

# Ontario Disability Support Program - Income Support Directives

## 13.1 - Notice of Decision and Internal Review Process

### Summary of Policy

This directive sets out the requirement for written notice of decisions and the internal review process.

### Legislative Authority

[Sections 19, 22, and 23 of the ODSP Act](#)  
[Sections 47, 56, 58, 59 and 60 of the ODSP General Regulation](#)

### Intent of Policy

To ensure that applicants/recipients receive clear written notice of decisions and information about the internal review process. Internal reviews are intended to provide a timely review of the original decision in an effort to resolve issues at the local level before appeals to the Social Benefits Tribunal (SBT) are filed.

### Application of Policy

#### Standards

- All appealable decisions are subject to internal review;
- All information used in the internal review process must be kept on file;
- All decisions and reasons must be documented;

### Written Notice of Decisions

All decisions affecting eligibility for or the amount of income support must be communicated in writing providing the following information:

- the decision;
- the effective date of the decision;
- the legislative authority for the decision;
- reason(s) for the decision;
- the right to request an internal review and the timeframe for requesting it;
- where applicable, the subsequent right to appeal to SBT

Under the ODSP Act, notices are deemed to be received three working days after mailing. It is assumed that correspondence is mailed on the day after it is dated.

### **Decisions Subject to Internal Review**

All appealable decisions are subject to an internal review. Where the decision is appealable to the SBT, an internal review must be requested before the SBT can hear the appeal. If an internal review is being done even though there is no right of appeal, this should be stated clearly in the internal review decision letter.

### **Request for Internal Review**

An applicant/recipient must request the internal review, in writing, within thirty (30) calendar days from the day the decision is received. The ODSP Act deems that notice is received three days after mailing.

Written requests for internal reviews may be submitted using the Request for Internal Review form (Form 2878), by letter or note signed by the applicant/recipient.

When the applicant/recipient is unable to provide a written request within thirty days, the internal review process can be started based on a verbal request, which must be followed up in writing by the applicant/recipient.

### **Standards**

There are three required timeframes relevant to the internal review process:

- the applicant/recipient must request the internal review within thirty calendar days of receiving the written notice of decision;
- the ODSP office has thirty calendar days to complete the internal review and issue its decision. However, the internal review should be completed as quickly as possible. The full thirty day period should only be taken if required, and;
- the applicant/recipient has thirty calendar days from receiving the internal review decision to file an appeal with the SBT.

### **Time Extensions**

Under exceptional circumstances the Disability Adjudication Unit (DAU) or local office may extend the period for requesting an internal review. Written notice of the decision to either grant an extension of time to request the internal review or deny the extension must be provided.

Exceptional circumstances include, but are not limited to, situations where the applicant/recipient:

- has literacy or language difficulties and is unable to provide a written request without assistance;
- was ill or institutionalized during the thirty calendar day time frame;
- received the notice of decision late because of circumstances beyond his/her control; or
- other circumstances beyond his/her control.

Request for Extension of Time and Request for Internal Review Request Submitted at the Same Time

If the extension of time and internal review requests are submitted at the same time, the DAU/local office is required to notify the applicant/recipient in writing whether the extension is granted/denied within thirty calendar days of receiving the request. If the extension is granted, the internal review would have to be completed and the applicant/recipient notified of the internal review decision in writing, also within the same thirty calendar day timeframe.

Request for Extension of Time Submitted Prior to Request for Internal Review

If the extension of time request is submitted before the internal review request, the DAU/local office is required to notify the applicant/recipient in writing whether the extension is granted/denied within thirty calendar days of receiving the request for an extension. If granted, the request for internal review must be submitted within thirty calendar days from the date the extension decision is received. The decision will be deemed to be received three days after mailing.

Once the internal review request is received, the internal review would have to be completed and the applicant/recipient would have to be notified of the decision within thirty calendar days from the day the internal review request is received.

Examples

<b>Scenario – Original decision made on July 15, 2015</b>	<b>Applicable Policy</b>
---	--------------------------

<p>On September 1, 2015, a recipient submits both a request for an extension of time and a request for an internal review of the decision to his local office.</p>	<p>The recipient would have to be notified of the decision to deny/grant the extension in writing by October 1, 2015.</p> <p>If granted, the internal review would also have to be completed and the recipient would have to be notified of the internal review decision in writing by October 1, 2015.</p>
<p>On September 1, 2015, the recipient requests an extension of time to the Disability Adjudication Unit (DAU). The DAU notifies the recipient that the extension request is granted on September 15, 2015.</p> <p>The internal review request is received on October 1, 2015.</p>	<p>The internal review would have to be completed and the recipient would have to be notified of the internal review decision in writing by November 1, 2015.</p>
<p>On September 1, 2015, the recipient requests an extension of time to his local office.</p> <p>The internal review request is received on September 15, 2015 before the local ODSP office has had a chance to notify the recipient of the extension request decision.</p>	<p>The recipient would have to be notified of the decision to deny/grant the extension in writing by October 1, 2015.</p> <p>If granted, the internal review would have to be completed and the recipient would have to be notified in writing of the internal review decision by October 15, 2015.</p>
<p>On September 1, 2015, the recipient requests an extension of time to the DAU. The DAU notifies the recipient that the extension has been granted on September 30, 2015.</p> <p>No internal review request is received until October 1, 2015 (or alternatively an internal review request is never submitted).</p>	<p>The DAU would not be required to complete an internal review as the deadline to have requested an internal review after the extension had been granted would have passed (e.g. October 30, 2015).</p>

## **The Internal Review**

By policy, the reviewer must be authorized to conduct internal reviews and must have the same or higher level of decision-making authority as the original decision-maker.

The DAU has procedures for conducting internal reviews of disability related decisions. All internal review requests related to the definition of disability must be referred to the DAU.

Staff conducting the internal review must:

- document the internal review process;
- examine the case file;
- where appropriate, communicate directly with the client in effort to obtain any additional information which may resolve issues at this stage;
- examine the original decision to determine if it was:
  - the appropriate decision based on all relevant facts (including additional information that the applicant/recipient may provide during the internal review process);
  - consistent with legislation, regulations and policy directives;
- make a decision to confirm, overturn or vary the original decision and clearly summarize the reason(s) for arriving at that decision;
- provide the applicant/recipient with written notice of the internal review decision, including information on appeals to the SBT within the prescribed timeframes.
- If the internal review is not completed within thirty calendar days of it being requested, the applicant/recipient can file an appeal with the SBT.

The internal review is an informal, administrative process. Legal representation is not required during the internal review. However, if an applicant/recipient wishes to involve his or her legal representative or an advocate in the process, he or she can do so.

## **Withdrawal of Request for Internal Review**

An applicant/recipient may notify the Director, at any time during the process, that he/she wishes to withdraw the request for an internal review. The applicant/recipient can confirm the withdrawal using the “Internal Review Withdrawal Form” (Form 2879). Once an applicant/recipient has withdrawn the request for internal review, no further appeal to the SBT is possible.

## **Denying an Internal Review Request as Frivolous or Vexatious**

A decision not to conduct an internal review because the request is considered frivolous or vexatious is only to occur when an applicant/recipient is requesting numerous internal reviews on the same decision, where at least one internal review has already been conducted on the decision and if there is no additional or different information available that could impact the decision.

Decisions to deny an internal review as frivolous or vexatious should be very rare and must be documented.

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

### **Related Directives:**

[13.2 Appeals](#)

[13.3 Recovery of Interim Assistance](#)