Justice & Health Partnership Workshop Series:

LEGAL HEALTH & ODSP FORMS

Presented by the Community Advocacy & Legal Centre

www.communitylegalcentreca

158 George Street, Level 1
Belleville, ON K8N 3H2
Tel: (613) 966-8686

Toll Free: 1-877-966-8686
Fax: (613) 966-6251
TTY: (613) 966-8714

CALC: Who Are We?

- We are a non-profit community legal clinic and provide **FREE(!!)** legal advice, assistance and representation to people living on a low income.
- We provide service to Hastings County, Lennox & Addington County, Prince Edward County + Tyendinaga Mohawk Territory.
- Our main office is in Belleville, but we have satellite offices in Trenton, Madoc, Marmora, Tweed, Bancroft, Picton, Napanee and Amherstview.
- We are funded primarily by Legal Aid Ontario (LAO).

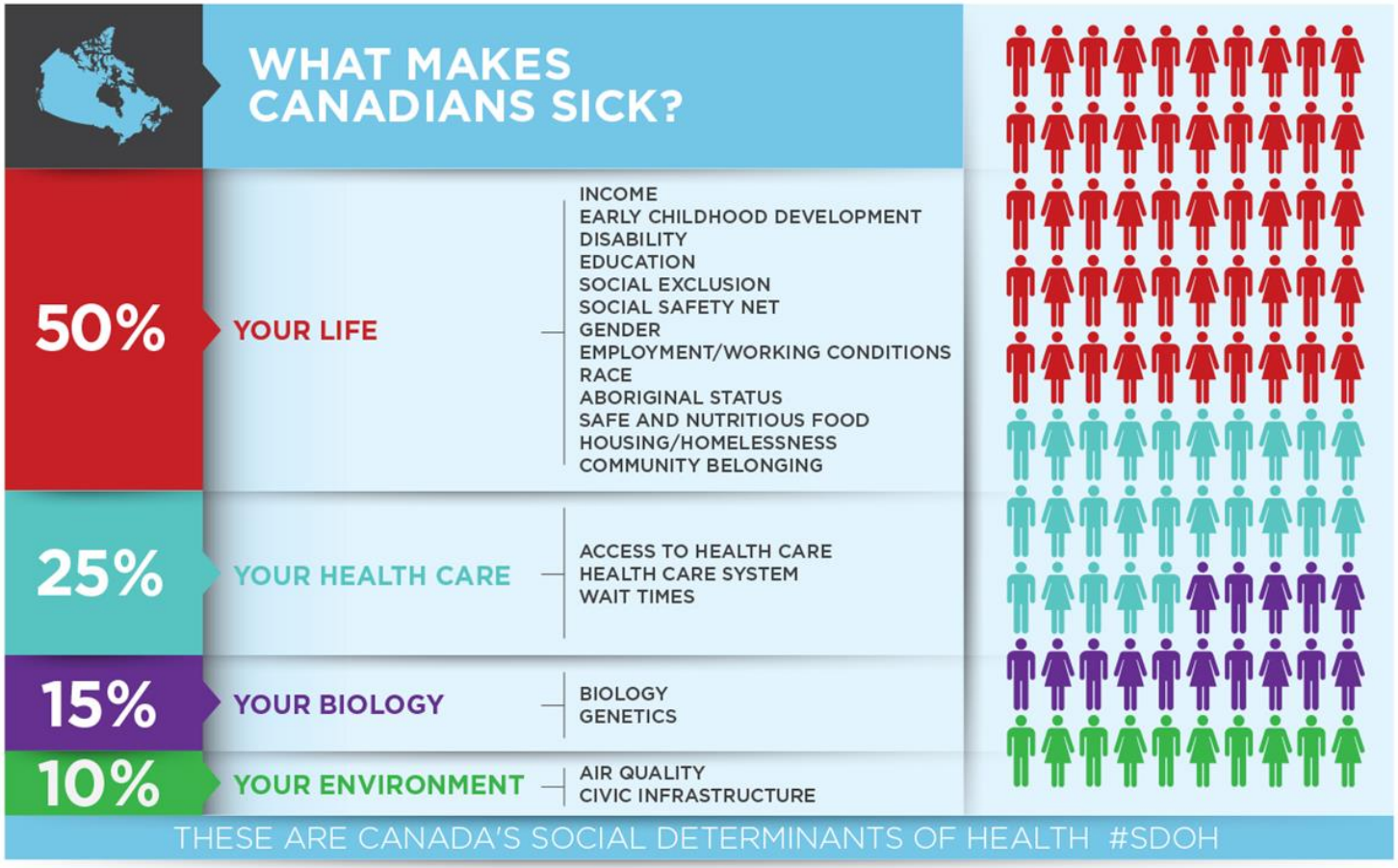
Why Are We Here Today?

- Justice & Health Partnership project goals:
  - Improve access to justice for low income clients
  - Intervene earlier in legal problems
  - Support healthcare providers

- Why does legal health matter? How can legal clinics help? How do I refer to a legal clinic?

- ODSP Forms

Legal Health – What Is It?



Legal Health — Why Does It Matter?

- **Benefits to improved legal health from US, UK, Australian studies:**
  - Decreased healthcare costs, decreased healthcare spending – particularly complex, high-cost, high-use patients
  - Fewer emergency room visits
  - Fewer hospital admissions & re-admissions
  - Patients better able to comply with health care treatments
  - Patients report decreased stress and improved well-being
  - Increased health care staff satisfaction when a medical-legal partnership program is part of the health care services

Legal Issue	Related Social Determinants	Legal Help	Impact on Health / Health Care
Tenant Rights	Housing Disability Early Life Food insecurity Gender Race	Evictions Repairs Pests Privacy Harassment Discrimination Utility bills /rent Vital services (heat) Lease breaking	Stable, healthy, decent housing → less stress → better compliance with treatment plans
Income Security	Income Income distribution Disability Early life Food insecurity Health services Social exclusion	ODSP, CPP-D denials OW denials OW/ODSP “on hold” Overpayments OW/ODSP benefits EI issues WSIB issues	Higher income means fewer trade-offs between food, a roof, heat, and healthcare. A stable income means less stress, better management of chronic illness, better health outcomes for children
Employment, Working Conditions, Education	Unemployment Job Security Working Conditions Education Health services Gender Race	Unpaid wages Reduced hours Termination Unsafe work Harassment Discrimination Suspensions/expulsions Special education	Education is one of the best predictors of adult health Health insurance is often linked to employment Safer work means fewer injuries

Adapted from the National Center for Medical Legal Partnership

How Can CALC Help?

- We provide legal services in the following areas:

Tenant Rights

Consumer & Debt Law

Income Security (OW, ODSP, CPP)

Employment and WSIB

Human Rights and Education

Seniors Issues (incld. Powers of Attorney and Wills)

- We also do Public Legal Education, Law Reform and Systemic Advocacy.

- We do not practice long or short term disability law, immigration law, family law, criminal law, real estate, or estates law.

Getting Help from CALC

- Clients can call us directly, or come in-person to our Belleville office (satellites are by appointment only)
- Clients will speak to an intake worker, who will gather some basic information about their situation and give some legal information
- Clients will then be set up for a telephone or in-person appointment with a legal worker for legal advice – the wait time varies by area of law

Getting Help from CALC

Service Provider Hotline:

- If you call us for help and identify as a healthcare professional, you will immediately be put through to the on-duty lawyer.
- If you are calling and have the client with you, the lawyer can give advice to your client right away.
- If the line is busy and you have to leave a voicemail, we will get back to you the same day – please feel free to give direction for best time to call you back.

Other options:

- Referral form - we will call your client directly.
- Email - calc@lao.on.ca

Legal Aid Cuts

- The April 11th provincial budget announced a 30% decrease in legal aid funding. The cuts stripped services away in immigration, family and crim
- These cuts also impacted clinics in the following ways:
  - A decrease to the clinic system budget of approximately $15 million, or 16%;
  - Deep funding cuts to those clinics that engage in test case and law reform work, of up to 33% of their budgets;
  - Loss of funding to clinics located in the City of Toronto of up to 10 %
  - Loss of funding to other clinics of varying smaller amounts
  - The cutback or elimination of many of the central supports (i.e. learning and training, knowledge sharing, client service coordination, etc.) that clinics rely on to do their work and maintain a high quality of services.
- In addition, LAO has told clinics it is not "prioritizing" law reform, community development, community organizing, or public legal education - important aspects of the clinic mandate.
- Further cuts (addl 45%) are anticipated next year, as well as a complete review of LAO and clinic work called the "modernization review" this fall

Legal Aid Cuts

- Looking for somewhere to vent?
  - Call, write or email Premier Ford
  - Call, write or email your MPP

- Check out this website with more information about the cuts and why legal clinics are so important for access to justice: https://stoplegalaidcuts.nationbuilder.com/

Why Is ODSP Important?

- Ontario Works (welfare) rate for single parent with 2 children? **$1,040** per month (as of Oct 2019)

- ODSP rate for single parent with 2 children? **$1,638** per month (as of Oct 2019)

- Higher income means fewer trade-offs between rent, utilities, food and medical care

The ODSP Process

- There is an application process to get ODSP. If your patient is denied, there is an appeals process.
  - From Healthcare Providers Against Poverty: As health providers, it is our responsibility to provide complete and detailed information that accurately portrays our patients' health status and disability.It is NOT our role to serve as the gatekeepers for income security.

- The ODSP application forms must be accessed from the OW caseworker (or ODSP directly)

- Someone in the with "prescribed qualifications" must complete the ODSP forms – this includes physicians, nurse practitioners, RN's and psychologists

- You can bill using OHIP codes - $100

The ODSP Process

- Have to satisfy the Disability Adjudication Unit that you are disabled

- Criteria for ODSP:
  - Substantial **impairment** (physical or mental)
  - Impairment expected to last **1 year or more**
  - Substantial **restriction** in at least 1 of the following areas:
    - **Personal Care, Workplace, Community Functioning**

- What this means:
  - Impairments = Symptoms
  - Restrictions = Functional Restrictions or Limits
  - Expected = More Likely than Not
  - Substantial = “significant but not severe”

Why Do Denials Happen?

- The Disability Adjudication Unit often seizes on small inconsistencies or missing information
- For example (all pulled from case files):
  - "the physician states the applicant cannot stand more than 5 minutes, however the rating is a category 1 – "within normal limits"
  - "an ER visit is noted, however there is no report submitted"
  - "the impairments are noted, however there are no related diagnostic imaging reports or specialist reports"
  - "previous trials of pharmacotherapy are not identified"
  - "there is no indication the current medications do not manage the applicant's symptoms"

Why Do Denials Happen?

We had Queen's University Nursing Students complete a review of 50 ODSP files opened at CALC in 2015 and 50 files opened at CALC in 2016.

- Conditions missing (20%)
- Impairments /restrictions missing (25%)
- Duration not checked "1 year or more" (8%)
- Missing information on medications, including past medications and efficacy/side effects of current medications (71%)
- Missing information on treatment (62%)
- IEWS inconsistent/not completed (58%)
- ADL inconsistent with IEWS or narrative reporting (64%)
- No reports / missing reports/ haphazardly provided reports (40%)
- Handwriting illegible (in all or in part) (29%)

Overall, just over 35% of applications were consistent & complete

The ODSP Process

- The ODSP process is all about waiting:
  - Waiting to get your disability package, and for your healthcare provider to complete it – 3-6 months
  - Waiting for Disability to make a decision – 3-6 months
  - Waiting for a hearing if you are denied– 10-12 months
  - Waiting for a decision after a hearing – 2-3 months
  - Waiting for benefits to kick in if successful -1-2 months

- **Total wait time if you are denied benefits: 20- 30 months**

ODSP Exercise – Jane Doe

Let's practice!

ODSP Exercise – Jane Doe

Background:

- 55 years old
- Patient for 5+ years
- Seen every 2 months
- Has a grade 10 education
- Not working, has always worked as a server in a restaurant

Medical history:

- Back and Neck Pain - longstanding
- Depression - longstanding
- Anxiety – newer, diagnosed 6 months ago

Symptoms:

- Sad, crying, poor attention span, no motivation
- Panic attacks leaving house so avoids going out unless absolutely necessary, constantly worrying
- Constant pain, radiating to shoulders and down legs
- Sleeping 4-6 hours most nights, fitfully
- Looks disheveled, tells you house is a total mess
- Needs help to carry in groceries
- Takes 5 mins to climb one flight of stairs, severe pain
- Trouble walking over 10 mins

ODSP Exercise – Jane Doe

Current Medications:

- Naproxen 500mg
- Cymbalta 60mg
- Ativan 2mg

Past Medications:

- Codeine (allergic?)
- Celexa (no benefit)
- Effexor (no benefit)

Medication Efficacy:

- She reports current pain medication doesn't help
- She says the Ativan helps with a panic attack, but makes her very drowsy

Treatment:

- Has had an X-ray, MRI – showed degenerative changes
- Has been referred to orthopedic surgeon – appointment pending
- Has been for physio – told you it made things worse. Tried massage, and it helped, but cannot afford it.
- Has had 2x appts with clinic Social Worker –ongoing.
- Attended Emerg Dept in June 2018 – thought she was having a heart attack, it was a panic attack.

Completing ODSP Forms

Tips for Health Status Report – pages 3-4

- Include all diagnoses that have symptoms and restrictions
- List as many symptoms as you can – try to include intensity and pervasiveness of symptoms
- Restrictions: use the space to explain how the symptoms negatively impacts your patient's life.
- REMEMBER to check off duration one year or more – only has to be reasonably expected to last 1 year or more – otherwise application will be unsuccessful.
- Ensure your handwriting is legible so information is not lost

Health Status Report:

1. **Please provide factual objective information for all answers.**

Last Name	First Name
Doe	Jane

Height	Weight	How long have you known this patient?	Indicate the number of visits in the last year by checking the most appropriate box.
5'4	170	5 + yrs	☐ 0 – 5 ☒ 6 – 10 ☐ 11 – 20 ☐ Greater than 20

2. **Please complete the chart below, listing the current and ongoing medical, surgical and/or psychiatric condition(s) of the patient, and the impairment(s) resulting from those conditions. Do not list conditions that have been resolved or are not current or not ongoing within the last year.**

NOTE: For each condition listed below, you must complete all the columns listed (A-F). This section must be completed or the application cannot be processed.

	(A) Condition(s)	(B) Impairment(s)
	Lung Cancer	Shortness of breath
	example	
1.	Back + Neck Pain	• pain - constant, serious • pain radiates to shoulders and down legs/hips
2.	Depression	• sad - all the time • cries - frequently • poor attention • no motivation • sleep - poor 4-6 hrs avg.
3.	Anxiety	• nervousness - constant • panic attacks when leaving house
4.		
5.		

For your reference, the following definitions are provided:

(A) **Condition** – is the name of the disease or disease state or diagnosis or syndrome.

(B) **Impairment** – is the loss, loss of use or derangement of any body part or system or function. Function can be psychological or psychiatric in origin.

(C) **Restriction** – is the limitation to the activities of daily living arising directly or indirectly from the impairment.

(C) Restriction(s)	Duration (D)	(E)	(F) Prognosis of Condition(s)
Cannot walk more than 3 blocks before having to stop.	Expected to last: ☐ less than 1 year or ☐ 1 year or more	and is ☐ recurrent/episodic or ☐ continuous	Is likely to: ☐ improve ☐ deteriorate ☐ remain same ☐ unknown
example			
• needs help with lifting + carrying • climbing 1 flight of stairs - hurts, takes 5-10 mins • trouble walking more than 10 mins	Expected to last: ☐ less than 1 year or ☒ 1 year or more	and is ☐ recurrent/episodic or ☒ continuous	Is likely to: ☒ improve ☒ deteriorate ☐ remain same ☐ unknown
• looks dishevelled - poor personal care, not dressing or grooming • difficulty w/ house work - no motivation	Expected to last: ☐ less than 1 year or ☒ 1 year or more	and is ☐ recurrent/episodic or ☒ continuous	Is likely to: ☐ improve ☐ deteriorate ☐ remain same ☒ unknown
• avoids leaving home. only when necessary due to dr appts or basic needs	Expected to last: ☐ less than 1 year or ☒ 1 year or more	and is ☒ recurrent/episodic or ☐ continuous	Is likely to: ☐ improve ☐ deteriorate ☐ remain same ☒ unknown
4 Cumulative effect of 1 + 2 + 3: could not tolerate work	Expected to last: ☐ less than 1 year or ☐ 1 year or more	and is ☐ recurrent/episodic or ☐ continuous	Is likely to: ☐ improve ☐ deteriorate ☐ remain same ☐ unknown
	Expected to last: ☐ less than 1 year or ☐ 1 year or more	and is ☐ recurrent/episodic or ☐ continuous	Is likely to: ☐ improve ☐ deteriorate ☐ remain same ☐ unknown

Completing ODSP Forms

Tips for Treatment – pages 5-6

- Include any side effects
  - Ex. Patient takes medication for depression and anxiety, meds cause drowsiness and short term memory problems
- Include (1) the effectiveness of current treatment, (2) barriers to treatment, (3) failed treatment
  - Ex. Patient is compliant with recommended treatment, but is still in constant pain
  - Ex. Patient attempted physiotherapy; relief lasted only a few hours and patient cannot afford further sessions
  - Ex. Referral to psychiatry has been made, but will take 1+ year to get an appointment; not enough resources

3. **Please list medication(s) for the current and ongoing condition(s) listed in question No. 2.**

Conditions	Drug	Dosage	Frequency
Pain	Naproxen	500mg	1x day
Depression	Cymbalta	60 mg	1x day
Anxiety	Ativan	2 mg	as needed

4. **Please add any other relevant information or comments that you think may be helpful in assessing the applicant's main condition(s) and impairment(s).**

- Meds trialed in past: Codeine (allergic); Celexa (no benefit); Effexor (no benefit)
- Current pain medication not effective at reducing pain to functional level
- Ativan side effects include severe drowsiness

5. **Please list hospitalizations related to the current and ongoing condition(s) identified in question No. 2.**

Name of Hospital	Location (Town)	Dates of admission/date of ER visits (year only) relating to the principal condition(s)	☐ Hospital Report Attached ☐ Discharge Summary Reasons for admission and ER visits and length of stay, if applicable.
Belleville General	Blvl	Jun/15	Panic attack - ER visit - no report available - discharged with Ativan.

6. **If there are supporting documents for the condition(s) and impairment(s) listed in question No. 2, please indicate the reason and attach copies. Do *not* send actual x-rays, pathology slides, etc.**

- ☐ Laboratory Report(s)
- ☒ X-ray Report(s) + MRI
- ☐ Pathology Report(s)
- ☒ Specialist's Report(s) - pending referral
- ☐ Hospital Report(s)
- ☐ Discharge Summary(ies)
- ☐ Psychological/Psychiatric Assessment
- ☐ Audiologist's Report/ENT
- ☐ Speech Language Pathologist's Report
- ☐ Ophthalmologist's/Optometrist's Report

Please note that the absence of supporting documents, especially consultant's notes, will delay adjudication.

7. **Please indicate, and comment on, the management plan(s) for the main condition(s) of impact. More than one treatment may be checked. Please specify dates (month and year is sufficient).**

Treatment	Past	Current	Proposed	Comments (specify for which condition)
Medical	☒	☒	☒	ongoing visits with myself medications not optimized
Surgical	☐	☐	☒	pending referral to surgeon
Physical/ Rehabilitation: ☒ Physiotherapy ☐ Occupational Therapy ☐ Massage ☐ Chiropractic	☒	☐	☐	patient tried physio - reports it "made things worse"
Chemotherapy	☐	☐	☐	
Radiation	☐	☐	☐	
Psychotherapy: ☐ Physician ☐ Psychiatrist ☐ Psychologist ☐ Other	☐	☐	☐	
Other (Please indicate): ☒ Counselling ☐ Support Group ☐ Vocational Rehabilitation ☐ Other	☐	☒	☐	ongoing counselling with Social Worker - very limited resources for help with mental health

Completing ODSP Forms

Tips for Intellectual & Emotional Wellness Scale (IEWS) – pg. 7

- If the patient has mental conditions or symptoms it is extremely important to complete this section
- Important to rate the IEWS consistently with symptoms listed earlier
- Keep in mind: despite what it says at the top, this section is also relevant if someone has a physical condition that impacts sleep, concentration, etc.

8. Intellectual and Emotional Wellness Scale

▷ ***It is not necessary to complete this area for persons whose conditions are solely of a physical nature.***
For each item indicate the most characteristic class for that item where Class 1 represents no symptoms or signs while Class 2 represents minimal symptoms or signs, Class 3 represents moderate symptoms or signs and Class 4 represents severe symptoms or signs. **Check one choice only.**

Psychologist's/Psychiatrist's report attached ☐ Yes ☐ No **Mark "X" for most appropriate description(s)**	**No assistance from another person is required to complete the activities specified**		**Assistance from another person is required in order to complete the activities specified**	
	Class 1 • No Symptoms or signs	**Class 2** • Some safety concerns • Minimal symptoms or signs	**Class 3** • Safety concerns • Moderate symptoms or signs	**Class 4** • Unsafe • Severe symptoms or signs
A Bodily functions (eating, eliminating, sleeping)	☐	☐	☒	☐
B. Consciousness (attentional focus, levels of consciousness)	☐	☐	☒	☐
C. Emotion (affect, mood, anxiety and other emotions, associated psychological disturbances, panic phobia)	☐	☐	☒	☐
D. Impulse control (difficulty with behavioural control) panic attacks	☐	☐	☒	☐
E. Lack of insight (grandiosity, excessively negative self evaluation, difficulty in understanding one's own mental health problems)	☐	☐	☒	☐
F. Intellectual function (cognitive disturbance, planning, organizing, sequencing and abstracting difficulties)	☒	☐	☐	☐
G. Judgement (difficulties anticipating impact of one's behaviour on self and others)	☒	☐	☐	☐
H. Learning (language processing, mathematics, attention difficulties)	☒	☐	☐	☐
I. Memory (amnesia, hypervivid flashback, dissociation)	☒	☐	☐	☐
J. Motivation (depressive avolitional problems)	☐	☐	☐	☒
K. Motor behaviour (conversion, motor coordination deficit, agitation, retardation and compulsions)	☒	☐	☐	☐
L. Perception (visual processing, hallucination, illusion, dissociation, sensory distortions, pain amplification) ↑ pain	☐	☐	☒	☐
M. Thinking (delusions, obsessions, flight of ideas, blocking)	☒	☐	☐	☐

Completing ODSP Forms

Tips for Activities of Daily Living Index (ADL) – pg 12-13

- Important to rate ADL consistently with the restrictions provided earlier **AND** with IEWS
  - Areas the ADL and IEWS overlap include concentration, learning, and impulse control.

- Can use lined space as an opportunity to tell your patient's story. Disability is required to consider the "whole person" – includes education, history of trauma, etc.

- Writing even one sentence helps. For example, "unable to sustain remunerative employment"; or "symptoms impair social, recreational and occupational functioning".

These questions *must* be completed for all clients.

These questions seek to describe the impact of the impairment on the applicant's ability to attend to his or her personal care, function in the community and function in a workplace. It seeks to understand the restrictions in the activity specified. Please use the scaling below:

Class 1	Class 2	Class 3	Class 4
Within normal limits. **Or** Not applicable. **Note:** Does not prevent the performance of any activity.	Mild or slight limitations. **Note:** May result in slightly longer time requirements to complete the task or mild exacerbation of pain. **Or** Accommodation may be required to complete the task.	Medium or moderate limitations. **Or** Requires considerably longer time to complete the task and may on some occasions be unable to complete the task with or without accommodations and with or without moderate pain.	Severe or complete limitations on most occasions to completion of the task.

		Mark an "X" through choice			
1.	Orientation to time, person and place	X	2	3	4
2.	Recognizes within normal limits common dangers in the home, workplace or community	X	2	3	4
3.	Ability to comprehend, express or communicate orally	X	2	3	4
4.	Use the telephone – nervousness	1	X	→ X	4
5.	Exhibits normal limits of functioning with respect to intelligence	X	2	3	4
6.	Exhibits normal limits of functioning with respect to impulse control and behaviour	1	2	X	4
7.	Responds within normal limits to situations requiring memory (e.g. remember where he/she lives, names of family and friends, etc.)	X	2	3	4
8.	Attention span is sustainable and appropriate to task	1	2	X	4
9.	Physical strength commensurate with person's age and sex	1	2	X	4
10.	Ability to participate physically in sustained activity	1	2	X	4
11.	Walks three blocks or more on level ground without need to rest	1	2	X	4
12.	Climbs up or down one flight of stairs (six steps)	1	2	X	4
13.	Able to use means of public transport if available pain ↑	1	2	X	4
14.	Wash all parts of the body, able to maintain personal hygiene and grooming no motivation	1	2	X	4
15.	Select clothes for weather and situations no motivation	1	2	X	4
16.	Bowel and bladder control	X	2	3	4
17.	Can take medication(s) as directed and handle/store medication(s) safely	X	2	3	4
18.	Is able to utilize commercial services (banks, hydro, phone company, etc.) nervousness	1	X	- X	4
19.	Financially responsible for his/her own affairs (e.g. applicant can function independently)	X	2	3	4
20.	Able to feed oneself no motivation	1	2	X	4
21.	Do housekeeping (cleaning, laundry, meal preparation, shopping for essentials such as groceries, clothes, etc.)	1	2	X	4
22.	Able to stand	1	X	3	4
23.	Able to sit for a sustained period	1	X	3	4
24.	Able to transfer to and from chair, toilet, wheelchair, etc.	1	X	3	4

Please provide any additional limitations you believe to be relevant or additional comments you would like to make. A space is provided below.

client last worked as a server - could not tolerate this work, or any other type of work due to combination of pain, depression + anxiety

Not attending to personal care

Not able to function in community

Please attach copies of any relevant documentation/reports (e.g. Functional Assessment, Community Assessment).

Need Help?

- Working with a local legal clinic can result in fewer appeals, fewer requests for further information, less time spent by all and faster results for patients.
  - CAMH pilot program – significant decrease to ODSP appeals
  - Hamilton Shelter System pilot project
- Most legal clinics (including CALC) would be happy to review your completed ODSP forms before submission.

ODSP – Medical Reviews

- Every person who is approved for benefits will get a review date, unless there is no realistic prospect of improvement.
- New Medical Review forms were introduced summer 2017, they look quite different from these initial forms.
- Created in consultation with numerous stakeholders including healthcare providers.
- New forms are intended to simplify the process.
- **Big Picture:** If there's been no improvement, the health care provider's professional opinion to that effect will be enough and the medical review will be complete.

Potential Changes to ODSP

- The April 11, 2019 budget announced the social assistance "reform" would save $1 billion from OW and ODSP - this represents an 11% reduction in spending.
- Not a lot of details about how they are proposing to do this…
- One possibility: changing the ODSP definition of disability to align with "federal government guidelines" (like CPP-D)
  - Current CPP-D definition: "Severe and prolonged"
- Narrowed definition of disability will reduce the number of people eligible for ODSP by at least 30%
  - It will likely exclude those with episodic disabilities, shorter-term / non-permanent health conditions like multiple sclerosis, mental health disabilities, rheumatoid arthritis, hepatitis C, chronic fatigue syndrome, chronic pain, migraine, some forms of cancer, etc.
  - They will have to rely on OW which pays 37% less, and may not have access to health benefits. These are people who are in fact still disabled, unable to work FT – nothing about them has changed.

Contact Us

Contact:

Lisa Turik
Clinic Lawyer
613-966-8686 x29
turikl@lao.on.ca

Thanks to Queen's Nursing students Taavita Hemraj, Christine Helferty, Kylie Swanson, Laiken Starreveld and Natalie Alexander for their help developing this presentation.

Head Office:

158 George Street, Level 1, Belleville

Phone: 613-966-8686
Toll Free: 1-877-966-8686
Fax: 613-966-6251
TTY (for the Deaf): 613-966-8714
Toll Free TTY: 1-877-966-8714