

# DRAFT

## If a client wants to go on ODSP....

### Ontario Disability Support Program Act, 1997

Amended by: 1999, c. 6, s. 47.

#### CHAPTER 25 Schedule B

As of August 23, 2002.

**The purpose of this Act is to establish a program that,**

- (a) provides income and employment supports to eligible persons with disabilities;**
- (b) recognizes that government, communities, families and individuals share responsibility for providing such supports;**
- (c) effectively serves persons with disabilities who need assistance; and**
- (d) is accountable to the taxpayers of Ontario. 1997, c. 25, Sched. B, s. 1.**

#### **Person with a disability**

4. (1) A person is a person with a disability for the purposes of this Part if,
- (a) the person has a substantial physical or mental impairment that is continuous or recurrent and expected to last one year or more;
  - (b) the direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in a workplace, results in a substantial restriction in one or more of these activities of daily living; and
  - (c) the impairment and its likely duration and the restriction in the person's activities of daily living have been verified by a person with the prescribed qualifications.

#### **Implications**

The mandate of the ODSP Act is to recognize that a separate support system is necessary to meet the needs of people with disabilities. The Act spells out a vision that respects people's dignity, recognizes differences in disability, shifts the focus from disabilities to abilities, and recognizes the exceptional costs faced by people living with disabilities. ODSP "will provide secure income and employment supports and incentives to people with disabilities who can work and who want to work." People dependent on alcohol and drugs are ineligible unless another major disability is present.

The Act recognizes exceptional costs by allowing more generous eligibility rules related to the amount of assets owned by the disabled person and the financial support provided by the recipient's family. For example, in addition to the \$930.00 per month that is paid to a single recipient, that person is allowed to receive up to \$4000.00/per year from anyone for any purpose. A car can be owned with no limit on the value of the motor vehicle per benefit unit.

According to the ODSP directives, all ODSP applicants must first qualify financially before the case is sent on to the Disability Adjudication Unit (DAU). These special adjudicators are employees of the province and it is not clear what credentials are required for the position. Adjudicators are listed as professionals trained to assess the impact of impairments on activities of daily living. These people make the decision if a person is truly deemed disabled by reviewing three forms. The first form, the Health Status report, is completed by a doctor, a psychologist, or an optometrist. It does not ask the doctor to determine eligibility. This can be upsetting to the client if ODSP is denied and he/she thinks that it is the fault of the doctor who did not believe in the seriousness of the disability. Doctors themselves become reluctant to complete the form. The second form, Activities of Daily Living, can be completed by one of six prescribed professionals to determine an applicant's ability to function in the areas of personal care, community and workplace. The third form, Self-assessment Form, interestingly enough is optional, filled out by the client or a family member or an advocate. Is it therefore critical to the determination process if this form is or is not included with the application?

There is a process for appealing if the DAU decides a person did not meet the definition of disability. The Social Benefits Tribunal (SBT) must first receive an Internal Review request, followed by a decision if the internal review is eligible/ not eligible before a SBT application is filed. Clients express frustration at the length of time an appeal can take.

**Government directions:** No consultation reports have been tabled for ODSP Act. A private member's bill (118) for an amendment to allow for a cost of living clause in ODSP payments was defeated.

Ontario Disability Support Program  
Amendment Act (Fairness in Disability  
Income Support Payments), 2002  
(Private Member's Bill)

Mr. Parsons then introduced another amendment to the Act: in June 2002 for first reading:

Bill 122 2002  
An Act to amend  
the Ontario Disability Support  
Program Act, 1997 to empower  
the Integrity Commissioner  
to determine the level of  
income support.

## **CURA DIRECTION/ISSUES TO ACT UPON:**

Through conversations with ODSP recipients and social service staff, the following issues were noted.

- 1) There has been no increase in the ODSP amount given per month (\$930.00) since 1993. The cost of living, particularly rent, transportation and food costs have risen significantly.
- 2) First time applications for ODSP are almost always denied. The appeal process can take anywhere from 6-12 months or longer. In some cases, this results in people trying to live on welfare or nothing until the case is heard. If a person is discharged to nowhere, without a place to live, welfare application becomes extremely difficult.
- 3) The forms, although straightforward to many, are very difficult to complete for those who live with a mental illness. A worker is needed to help sort out the documentation, arrange for a medical appointment, etc. Many people finding themselves in this situation have no one to help them.
- 4) Access to medical doctors who will complete the forms is becoming a greater problem for many people particularly in under-served areas. Medical practitioners are paid \$50.00 for the completion of the Health Status report and \$25.00 for the Activities of Daily Living Form.
- 5) The amount of the cheque is the same whether a person receives ODSP in Toronto or in Mitchell. Although rents and living costs may be cheaper in smaller Ontario towns, lack of psychiatric services is a major drawback to leaving larger centres. There needs to be recognition of cost of living differences between regions in Ontario.
- 6) The criteria for receiving a bus pass is based on the number of medical appointments required to be attended in a week. Currently, I believe, it is 5 appointments that must be booked. They usually have to be related to a medical nature. For those with mental illnesses, there is a need to include mental health development activities, volunteering and vocational rehabilitation opportunities as eligible appointments that would allow them to have a bus pass. Without a pass, the cost of a bus ticket becomes too difficult to manage.
- 7) Concern has been expressed about the problem of hospitalization resulting in ODSP being cut off if the person remains in for longer than 90 days. Re-application for benefits becomes a major problem upon discharge.

8) Emergency dental care benefits are extremely limited. It allows only for two teeth every six months to be fixed if there is an emergency. Pre-approval of dental work slows the process of correcting a problem before it worsens.

9) Reduction of staff at ODSP has resulted in different people handling every case. The tele-answering service is extremely difficult for many people with mental health problems. People with anxiety problems and bipolar disorders would be overwhelmed with the choices required to work their way through the phone inquiries. There is no continuity for cases and people are no longer assigned a caseworker. Social services staff use fax and email to get responses from ODSP staff. People with the technology can use this option but clients often do not have this choice.

10) Letters of overpayment are often sent to clients and clients are not aware as to why they are in overpayment. Clients are not aware that they can appeal the amount of overpayment, often it is only if a worker has time to work with the client to address an appeal.

11) ODSP will not pay rent direct to landlords unlike Ontario Works. ODSP will only pay to London Housing Authority for specific clients. If ODSP could pay rent direct, it would help thousands of clients stay in their current living situation and not lose their housing due to rent arrears.