

# Ontario Disability Support Program - Income Support Directives

## 11.3 - Spouse's Overpayment

### Summary of Legislation

An overpayment made to a recipient, dependent spouse under other social assistance programs is recoverable under ODSP.

An overpayment made to a recipient, dependent spouse may be recovered by various means including deductions to ODSP income support.

The Director must give notice in writing of a decision to determine an overpayment, the amount of the overpayment and the reasons for the decision to the recipient and dependent spouse.

### Legislative Authority

[Sections 14\(3\)\(4\), 15\(1\), 16\(4\) of the ODSP Act](#)

### Summary of Directive

This directive provides an overview of the policy related to the sharing of overpayments between recipients and dependent spouses.

### Intent of Policy

To ensure that an overpayment made to a benefit unit that included a dependent spouse may be recovered equally from the recipient and dependent spouse.

### Application of Policy

#### Standards

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

### Application of the Policy

If a benefit unit included a dependent spouse at the time the overpayment was incurred, both are equally responsible for the debt, provided that the dependent spouse is given notice. This responsibility does not end if they separate. Efforts

will be made to recover each person's equal share. Overpayments incurred by a dependent spouse when the dependent spouse was a recipient or dependent spouse in a different benefit unit is recoverable from the benefit unit to which he or she currently belongs.

Overpayments on active cases are recovered by reducing monthly income support.

The rate of recovery will generally be 5% of the budgetary requirements but may be reduced if it will cause hardship. The rate of recovery may be increased up to 10% only where there is evidence of the capacity to pay the higher amount.

The following chart identifies the policies related to the sharing of overpayments between recipients and dependent spouses on active cases.

<b>Scenario</b>	<b>Application of Policy</b>
A recipient and dependent spouse incur an overpayment and then separate.	Dependent spouses who are beneficiaries of ODSP are equally responsible for the repayment of any overpayment incurred while in the same benefit unit. The overpayment is split 50/50 at the time that the overpayment is incurred and remains split after separation.
A recipient and dependent spouse, both with overpayments, become members of the same benefit unit.	The benefit unit becomes jointly responsible for both overpayments. Recovery is by deduction from the amount payable to the benefit unit. Where both parties had overpayments, the recovery would be attributed equally to each.
A recipient and dependent spouse both with overpayments become members of the same benefit unit and then separate.	As described in scenario 2, overpayments are added together and recovery is by deduction from the amount payable. In the event the couple separates, each party would be responsible to repay his/her original debt less any recovery already made.
A recipient and dependent spouse incur an	The recipient and dependent spouse are equally responsible to repay the

Scenario	Application of Policy
overpayment as members of the same benefit unit, and then one becomes deceased.	overpayment which is split 50/50 at the time it is incurred. The 50% attributed to the deceased (less any recovery) would be recovered from the estate.
A recipient and dependent spouse both with overpayments become members of the same benefit unit , and then one becomes deceased.	Any overpayment incurred by the deceased as part of this or another benefit unit (less any recovery) would be recovered from the estate.

**Overpayments incurred before conversion to Service Delivery Model Technology (SDMT)**

The functionality related to this policy was phased in during implementation of the SDMT. On the date that an ODSP office converted to SDMT:

Overpayments incurred before conversion to SDMT were attributed to the recipient.

Overpayments incurred after the SDMT was implemented will be split between a recipient and his or her dependent spouse at the time the overpayment is incurred. Recoveries will also be split.

**Hyperlinks Associated with this Policy Directive**

**Related Directives:**

- [11.1 Recovery of Overpayments](#)
- [11.2 Overpayment Due to Excess Assets](#)
- [11.4 Portability of Overpayment](#)