

## Social Assistance

**Do you live with someone  
who might be seen  
as your spouse?**



**This pamphlet is about the rules that Ontario Works (OW) and the Ontario Disability Support Program (ODSP) use to decide if two people who live together must apply as a couple for social assistance.**

### **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. Information about appeals starts on page 12.

This pamphlet is about how the social assistance office decides whether two adults who live together are spouses. It begins with some general information about social assistance.

## Social assistance in Ontario

If you have a low income or no income 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. Income support is also called income assistance.

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 some 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.



## **Why does it matter if OW or ODSP thinks I live with someone who is my spouse?**

If OW or ODSP thinks you live with someone who is your spouse, neither one of you will be able to get assistance as a single person or as a sole-support parent.

Instead, they will look at your combined income and assets to decide if you are eligible for assistance as a couple.

The amount of income support you get as a couple is less than the total amount you would get as two single people.

## **What if I am applying for assistance and I live with someone?**

If you live with someone who is a close family member, you will not be asked if that person is your spouse. But you might be asked to show proof of the family relationship.

Close family members include relatives such as your parent or step-parent, grandparent, uncle or aunt, child or step-child, grandchild, brother or sister, niece or nephew.

If the person you live with is not a close family member, you could be asked if the person is your spouse.



Your spouse could be someone of the same sex as you or someone of the opposite sex. You could be legally married to each other or not.

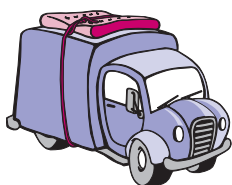
OW or ODSP could consider you and the person you are living with to be spouses even if one of you is legally married to someone else or separated from someone else.

If you tell OW or ODSP that the person you live with **is** your spouse, you will have to apply for assistance as a couple. Both of you will have to sign all the forms needed to complete the application.

If you tell OW or ODSP that the person you live with **is not** your spouse and you have been living together for at least 3 months,

you will be asked for information that will be used to decide if the two of you are spouses according to the rules. These rules are explained on pages 7 to 9 of this pamphlet, starting with the question “What rules do OW and ODSP use to decide whether we are spouses?” In some cases, OW or ODSP will ask for this information even if you have been living together for less than 3 months. **Your application for assistance will be refused if you do not provide this information.**

If OW or ODSP decides that the person is your spouse, you will be refused assistance as a single person or as a sole-support parent. You can then apply as a couple.



## What if someone moves in with me while I am on assistance?

You must let OW or ODSP know as soon as someone moves in with you.

If you are on assistance as a single person or as a sole-support parent, OW or ODSP may contact you 3 months later to set up a

meeting. Be sure to respond right away and to go to the meeting. **If you do not, your assistance will be cut off.**

The meeting will help OW or ODSP to decide if the person who has moved in with you is your spouse. They will ask you for the kinds of information and documents listed on pages 7 to 9.

**Your assistance will be cut off if you do not provide this information.**

If they decide that the person is your spouse, they can consider whether the two of you qualify for assistance as a couple. If your assistance is cut off, you can appeal. Information about appeals begins on page 12.

Even if they decide that the person is not your spouse, they may follow up in the future to see if the relationship has changed. You can expect to be asked for information about the relationship at least once a year.



## What rules do OW and ODSP use to decide whether we are spouses?

OW or ODSP will consider you to be spouses if:

- you tell them that you are spouses,
- you are married to each other, or
- the other person has a legal obligation to support you or a child of yours.

They will also consider you spouses if you live together and they find that **all** three of the following statements are true:

1. You have been living together for at least 3 months.
2. One of you supports the other or the two of you are “financially interdependent”.
3. You are living together as a couple, not as two single people—in other words, your relationship is like a marriage.

Whether or not you have a sexual relationship with each other is not relevant. They are not allowed to ask about that.



## How do they decide that we are financially interdependent?

To check if one of you supports the other or if the two of you are financially interdependent, OW or ODSP will ask questions such as:

- Do you own things together?
- Do you have joint bank accounts?
- Has one of you ever included the other in a benefit plan at work?
- Have you borrowed money as a couple or has one of you co-signed a loan for the other?
- Are one or both of your names on leases or on bills for utilities, or cable or telephone services?

If the answers to these questions suggest that the person you live with is **not** your spouse, you should not be asked questions about whether you live together as a couple.



## How do they decide that we are living together as a couple?

To find out if the two of you are living together as a couple, OW or ODSP could ask you questions like these:

- Do friends, family members, and other people who know you, think you are a couple?
- Do the schools, childcare centres, doctors, or other services and organizations you deal with, know the two of you as a couple?
- If you have children from another relationship, do they treat the adult you are living with now as a parent? Do your children consider this person to be your spouse?

OW and ODSP are not allowed to ask if you have a sexual relationship with each other.

## What if my spouse and I do not live together?

If you and your spouse do not intend to get back together again, OW and ODSP can find that there is “no reasonable prospect of reconciliation”. In this case, they would not consider you a couple.

But they might consider the two of you a couple if the reason you are not living together now is one of the following:

- Your spouse is away at school or looking for work somewhere else.
- Your spouse is in another country waiting for a visa to come to Canada.
- There are problems with your relationship, but there is still a chance you might get back together.

If OW or ODSP considers you and your spouse to be a couple even though you are **not** living together, you should get legal advice. See page 16 to find out how to get legal advice.

## **What if OW or ODSP thinks I am living with someone but I am not?**

OW or ODSP will investigate if they think you are living with someone. It is a good idea to get legal help in this situation. For information about getting legal help, see page 16.

OW or ODSP may have heard from somebody else who claims that you are living with someone. Or someone might be having their mail sent to your address and this could make it look as if they live with you. You will have to show that you are not living with someone.



## What if I am refused or cut off assistance?

Ask for the decision in writing immediately.

You can appeal to the Social Benefits Tribunal (SBT). The SBT is independent from OW and ODSP. It has the power to make a different decision.

But first you must **write** to the office that made the decision and ask for an **internal review**. An internal review means that a different person reviews the original decision and decides whether or not to change it.

On the next few pages we give basic information about internal reviews, appeals, and the time limits that apply to them. For more details and a form that you can use to request an internal review, see the CLEO booklet called **Appeals and internal reviews**. To find out how to order it, turn to the back cover of this pamphlet. CLEO publications are also available online at <[www.cleo.on.ca](http://www.cleo.on.ca)>.

## Ask for an internal review

Your request must be made **in writing**. You must ask for an internal review within **30 days** from the date you receive the decision to refuse or cut off assistance.



### Note about mail

The rules assume that if a letter 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, so keep both the letter and the envelope.

It is important to try to meet the time limit. If you miss it, you should still ask for an internal review. Make sure you ask for an extension of time in your request for an internal review and explain why your request is late.

The OW or ODSP office is supposed to make a decision on your internal review within **10 days** from the date they receive your request.

## **Appeal to the Social Benefits Tribunal**

If you get an internal review decision within the 10 days and it says that you are still refused or cut off assistance, you have **30 days** from the date of this decision to file an appeal with the SBT.

If you do not get an internal review decision within the 10 days, you can go ahead and appeal the original decision to the SBT. You must appeal within **40 days** from the date of your request for an internal review.

To make your appeal, you must use the SBT's Appeal Form. You can get one from your OW or ODSP office, a community legal clinic, or by calling the Social Benefits Tribunal at their toll-free number, **1-800-753-3895**. TTY users may call the SBT collect through Bell Relay service.

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.

If you miss the time limit for appealing, you can still file an appeal. In the Appeal

Form, ask the SBT for more time and explain why you missed the time limit.

### **Apply to the SBT for interim assistance**

You may be able to get assistance while you wait for your appeal to be decided. This is known as **interim assistance**. The Application for Interim Assistance is part of the Appeal Form. If the SBT orders it, the OW or ODSP office will have to pay you assistance until your appeal is decided.

If you lose your appeal, or you do not go to your hearing, you will have to pay back any interim assistance you get.



## How do I get legal help?

For advice or help dealing with OW or ODSP, contact your community legal clinic, Legal Aid Ontario, or a lawyer.

Here are a few ways to find the nearest community legal clinic or to contact Legal Aid Ontario:

- Check Legal Aid Ontario’s web site at [www.legalaid.on.ca](http://www.legalaid.on.ca).
- Phone Legal Aid Ontario:  
Toll-free . . . . . **1-800-668-8258**  
Toll-free TTY . . . . **1-866-641-8867**  
TTY in Toronto. . . **416-598-8867**
- Try looking in your phone book under “Legal Aid” or “Lawyers”.
- Look in the CLEO booklet called **Getting legal help: Community Legal Clinics in Ontario**. To find out how to order it, turn to the back cover of this pamphlet. CLEO publications are also available online at [www.cleo.on.ca](http://www.cleo.on.ca).



**CLEO**

Community Legal Education Ontario  
Éducation juridique communautaire Ontario

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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CLEO (Community Legal Education Ontario/  
Éducation juridique communautaire Ontario)

**With funding from:**

Legal Aid Ontario  
Department of Justice Canada

This pamphlet is part of CLEO's series on Social Assistance. Thanks to the Steering Committee on Social Assistance for their collaboration on this series. CLEO has free publications on other legal topics as well.

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