Ontario Disability Support Program - Income Support Directives

5.1 Definition and treatment of Income

Summary of Policy

All reasonable efforts must be made to obtain any financial resources that a member of the benefit unit may be entitled to receive. Failure to make reasonable efforts to secure available income may result in refusal or reduction of income support. This includes, but is not limited to, income from an undertaking under the Immigration Act (Canada), the Canada Pension Plan – Disability (CPP-D) benefit, a loan under section 8 of the Ministry of Training, Colleges and Universities Act or a loan under the Canada Student Financial Assistance Act.

An applicant/recipient is not required to pursue a retirement pension from the Canada Pension Plan or the Quebec Pension Plan prior to their sixty-fifth birthday.

All income is deducted from ODSP income support unless partially or fully exempt by regulation.

Income includes the monetary value of items and services provided to members of a benefit unit as well as deemed income. Income is chargeable for the months it is intended.

Legislative Authority

Sections 11(1),(2); 37(1),(2),(3); 38; 39(1),(2); 41; 42; 43(1),(2),(4),(5),(6) and 43.1 of the ODSP Regulation

Summary of Directive

Income is defined and the rules for treatment of various types of income are described. Income exemptions are explained in detail.

Intent of Policy

To ensure that all income and potential income available to the member(s) of the benefit unit is considered in determining eligibility and the amount of income support payable to the benefit unit.
Application of Policy

Recipients are required to report all income received or pending, when it was or is to be received and the period for which it was or is intended. The actual monthly amounts should be used wherever possible, rather than estimates or income averaging.

Earned and variable income must be reported each month. Unearned income that has previously been reported which has not changed does not need to be reported each month as amount reported previously will carry over until a change is reported.

Money received for a prior period is considered income in the months for which it was intended (e.g. lump sum payment on support arrears). Money that is owing, but not yet received, is considered income when it is received (e.g. automobile accident benefits).

Income received at periodic intervals (e.g. pensions from other countries that are paid quarterly) is averaged over the months for which it was intended and charged as income for those months.

Income Verification Requirements

Unless told otherwise, recipients are not required to verify their income (earned and unearned) each month. Income verification may occur under the following circumstances:

System Generated Verification
- All clients who report earned income, self-employment income, employment related child-care expenses or disability related work expenses will be required to provide verification twice a year.
- Clients who report new earnings or new expenses will be required to provide verification of their earnings and/or expenses for three months.

Caseworker-Generated Verification
- Caseworkers have discretion in any month to determine that income or expense verification is required.

Obligation to Pursue Potential Sources of Income

Applicants/recipients must demonstrate reasonable efforts to obtain any financial resources to which they or their dependants may be entitled, within a reasonable timeframe.

Applicants must provide all necessary information and supporting documentation to show that they are making every reasonable effort to obtain available income,
including child and/or spousal support.

Failure or refusal to make reasonable efforts to secure available income may result in income support being refused, cancelled, suspended or reduced by an amount equal to the income deemed available.

Applicants with dependent children who are eligible to receive the Ontario Child Benefit (OCB) and National Child Benefit Supplement (NCBS) must demonstrate reasonable efforts to obtain these financial resources.

Failure to make reasonable efforts to secure OCB and NCBS income may result in refusal of the Transition Child Benefit. For more information on the Transition Child Benefit please refer to ODSP Policy Directive 9.20.

**Definition and Treatment of Income**

Income available to the applicant/recipient must be taken into account in determining eligibility and the amount of income support to be provided.

Assets that produce income must be reported and considered when determining eligibility.

Income includes, but is not restricted to, the following:

- All wages, salaries, casual earnings or any remuneration paid pursuant to employment or a training program;

- Income or revenue from an interest in or operation of a business including sale of goods or services, commissions, cash value of goods or services received in kind, sale of or interest earned on business assets and any other business income;

- All regular or periodic payments received under a pension plan, superannuation scheme or insurance benefit;

- All payments received from an annuity (other than an annuity or deferred annuity that has been purchased from a life insurance company) (See Directive 4.8 Life Insurance Policies for further information);

- All payments received under a mortgage agreement;

- All pension or other payments received pursuant to the legislation of any other country;

- All payments, in cash or in kind, for spousal and/or child support received.
pursuant to a court order, judgement or an agreement;
  o Note: Child support paid to an adult disabled child’s parent on behalf of or for the benefit of that child cannot automatically be considered income to an adult disabled child. Please see Directive 5.15 Spousal and Child Support for further details.
  o For details regarding treatment of matrimonial home and mortgage payments where the applicant/recipient resides in the home please see Directive 5.15 Spousal and Child Support.

- All payments received as a retainer from a Children’s Aid Society for being available to provide emergency care;

- All payments received or available if the applicant/recipient is a sponsored immigrant or nominated relative under the Immigration Act (Canada) or the Immigration and Refugee Protection Act (Canada);

- Any payment(s) received from the sale or disposition of an asset unless otherwise exempt (see Section “Income from Sale of Assets”);

- The proceeds from all compensation awards in excess of $100,000 unless otherwise exempt by the Director;

- All interest earned from the proceeds of a compensation award regardless of the amount of the award (Please note: It is considered failure to make reasonable efforts to pursue available resources if a recipient chooses to defer interest from a compensation award);

- Dividends earned from a life insurance policy that are not otherwise exempt (see Section “Dividends Earned”);

- Interest or dividend payments earned from the capital of a trust that are not otherwise exempt (see Section “Dividends Earned”);

- 60% of gross income for renting self-contained quarters, land or a garage;

- The greater of $100 or 60% of gross income received for providing lodging without meals;

- The greater of $100 or 40% of gross income received for providing lodging with meals;

- Income replacement payments received by or on behalf of a member of the benefit unit under the:
Income Exemptions

- Earnings exemptions (See Directive 5.3 Deductions From Employment and Training Income);

- Earnings of dependent children;

- Earnings or payments under a training program of recipients, spouses and dependent adults attending secondary school full-time;

- Earnings of persons attending post-secondary school (See Directive 5.18 Exemption of Earnings of Post-Secondary Students);

- The portion of a payment from the sale of an asset, used to purchase a principal residence within twelve months from the closing date of the sale, an asset necessary for health and welfare, an exempt asset, or an asset that does not result in the recipient exceeding the prescribed asset limit;

- Interest earned on liquid assets up to the prescribed asset limits, e.g. $5,000 for a single recipient;

- An amount up to $6,000 in a 12 month period per member of the benefit unit, in the form of gifts or voluntary payments for any purpose from any source; (this includes monies from trusts, life insurance policies, honorariums and windfalls). Casual gifts of insignificant value, e.g. basic clothing, meals, occasional food purchases are also exempt.
  - Honorariums are generally payments made to individuals to recognize services provided, where payment is not required. In these cases, honorariums are considered voluntary payments and
may be included in the $6,000 exemption for voluntary payments.

- Honorariums paid in a way that is similar to a salary, to fulfill an obligation to compensate the recipient for services provided, are treated as employment income, and not as voluntary payments under ODSP. In these cases, the usual earnings exemptions apply.

- Payments from any source in the form of gifts or voluntary payments for disability-related items and services or for education and training incurred because of the disability of a member of the benefit unit. There is no limit on the value of these contributions, provided they will not be reimbursed from other sources;

- RDSP related exemptions:
  - voluntary contributions made to RDSPs by family members and other third parties;
  - interest earned on and re-invested in an RDSP;
  - the federal Canada Disability Savings Grants and Canada Disability Savings Bonds; and
  - all withdrawals from an RDSP for any purpose.

- Refundable tax credits including the:
  - Canada Child Tax Benefit
  - National Child Benefit Supplement (NCBS)
  - Ontario Children’s Activity Tax Credit
  - Ontario Trillium Benefit Payment;

- Ontario Child Benefit (OCB) payments;

- Payments from the Ontario Child Care Supplement for Working Families (OCCSWF);

- Payments from the Universal Child Care Benefit (UCCB);

- Payments received under subsection 147(14) of the Worker’s Compensation Act, known as B165 payments;

- Payments received for property damage and temporary living expenses through the Ontario Disaster Relief Assistance Program (ODRAP) other than payments for loss of income;

- Payments (cash and in-kind) received by evacuees of the Kashechewan First Nation between October 2005 and September 2006, from a municipality or a Tribal Council made on behalf of the federal Department of Indian Affairs and Northern Development (Canada);
• Insurance payments made for temporary living expenses and to replace or repair lost/damaged exempt assets or assets within allowable asset limits but not payments for loss of income;

• Mortgage payments paid by disability insurance purchased by an applicant/recipient on a mortgage for his/her principal residence;

• A forgivable loan under the First Nation, Intuit, Métis Urban and Rural (FIMUR) Housing home Ownership Assistance Program.

• A forgivable loan or a grant under the Residential Rehabilitation Assistance Program (RRAP) that provides assistance to on-reserve low-income homeowners to bring their homes up to safety and health standards, or improve energy efficiency.

• A forgivable loan or grant under Ontario Renovates that provides assistance to low-income homeowners to bring their homes up to safety and health standards, improve energy, efficiency and/or increase accessibility of the home through modifications and adaptations; and, create a new affordable rental unit within an existing single family home;

• Payments made under the Investment in affordable Housing (IAH) - operating components that exceed the maximum shelter allowance up to the actual shelter costs;

• Payments made under the Community Homelessness Prevention Initiative (CHPI) payments for:
  • rent deposits;
  • establishing a new principal residence;
  • maintaining the health and welfare of a member of the benefit unit in her or her current residence;
  • arrears relating to shelter costs; or other housing and homelessness-related services, items or costs approved by the Director of Ontario Works.

• Payments made under CHPI for personal needs made to domiciliary hostel residents up to the amount equivalent to the ODSP amount issued for personal needs to recipients residing in a long-term care home.

• Financial grants, items or services that are issued for energy-conservation in homes through Conservation and Demand Management Programs offered by local Electricity Distribution Companies;

• Financial grants, items or services that are issued for energy-conservation in homes through Demand Side Management programs offered by local Natural Gas Distributors;
• Benefits in the form of a cheque or voucher received through the Water Filter Fund program;

• All direct financial assistance received from the Ministry of Tourism, Culture and Sport’s Quest for Gold – Ontario Athlete Assistance Program;

• Funds received from the Ministry of Training, Colleges and Universities or Canada Student Financial Assistance for education costs such as books, tuition, instructional supplies, transportation costs, child care and compulsory fees;

• Funds received from the Ministry of Training, Colleges and Universities under the Second Career program for education costs.

• Awards or grants from the Ministry of Training, Colleges and Universities to a student enrolled in a post-secondary institution;

• A bursary received by a full-time student enrolled in a secondary school under 8(1)18 of the Education Act;

• The Dr. Albert Rose Bursary to assist public housing tenants attending post-secondary school;

• Payments from an RESP, intended and used for education costs, received by a recipient or any other member of a benefit unit as well as gifts and voluntary payments received above the $6,000 exemption and paid into such RESPs. See Directive 5.11 Post-Secondary Education;

• Proceeds from a court judgement or legal settlement or an award from a statutory tribunal, such as Compensation for Victims of Crime, received as damages or compensation for pain and suffering, due to injury to or the death of a member of the benefit unit, up to a maximum of $100,000 for each member of the benefit unit. See Directive 4.6 Compensation Awards;

• Compensation received as settlement for a claim of abuse sustained at an Indian Residential School, other than compensation for loss of income;

• Prejudgement interest awarded as compensation for the delay in receiving damages for pain and suffering as a result of injury to or death of a member of the benefit unit, See Directive 4.6 Compensation Awards;

• Payments received under section 46 of the Workplace Safety and Insurance Act and section 42 of the Workers’ Compensation Act known as Non-economic Loss Awards to compensate for permanent impairment from a work related injury or illness causing physical, functional or psychological loss;
• Independent Living Allowance payments from the Workplace Safety and Insurance Board received annually by severely impaired workers;

• Awards under subsection 61(2) (e) of the Family Law Act for loss of guidance, care and companionship as a result of death or injury;

• An income exemption of $100,000 applies to the total amount received from the following sources, for the same occurrence (i.e. a single car accident): o Family Law awards for loss of guidance, care and companionship as a result of death or injury o WSIB Non-economic loss (NEL) awards for persons who suffer permanent impairment from work-related injury or illness that causes physical, functional or psychological loss o Awards for pain and suffering o Awards for expenses related to the injury or death of a member of the benefit unit.

If payments are made for different occurrences, the payments related to each occurrence are exempt up to $100,000 for each member of the benefit unit;

• Interest earned on the capital of an inheritance retained in trust up to the allowable limit of $100,000. See Directive 4.7 Funds Held in Trust;

  • All payments from the trust, including interest earned, used for the purchase of approved disability-related items and services (e.g. assistive devices) or education and training expenses incurred because of the benefit unit member's disability are exempt as income without limit. See Directive 5.9 Treatment of Disability-Related Items and Services;

  • Payments from the capital of a trust (including interest earned and retained therein) for non-disability-related purposes are exempt as income to a combined maximum of $6,000 in a twelve month period per member of the benefit unit (the combined maximum includes payments from a trust, gifts or voluntary payments, life insurance policies, honorariums and windfalls);

  • This exemption applies provided the applicant/recipient files an annual report, which is satisfactory to the Director, documenting all income and expense transactions relating to the inherited assets held in trust;

• Life insurance policies, annuities, deferred annuities and segregated funds purchased through a life insurance company, with a cash surrender value of up to $100,000 per member of the benefit unit, provided that the cash surrender value remains within the policy. (Note: under the Insurance Act,
annuities, deferred annuities, and segregated funds purchased through a life insurance company are considered to be life insurance);

**Note:** Interest and dividends from an exempt life insurance policy and loans against the face value of an exempt life insurance policy may be exempt as follows:

- income generated from the policy is exempt provided that it is reinvested in the policy and that the total cash surrender value does not exceed $100,000;

- payments from or loans against the face value of the policy are exempt, provided the funds are used for approved disability-related items and services, or education and training expenses incurred because of the person’s disability;

- partial redemption of the cash surrender value may be exempt if there is room to use the maximum exemption of $6,000 per twelve-month period per member of the benefit unit;

**Note:** Income from the policy, annuity or segregated fund that is not reinvested in the policy, not used for approved disability-related items and services, or not claimed under the annual $6,000 exemption, is chargeable as income.

- Donations received from a religious, charitable or benevolent organization for any purpose up to $100,000 per member of the benefit unit’s lifetime. This exemption is not in addition to the $100,000 maximum amount allowed for an inheritance trust and/or insurance policy combined. That is, the sum total from all three sources shall not exceed $100,000 per member of a benefit unit’s lifetime;

- 40% of gross rental income, and 60% of gross board and lodging income;

- Loans including a reverse mortgage used for an approved purpose. Approved purposes include:
  - the purchase of approved disability-related items or services;
  - expenses for health-related reasons as supported by a medical doctor, and approved by the Director;
  - business loans;
  - Ontario Student Assistance Program payments for tuition, books, transportation costs, instructional supplies and other compulsory fees related to a post-secondary institution;
  - approved personal loans for training or education costs as long as the person is attending the program or training for which the loan was taken or intended and that the funds are applied to education
or training within a reasonable period of time. See Directive 5.11 Post-Secondary Education:
- loans to recipients for assets that are exempt, (e.g. motor vehicles, principle residences);
- loans for the payment of first and last month’s rent;
- loans for the purchase of normal household items;

- First Nations settlements not made under the Indian Act or a Treaty;
- Payments from ODSP employment supports and Ontario Works employment assistance;
- Certain payments under the Indian Act (Canada) under a treaty between Her Majesty and a Band, other than funds for post secondary education.
- Payments pursuant to an Aboriginal land claim settlement agreement between Ontario and/or Canada. (Please see Directive 4.1 regarding asset treatment related to these payments.)
- Canada or Quebec Pension Plan Death Benefits;
- Payments received under the Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act;
- Payments received under the Ministry of Community and Social Services Act;
- An adoption subsidy received from a Children's Aid Society under the Child and Family Services Act. Every adoption subsidy is accompanied by an agreement that stipulates the items that the subsidy is intended to cover. Items covered under an adoption subsidy should not be claimed as an expense under the Assistance for Children with Severe Disabilities (ACSD) program;
- From February 1, 2007, payments received from a Children’s Aid Society for Permanency Planning, which includes Admission Prevention, Kinship Service and help with the costs of children in Legal Custody (Section 65.2 of the Child and Family Services Act);
- A grant received under the Employment Insurance Act (Canada) and used for the purpose of purchasing a training course approved by the Director. Payments under the federal Employment Measures and Benefit - Human Resources Investment Fund (HRIF) through Employment Insurance were formerly known as the Transitional Skills Grant;
- Learning Earning and Parenting Program (LEAP) incentive payments ($500). (The payment will also be exempt as an asset if used by the young parent for
post-secondary education or if it is invested in a Registered Education Savings Plan (RESP) for the young parent’s dependent child);

- Interest earned on the LEAP incentive payments within an RESP. LEAP incentive payments placed in an RESP for the young parent’s dependent child consist of an Ontario payment as well as a federal payment made as a Canada Education Savings Grant;

- Other miscellaneous payments exempt under the ODSP Regulations.

**Government Allowances**

To avoid duplication of social assistance and other government allowances, all government benefits will be considered received in the month to which they apply, and deducted from income support for that month.

This practice ensures parity between recipients who assign arrears and those who do not.

**Canada Pension Plan**

In order to qualify for Canada Pension Plan disability benefits a person must have made contributions to the plan in four of the last six years. Effective March 3, 2008 a person who made contributions to the plan for 25 or more years now meets the contributory requirement if they made contributions in three of the last six years. They must have earned at least 10% of each year's maximum pensionable earnings.

To determine whether a person qualifies for CPP-D, the Income Support Specialist will need to review a copy of the applicant/recipient's most recent Canada Pension Plan Statement of Contributions.

Applicants and recipients are not required to apply for early retirement pension from CPP. However, ODSP applicants who choose to apply for and receive early retirement pensions will have these funds deducted from their income support.

**Workplace Safety and Insurance Board (WSIB)**

The Workplace Safety and Insurance Board, upon the request of the applicant/recipient, will consider total or partial commutation. A commutation of pension is the conversion of all or part of the Workers’ Compensation permanent disability pension into a lump sum award.

Normally, persons in receipt of ODSP are not granted commutations, as it is not to their long-term advantage. However, in those few cases where a commutation does not jeopardize the person’s ability to meet continuing financial obligations,
the lump sum payment should be treated as income in the month received and as an asset in the months thereafter.

Payments of benefits under the **Workers Compensation Act** and under the **Workplace Safety and Insurance Act** for loss of income due to an injury on the job are not exempt as income. This does not apply to a WSIB NEL award that provides compensation for the physical, functional or psychological loss suffered from permanent impairment caused by a work-related injury or illness. WSIB NEL awards are income exempt government pensions with refundable deductions.

A pre 1990 permanent partial disability pension is not the same as a NEL award and is not exempt as income under ODSP. Prior to 1990 a permanent disability payment was not specifically for non-economic loss as it also included wage loss.

Government allowances and pensions can have a tax deduction and/or overpayment recovery taken at source. In most cases, if the recipient's income is low enough, the tax is reimbursed through income tax.

If an overpayment is being recovered, the money has already been received. It is the recipient's responsibility to pay tax and their overpayments. Government pensions are charged as income in the gross amount of the payment.

When earnings are deducted from Employment Insurance (EI), the EI amount that is deducted from ODSP is the gross EI amount less the earnings deduction (income tax, overpayment or any other deduction is included in the gross EI amount). The recipient would still be required to report earnings. The earnings would be treated in the normal manner and the appropriate earnings exemptions would apply.

**Legal Costs Incurred to Obtain a Financial Benefit**

Where a lawyer is retained to assist with obtaining a financial benefit for which the recipient is eligible (e.g. CPP-D benefits or WSIB benefits) and, as a result, the recipient receives a lump sum award, ODSP will allow the legal fees to be paid from the gross award and will consider the net award as income.

In cases where the Ministry expects to recover income support paid to a recipient, recovery can only be made from funds that are considered ‘income’ (in other words, from the net award).

If the net award is sufficient to cover the income support paid, the Ministry expects full payment.

If the net award is not sufficient to cover the income support paid to the recipient, the Ministry accepts the entire net award in satisfaction of its claim. Given this, no overpayment is established.
If the Ministry receives the entire gross amount of the award by way of assignment and the recipient has incurred legal costs to obtain the award, the ODSP local office returns an amount equivalent to the legal costs to the recipient.

Government Pensions with Non-Refundable Deductions

Pensions from other countries should be calculated in Canadian dollars and charged as income. Banking institutions can provide the Canadian dollar value of the pension amount.

Government pensions from other countries paid to recipients are not always paid in an amount equal to the gross amount of the pension. If these deductions are not refundable to the recipient at any time and the higher pension is not available to persons in Canada, they should be considered exceptional cases and the reduced pension amount charged.

Old Age Security (OAS)

ODSP applicants/recipient are required to pursue OAS when they turn 65. Income from OAS is deducted dollar for dollar from income support.

Treatment of Other Types of Income

Funds Received from an Inheritance and Placed in Trust

Funds up to $100,000, received from an inheritance or life insurance policy upon the policy owner’s death, placed in trust as a provision of a will are exempt as income in the month received.

A cash inheritance or life insurance policy received by a recipient, that is subsequently placed in trust, is treated as income in the month received and as an exempt asset thereafter, provided that the trust is established within six months of receipt of the money.

If a recipient reports the receipt of such monies several months after the fact and has spent part of the money, the funds will be treated as income in the month received, and if the remaining funds are placed into a trust they will be exempt as assets. The amount of money spent and the items purchased would have to be reviewed. If the purchases were for approved disability related items or for the purchase of exempt assets, the amount spent may be exempt. An amount up to $6,000 can also be exempt during a 12-month period. However, if the amount spent does not fall under an exemption, a retroactive income charge would be applied for the months that the money was spent.
Canada Council for the Arts Grants and Ontario Arts Council Grants
These grants are not specifically exempt under ODSP. This means these grants will be considered income. The amount that will be deducted from ODSP depends on whether the grant is considered business income, employment/training income or other income.

The details of the specific grant should be reviewed to determine the nature of the grant, how it is paid and the circumstances under which the grant is provided. For example, some grants are considered business income for grant recipients that are self-employed. Other grants are considered employment/training income. Still other grants are considered neither business nor employment/training income. The grant should be treated according to ODSP rules for the income.

Roomer and Boarder Income
Roomer income is charged at 60% of the amount paid or $100, whichever is greater.

Boarder income is charged at 40% of the amount paid or $100, whichever is greater.

If a roomer/boarder is not paying, the reasons should be documented and a minimum charge of $100 shall be applied.

There is no income charge if an ODSP applicant, recipient, or spouse provides board and lodging or rents to a child or grandchild who is receiving ODSP or Ontario Works in his/her own right.

Income from Sale of Assets
Money received from the sale of an asset is income in the month received if not otherwise exempt.

There is no income charge to recipients for that portion of a payment received from the sale or other disposition of any asset (non-exempt or exempt), that is applied or with approval, will be used to purchase: a principal residence; any other approved asset that is necessary for health or welfare; or an exempt asset. There will be no income charge to a recipient who converts any assets that do not exceed the prescribed asset limit for the benefit unit.

In general, a conversion of non-exempt or exempt assets should be within a six month time frame. After six months, the proceeds from the sale of an asset, if not converted to an exempt asset or an asset below the prescribed asset limit (taking all non-exempt assets into account), is considered income in the month received and an asset thereafter. Only the amount that exceeds the prescribed asset limit, when combined with all other non-exempt assets is considered as
income or an asset. This may result in cancellations and overpayments, so recipients should be informed of this policy.

Applicants may also convert assets (exempt and non-exempt) to purchase a principal residence; any other approved asset that is necessary for health and welfare; or an exempt asset. However, applicants need to have made the conversion of assets prior to applying for income support.

**Mortgage Receivable**

A mortgage receivable is a mortgage held by an ODSP applicant/recipient or member of the benefit unit to whom another party is making payments. A mortgage receivable is exempt as an asset.

If the value of the mortgage, together with the other assets of the benefit unit, exceeds the allowable asset amount of the benefit unit (e.g. $5,000 for a single person), payments received under the mortgage shall be treated as income.

However, when the value of the mortgage together with the other assets of the benefit unit is within the prescribed allowable asset limit of the benefit unit, the payments made under the mortgage agreement are not treated as income.

**Dividends Earned**

Dividends can be earned at various time intervals, e.g. quarterly or annually. The recipient must be advised to report dividends when earned.

Dividends re-invested in a life insurance policy are exempt as income, provided the cash surrender value of the policy does not exceed $100,000. Dividends reinvested once the $100,000 limit is reached are charged as income.

Similarly, dividends or interest earned from the capital of an inheritance trust are exempt as income, provided the dividends or interest are re-invested in the capital of the trust and the capital does not exceed $100,000.

Dividends paid, that are used for approved disability related items or services or disability related education or training that will not be otherwise reimbursed, are exempt from income. In addition, a $6,000 income exemption for any purpose in any twelve month period also applies to dividends from insurance and interest from a trust.

Dividends generated from a life insurance policy or from the capital of an inheritance trust that are not reinvested, not used to purchase approved disability-related items and services or not claimed under the $6,000 exemption for any purpose will be treated as income in the month received.
Automobile Insurance Accident Benefits

Accident benefits (also known as statutory accident benefits or no-fault benefits) are provided to those injured in an automobile accident by insurance companies in accordance with the Statutory Accident Benefit Schedules (SABS), which is a regulation made under the Insurance Act. The following benefits may be provided to eligible claimants:

- Income replacement benefits;
- Non-earner benefits which are paid if a claimant who is not employed or self-employed is unable to carry on with normal life;
- Caregiver benefits (to pay certain childcare or other caregiver expenses if a stay-at-home parent or other caregiver is unable to care for a child or other person in need of care);
- Medical and rehabilitation benefits (e.g. physiotherapy, psychotherapy, dental, medical, medical transportation, rental of mobility aids);
- Attendant care benefits;
- Benefits to pay for housekeeping assistance, repair or replacement of eyeglasses or clothing damaged in the accident;
- Lost educational expenses;
- Funeral expenses and death benefits if an insured person dies as a result of the accident.

The above accident benefits are not considered pain and suffering awards and are therefore not covered under the pain and suffering exemptions under ODSP. However, the benefits are to be treated as follows:

Exempt income (amounts paid for expenses actually and reasonably incurred or to be incurred as a result of injury to or the death of a member of the benefit unit):

- Medical, rehabilitation, and attendant care benefits;
- Caregiver benefits;
- Benefits paid for housekeeping assistance, repair or replacement of eyeglasses or clothing damaged in the accident, lost educational expenses;
- Funeral expenses.

Not exempt and charged as income at 100%:

- Income replacement benefits;
- Non-earner benefits.

Expenses actually and reasonably incurred or to be incurred as a result of injury or death are exempt up to a maximum of $100,000, unless the Director is satisfied the amount exceeding $100,000 is:

- paid for expenses actually or reasonably incurred or to be incurred as a result of injury to or death of a member of the benefit unit; or
- applied to expenses approved by the Director for disability-related
items or services.

**Ontario Disaster Relief Assistance Program (ODRAP) and Insurance Payments**

Payments made under ODRAP, other than payments for loss of income, are exempt as income as long as those payments are used for the purpose intended by ODRAP.

Insurance payments made for temporary living expenses in situations where the recipient has moved out of his/her dwelling place because of damage (e.g., fire or flood) are exempt. Insurance payments made to replace or repair damaged or destroyed assets that are either exempt assets (e.g., principal residence) or within allowable asset limits are also exempt. However, insurance payments for loss of income are not exempt.

**CAS Payments Under the MCYS Permanency Planning Initiative**

As of February 1, 2007 financial support payments made by Children’s Aid Societies under the Ministry of Children and Youth Services “Permanency Funding Policy Guidelines for Children’s Aid Societies” for the intervention categories of Admission Prevention, Kinship Service (out of care) and Legal Custody [Section 65.2(1) (b) of the *Child and Family Services Act* (CFSA)] are not charged as income under ODSP.

Under Admission Prevention, a CAS may make episodic/emergency payments to parents when such assistance may prevent their children from coming into care of the CAS; under Kinship Service (out of care) a CAS may make episodic/emergency payments to extended family or community members caring for a child to prevent the child from coming into care of the CAS; under Legal Custody, a CAS may make episodic/emergency and/or ongoing financial payments to a custodian to assist the custodian in caring for the child.

**Opportunities Fund for Persons with Disabilities**

Payments received under the federal Opportunities Fund for Persons with Disabilities are exempt from being charged as income or assets if the payments are applied to costs incurred or to be incurred as a result of participation in approved employment-related activities and are not intended to cover daily living expenses. In general, funding that is issued under the *Employment Insurance Act* that will be applied to the start of a small business is exempt.
Extraordinary Assistance Plan (EAP)

Multi-Provincial/Territorial Assistance Program Agreements (MPTAP)
Both the federal Extraordinary Assistance Plan and the Multi-Provincial/Territorial Assistance Program Agreements provide compensation awards to people who were infected with HIV as a result of receiving blood or blood products.

Federal EAP payments are $30,000 per year for four years. Principal payments, made under the federal Extraordinary Assistance Plan, are exempt as income.

Individuals must qualify for the federal payments under the Extraordinary Assistance Plan in order to be eligible for the MPTAP payments.

Principal payments received under the MPTAP Agreement are also exempt from being treated as income.

The main components of the MPTAP package are:

- $30,000 per year for life to people directly infected (to commence after EAP annual payments end);
- A one-time $22,000 lump sum payment to people directly infected or their surviving spouses when the package is accepted;
- $20,000 per year for five years to surviving spouses; and
- $4,000 per year for five years to surviving dependent children.

Any interest, dividends or investment income, earned on these payments, are treated as income.

The MPTAP is designed to “piggyback” on the federal program. For example, eligible individuals, who received their last instalment under the federal program in April 1993, received their first payment under the provincial/territorial program in April 1994.

Individuals may still apply for the Extraordinary Assistance Plan notwithstanding the expiry date of March 31, 1994, where the Minister is satisfied that the applicant was unable to submit the application before that date for reasons beyond the control of the applicant.

Compensation payments from other sources to persons infected with HIV continue to be treated in accordance with the income and asset provisions. For example, an amount not exceeding $100,000 is exempt under the pain and suffering provisions with any excess amount treated as income in the month.
received and as an asset in the following month.

**The Walkerton Compensation Plan**

Under the Walkerton Compensation Plan, all Walkerton residents, as well as non-residents, who became ill or died as a result of drinking the water or being exposed to someone else who was ill from it, are eligible for a minimum payment of $2,000 per person.

The $2,000 initial payment is exempt as income.

Further payments above the $2,000 minimum may be made where the individual is able to prove that their losses are compensable under the Plan and exceed $2,000. Payments may be made for pain and suffering, loss of past and future income, health care costs not covered by OHIP, out-of-pocket expenses and other monetary losses.

Family members of an individual who became ill or died as a result of drinking Walkerton water or being exposed to someone else who was ill from it may also apply for compensation for losses.

Family members may include a spouse, child, grandchild, grandparent and sibling.

All payments, received under the Walkerton Compensation Plan, except for payments for future loss of income, are exempt as income.

**The Helpline Reconciliation Model Agreement**

**The Grandview Agreement**

Both the Helpline Agreement and the Grandview Agreement provide financial compensation for victims of abuse in provincial institutions.

All payments received under the Helpline Agreement or the Grandview Agreement are exempt from being charged as income.

Any interest, dividends or investment income, earned on these payments, are treated as income and, if retained, as an asset in the following month.

Under the “Helpline Agreement”, validated claimants are eligible to receive:

- A lump sum government payment up to $25,000;
- An additional $1.60 from the Christian Brothers of Ottawa for every dollar paid by the government;
• A $3,000 contribution to an “Opportunity Fund” for each validated claimant;

• Free counselling services in Ontario; and,

• Payment of legal fees.

Some claimants are also eligible to receive a token sum for wages that were earned while they were at school, but were never paid.

Under the “Grandview Agreement”, validated claimants are eligible to receive:

• Financial support;

• Counselling services;

• Removal by laser therapy of self-inflicted tattoos;

• Educational and vocational opportunities; and,

• A contingency fund to cover expenses incurred in accessing benefits (e.g. transportation, childcare).

(Province of) Alberta Sterilization Payments
All payments received from the Government of Alberta, as compensation for sterilization, are exempt as income.

Ontario Hepatitis C Assistance Plan
Payments received under the Ontario Hepatitis C Assistance Plan, by individuals who contracted Hepatitis C through the blood system in Ontario prior to January 1, 1986 and after June 30, 1990, are exempt as income.

This exemption is retroactive to December 1, 1998.

1986-1990 Hepatitis C Settlement Agreement
Lump sum payments received under the 1986 - 1990 Hepatitis C Settlement Agreement other than a loss of income payment or a loss of support payment, are exempt from income.

Federal Pre-1986/Post-1990 Hepatitis C Settlement Agreement
Payments received under the federal Pre-1986/Post-1990 Hepatitis C Settlement
Agreement, other than a payment for loss of income or loss of services or payments to dependants of the person infected with Hepatitis C are exempt from income.

**Huronia Regional Centre Settlement Fund**
All payments under the Huronia Regional Centre class action Settlement Agreement are exempt as income. See Directive 4.1 for asset exemption.

**Rideau Regional Centre Settlement Fund**
All payments under the Rideau Regional Centre class action Settlement Agreement are exempt as income. See Directive 4.1 for asset exemption.

**Southwestern Regional Centre Settlement Fund**
All payments under the Southwestern Regional Centre class action settlement fund are exempt as income. See Directive 4.1 for asset exemption.

**Nova Scotia Home for Colored Children Settlement (NSHCC)**
Payments under the NSHCC settlement are exempt as income. See Directive 4.1 for asset exemption.

**Proceeds of Fire Insurance and Car Insurance**
Proceeds realized from a fire insurance policy are not considered income, providing the funds are used specifically for the replacement of the insured items.

Replacement of lost items should take place within six months from the date the insurance proceeds are received.

Proceeds realized from a car insurance policy are not considered as income or assets provided the funds are used for specified repairs or vehicle replacement.

**Treatment of Foster Care Payments from a Children’s Aid Society (CAS)**
CAS payments made to a recipient for providing care to a foster child are exempt as income. The foster child should not be included as a member of the benefit unit and the income should not be charged.

**Treatment of Payments Under the Transplant Patient Expense Reimbursement (TPER) Program**
The Ministry of Health and Long-term Care’s TPER program provides up-front payments or reimbursement of temporary accommodation costs incurred by eligible patients while awaiting heart, heart-lung and lung transplants, up to a maximum of $650 per month.
TPER payments are exempt as income for the purposes of social assistance if used for the intended purpose within a reasonable period of time as determined by the Director.

**MOHLTC-funded Rent Supplement for Permanent Supportive Rental Housing**

The Ministry of Health and Long-Term Care (MOHLTC) funded rent supplement aims to provide permanent supportive rental housing to persons with a mental illness who are homeless or at risk of becoming homeless. The program is also available to other client groups as determined by MOHLTC such as people with mental illness who come in contact with the criminal justice system or those with a physical disability.

Where an applicant/recipient is in receipt of the MOHLTC-funded rent supplement payment, the portion of the payment that exceeds the maximum social assistance shelter allowance is exempt as income up to the actual shelter costs.

**Employment Bonuses**

ODSP Regulations exempt gifts or other voluntary payments up to a maximum of $6,000 in any twelve-month period. However a cash bonus from an employer given in consideration for services rendered or work performed, does not qualify for this exemption. A cash bonus from an employer may be treated in one of two ways. It is either income in the month received and an asset thereafter, or it may be averaged over the course of the previous year if this is to the client’s advantage (i.e. recipient has not used his/her full earnings exemption deductions).

If the client has not worked a full year, the bonus would be averaged over the number of months the client worked. If the value of the cash bonus is less than $100, it may be treated as a gift. This is in keeping with Canada Customs and Revenue Agency guidelines which generally treat bonuses as income but will exempt amounts up to $100 in certain circumstances (i.e. when the employer does not claim the amount as an expense).

**Severance Pay**

Severance pay is based on years of service and other factors such as lack of termination notice. It is not paid with respect to specific months or a specific time frame. Severance pay is treated as income in the month it is received and earnings exemptions do not apply.

**Debts Owing to Applicant/Recipient**

If the financial resource is a debt owing to the recipient, full details must be
recorded including to whom the money was loaned, when, why it is not currently being repaid, when it will be repaid, and what efforts the recipient has made to obtain repayment.

If a debt was owing when a person applied for ODSP (prior to ODSP) and this information was recorded at the time of application, the repayment of this debt would be exempt as income.

Re-Financing of Mortgages
Re-financing a mortgage can involve either changing the terms of the mortgage (e.g. extending the amortization period) or taking out another mortgage on a property (e.g. a second mortgage).

Since changing the terms of a mortgage does not generally result in a person receiving additional funds, there is no impact on a person’s income.

Second Mortgages
Monies received from taking out a second mortgage on a principal residence are exempt as income when used for the following purposes:

- the purchase of an approved asset necessary for the health or well-being of a member of the benefit unit, including the purchase of disability-related items or services;
- the purchase of an exempt asset (as set out in section 28 of the ODSP Regulation);
- the purchase of an asset that does not result in the benefit unit exceeding its asset limit (e.g. $7,500 for a couple).

Foreign Income
Income from a foreign country is chargeable. Income received includes ongoing payments and any lump sum arrears payments from foreign pensions covering a period when income support was in pay. Verification for all declared income must be documented. Where a recipient has filed an income tax return, it must be reviewed, including any foreign tax returns filed with a foreign country.

Foreign pensions should be reviewed to determine whether payments are received quarterly, semi-annually, etc. Exchange rate information at the time of payment should be recorded.

Canada currently has social security agreements with the following countries:

| Antigua | Australia | Austria | Barbados | Barbuda |
Income from Locked-In Pension Funds

Under the Pension Benefits Act (PBA), in specific circumstances individuals are allowed limited access to three different types of locked-in retirement arrangements (locked-in retirement accounts (LIRAs), life income funds (LIFs) and locked-in retirement income funds (LRIFs).

Section 66(6) of the PBA specifically provides that a person’s entitlement to access funds from the specified locked-in retirement accounts shall NOT be relevant when determining the income (or assets) available to that person under any other Act.

As a result, the ODSP requirement that applicants and recipients pursue all available resources as a condition of eligibility is NOT applicable to locked-in retirement accounts.

However, if an ODSP recipient does access these funds, ODSP rules regarding income and assets must be applied.

When an individual terminates employment, he or she may transfer the pension benefit they earned under their pension plan into one of the locked-in retirement arrangements (LIRA, LIF, LRIF). The individual may transfer the money into a LIRA as long as he or she will not reach age 71 by the end of the year in which the money is transferred. If the individual is 54, he or she may transfer the money from their pension plan into a LIF or LRIF. If an individual already has money in a LIRA he or she may also transfer it into a LIF or LRIF in the year when they turn 54. (Note: in some situations, individuals may transfer money to their LIF or LRIF earlier than age 54, but it is not as common as at age 54. If the transfer does happen earlier than age 54 the same rules apply as when the transfer happens at age 54.)

At the time the money is transferred into a LIF the individual may access up to
50% of the money that was transferred. He or she may either receive this money in cash or transfer it to an unlocked vehicle (an RRSP or RRIF). As well a minimum amount must be withdrawn from the LIF or LRIF each year and there is a maximum limit on how much can be withdrawn annually. The withdrawal limits are set out in the Pension Benefits Act.

ODSP rules regarding income and assets must be applied to any money that is withdrawn from a locked-in account. However, the assets that remain in a locked-in account (the capital) remain locked-in and do not count toward the recipient’s asset limit. If the assets have been withdrawn and transferred to an unlocked vehicle (an RRSP or RRIF) the assets are not exempt and will count toward the recipient's asset level.

Below are some situations in which an individual may apply to unlock and withdraw money from their locked in accounts:

Financial Hardship
If a person faces financial hardship under the specified categories below, under the PBA he or she may apply for access to some of his locked-in money.

- Facing eviction from a principal residence as a result of arrears of rent
- Facing eviction from a principal residence as a result of debt secured on a principal residence
- Needing to cover reasonable non-reimbursed medical expenses for the treatment of illness or medical disability
- Needing to cover reasonable expenses for renovations or alterations of a principal residence made necessary by illness or physical disability
- Requiring first and last month’s rent to obtain a principal residence

Pension funds accessed and used for the purposes noted above are exempt as both income and assets under ODSP.

Some other situations in which the PBS allows access to locked-in funds include:

Financial Hardship (in addition to the categories listed above):
- Low-income. This situation is where an individual's personal income from all sources, before taxes, for the next 12 months is less than a specified amount ($31,466.67 in 2010). The individual may apply for access to some of the locked-in money.

Shortened Life Expectancy:
• The individual has an illness or physical disability that will shorten his or her life expectancy to less than two years. All or some of the money in the account may be withdrawn.

Small amounts for age 55 or over:
• The individual is at least 55 and the total amount in his or her Ontario locked-in accounts is less than a prescribed percentage that adjusts each year (in 2010 this is $18,880). All of the money in the account must be withdrawn.

Excess amounts under the federal Income Tax Act (ITA):
• In rare instances when an individual terminated employment, money was transferred to his or her locked-in account, which exceeded the maximum limit that may be transferred under the ITA. All of the excess amount may be withdrawn.

In these cases, the income will be exempt as income and assets if used to purchase exempt assets or an approved asset necessary for the health and welfare of a member of the benefit unit. The pension funds may also be used for approved education or training expenses.

Hyperlinks associated with this policy directive

Related Directives:

2.1 Dependent Adults
2.2 Dependent Children
4.1 Definition and Treatment of Assets
4.6 Compensation Awards
4.7 Funds Held in Trust
4.8 Life Insurance Policies
4.10 Registered Disability Savings Plans
5.2 Assignment of Retroactive Income
5.3 Deductions from Employment and Training Income
5.4 Treatment of Self-Employment Income
5.5 Child Care Deductions
5.7 Farm Income
5.8 Gifts and Voluntary Payments
5.9 Disability-Related Items and Services
5.10 Loans
5.11 Post-Secondary Education
5.14 Treatment of Canada Child Tax Benefit (CCTB)
5.15 Spousal and Child Support
5.18 Exemption of Earnings of Post-Secondary Students
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