

FACT SHEET:

ODSP Adjudication of Addictions

People with addictions to drugs and / or alcohol may now be eligible for benefits from the Ontario Disability Support Program.

Background:

Until now, people who have disabling conditions caused only by drug and / or alcohol addictions have not been eligible for ODSP benefits.

People with addictions have only been eligible if they have one or more other, separate conditions – ones that would allow them to qualify as “a person with a disability” as defined in the ODSP legislation. But their addiction could not be considered.

A recent court decision has changed this. The court decided that the government was violating the Ontario Human Rights Code by not allowing addictions to be considered when ODSP is deciding whether or not a person meets their test of being “a person with a disability”.

Now, a person’s addiction must be considered in that process.

The provincial government is appealing the court’s decision. But for now, people with addictions may be able to get ODSP benefits, if they meet the disability test.

What does this mean for me?

ODSP is currently developing a way to make decisions on whether or not people with addictions will meet their definition of disability.

This decision-making process will be in place starting this fall. ODSP will start reviewing the applications of people with addictions at that time.

In the meantime, here is some information from officials at ODSP to let you know what you can expect, depending on your particular situation:

1) If you recently applied for ODSP benefits and you have other conditions in addition to your addiction:

- Your application will be processed in the usual way, without considering your addiction.
- If ODSP decides that you meet the definition of disability based on your other conditions, you will begin receiving benefits in the usual way.

- If they decide that you do not meet the definition of disability based on your other conditions, they will put your application aside and re-assess it after the new decision-making process is in place. This means that they will take your addiction into account in addition to your other conditions – but you may have to wait for a decision longer than you expected.

2) If you recently applied for ODSP and you have an addiction but no other conditions:

- Your application will be put aside and processed after the new decision-making process is in place.
- This means that you may have to wait longer than you expected to get a decision on your application.

3) If you have an addiction and were turned down for ODSP, but you have filed an appeal at the Social Benefits Tribunal (SBT):

- ODSP will ask the SBT to adjourn your hearing. They will make this request to give them time to decide on the decision-making process around addictions, and to review your file based on that process – before the appeal goes to the SBT.
- The SBT has said that they may or may not agree to adjourn hearings in cases like this. This means that your appeal may be heard right away, or may be postponed until the decision-making process is in place.

4) If you haven't applied for ODSP because you were told you weren't eligible because of your addiction:

- You may want to start the process of applying for ODSP, even though the decision-making process is not yet in place. This is because the application process can take a while to complete.
- For information about how to apply, talk to your local ODSP office – which can be found at <http://www.mcass.gov.on.ca/mcass/english/pillars/social/odsp/contacts/>

► **In any of these cases**, we recommend that you get legal advice to help you through the process. To find your local Community Legal Clinic and how to contact them, go to www.legalaid.on.ca/en/locate/default.asp.

► **ISAC will circulate more information about ODSP's decision-making process around addictions as it becomes available.**