

# Appeals and internal reviews



**How to appeal when you disagree with decisions about your right to social assistance from Ontario Works (OW) or the Ontario Disability Support Program (ODSP).**

### **If you speak French**

Ask a lawyer or a community legal clinic about your language rights. You may have the right to get your OW- and ODSP-related government services in French.

If you are appealing a decision about your right to social assistance from OW or ODSP, this could mean that you have the right to a hearing before a French-speaking member of the Social Benefits Tribunal, as well as other French-language services.

## Social assistance in Ontario

If your income is low and you live in Ontario, you may qualify for help from one of these social assistance programs:

1. **Ontario Works (OW)**, which some people call welfare. This program is delivered by municipal governments. In other words, it is run by the local government of the town, city, county, district, or region you live in.
2. **The Ontario Disability Support Program (ODSP)**, which some people call disability benefits. This program is for people with serious health problems. It is run by the Ontario government's Ministry of Community and Social Services.

OW and ODSP both provide income support and employment support.

When you get **income support**, you get money to help with living expenses, such as food and housing. You also get help to pay for prescription drugs and dental services. You may also be eligible for benefits such as the Community Start Up and Maintenance Benefit. If you own your home, you might

be eligible for help with necessary home repairs.

When you get **employment support**, you get help to find a job or upgrade your skills.

To get income support from OW or ODSP, you must qualify financially. This means that you must be in financial need and meet other rules about income and assets.

The rest of this pamphlet is about how to appeal when you disagree with decisions about your right to assistance from OW or ODSP.



## Challenging a decision

If your OW or ODSP assistance is refused, reduced, or cut off, you may be able to appeal to the **Social Benefits Tribunal (SBT)**. The SBT is independent from OW and ODSP. It has the power to make a different decision.

The decision to refuse, reduce, or cut off assistance must be sent to you in writing. The letter that tells you about the decision is called a **Notice of Decision**.

If you are refused assistance, you can appeal only if you completed an application.

If you withdrew your application or did not finish it, you will not be able to appeal, but you still have the right to make a new application.



## Getting a Notice of Decision

If you are dealing with OW, your Notice of Decision will come from the local OW office. If you are dealing with disability benefits, your Notice of Decision will come from the local ODSP office or the Disability Adjudication Unit (DAU) in Toronto.

The Notice of Decision should tell you:

- how the decision affects your assistance from OW or ODSP,
- when the decision takes effect,
- the reasons for the decision,
- that you have the right to appeal the decision if you disagree with it, and
- how to appeal and how much time you have to do it.

If your assistance is refused, reduced, or cut off, but you do not get a letter, contact the office that made the decision **immediately** and ask for the Notice of Decision.

If your assistance is reduced because OW or ODSP thinks you have an overpayment, you might not get a Notice of Decision. You can still request an internal review.



## Asking for an internal review

Before you can appeal to the Social Benefits Tribunal, you must **write** to the office that made the decision and request an **internal review**. An internal review means that a different person in the office that made the decision will review the decision and decide whether or not to change it. You must ask for an internal review within **30 days** from the date you received the decision.

### **Note about mail**

OW and ODSP rules assume that if a notice is mailed to you,

you receive it **3 days** after it is mailed. The mailing date should be stamped on the envelope by Canada Post. It might not be the same as the date on the letter. Keep the letter and the envelope.

## If your request for an internal review is late

If the time for requesting an internal review has passed, you should still request one. Explain why your request is late and ask for an extension of time. If you can show that you have a good reason, you could still get an internal review. Some good reasons why your request is late could be:

- you were in hospital or jail,
- you contacted a lawyer or legal clinic and you were waiting for legal advice from them,
- you have difficulty reading and writing, or
- the mail took longer than 3 days to reach you.



## What to include when you write a request for an internal review

Your request for an internal review must be made **in writing**. Some social services offices or community legal clinics have form letters that you can use to request an internal review. Or you can use the form letter at the end of this pamphlet.

You do not have to use a form letter to request an internal review. If you prefer, you can write your own letter and include:

- the date on the Notice of Decision,
- the date you received the Notice of Decision, and
- your 9-digit member identification number. You can find it in the Notice of Decision. If you do not know this number, you can use your date of birth.

In the letter, say that you want an internal review. You may want to give the reasons why you disagree with the decision. Sometimes an explanation is helpful. You can also include any new information or

documents that support your request. If you are not sure what to say, call your community legal clinic. To find out how to contact a legal clinic, see page 17.

Sign and date the letter, and include your name and address. **Keep a copy of the letter.**

You can deliver, fax, or mail your request for an internal review. If you deliver your request in person, ask for a receipt to prove the date you delivered it. If you fax your request, get a report from the fax machine that shows the date the fax was sent.

Make sure you get the letter to the correct office within the time limit. If it is late, you could lose the right to a review and an appeal.

## **After you request an internal review**

An internal review is supposed to be completed and a decision made within **10 days** from the date your request is received. This **internal review decision** must be put in writing and sent to you.

If you do not agree with the internal review decision, you can appeal to the SBT. There are time limits for appealing. To find out what they are, look under the heading “How and when to appeal to the Social Benefits Tribunal” on page 11.

Some kinds of decisions **cannot** be appealed. They are listed on page 10.

## **If you withdraw your request for an internal review**

If you withdraw your request for an internal review, you will not be able to appeal the decision to the SBT. Make sure you understand what it will mean for you before you agree to withdraw. You can get legal advice from a community legal clinic or a lawyer. See page 17 to find out how to get legal help.



## Appealing to the Social Benefits Tribunal

### You **can** appeal decisions about:

- ✓ being refused or cut off assistance,
- ✓ the amount of assistance,
- ✓ special diet assistance,
- ✓ a reduction in assistance to recover an overpayment,  
(**Note:** If you receive notice of an overpayment and you are no longer on assistance, you should get legal advice.)
- ✓ community start-up and maintenance benefits, and employment and training start-up assistance,
- ✓ medically necessary transportation costs and certain health supplies, and
- ✓ the appointment of a trustee to receive your cheque if you are 18 years of age or older.

**You cannot appeal decisions about:**

- ✗ discretionary benefits, such as funerals and burials,
- ✗ third party payments—for example, if you arranged for some of your assistance to be paid directly to your landlord,
- ✗ emergency assistance, and
- ✗ the appointment of a trustee to receive your cheque if you are younger than 18 years of age.

Even if a decision cannot be appealed, you can still ask for an internal review of the decision. In your request for an internal review, explain why the decision should be changed and include any information that supports your request.

**If you are not sure whether a decision can be appealed:**

Go ahead and appeal. You need to file your appeal within the time limit shown under the next heading, “How and when to appeal to the Social Benefits Tribunal”. It is also a good idea to contact your community legal clinic for information and advice. See page 17 to find out how to contact a legal clinic.



## How and when to appeal to the Social Benefits Tribunal

You must use the SBT's Appeal Form.  
You can get one from your OW or ODSP  
office, from a community legal clinic, or  
by calling the Social Benefits Tribunal at:

Toll-free . . . . . **1-800-753-3895**

In Toronto . . . . . **416-326-0978**

Toll-free TTY . . . . . **1-800-268-7095**

TTY in Toronto . . . . **416-325-3408**

TTY in Ottawa . . . . **613-566-2235**

The Appeal Form is also available on the  
SBT's web site at <[www.sbt.gov.on.ca](http://www.sbt.gov.on.ca)>.  
Look in the "Forms" section.

You must file your appeal with the SBT  
within **30 days** of the date of the internal  
review decision. You should get a decision  
on your internal review within 10 days of  
the date your request is received. If you do  
not get an internal review decision within  
the 10 days, you can appeal the original  
decision. This appeal must be filed within

**40 days** of the date of your request for an internal review.

If you miss the time limit for appealing, you can ask for more time. You will have to explain why you missed the time limit when you fill out the Appeal Form.

When you send in your Appeal Form, you should include copies of any decision letters you have received from the OW office, the ODSP office, or the DAU. Also include a copy of the letter you wrote to request an internal review.

## Applying for interim assistance

If you are in financial need, you can apply for **interim assistance** while you wait for the SBT to decide your case. The Application for Interim Assistance is part of the SBT Appeal Form. If the SBT orders it, the local office will have to pay you financial support while you wait for your appeal to be decided.

If you are appealing a decision to cut off or reduce ODSP income support, the amount of interim assistance is the same

as the amount of ODSP income support. Otherwise, the amount of interim assistance is the same as the amount of OW assistance.

Since you cannot get interim assistance until you have filed your appeal with the SBT, it is best to make your request for an internal review as soon as you can.

- ! If you lose your appeal, or you do not attend your hearing, you will have to pay back any interim assistance you get. If your case is settled, try to get an agreement in writing that says you will not have to pay back the interim assistance. If you plan to withdraw the appeal, you should get legal advice. To find out where to get legal help, see page 17.



## Preparing for your appeal hearing

Within 60 days of receiving your Appeal Form, the SBT must send a **Notice of Hearing** to you and to the office that made the decision you are appealing.

The Notice of Hearing will give the date, time, and place of the appeal hearing. You must be given at least 30 days' notice.

The Notice of Hearing might give you an appointment for a telephone hearing instead of an in-person hearing. If you prefer an in-person hearing, you have the right to object and request that your hearing be held in person. You must make this request within **15 days** of receiving the Notice of Hearing. Explain why you do not want a telephone hearing. If you think that you would not get a fair hearing by telephone, you must explain why.

The Notice of Hearing may also be for a written or paper hearing, but only if you have agreed to this kind of hearing. The Notice of Hearing will then tell you about the deadline to file any information you want the SBT to consider in your case.



It is a good idea to get legal advice before you agree to a telephone or written hearing. See page 17 to find out where to get legal help.

The SBT usually receives a report from the office that made the decision you are appealing. This report is called the **Director's Submission** and supports the decision. The report should include the reasons they made the decision and any evidence they are relying on. The office must also send you a copy of the report.

If you have new medical evidence in an ODSP appeal, you must file it with both the SBT and the DAU at least **30 days** before the hearing.

Any other documents that you want to use as evidence in an OW or ODSP appeal must be filed at least **20 days** before the hearing. You must file these documents with both the SBT **and** the office that made the decision you are appealing. Depending on the decision, this could be the OW office, the ODSP office, or the DAU.

! Keep a copy of everything you send in, along with proof of the date you sent it. If you send in any information by fax, get a report from the fax machine that shows the date the fax was sent.

Even if the deadline has passed, file any new medical evidence or other documents as soon as possible. The SBT might agree to consider them. If they do, they might put off your hearing and ask you to come back another time. However, the SBT might refuse to consider the new information because you sent it in late.

You have the right to be represented at the hearing. It can be difficult to prepare and present a case, so you should get help from your community legal clinic or a lawyer as soon as you decide to appeal a decision.



## Getting legal help

Most community legal clinics in Ontario help people to appeal OW and ODSP decisions. For a list of clinics and how to contact them, see the CLEO booklet called **Getting legal help: Community Legal Clinics in Ontario**. See the back cover of this pamphlet to find out how to order it. It is also available on CLEO's web site at [www.cleo.on.ca](http://www.cleo.on.ca).

There are a few other ways to find the nearest community legal clinic or local Legal Aid office:

- Check Legal Aid Ontario's web site at [www.legalaid.on.ca](http://www.legalaid.on.ca).
- Phone Legal Aid Ontario at:
  - Toll-free ..... **1-800-668-8258**
  - Toll-free TTY..... **1-866-641-8867**
  - In Toronto..... **416-979-1446**
  - TTY in Toronto ..... **416-598-8867**
- Try looking in your phone book under "Legal Aid" or "Lawyers".

The law can change, and policies and practices can also change or vary. This pamphlet contains general information. It is not a substitute for getting legal advice about your particular situation.

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