

Ontario Disability Support Program - Income Support Directives

2.6 Incarceration

Summary of Legislation

- A person is not eligible for income support while he/she is detained in a lawful place of confinement.
- A "lawful place of confinement" includes a federal penitentiary, a provincial correctional facility, an open custody facility, a secure custody facility and a municipal lock up.
- A person is not eligible for income support while he/she is on temporary absence, parole or probation or serving a conditional sentence **and** is residing in a community residence funded in whole or in part by Correctional Services Canada.
- If an applicant, recipient or member of a benefit unit becomes a detained person, income support shall be refused, reduced and/or suspended for the detention period.
- In the month the person becomes detained, budgetary requirements including shelter, are reduced for the number of days the person is detained. In the month of release, budgetary requirements other than shelter are reduced for the number of days the person is detained. Shelter may be paid in full or may be reduced for the number of days the person is detained.

Legislative Authority

[Sections 1\(1\); 9; 23\(1\); 35 and 37 of the ODSP Regulation](#)

Summary of Directive:

This directive provides an overview of eligibility conditions when an applicant/recipient or other member of the benefit unit is incarcerated and describes how income support is affected.

Intent of Policy

To ensure that an incarcerated individual does not receive ODSP income support as his/her needs are fully met by the correctional facility.

Application of Policy

An applicant/recipient or other member of a benefit unit, who is detained in a lawful place of confinement, is not eligible for income support.

In the month a person is incarcerated, income support is reduced on a pro-rated basis for each day the individual is incarcerated. Income support is suspended but not cancelled if a single recipient is detained in custody for one full calendar month.

In the month of release, the person may be reinstated where financially eligible. The basic needs allowance should be reduced based on the number of whole days per month in which the person was detained. The full shelter allowance may be paid in the month of release to allow the recipient to secure or maintain accommodation.

In situations where it is not possible to isolate the shelter component, (residing in an institution as prescribed under the Regulation or a board and lodging situation) the income support paid will be prorated based on the period the person is in the community.

Families of individuals who are incarcerated continue to receive income support if they are in financial need. However, the budgetary requirements of the detained person are reduced to reflect that the person's needs are met by the correctional facility.

If ODSP staff become aware of a recipient or other member of the benefit unit's incarceration prior to the cheque being issued the monthly entitlement should be recalculated to reflect the correct amount of income support.

If a recipient or other member of the benefit unit is incarcerated and full income support has been received, an overpayment based upon the length of time the individual was incarcerated should be established.

Incarcerated - "Part-Time" Basis

In cases where a recipient is incarcerated on a "part-time" basis, (e.g. on weekends) the full shelter allowance may be provided where it is necessary to secure or maintain accommodation in the community. In board and lodging

situations income support will be prorated based on the period the person is in the community.

Community Residence

Some individuals who live in community residences may be eligible for ODSP while others in the same residence may not.

Persons on temporary absence, parole or probation or serving a conditional sentence *in a placement funded in whole or in part by the Ministry of Community Safety and Correctional Services (MCSCS)* are eligible for a social assistance. As their shelter and meals are being met through MCSCS funding, these residents are eligible for a personal needs allowance.

Persons on temporary absence, parole or probation or serving a conditional sentence *in a placement funded in whole or in part by Correctional Service Canada* are not eligible for social assistance.

Other individuals who are not on parole and who are living in a community residence may be eligible for ODSP if they meet program eligibility requirements.

Psychiatric Assessment

A recipient who is transferred from a lawful place of confinement to a community hospital or psychiatric facility for the purpose of a court-ordered assessment would be eligible for income support as a person who is temporarily in a hospital upon leaving the lawful place of confinement, if he/she meets all other ODSP eligibility criteria.

Eligibility for income support would cease upon his/her return to a lawful place of confinement.

Note, a person who is in a detained in a lawful place of confinement that is also a psychiatric facility is considered incarcerated for the purposes of ODSP (e.g. The St. Lawrence Valley Correctional and Treatment Centre (Secure Treatment Unit)).

Income

In cases where an incarcerated recipient has other income, the income support is reduced. The "other" income received must also be taken into account. However, the income should be deducted after the appropriate adjustment has been made to reflect the person's incarceration.