

## **DIRECTIVE #3.4: LIVING WITH PARENTS**

### **LEGISLATIVE AUTHORITY**

Sections 2(1), 2(2), 11, 41, 42(2), 44(2) (3) and (4) of Regulation 134/98

### **AUDIT REQUIREMENTS**

Adequate documentation is on file to support decisions made and the level of assistance issued.

### **APPLICATION OF POLICY**

A determination of financial independence is completed for all applicants and participants (including sole-support parents) 18 years of age and older who are living with their parents.

#### ***Determining Financial Independence***

An applicant or participant 18 years of age or older, living with his/her parents is determined to be financially independent if one or more of the following criteria are met:

- he/she resides with a spouse or has resided with a spouse at any time in the past;
- he/she is eligible as a sole support student (self-supporting or independent) under the Ontario Student Assistance Program (OSAP) or the First Nations Post Secondary Funding program, or has been eligible as such at any time in the past;
- there has been a cumulative period of at least two years in which one, or any combination of the following has occurred:
  - he/she had a monthly income, other than support, greater than the maximum income assistance allowable for a single person;
  - his/her basic needs and shelter have been provided by a source other than their parent(s) or an institution;
  - he/she received social assistance in his/her own right; or
  - he/she lived away from the parental home after their 18<sup>th</sup> birthday.

- a period of five years has passed since he/she stopped attending secondary school or receiving satisfactory instruction at home (correspondence courses are not considered home instruction under the *Education Act*);
- he/she received a degree from a degree granting institution (e.g., a university) or a diploma from a college of applied arts and technology; or
- he/she is a parent who has, or had, lawful custody of his/her child.

If an applicant or participant living with their parents is determined to be financially independent, he/she may be eligible for assistance in their own right under the living with parents rule. A financially independent adult is part of his/her own benefit unit, and not their parents (where the parents are also in receipt of assistance).

Budgetary requirements for financially independent adults are determined under subsection 44(3) of O. Reg. 134/98. Assistance includes an amount for basic needs and a Special Boarder Allowance. An amount for a special diet, as well as the Northern Allowance and Pregnancy/Breast-feeding Allowance, may also be provided.

### ***“Election” Provision***

A person who has been determined to be financially independent may elect to have their budgetary requirements determined as a dependent adult.

If the financially independent adult elects to have their budgetary requirements determined as a dependent adult, they will be included in the parental benefit unit if the parents are in receipt of assistance.

A person who meets the criteria to be an independent adult, but has made an election to be considered a dependent adult in his or her parents' benefit unit, may at any time revoke that election. This means that he or she is taken out of the parents' benefit unit and has their budgetary requirements determined as a financially independent adult.

### ***Dependent Adults***

A person is a dependent adult and is included in an applicant's or participant's benefit unit if:

- he or she is 18 years or older;
- the applicant or participant or the spouse included in the applicant's or participant's benefit unit is his or her parent;

- he or she resides in the same dwelling place as the applicant or participant; and
- he/she is not determined to be financially independent.

A dependent adult is not eligible for assistance in his/her own right. If the parents are in receipt of assistance, the dependent adult will be included in their benefit unit. If the parents are not in receipt of assistance, the dependent adult is not eligible for assistance.

The income of a dependent adult is considered income for the benefit unit. If a dependent adult has earnings and is not attending school full time, earnings exemptions are applied and assistance to the benefit unit is reduced accordingly.

The earnings of a dependent adult attending secondary school full-time and amounts paid under a training program are exempt as assets.

In any month, a dependent adult would be removed from the benefit unit where:

- his/her net monthly income exceeds the maximum amount of assistance for a single person; or
- their assets exceed the maximum asset level for a single person.

The period of removal may be included towards the two-year period needed for a determination of financial independence.

Where a dependent adult is removed from the benefit unit because of income and/or assets, and is not eligible for assistance in his/her own right, any board/lodging amount that is paid to their parents is treated as income for the parental benefit unit.

### ***Exceptions to the Living with Parents Rule***

The living with parents rule does not apply to a financially independent adult living with his/her parents in any of the following situations:

- the financially independent adult is the sole owner or renter of the family residence;
- the parents of the financially independent adult are receiving the Guaranteed Income Supplement payment under the federal *Old Age Security Act* (OAS) or a payment under the *Ontario Guaranteed Annual Income Act* (GAINS);

- the Administrator is satisfied that the parent requires the financially independent adult to pay shelter costs (e.g., makes a statutory declaration) in order to continue residing in the parent's home; and/or
- the Administrator is satisfied that the financially independent adult has a legal obligation to pay, or contribute to, shelter costs (e.g., rent, heating, hydro) of the family residence. Evidence of a legal obligation to pay shelter costs may include, but is not limited to, a letter from the landlord, a copy of the rental agreement, or a utility bill in the name of the financially independent adult.

The budgetary requirements for financially independent adults who meet one or more of the exceptions are determined in accordance with sections 41 and 42(2) or section 44(1) of O. Reg. 134/98. This includes, but is not limited to, an amount for basic needs and shelter, or an amount for board and lodging.

Shelter is calculated by attributing equal shares of the actual shelter costs to the independent adult, the parent and any other adult person outside the benefit unit. The shelter amount paid out to all applicants or recipients should not exceed the actual cost of the shelter.

### ***Examples***

#### *Example 1*

A 25 year old adult, living with her parents who are in receipt of assistance, had custody of her child in the past but the child no longer lives with her.

She is considered to be financially independent as she once had custody of her child. She may be eligible for assistance in her own right under the living with parents rule. Alternatively, she may elect to be included as a dependent adult in her parents' benefit unit.

#### *Example 2*

A 23 year old adult, living with his mother who is not in receipt of assistance, lived away from home during the winter months for a cumulative period of two years since his 18<sup>th</sup> birthday.

He is considered to be financially independent as he lived away from the parental home for a cumulative period of two years after his 18<sup>th</sup> birthday. He may be eligible for assistance in his own right under the living with parents rule. As his

parents are not in receipt of assistance, he cannot elect to be a dependent adult in their benefit unit.

*Example 3*

A 23 year old resides with her parents, who are not on assistance, and pays them rent each month. She is currently unemployed, but had previously worked full-time for three years, earning over \$800 per month.

She is considered to be financially independent as she had a cumulative period of two years with monthly income, other than support, that is greater than the maximum assistance allowable for a single person. The Administrator is satisfied that her parents require her to pay rent in order to continue to reside in the home. She may be eligible for assistance in her own right, however she is excepted from the living with the parents rule.

*Example 4*

A parent not in receipt of assistance moves in with his son who owns a condominium. The son is the sole person on the title but has been terminated from his job of 15 years and has applied for assistance.

He is financially independent because he has been supporting himself for more than two years. He may be eligible for assistance in his own right, however he is excepted from the living with parents rule as he is the sole owner of the property.

*Example 5*

An elderly parent, who is in receipt of the GAINS payment under the OAS, is residing with her married son. The son has applied for assistance.

He is considered to be financially independent as he is in a spousal relationship. He may be eligible for assistance in his own right, however he is excepted from the living with parents rule because the parent is in receipt of GAINS.