

Clause embodied in Report No. 10 of the Community Services Committee, as adopted by the Council of the City of Toronto at its meeting held on October 2, 3 and 4, 2001.

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Ontario Disability Support Program Impacts

(City Council on October 2, 3 and 4, 2001, amended this Clause by adding thereto the following:

“It is further recommended that Recommendation No. (2) of the Disability Issues Committee embodied in the communication dated October 1, 2001, from the City Clerk, Disability Issues Committee, be adopted, viz.:

‘The Disability Issues Committee:

- (2) recommended that the Commissioner of Community and Neighbourhood Services be requested to undertake an analysis and report not only on the problems of accessing the ODSP but also the many restrictions and issues affecting people who are already on the program.’ ”)*

The Community Services Committee recommends the adoption of the following report (August 9, 2001) from the Acting Commissioner of Community and Neighbourhood Services:

Purpose:

In June 1998, the provincial government, as part of its overhaul of the social assistance system, introduced new legislation that created the Ontario Disability Support Program (ODSP). Delivered by the Ministry of Community and Social Services, ODSP provides income support and employment assistance to disabled people who are in financial need. This report discusses the key impacts associated with the implementation of ODSP in Toronto, including those experienced by clients, by community-based agencies serving people with disabilities and by Toronto Social Services (TSS) itself in terms of the implications for the delivery of the Ontario Works (OW) program.

Financial Implications and Impact Statement:

There are no financial implications in the year 2001 resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) this report be forwarded to the Minister of Community and Social Services for review;

- (2) the Minister be requested to address the key impacts related to the implementation of the Ontario Disability Support Program in Toronto enumerated in the report, namely:
 - (i) issues affecting OW clients' ability to access the program, including concerns related to the new definition of disability, to the complexity of the ODSP eligibility determination process, and to the availability of resources and supports needed to assist disabled individuals with applying for ODSP; and
 - (ii) issues affecting TSS' delivery of the OW program delivery; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect hereto.

Background:

In June 1998, as part of its overhaul of the social assistance system, the Province proclaimed the Ontario Disability Support Program Act (ODSPA), which replaced the Family Benefits Act (FBA), and the Vocational Rehabilitation Services (VRS) Act.

Through the ODSPA, the Province set out to create a new program solely for persons with disabilities, moving them outside the conventional "welfare" system. The stated intent of the Ontario Disability Support Program (ODSP) is to "take people with disabilities off welfare" and "to support them towards the goals of independence and employment".

ODSP has two primary functions: to provide income support to disabled individuals who are in financial need; and to provide employment supports to clients who want to work. The income support program provides financial assistance to those who qualify, introduces new eligibility criteria and new approaches to the treatment of assets, income and special needs, and establishes a centralized process for adjudicating disability. The employment support function replaces the VRS Act, and provides services to people with disabilities to assist them in their move towards employment. The key features of ODSP are detailed in Attachment 1.

The Province continues to deliver the program. However, the City is required to cost-share provincial administrative costs on a 50/50 per cent basis and ODSP benefits to clients on an 80/20 Provincial/Municipal basis as part of the downloading of responsibilities to municipalities.

A previous report to City Council dated May 25, 1998 described the key features of the new program, and briefly discussed the implications for applicants and clients. The report noted that certain changes contained in the new legislation and ODSP program appeared to be beneficial to disabled people. However, TSS also identified a number of potential concerns. For example, it was expected that the introduction of more restrictive eligibility criteria would make it difficult for clients with disabilities to access ODSP.

It has now been three years since ODSP took effect. The key impacts associated with the implementation of ODSP in Toronto, including those experienced by clients, by community based agencies serving people with disabilities and by TSS itself in terms of the implications for the delivery of the Ontario Works program, are identified and discussed in this report.

Community representatives have expressed similar concerns about ODSP at various forums, including through deputations to the Community Services Committee.

Discussion:

The ODSP service delivery model has introduced key changes in a number of areas. Foremost among these is the new ODSP application process, which requires both the determination of disability and a subsequent assessment of financial eligibility. In particular, two aspects of the way eligibility is assessed have been changed compared to the former FBA program:

- (1) the definition of disability has been substantially altered, such that the process used to determine whether a disability exists requires extensive medical information and documentation; and
- (2) ODSP has instituted a self-referral process that requires individual applicants to be responsible on their own for completion of the necessary steps to apply for the program.

It is generally acknowledged that the ODSP application process is involved and complex. The primary components of the application process are enumerated in Attachment 2.

Disabled clients in immediate financial need apply for ODSP through the Ontario Works program. However, TSS' role in the application process is significantly circumscribed under the ODSP service delivery model. For example, TSS staff cannot directly refer clients to ODSP who are not able, for reasons related to their disability, to seek the medical information and expertise necessary to complete the disability determination process. A caseworker's ability to actively assist disabled clients who may be eligible for ODSP, and whose needs could best be met through the program, but who cannot initiate an application, is thus seriously restricted.

TSS, as well as community agencies that work with people with disabilities, continue to be concerned about the degree to which disabled individuals can access ODSP, and the effects when they cannot. These issues are discussed in the following section. Subsequently, the impacts on the broader community, including community based service providers, are discussed. Finally, the report highlights implications of the ODSP service delivery model for the City's Ontario Works caseload.

(I) Impacts on Clients:

Access to ODSP:

Applying for ODSP is a complex and involved undertaking. As indicated above, it is also one that now resides largely with the individual who is making the application. Both TSS and community-based agencies are concerned about the way in which access to the program has been affected by the new definition of disability and the lack of support available to individuals to complete the application process.

ODSP introduces a new standardized and comprehensive disability test. The newly formed Disability Adjudication Unit (DAU) is responsible for verifying that a person is disabled. To

that end, all individuals applying for ODSP must obtain and complete a Disability Determination Package (hereafter referred to as the Package). Complex information is requested, which must usually be provided by a range of medical specialists, depending on the nature of the disability claim. In most cases, substantial support is required to complete the forms included in the Package. Applicants may also face direct costs related to obtaining information and assistance from medical professionals, which can range from \$50.00 to \$120.00. The Package must be filled out and forwarded to the DAU within the allotted 90 days.

Under the ODSP service delivery model, TSS caseworkers' role is restricted to providing the Package to clients making an application. Caseworkers do assist clients in other ways, however. Clients who may wish to apply for ODSP, or who may be disabled but unaware of the program, are informed about the steps that are necessary to complete an application, and given an overview of the program.

TSS has also taken significant steps in its offices to assist clients to access ODSP more effectively, as well as to manage cases through the process. These include:

- (1) linking clients applying for ODSP with supports in the community, and working closely with staff in shelters and community agencies to facilitate referrals of vulnerable people to ODSP;
- (2) designating specific TSS staff to liaise with ODSP offices in each of the Division's 14 offices, as a basis for ensuring information required by ODSP to adjudge financial eligibility is provided as quickly as possible; and
- (3) designating staff to work with legal clinics to assist clients who are appealing the decision of the DAU or a decision made by ODSP staff regarding financial eligibility.

At the same time, based on the firsthand experience of community agencies and caseworkers, many clients face difficulty completing the ODSP application process, and notably the Disability Determination Package. This is especially true for the most vulnerable clients; notably those who are homeless or have certain severe mental health disabilities. As will be elaborated later in this report, it does not appear that the appropriate linkages and processes are in place to support the applicant to provide the required referral information and medical documentation.

It should also be noted that both ODSP applicants and community agencies have expressed concern about the length of time required for certain parts of the application and eligibility determination process to be completed. Clients awaiting the DAU decisions about the status of their disability claim have often experienced delays. Similarly, clients currently appealing a DAU decision denying their disability claim can wait for more than one year for the Social Benefits Tribunal (SBT) to hear and adjudicate their case. Concerns have also been expressed by clients, TSS staff and staff from community agencies about the limited information available from the DAU and ODSP offices about the progress of an application through the ODSP system.

The Ministry of Community and Social Services (MCSS) is currently reviewing the operation of the DAU, and assessing potential changes to the process by which clients are referred to the DAU. However, at this time, TSS is not aware of specific changes that are being introduced, nor

the extent to which they will address issues related to the complexity of the DPP, and the degree to which many clients require extensive support to complete this component of the ODSP eligibility process.

Client Quality of Life:

Clients who cannot access ODSP benefits in a timely manner, or who may not meet the stringent criteria by which disability is now defined, can be adversely affected in several ways. Based on TSS' experience, as well as that of community agencies assisting people with disabilities, there are growing numbers of vulnerable individuals and families who are not qualifying for ODSP, and will be required to live on the substantially lower allowances, and less intensive employment supports, available through OW. For example, the maximum allowance for a single person in receipt of OW is \$520.00 per month. The same individual would receive more than twice that amount, or \$1,174.00, from ODSP. A disabled individual with a non-disabled spouse and two children would receive \$2,270.00 in benefits under ODSP, compared with the \$1,278.00 a similar size family would receive on OW.

The level of assets that can be retained by eligible ODSP recipients is also substantially higher than that allowed under OW; whereas a single person is allowed \$520.00 in assets under OW, the comparable level under ODSP is \$5,000.00.

From the perspective of obtaining and maintaining appropriate housing, or of potential expenses related to living with a disability, ODSP benefit levels and asset levels provide a great deal more security than their OW counterparts. Single persons who may not currently qualify for ODSP under the new definition of disability are particularly disadvantaged in a city like Toronto, where housing costs are high by national standards and affordable housing scarce.

There are also instances where ODSP clients, who the DAU has determined are disabled, have their financial benefits terminated and suffer adverse consequences as a result. This can happen because the nature of a client's disability, or a personal or health crisis, interferes with the recipients' ability to meet ongoing eligibility related requirements. Similarly, clients who are institutionalized (e.g., hospitalized) may also lose their eligibility for ODSP benefits. In these situations, individuals and/families are very vulnerable, and may face significant stresses. Health and living conditions can deteriorate rapidly, especially if a client loses his/her housing and faces the threat of homelessness.

Recent policy changes introduced by the Province also affect OW clients applying for ODSP. As of April 2001, rules governing asset limits for OW clients making an application for ODSP have been modified. When an OW client makes an ODSP application, he/she can retain assets at the much higher levels allowed under ODSP. However, if the application is not successful, lower OW asset limits are then applied retroactively starting from the date the case was first referred to ODSP. At this point, if the individual's asset levels still exceed those allowed under OW, the client will no longer be eligible to continue receiving OW. Similarly, clients may also incur an overpayment if they were only receiving OW in the first place because the higher ODSP asset levels were used to establish their eligibility. These situations can cause hardship for clients, particularly given the length of time it can take for an ODSP eligibility decision to be rendered.

Finally, TSS is now responsible for providing dental and vision care needs for ODSP dependent adult family members who are not disabled. Not only does this require additional administrative resources, it sets up a situation where adult dependents of disabled individuals who receive ODSP have to seek such benefits through the OW system. OW benefits are not as generous as those provided to disabled individuals under ODSP, which means that members of the same family receive different levels of dental services.

(II) Impacts on the Community:

Client experiences to-date indicate that the current ODSP service delivery model, which requires the applicant to navigate the complex and involved ODSP eligibility process, is creating substantial difficulties for many individuals. As noted above, many clients need assistance, including financial assistance, to complete the application process. The function of supporting clients has been shifted onto the community-based service sector. This is a new and unrecognized responsibility that agencies have taken on out of necessity.

At present, various community agencies make substantial efforts to co-ordinate the application process on behalf of disabled individuals by ensuring appropriate information is obtained, by helping the client complete the application within the required timeframe, and by tracking the progress of the application on behalf of the client where necessary. However, agencies are not directly funded to provide this type of labour intensive assistance to often very vulnerable people. As a result, it is recognized that there is insufficient capacity to quickly and appropriately support individuals who are applying for ODSP.

While a range of community agencies are currently assisting clients, there is increasingly a consensus that a multi-service/multi-disciplinary team approach to supporting client's efforts to complete the Disability Determination Package and the ODSP financial eligibility determination process is needed. The experience of agencies which have used this approach on a pilot basis, combining the expertise of community legal workers, social workers and medical professionals, indicates that it is successful.

However, limited resources are available to support such a delivery model in the community. The work done to date could serve as the basis for further exploration of a multi-service approach to assisting ODSP clients. Moving forward will require that the Province recognize community efforts to assist ODSP clients, and actively support effective service delivery approaches developed by local agencies. For its part, TSS is interested in participating in initiatives that will streamline or improve OW clients' access to ODSP, and will work co-operatively with MCSS and community agencies to that end.

(III) Impacts on TSS' OW Program Delivery:

OW Caseload Composition Changes:

Individuals who do not qualify for ODSP because of the more rigorous definition of disability, or who have significant difficulty accessing the program, are now remaining on the OW caseload. In TSS' experience, many of these individuals may not be employable because they have multiple barriers, including health, physical or mental health issues.

In the near term, in the context of overall caseload declines, the proportion of OW clients who face substantial barriers to employment, or who may be unemployable, is increasing. TSS' June 21, 2001, report to the Community Services Committee, entitled, "Recent Changes in the Profile of Toronto's Ontario Works Caseload," revealed that people who are ill or who have a disability that constitutes a substantial employment barrier comprise a steadily growing proportion of the OW caseload (14 percent in January 2000 versus 16 percent in May 2001). This trend indicates the difficulty this client group has securing employment.

In the longer term, TSS anticipates that if changes are not made to the ODSP delivery model or to the new definition of disability, the OW caseload will increasingly be comprised of clients who are not employable. The implication of this change are discussed in the following section.

Case Management Impacts:

Disabled persons in immediate financial need apply for ODSP through the Ontario Works program. There have been a number of impacts on TSS related to the management of these clients' cases, which are briefly reviewed below.

TSS has recognized that there is need for a more effective and rapid flow of information between the DAU and TSS, and between ODSP and TSS offices. Currently no mechanisms exist that allow TSS caseworkers to track the status of ODSP applications. While TSS continues to work with the Toronto Regional Office of MCSS to address these issues through new technology and reporting systems, the extent of these improvements is unknown. The ongoing lack of information makes case management difficult. As a result, staff are unable to intervene on behalf of clients applying for ODSP (such as assessing what steps might be taken to support client applications).

The potential impacts on the quality of life of ODSP clients whose benefits are terminated, were discussed previously. Still, there are additional impacts on TSS caseworkers and on these individuals if they reapply for ODSP. In most cases, the individual, who is usually still eligible for ODSP, must again apply for OW to meet basic needs. OW caseworkers must then re-refer the client to ODSP. Although the Province has established a process to fast track such clients, it is inconsistently employed. Frequently, the result is duplication of work and effort for both the client and TSS staff as the application process must be repeated in its entirety (including obtaining all medical documentation and covering associated costs).

In the meantime, TSS is required to provide continued support to ODSP applicants through OW. According to TSS caseload statistics, a growing proportion of OW clients are not employable. It is inappropriate given the circumstances to assume that these individuals can or should be expected to participate in mandatory OW activities such as Community Participation placements, even with substantial support. While these clients can have their participation requirements deferred, they no longer are automatically exempt, as was the case until recent policy changes applied mandatory participation requirements to all clients who are applying for ODSP.

Nonetheless, if individuals who face multiple barriers are to participate in OW activities, intensive client supports will be required. The current provincial funding model, however, does

not make provision for providing the level and degree of support that will be needed to assist this sizable and growing client group.

Conclusion:

The ODSP service delivery model places primary responsibility on the applicant to gather the necessary documentation and information to satisfy requirements related to eligibility determination. TSS' experience, and that of agencies who work with these populations, indicates it is not realistic to expect individuals in these situations to successfully complete the application process without substantial and ongoing support. The function of supporting clients through the application and appeal process has been shifted onto the community-based service sector. While TSS caseworkers still assist OW clients who are applying for ODSP, their role and mandate is circumscribed under the ODSP service delivery model.

Clients applying for ODSP, and those who have been declared ineligible as a result of the restrictive definition of disability now in place, have been adversely impacted in a number of ways, as documented in this report. There is growing concern in the community that the inability to access ODSP is negatively affecting the quality of life of vulnerable individuals and families. Both community agencies and TSS have also been affected by the outcomes of the ODSP delivery model. TSS is specifically concerned about the increasing proportion of unemployable individuals who are remaining on the OW caseload, given that OW is a program designed to assist employable people to find work as quickly as possible.

At this point, addressing key concerns identified in this report will require that the Province recognize present limitations in the ODSP service delivery model, as well actively support community efforts to assist ODSP clients. For its part, TSS is interested in participating in initiatives that will streamline or improve OW clients' access to ODSP, and will work co-operatively with MCSS and community agencies to that end.

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List of Attachments:

Attachment 1: Key Features of ODSP
Attachment 2: ODSP Application Process

Attachment 1: Key Features of ODSP

Program Eligibility:

A person is eligible for ODSP who is 18 years or older, has a disability that substantially restricts activities of daily living, and is in financial need. Persons aged 65 years and older, who are not eligible to receive Old Age Security (OAS), are also eligible. For the first time, persons in receipt of Canada Pension Plan Disability benefits are eligible if they meet the financial needs criteria. Persons aged 60-64 who qualified for FBA before January 1, 1998, continue to be eligible for ODSP, as will permanently unemployable and disabled recipients eligible before May 1, 1998.

Benefit Levels:

Benefit levels are 22 percent higher than those provided under the OW program. Under ODSP, clients are also able to keep more of their assets to cover the costs associated with a disability.

Employment Supports:

Through a new Employment Supports program, ODSP provides a range of services to people with disabilities who can and want to work. These services will be provided to any person for whom a disability presents a substantial barrier to employment, whether or not they are receiving income assistance under the ODSP.

Definition of Disability:

ODSP establishes a new definition of disability that refers to “substantial restrictions in one or more activities of daily living such as personal care, functioning in the community, and the workplace.” The disability, which may result from mental or physical impairment, has to be major, continuous, or recurrent in nature, and must last for one year or longer. This is a much more focused, and potentially more restrictive definition than was used under the previous FBA program. Thus, people previously considered permanently unemployable who were eligible for Family Benefits, including non-disabled people who had a serious employment barrier (e.g., drug or alcohol problem), will no longer be considered disabled, and will not be eligible for ODSP. These individuals must now apply for social assistance benefits through OW.

Disability Test:

ODSP introduces a new standardized and comprehensive disability test. The newly formed Disability Adjudication Unit (DAU) will make decisions verifying that a person is disabled. The Unit includes Occupational Therapists, Nurse Practitioners and Physiotherapists, as well as Physicians, Psychologists and Optometrists. Once a disability determination has been made, clients will only be retested if and when the disability is expected to improve. Persons with no expectation of improvement in their disability will not be retested.

Attachment 2: ODSP Application Process

- (1) Anyone who believes he/she has a disability has the right to apply for ODSP.
- (2) Financial eligibility for OW must be established immediately for all clients who apply for ODSP through the OW program.
- (3) An OW caseworker can issue a Disability Determination Package (DDP) to clients who wish to apply for ODSP.
- (4) Applicants have 90 days from the date of referral by the OW caseworker to ODSP to complete the forms necessary for the determination of disability by the Provincial Disability Assessment Unit (DAU), or their file will be closed and they will be required to reapply.
- (5) When it is determined that an applicant has a disability and is eligible for ODSP, financial eligibility must be reconfirmed by the ODSP office.
- (6) Clients who are denied by the DAU may appeal their case, first through an internal process review at the DAU, and subsequently to the Social Benefits Tribunal (SBT).

It should be noted that there are strict time limits for step (6). If a client does not request an internal review within 10 days, and submit such a request in writing, DAU will deem the case to have been withdrawn and close the case. A client can appeal to the SBT within 30 days if the internal appeal is unsuccessful. If an appeal is denied, the client will need to reapply again.

(City Council on October 2, 3 and 4, 2001, had before it, during consideration of the foregoing Clause, the following communication (October 1, 2001) from the City Clerk:

Recommendations:

The Disability Issues Committee:

- (1) *endorsed the recommendations embodied in the report (August 9, 2001) from the Commissioner of Community and Neighbourhood Services, entitled "Ontario Disability Support Program Impacts"; and*
- (2) *recommended that the Commissioner of Community and Neighbourhood Services be requested to undertake an analysis and report not only on the problems of accessing the ODSP but also the many restrictions and issues affecting people who are already on the program.*

Background:

At its meeting on September 25, 2001, the Disability Issues Committee gave consideration to the report (August 9, 2001) addressed to the Community Services Committee from the Commissioner of Community and Neighbourhood Services, entitled “Ontario Disability Support Program Impacts”.)