

Important changes coming in 2015 to ODSP employment benefits

Issue Backgrounder: December 2014

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Employment benefits provided through the Ontario Disability Support Program (ODSP) are changing in 2015. These benefits help people on social assistance who are preparing for work or are working. The changes were announced in the 2014 Ontario Budget.

Three benefits for people on ODSP are being eliminated. They are being replaced by a new “Employment-Related Benefit”. There are some important differences between the current benefits and the new benefit.

This issue backgrounder provides information about these changes, including:

- What the current benefits are and how they work
- What we have been told by the Ministry of Community and Social Services about how the new benefit will work
- The implications of these changes.

There are similar changes being made to employment benefits available through Ontario Works. This backgrounder does not cover those changes.

The information in this backgrounder is also available through a webinar that can be viewed any time at <http://yourlegalrights.on.ca/webinar/odsp-employment-benefits>.

Current ODSP Employment Benefits

Three employment benefits are currently available to people on ODSP if they are starting a job or a training program, if they have earnings from a job or self-employment, or if they leave ODSP because their earnings are higher than the ODSP allowance.

1. Employment Training and Start-Up Benefit (ESUB)

This benefit helps people receiving ODSP with expenses they incur when they are starting a training program or a job, changing jobs, or doing things that will help them get and stay employed (training, etc.). It gives people on ODSP, their spouse or their dependent adult children a maximum of \$500 in any 12-month period. The money can be used for things like clothing for a job interview or work, license fees, post-secondary application fees, grooming costs, tools and equipment associated with training or a job, transportation costs to prepare for, find, or start a job, or other similar costs.

2. Employment Transition Benefit (ETB)

This benefit helps people transition off ODSP and into work by helping to pay for associated costs. It helps people who become ineligible for ODSP because they

and/or their family get more income from a training program, a job, or their own business than ODSP would give them. People in this situation can receive one lump-sum payment of \$500 in any 12-month period.

3. Work-Related Benefit (WRB)

This benefit is intended to encourage people on ODSP to work and to stay employed by paying for some of the costs that are associated with working. This benefit gives people on ODSP and/or each of their adult family members \$100 in each month that they have any amount of income from a training program, a job, or their own business. There is no separate application process for this benefit – the \$100 is automatically added to monthly benefit cheques. If a person does not have employment-related income in a month, they will not receive the \$100 for that month.

These three benefits are “mandatory” benefits in that decisions to deny access to these benefits can be appealed to the Social Benefits Tribunal. The Tribunal is an independent body separate from the Ministry of Community and Social Services that hears and decides on appeals.

The three benefits are being eliminated from ODSP and replaced by a new benefit. This change begins October 1, 2015¹, although a six-month “transition period” will apply to people with disabilities on ODSP who already receive the Work-Related Benefit. More information about this transition period is provided below.

Other benefits, like the Up-Front Child Care Benefit, will continue to be available. As well, people will still be able to deduct disability-related expenses from income.

New Employment-Related Benefit

The Ministry of Community and Social Services has given us the following information about the new benefit. They say that final decisions have not yet been made. They also say they are still consulting with stakeholders about these changes.

Name: The new benefit will be called the “Employment-Related Benefit” or ERB.

Focus: The ERB will focus on providing supports to people who are preparing to get into work. It is not intended to provide supports to people who are already working, unless those supports will help people “advance their career”.

Benefit amounts: People on ODSP with a disability will be eligible for a maximum of \$1,800 per 12-month period. Their non-disabled adult family members will be eligible for a maximum of \$1,200 per 12-month period, which is the same amount that will be available to people on OW. There will be some flexibility in these maximum amounts so that people who have higher employment-related expenses (for example, for training, etc.) may be able to receive more funding.

Eligibility criteria: Eligibility for funding will depend on how the funds relate to an employment plan that the person will develop with an employment service agency. As part of that plan, the person will work with an employment counselor to identify the

supports or training they need in order to get a job and what those supports or training will cost. The employment counselor will then make a recommendation to the person's ODSP caseworker about funding those expenses out of the ERB. The caseworker makes the final decision.

Access for people with a disability: People on ODSP with a disability will access the ERB through the process outlined above. However, if they are not connected to an employment service agency or not in an employment service program, they will be able to request the ERB through their ODSP caseworker. The Ministry says this will only happen in "limited circumstances".

Access for non-disabled family members: Non-disabled spouses and adult dependent children are usually required to enter into an employment-related "participation agreement" through Ontario Works with an OW caseworker. They will access the ERB through that caseworker.

People who are already working: People on ODSP who are already working will only be entitled to ERB funding if the money they need aligns with activities in their employment plan that would allow them to increase their hours of work or the amount of money they can earn.

People who volunteer: People on ODSP who need money to support volunteering will not be eligible for the ERB unless their employment plan shows that short-term volunteering would help them to get paid work.

Appeal rights: The ERB is a discretionary benefit, unlike the three current mandatory benefits that it will replace. This means that people who are denied won't be able to appeal to the Social Benefits Tribunal. They will only be able to request an Internal Review from their caseworker. The Internal Review will be done within the Ministry.

Timeframe: The current benefits will end as of September 30, 2015 and the ERB will start as of October 1, 2015. Non-disabled family members of people with disabilities on ODSP who have been getting the \$100 Work-Related Benefit will immediately lose that money.

People with disabilities who have already been getting the Work-Related Benefit will not lose the benefit in October. A "transition period" will apply between October 1, 2015 and March 31, 2016. During that time they will continue to get the \$100 if they have employment income, but only if they have continuous monthly employment income. In other words, they must continue to have employment-related earnings in each month to continue to get the benefit. For example, if in November 2015 the person earns some money from work, they will get the \$100. If in December they don't earn any money from work, they will not get the \$100 for that month – AND they will also no longer be eligible for the \$100 between January and March, even if they earn money from work in those months.

The Ministry says that the "transition period" is intended to give people currently receiving the Work-Related Benefit time to work on how they can increase the amount of money they can earn, in order to make up for the money they will lose.

The full amount of any Work-Related Benefit that a person on ODSP gets between October 1, 2015 and March 31, 2016 will count toward their annual ERB eligibility. If a person gets \$100 each month for the whole six-month period between October and March, for example, they will only be eligible for a maximum of \$1,200 from the ERB for the rest of the 12-month period.

Rationale for changes: The Ministry says that these changes will simplify the social assistance system, provide more individually-tailored, flexible supports, and encourage more people to prepare for employment, look for a job, increase the amount of money they make from work, or otherwise “advance their career”.

The Ministry also says that the Work-Related Benefit was not having the intended effect of giving people an incentive to work. About 10% of people on ODSP have employment income. That number has remained steady for many years.

The Ministry also says that people should use the increased amount of money that they get from work resulting from the new flat-rate \$200 earned income exemption to pay for the things they would have paid for through the Work-Related Benefit.

The Ministry has indicated that there are currently about 34,000 people receiving the Work-Related Benefit, of whom about 26,000 are people with disabilities.

Implications and Concerns

1. Loss of an important source of income

As a result of the changes to employment benefits, people on ODSP who are working will lose an important source of income when the Work-Related Benefit ends. Up to \$1,200 per year will be lost for each family member who works.

This additional income makes a huge difference when ODSP rates remain so low. A recent Daily Bread Food Bank report indicates that more people with disabilities who receive ODSP benefits are going hungry than ever before. The report says that “the amount of income [people on ODSP] receive simply isn’t enough compared to the rising cost of food and shelter” (*Who’s Hungry: 2014 Profile of Hunger in the GTA*, 2014, Daily Bread Food Bank, p.4).

And yet the provincial government continues to say that poverty reduction is its priority. It’s hard to reconcile the government’s stated commitment to reducing poverty with a decision that will take \$100 per month out of the pockets of people with disabilities who are working. For people to have confidence in the government’s stated commitment to poverty reduction, the Ministry of Community and Social Services must recognize that this decision fails to recognize that the incomes of people on ODSP – even when they are working – are inadequate.

In 2013, the provincial government changed the amount of the earned income exemption for people on OW and ODSP who work. The earned income exemption is the amount of money that is deducted from people’s benefits when they make money from work. The previous deduction of 50% of every dollar earned from work

was changed to a flat exemption of the first \$200 in any month, with a 50% deduction on amounts above that. At the time, the government said they were making this change to make it easier for people to get into employment and to improve the incomes of people who work. To expect people on ODSP to use their \$200 earnings exemption to make up for the money that they will lose from the elimination of the Work-Related Benefit simply takes away any progress on income adequacy that was made by making the earnings exemption change in 2013.

2. Impact on employment

The Work-Related Benefit currently provides additional support to people who have work-related income, regardless of how many hours they work in a month. This means that the Work-Related Benefit supports part-time, sporadic, non-standard, alternative forms of work. And it is exactly these forms of work that many people with disabilities on ODSP engage in.

People receiving ODSP have already demonstrated that they have a substantial impairment that creates a substantial limitation in their activities of daily living, including work. If they were able to work at a level that would provide a sustainable income, they would not be on the program.

People on ODSP undertake various levels and amounts of work based on their ability, which may vary from month to month and even from day to day, and based on whether or not they are able to find work in the labour market that accommodates their disability. And they work for various reasons: to increase their incomes, to keep a toe-hold in the labour market, and to establish and benefit from a community and from the social inclusion aspects of working.

Now, despite people's best efforts to do what they can, the government is removing one benefit that provided support for those efforts. Some people who currently receive the Work-Related Benefit are already saying that they may have to quit work without that extra support. In other words, the loss of the Work-Related Benefit could well have the opposite impact than the government wants to have.

Part-time work should be supported by ODSP. The goal of the employment supports aspect of the program should not be limited to moving from ODSP to work. The goal of employment supports should be responsive to the individual situation and requirements of each ODSP recipient and their family.

The government says these changes were necessary because the Work-Related Benefit was not meeting its intended goal. There have been frequent criticisms of the ODSP program from the Ministry and past Ministers that "only" 10% of people on ODSP are working. There has never been a public employment rate target provided for the Work-Related Benefit or for the ODSP program as a whole.

It could well be the case that having 10% of people receiving ODSP actively engaged in paid work demonstrates success given the barriers that people with disabilities face in the labour market, including the lack of accommodation of disability, stigmatizing and stereotyping by employers, and the lack of well-paying

jobs that can support a person's disability-related needs. It could also be the case that these barriers create more of a disincentive to work than can be made up for by the \$100 provided in the Work-Related Benefit. However, no research or analysis has been provided that investigates these issues. Instead, the Ministry's assertion that the Work-Related Benefit is a failure has been cited as justification for moving funds that people rely on into another benefit.

The Work-Related Benefit rewards people who have earnings from employment. The new Employment-Related Benefit, however, will reward participation in a process of employment planning, which may or may not lead to a job. It will be important to track whether the new benefit will have any greater impact than the Work-Related Benefit of helping people into employment. It will also be important to see if the Ministry will have the capacity to provide employment supports to everyone who might want to create an employment plan.

3. Loss of rights

The loss of the Work-Related Benefit is also a loss of important legal rights, since the new Employment-Related Benefit will be a discretionary benefit that will be provided at the discretion of Ministry officials, rather than a mandatory benefit that people have categorical access to. This will mean that people will not be able to appeal negative decisions about benefit eligibility to the Social Benefits Tribunal, which is an independent body separate from the Ministry. They will only be able to request an internal review, which will be conducted within the Ministry or by designated officials like municipalities that administer OW.

Appeal rights were also lost when the Ministry eliminated the Community Start-Up and Maintenance Benefit in 2012 and moved funding for housing and homelessness services into a new, discretionary program under the Community Homelessness Initiative Program.

The oversight provided by an independent appeals tribunal ensures a measure of fairness for Ontarians with low-income and protects them from arbitrary decisions. The trend towards discretionary benefits represents a significant loss of legal rights.

Conclusion

The Ontario government has made a commitment to reform social assistance programs, but appears to be moving in a direction in which people with disabilities are being negatively impacted. Reforming social assistance should be based on a provincial commitment to income adequacy and to treating people receiving benefits with dignity. It should not mean reducing people's incomes and therefore their ability to pay for their essential expenditures by eliminating benefits.

¹ The government originally announced that implementation of the new benefit would start as of April 1, 2015 with a transition period for people with disabilities until September 2015, which were the dates included in the original version of this background. However, in February 2015 they announced that implementation would be delayed until October 1, 2015, due to problems with their new case management software system. This background has been updated to reflect the new implementation dates.