for those expenses; or
- the amount is to be used for one or more of the following purposes:
 - expenses for disability related items or services for a member of the benefit unit that have been approved by the Director and that are not and will not be otherwise reimbursed;
 - education or training expenses that are incurred with respect to a member of the benefit unit because of that person's disability and which are not and will not be otherwise reimbursed.

Subsequent to expanding the \$100,000 exemption, if the Director is not satisfied that any portion of the amount exceeding \$100,000 has been used for the following purposes, the Director may reduce the expanded asset exemption accordingly:

- expenses actually and reasonably incurred or to be incurred as a result of injury to or the death of a member of the benefit unit; or
- expenses for disability related items or services for a member of the benefit unit that have been approved by the Director and that are not and will not be otherwise reimbursed; or
- education or training expenses that are incurred with respect to a member of the benefit unit because of that person's disability and which are not and will not be otherwise reimbursed.

In addition, if the Director is not satisfied that any portion of the amount exceeding \$100,000 will be used for these expenses, the Director may reduce the expanded asset exemption accordingly.

ODSP staff is to forward cases where the total amount awarded is greater than \$100,000 to the Legal Services Branch of the Ministry of Community and Social Services with a request to the Director, Ontario Disability Support Program, to expand the exemption.

In consultation with counsel, the Director will determine whether or not the amount greater than \$100,000 should be exempt and, if the exemption is expanded, will set out the approved purposes for which the monies must be used in a letter to the recipient.

[See Directive 4.6 Compensation Awards](#) for additional information.

Pre-Paid Funerals

Pre-paid funerals for any member of the benefit unit are exempt as an asset. [See Directive 4.9 Pre-paid Funerals](#) for additional information.

Student Loans, Grants, Awards or Bursaries

Student loans, grants, awards or bursaries guaranteed under section 8 of the **Ministry of Training, Colleges and Universities Act** or the **Canada Student Financial Assistance Act** are exempt from consideration as an asset, so long as the person for whom the loan was provided remains in attendance in the program of study for which the funds were provided. Included in this exemption are awards or grants made by the Ministry of Training, Colleges and Universities and bursaries under Section 8(1)18 of the **Education Act**.

Registered Education Savings Plans (RESPs)

RESPs held by any member of the benefit unit for persons related to them by blood, marriage or adoption (e.g. son, daughter, nephew, grandchild, etc.) are

exempt as assets. Under the Canada Education Savings Grant (CESG), the Federal government matches a certain percentage of a person's contributions to an RESP. These amounts are also exempt as assets.

In a family type RESP, the beneficiary can be changed from the originally named person to another relative, (e.g. RESP purchased for a son who does not attend post secondary school can be transferred to a daughter who does). These RESPs continue to be exempt as long as they are intended for and will be used for education costs. [See Directive 5.11 Post-Secondary Education.](#)

Mortgages Receivable

The amount remaining to be paid to a member of the benefit unit under a mortgage or agreement for sale is exempt as an asset. The income received must be reviewed to determine if an income charge is appropriate. [See Directive 5.12 Mortgage Receivable.](#)

Special Governmental Compensation Payments

Payments received under any of the following agreements and plans are exempt as assets:

- The Helpline Reconciliation Model Agreements
- The Multi-Provincial/Territorial Assistance Program Agreements
- The Grandview Agreements
- Extraordinary Assistance Plan (Canada)
- Ontario Hepatitis C Compensation Plan
- 1986-1990 Hepatitis C Settlement Agreement (other than a loss of income payment or a loss of support payment)
- Pre-1986/Post 1990 Hepatitis C Settlement Agreement (other than a payment for loss of income or loss of services in the home) effective April 20, 2007
- Government of Alberta Compensation for Sterilization
- Walkerton Compensation Plan (other than a payment for future lost income)
- Ontario Disaster Relief Assistance Program
- Indian Residential Schools Settlement agreement (other than loss of income payments) effective May 1, 2006

Treatment of Land Claim Settlement Payments

Payments pursuant to an Aboriginal land claim settlement agreement between Ontario and/or Canada, are exempt as assets up to 12 months in order to give recipients time to spend down the payment or convert it to an exempt asset. If the funds are retained after 12 months, regular asset rules apply.

Business Assets

Applicants/recipients or members of the benefit unit who are self-employed are allowed \$20,000 in business assets that are necessary to the operation of the business. Inventory, stock and raw material are examples of business assets. If more than one person in the benefit unit has an interest in or operates the same business, the amount allowed for business assets remains \$20,000. If one person in the benefit unit has an interest in or operates more than one business, the business asset exemption cannot exceed \$20,000. Under exceptional circumstances, the Director may approve an amount greater than \$20,000. [See Directive 5.4 Self-employment Income](#) for additional information.

Tools of the Trade

Tools of the trade that are essential to the operation of a business or to the employment of a member of the benefit unit, are exempt as an asset. Business vehicles used exclusively for the business are treated as tools of the trade and are therefore exempt assets. [See Directive 5.4 Self-employment Income](#) for additional information.

Farm Assets

Machinery, equipment and other items required to derive an income from farming and essential to the farmer's business operation, will be considered "tools of the trade" and are therefore exempt. For example, milking machines used by a dairy farmer would be considered tools of the trade and are therefore exempt as assets. However, carpentry tools owned but not used on a day to day basis to derive an income from farming would not be considered tools of the trade. Rather, they would be included as personal assets. [See Directive 5.7 Farm Income](#) for additional information.

Earnings of Dependent Children

Assets derived from a dependent child's earnings are exempt (e.g. savings bonds, stocks, other assets). When determining whether a benefit unit's assets are within allowable levels, assets resulting from the earnings of dependent children are not to be considered.

Earnings of Dependent Adults

Assets derived from the earnings of a dependent adult who is attending secondary school full time, and assets derived from payments to a dependent adult under a training program are exempt. When the dependent adult ceases to attend secondary school or a training program, those assets will continue to be exempt if the dependent adult is using or will be using them for post-secondary education or training costs within a reasonable period of time.

Earnings of Post-secondary Students

Assets derived from employment earnings (including self-employment and farm income) and amounts paid under a training program of persons attending full-time post-secondary school are exempt.

The exemption applies to assets derived from income earned or paid both during the study period and during the pre-study period, defined as a maximum of 16 weeks prior to the start of the study period.

The asset exemption applies only to earnings or training income earned or paid while the student is in receipt of social assistance and that are used for post-secondary education costs. The assets continue to be exempt as long as the student continues to be enrolled in and attending full-time post-secondary education.

Where a recipient does not attend the program of study as planned, withdraws from or completes the program, the usual asset limits will apply. The assets are then taken into consideration when determining the recipient's or benefit unit's ongoing eligibility. Recipients should be informed of the treatment of the assets if they are not used for post-secondary costs.

[See Directive 5.18 Exemption of Earnings of Post-secondary Students](#) for additional information.

RRSPs

To determine whether a Registered Retirement Savings Plan is available as an asset, it is necessary to obtain written notification from the financial institution confirming whether the funds are accessible or are "locked-in".

If the applicant/recipient is able to access RRSP funds, regardless of the penalty involved, then he/she will be expected to do so. The value of the RRSP funds will be treated as an asset and the person may then be deemed ineligible due to assets above the allowable limit. RRSPs may be in the form of a guaranteed investment certificate (GIC), mutual fund or other type of investment. In summary, if the RRSP is accessible, these funds must be redeemed and used for the purpose of self-support or some other purpose permitted by the Regulation. If the RRSP is used to save for a health related item or service for a member of the benefit unit, the exemption under Section 27(2) of the ODSP Regulation may be considered.

If the RRSP is locked-in, it is not considered an asset for the purpose of determining eligibility. Changes to the Pensions Benefit Act in 1987 provided, among other things, the opportunity for individuals to transfer their retirement funds into another lifetime retirement pension. These funds normally originate

from an employer's pension fund. Various reasons exist for transferring these funds into another lifetime retirement pension, including the company ceasing business operations or an employee leaving a company after a fixed age or number of year's service.

These pension funds may be transferred out of the employer's plan only on the condition that they remain "locked-in". This means that funds may be used for only one purpose, namely to purchase a lifetime retirement pension, commencing no earlier than age 55, the retirement age fixed by the **Pensions Benefit Act**.

In some cases the minimum age of 55 may be raised. This will appear in the "locked-in agreement" between the employer and the financial institution. Until the member of the benefit unit reaches the retirement age, he/she may have control of the investment but no access to the funds. RRSPs originating from an employer's pension fund, which are locked-in will be exempt from consideration as an asset.

To be exempt, the information obtained from the financial institution should state that the RRSP is truly locked-in because it originally derived from an employer's pension fund.

Upon reaching the retirement age specified on these locked-in RRSPs, the applicant/recipient may set up a term annuity or life annuity in order to realize any income that might be available on a monthly basis. Income received from these types of annuities will be deducted at 100% unless otherwise exempt. Annuities, deferred annuities and segregated funds are considered to be life insurance under the Insurance Act. As such, the \$6,000 income exemption per member of the benefit unit for any twelve-month period for payments from a life insurance policy would apply.

Income from Locked-In Pension Funds

Under the **Pension Benefits Act (PBA)**, individuals are allowed limited access in specific circumstances to three different types of locked-in retirement arrangements (locked-in retirement accounts (LIRAs), life income funds (LIFs) and locked-in retirement income funds (LRIFs).

Section 66(6) of the PBA specifically provides that a person's entitlement to access funds from the specified locked-in retirement accounts shall NOT be relevant when determining the income (or assets) available to that person under any other Act.

As a result, the ODSP requirement that applicants and recipients pursue all available resources as a condition of eligibility is NOT applicable to locked-in retirement accounts.

However, if an ODSP applicant or recipient does access these funds, ODSP rules regarding income and assets must be applied.

When an individual terminates employment, he or she may transfer the pension benefit they earned under their pension plan into one of the locked-in retirement arrangements (LIRA, LIF, LRIF). The individual may transfer the money into a LIRA as long as he or she will not reach age 71 by the end of the year in which the money is transferred. If the individual is 54, he or she may transfer the money from their pension plan into a LIF or LRIF. If an individual already has money in a LIRA he or she may also transfer it into a LIF or LRIF in the year when they turn 54. (Note: in some situations, individuals may transfer money to their LIF or LRIF earlier than age 54, but it is not as common as at age 54. If the transfer does happen earlier than age 54 the same rules apply as when the transfer happens at age 54.)

At the time the money is transferred into a LIF the individual may access up to 50% of the money that was transferred. He or she may either receive this money in cash or transfer it to an unlocked vehicle (an RRSP or RRIF). As well a minimum amount must be withdrawn from the LIF or LRIF each year and there is a maximum limit on how much can be withdrawn annually. The withdrawal limits are set out in the **Pension Benefits Act**.

ODSP rules regarding income and assets must be applied to any money that is withdrawn from a locked-in account. However, the assets that remain in a locked-in account (the capital) remain locked-in and do not count toward the recipient's asset limit. If the assets have been withdrawn and transferred to an unlocked vehicle (an RRSP or RRIF) the assets are not exempt and will count toward the recipient's asset level.

Below are some situations in which an individual may apply to unlock and withdraw money from their locked in accounts:

Financial Hardship

If a person faces financial hardship under the specified categories below, he or she may apply under the PBA for access to some of his locked-in money.

Facing eviction from a principal residence as a result of arrears of rent

Facing eviction from a principal residence as a result of debt secured on a principal residence

Needing to cover reasonable non-reimbursed medical expenses for the treatment of illness or medical disability

Needing to cover reasonable expenses for renovations or alterations of a principal residence made necessary by illness or physical disability

Requiring first and last month's rent to obtain a principal residence

Pension funds accessed and used for the purposes noted above are exempt as both income and assets under ODSP.

Some other situations in which the PBA allows access to locked-in funds on a voluntary basis include:

Financial Hardship (in addition to the categories listed above):

- Low-income. This situation is where an individual's personal income from all sources, before taxes, for the next 12 months is less than a specified amount (\$31,466.67 in 2010). The individual may apply for access to some of the locked-in money.

Shortened Life Expectancy:

- The individual has an illness or physical disability that will shorten his or her life expectancy to less than two years. All or some of the money in the account may be withdrawn.

Small amounts for age 55 or over.

- The individual is at least 55 and the total amount in his or her Ontario locked-in accounts is less than a prescribed percentage that adjusts each year (in 2010 this is \$18,880). All of the money in the account must be withdrawn.

Excess amounts under the federal Income Tax Act (ITA).

- In rare instances when an individual terminated employment money was transferred to his or her locked-in account, which exceeded the maximum amount that may be transferred under the **ITA**. All of the excess amount may be withdrawn.

In these cases, the income will be exempt as income and assets only if used to purchase exempt assets or an approved asset necessary for the health and welfare of a member of the benefit unit. The pension funds may also be used for approved education or training expenses.

Exempt Loans

Loans for acceptable purposes such as for the purchase of assets that are exempt, (e.g. motor vehicles, principal residences) are exempt as income and assets. Loans for the payment of first and last month's rent are also exempt as

income and assets.

The portion of an approved loan used for training or education costs is exempt as an asset, so long as the person is attending the program or training for which the loan was taken or the payment was intended. In addition, a recipient is required to apply the funds to education costs or training within a reasonable period of time. [See Directive 5.10 Loans](#) for additional explanation and income exemptions.

Learning Earning and Parenting Program (LEAP)

Incentive payments (\$500) under LEAP are funded under the **Ministry of Community and Social Services Act** and are exempt as income. The payment is also exempt as an asset if used by the young parent for post-secondary education or if it is invested in a Registered Education Savings Plan (RESP) for the young parent's dependent child. LEAP incentive payments placed in an RESP for the young parent's dependent child may consist of an Ontario payment as well as a federal payment made as a Canada Education Savings Grant. Both payments are exempt assets when placed in an RESP for the young parent's dependent child.

Treatment of Payments Under the Transplant Patient Expense Reimbursement (TPER) Program

The Ministry of Health and Long-term Care's TPER program provides up-front payments or reimbursement of temporary accommodation costs incurred by eligible patients while awaiting heart, heart-lung and lung transplants, up to a maximum of \$650 per month.

TPER payments are exempt as assets for the purposes of social assistance if used for the intended purpose within a reasonable period of time as determined by the Director.

Income Support Arrears from Retroactive ODSP Entitlement

ODSP income support arrears received due to retroactive ODSP entitlement are exempt as income and are not considered an asset for six months. These arrears may be used for approved purposes such as disability related items or services, expenses for health related reasons, the purchase of household items and debt reduction. Expenses should be verified and noted on file.

After six months, the remaining income support arrears may be considered an asset. However, in reassessing eligibility, every consideration should be given to

section 27(2) which provides discretion to allow the accumulation of assets in order to purchase an item or service that the Director considers necessary for the health of a member of the benefit unit or for disability related items or services.

Sale of Assets

There is no income charge to recipients for that portion of a payment received from the sale or other disposition of any asset (non-exempt or exempt), that is applied to or with approval, will be used to purchase: a principal residence; any other approved asset that is necessary for health and welfare; or an exempt asset. There will be no income charge to a recipient who converts any assets that do not exceed the prescribed asset limit for the benefit unit. In general, a conversion of non-exempt or exempt assets should be completed within a six month time frame. After six months, the proceeds from the sale of an asset, if not converted to an exempt asset or an asset below the prescribed asset limit (taking all non-exempt assets into account), is considered income in the month received and an asset thereafter. Only the amount that exceeds the prescribed asset limit, when combined with all other non-exempt assets is considered an asset. This may result in cancellations and overpayments, so recipients should be informed of this policy.

Applicants may also convert assets (exempt and non-exempt) to purchase a principal residence; any other approved asset that is necessary for health and welfare; or an exempt asset. However, applicants need to have made the conversion of assets prior to applying for income support.

Quest for Gold – Ontario Athlete Assistance Program

All direct financial assistance provided to athletes under the Ministry of Health Promotion's Quest for Gold – Ontario Athlete Assistance Program is exempt from income and asset charges.

Registered Disability Savings Plans (RDSPs)

All funds held in an RDSP are fully exempt as assets. RDSPs are tax-supported savings vehicles governed by the **Income Tax Act**. ([See Directive 5.1 for treatment of RDSP related income.](#))

Hyperlinks associated with this policy directive

Related Directives:

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