

Did You Know?

❖ **Provincial Social Assistance programs - Ontario Works (OW) and the Ontario Disability Support Program (ODSP) - are "income tested."**

For the purposes of social assistance, income includes all payments received by or on behalf of a recipient, spouse and any dependents in the benefit unit. There are exemptions to this rule, but be aware that **payments made to a third party for a recipient's benefit may be deducted from the recipient's social assistance.** For example, a spouse making a mortgage or loan payment directly to a lender, instead of a "support" payment, can be deemed "income."

Currently, child and spousal support payments are deducted from social assistance "dollar for dollar."

There are many exemptions to the "income" rule that are easily reviewed in the OW and ODSP policy directives (www.mcsc.gov.on.ca/en/mcsc/programs/social/directives/index.aspx).

❖ **As of 2017 child support payments will no longer be deducted from social assistance.**

This means parents will be able to keep the full amount of any child support they receive. Parents will also no longer be required to pursue child support to receive social assistance. The changes apply only to child support payment – spousal support payments will still be deducted "dollar for dollar." The changes will take effect January 1, 2017 for ODSP and February 1, 2017 for OW.

❖ **The parent receiving the Child Tax Benefit will be entitled to the social assistance benefits for the child.**

The social assistance office will only include a "dependent child" in a benefit unit. Determination of "dependent child" normally depends on which parent receives the Child Tax Benefit.

❖ **The definition of spouse for the purpose of social assistance is different than under the *Family Law Act*.**

A partner may become a "spouse" if the parties have lived together for only three months, or immediately, if they sign a declaration saying they are "spouses."

Recipients often sign declarations that they are living as "spouses" without independent legal advice. This may be done even if they are only roommates living together to offset housing and living costs. Recipients who do not wish to be considered a spouse should keep all finances separate and seek legal advice from a Community Legal Clinic.

- ❖ **Decisions by OW or ODSP that effect social assistance benefits, for example a reduction in benefits or an overpayment, must be made in writing. A recipient has 30 days to request an internal review.**

Internal Review is required before an appeal can be made to the Social Benefits Tribunal. If an internal review is past 30 days, there is an extension process. Refer your client to a Community Legal Clinic ASAP.

- ❖ **Your client may be able to obtain immediate basic financial assistance, special priority housing and other considerations, if a victim of family violence.**

The social assistance administrator can grant or continue assistance for 3 months without regard to joint financial resources, if financial need exists.

Victims of domestic violence should be exempt from pursuing support. There is also a "special priority" for Rent-Geared-to-Income ("RGI") Housing for victims of family violence.

- ❖ **Social assistance programs may require a recipient to sign a Direction requiring repayment of social assistance from family law or personal injury awards.**

The Direction is valid for funds "due and owing or may become due and owing" if the money would be "income" as defined under the OW Act or ODSP Act.

You or your client can request a detailed accounting for any funds demanded by the social assistance program and consult with a lawyer at a Community Legal Clinic.

- ❖ **Social assistance may cancel your client's benefits if their child is placed in the care of the Children's Aid Society.**

This can create a domino effect that may lead to client's loss of housing, further diminishing the client's ability to retain their children. Your client should request an Internal Review of this decision as the law permits a recipient to continue to receive benefits for a child who is in the "temporary" care of the CAS.

- ❖ **Questions arising about entitlement to social assistance can be referred to your local Community Legal Clinic**

We are happy to consult with family law lawyers about social assistance issues.

This tip sheet was prepared by the Kingston Community Legal Clinic and The Community Advocacy & Legal Centre

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