



**CLEO | Social Assistance Series**

# **Appealing a decision about social assistance**



**March 2016**



## Is this booklet for you?

Read this to learn what you can do if you disagree with a decision about assistance from Ontario Works (OW) or the Ontario Disability Support Program (ODSP). This can include a decision to:

- refuse to give you financial assistance
- reduce the amount of assistance you get
- cut off your assistance

You may be able to appeal to the Social Benefits Tribunal. But first you must ask the office that made the decision to review its decision.



## Other booklets that may help you

- **Need welfare? How to apply to Ontario Works** explains how to apply to OW, which is for people who need money because they do not have a job or do not make enough money at work
- **Disability benefits in Ontario: Who can get them and how to apply** explains how to apply for assistance from ODSP, which is for people with serious health problems

CLEO has more booklets on social assistance and other legal topics. You can read them on our website or order free copies. Go to [www.cleo.on.ca](http://www.cleo.on.ca) or call **416-408-4420**.

# Contents

Social assistance programs .....	1
If you disagree with a decision about getting social assistance .....	2
Starting the appeal process .....	4
Step 1: Ask for an internal review.....	5
Step 2: Start your appeal to the Social Benefits Tribunal .....	10
Step 3: Apply for interim assistance, if you need it.....	16
Step 4: Get a Notice of Hearing from the Social Benefits Tribunal.....	19
Step 5: Get ready for the hearing .....	21
Step 6: Go to the hearing.....	24
How can I get legal help?.....	26

## **If you speak French**

Ask a lawyer or a community legal clinic about your language rights. You may have the right to get government services related to Ontario Works (OW) and the Ontario Disability Support Program (ODSP) 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.

## **Si vous parlez français**

Communiquez avec un avocat ou une clinique juridique communautaire, et informez-vous de vos droits linguistiques. Vous pourriez avoir droit à ce que les services gouvernementaux reliés à Ontario au travail (OT) et au Programme ontarien de soutien aux personnes handicapées (POSPH) vous soient fournis en français.

Si vous avez fait appel d'une décision concernant votre droit à l'aide sociale d'OT ou du POSPH, vous pourriez avoir droit à une audience devant un membre du Tribunal de l'aide sociale qui parle français, de même qu'à d'autres services en français.

## Social assistance programs

If your income is low and you live in Ontario, you may be able to get financial help from one of these social assistance programs:

### **Ontario Works (OW)**

Some people call this program welfare. OW is run by municipal or local governments, for example, towns, cities, counties, districts, or regions, and by First Nations.

### **The Ontario Disability Support Program (ODSP)**

Some people call this program disability benefits. ODSP is for people with serious health problems. It is run by the Ontario government's Ministry of Community and Social Services.

Both OW and ODSP give people money to help pay for living expenses, like housing and food. They also help pay for some prescription drugs and may help pay for some dental services. And some people can get:

- extra money to help pay for a special diet
- other benefits, such as costs for travelling to medical appointments

This kind of help to pay for things you need is called financial assistance or income support.

# If you disagree with a decision about getting social assistance

## Appeal to the Social Benefits Tribunal

You may be able to appeal to the Social Benefits Tribunal (SBT) if you get a decision:

- refusing to give you social assistance
- reducing the amount of assistance you get
- cutting off your assistance

To appeal means that you ask the SBT to decide that the decision you disagree with is wrong.

The SBT is not part of OW or ODSP and has the power to make a different decision.

## Ask for the decision in writing

The office that makes the decision about your assistance or your application for assistance is supposed to put the decision in writing. This is called a **Notice of Decision**.

If you are dealing with OW, the local OW office sends you the Notice of Decision.

If you are dealing with ODSP, the Notice of Decision comes from:

- the Disability Adjudication Unit (DAU) in Toronto, if it is about whether you have a disability
- your local ODSP office, if it is about anything else, such as whether you qualify financially

The Notice of Decision is supposed to include the reasons for the decision.

If you do not get a Notice of Decision, contact the office that made the decision right away and ask for one.

## Starting the appeal process

It is a good idea to contact a community legal clinic for help if you disagree with a decision about financial assistance from OW or ODSP. See [How do I get legal help?](#) on [page 26](#).

### Main steps in the appeal process

**Step 1: Ask for an internal review**

**Step 2: Start your appeal to the Social Benefits Tribunal**

**Step 3: Apply for interim assistance, if you need it**

**Step 4: Get a Notice of Hearing from the Social Benefits Tribunal**

**Step 5: Get ready for the hearing**

**Step 6: Go to the hearing**



## Step 1: Ask for an internal review

The first thing you have to do is write to the office that made the decision and ask them to do an “internal review”. The address is in the Notice of Decision.

Someone from the same office will review the decision and decide whether or not to change it. This will be a different person than the one who made the first decision.

For OW, this will be your local OW office.

For ODSP, you will ask either the Disability Adjudication Unit (DAU) in Toronto or your local ODSP office, depending on which office made the decision.

You must do this within **30 days** from the date you got the decision.



## Rules about mail

If OW or ODSP mail a notice to you, the rules say that you get it **3 days** after they mail it to you.

There should be a mailing date stamped on the envelope by Canada Post. It might not be the same as the date on the letter.

Always keep the letter and the envelope so you can prove when you got a letter or notice.

## How to ask for an internal review

You must ask in writing. You can use the form letter at the back of this booklet. Or, you can write your own letter.

Make sure to include:

- your name and address
- the date on the Notice of Decision
- the date you got the Notice of Decision
- your member identification number, which has 9 digits and is on the Notice of Decision

Say that you want an internal review. It may be helpful to give reasons why you do not agree with the decision.

But meeting the deadline is more important than giving detailed reasons. This is because if you miss the deadline you do not have the right to appeal.

You can also include any new information or documents that help show why the decision was wrong.

You may be able to get help from a community legal clinic to make your request for internal review. See [How can I get legal help?](#) on [page 26](#).

### **Delivering the letter to the office**

Sign and date the letter. Keep a copy for yourself.

You can send the letter by fax or mail.

Or, you or someone else might be able to take the letter to the office that is doing the internal review. For example, you might be able to take it to your local OW or ODSP office.

If you take it to the office, ask for a receipt to prove when you delivered it. If you fax it, get a report from the fax machine to show the date the fax was sent. If you mail it, make a note of the date you put it in the mail.

### **Getting an internal review decision**

Within **30 days** of when you ask for it, the office should give you their internal review decision.

The law says that they should make the internal review decision as quickly as possible, and give it to you in writing.

### **If your request for internal review is late**

You have **30 days** from when you get a decision about your assistance to ask for an internal review of that decision.

If you miss the deadline, ask for an internal review as soon as you can.

Explain why your request is late and ask for more time.

If you can show that you have a good reason, you might still get an internal review. Some good reasons why your request is late could be:

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

## Step 2: Start your appeal to the Social Benefits Tribunal

### Types of decisions you can and cannot appeal

#### Decisions you can appeal

You **can** appeal to the Social Benefits Tribunal (SBT) if the decision is about:

- getting on assistance
- changing the amount of assistance you get
- getting cut off your assistance
- sending your cheque to a trustee, if you are **18 or older**

And you can appeal a decision about reducing your assistance because of an “overpayment”. This means that OW or ODSP says that they paid you too much.

You can also appeal other types of decisions that affect you, such as whether:

- you or someone you live with qualifies for a special diet allowance

- OW or ODSP will give you an employment and training start-up allowance to pay for certain costs related to working or training
- OW or ODSP will pay for certain health care supplies or travel costs that you have for medical reasons

### Decisions you cannot appeal

You **cannot** appeal to the SBT if the decision is about:

- getting “discretionary benefits”, such as paying for a funeral
- making payments to someone else, for example, if you wanted OW or ODSP to pay your landlord directly for your rent
- getting emergency assistance
- sending your cheque to a trustee, if you are **younger than 18 years old**

And you **cannot** appeal a decision by the Disability Adjudication Unit (DAU) to set a date for a medical review.

Even if the law says that a decision **cannot be appealed**, you can still ask for an internal review. Explain why you think the decision should be changed and include any information that supports your reasons.

You also **cannot** appeal a decision to refuse you extra time to ask for an internal review. Talk to a community legal clinic to find out if there are other things you can do. See [How can I get legal help?](#) on [page 26](#).

### **If you are not sure if you can appeal**

If you are **not sure** if you can appeal the decision, you should still fill out the Appeal Form and send it to the SBT.

Talk to a community legal clinic to get more information and advice if you want to appeal a decision but are not sure if you can. See [How can I get legal help?](#) on [page 26](#).



## What you have to do to appeal

Appealing to the SBT is complicated. There are a lot of things you have to do and a lot of rules you have to follow.

You have to:

- fill out forms
- make sure all documents and forms go to all the right people, in the right way, and on time

You might also need to collect evidence, like medical reports or financial information. The kind of evidence that will help your appeal depends on the reason your assistance was refused, reduced, or cut off.



Evidence is something that is presented at the hearing to help the SBT make a decision. It can include what witnesses say at the hearing, documents like medical reports, and things like photographs and videos.

## Contact a community legal clinic

Before you start working on an appeal, contact your local community legal clinic. They can tell you what kind of evidence you need and help you get ready for your hearing with the SBT.

They may even be able to represent you at your hearing. If they represent you, this means that they act as your lawyer. See [How can I get legal help?](#) on [page 26](#).

## When to start your appeal

You can start your appeal as soon as you ask for an internal review. You must **ask** for an internal review. But you **do not have to wait** for an internal review decision.

You must use the SBT's Appeal Form. To get the form, go to [www.sjto.gov.on.ca/sbt/forms-filing](http://www.sjto.gov.on.ca/sbt/forms-filing).

You can also get the form by calling the SBT at **1-800-753-3895** or **416-326-0978**. TTY users can use the Bell Relay Service at **1-800-855-0511**.

## Deadline for sending in your Appeal Form

After asking for an internal review	Deadline for sending Appeal Form to the SBT
If you <b>get</b> a decision within <b>30 days</b> of asking for an internal review	Send the Appeal Form within <b>30 days</b> of the date you get the internal review decision
If you do <b>not</b> get a decision within <b>30 days</b> of asking for an internal review	Send the Appeal Form within <b>60 days</b> of the date you asked for an internal review

If you **miss the deadline** for sending in the Appeal Form, you can ask for more time. Do this by sending in the Appeal Form and explaining on the form why you are late.

You must say why you are appealing and explain why you disagree with the decision to refuse, reduce, or cut off your assistance.

It is a good idea to get help from a community legal clinic to fill out the Appeal Form. See [How can I get legal help?](#) on [page 26](#).

## If you need an interpreter or other help to take part in an SBT hearing

On the Appeal Form, you can ask for:

- a language interpreter, and
- help to take part in the hearing because you have a disability. This is called “accommodation”.

## Step 3: Apply for interim assistance, if you need it

“Interim assistance” is financial help you might be able to get while you wait for the Social Benefits Tribunal (SBT) to decide about your appeal.

You apply for this by filling out Part 4 of the SBT’s Appeal Form. Part 4 asks for information about things like:

- the number of people in your household
- whether you get money from work or any other source
- your living expenses, for example, what you pay for rent and food

- your assets, which are things that you own, for example, money in the bank
- whether you are late in paying money that you owe, for example, you are late paying your rent or your hydro bill

If the SBT decides that you can get interim assistance, they order your local OW or ODSP office to pay it to you.

### **Amount of interim assistance**

How much interim assistance you can get depends on what decision you are appealing.

If you are appealing because ODSP cut off or reduced the amount you were getting, your interim assistance will be the same amount as what you were getting before ODSP did this.

In any other situation, the amount of interim assistance you get is the same as what you would get on OW.

## **Paying back interim assistance**

If you lose your appeal at the SBT or you do not go to your hearing, you have to pay back the interim assistance.

Sometimes people make an agreement with OW or ODSP and do not go through the full appeal process.

If you do this, you may need to get an agreement in writing that you will not have to pay back the interim assistance.

It is important to get legal help from a community legal clinic before you make an agreement with OW or ODSP.

See [How can I get legal help?](#) on [page 26](#).

## Step 4: Get a Notice of Hearing from the Social Benefits Tribunal

The Social Benefits Tribunal (SBT) sends a Notice of Hearing to you and the office that made the decision you are appealing.

They should do this:

- within 60 days of getting your Appeal Form, and
- at least 30 days before the date of the hearing.

The Notice gives the time and date of the hearing, which could be several months from when the SBT got your Appeal Form.

### Types of hearings

The Notice says where the hearing will be. And it usually says that the hearing will be in person or electronic. An electronic hearing is done by telephone or video conference.

If the Notice is for an electronic hearing, you have the right to ask the SBT for a hearing in

person. You have to do this within **15 days** of getting the Notice of Hearing.

Explain why you do not want an electronic hearing. If you think that you would not get a fair hearing unless it is in person, you must explain why.

You might get a Notice for a written or paper hearing. This means that you do not go to a hearing. But the SBT will not do a written hearing unless you agree.

You may want to contact a community legal clinic before agreeing to an electronic or written hearing. See [How can I get legal help?](#) on [page 26](#).

### **Help with travel costs**

If you need help to pay for travel costs to go to a hearing, you can ask the SBT.

Fill out the Request for Travel Assistance (Form 6) and send it to the SBT.

The form is on the SBT's website at [www.sjto.gov.on.ca/sbt/forms-filing](http://www.sjto.gov.on.ca/sbt/forms-filing).



## Step 5: Get ready for the hearing

If you are appealing a decision that says you are **not a person with a disability**, you have to:

- get any new medical information to both the Social Benefits Tribunal (SBT) and the Disability Adjudication Unit (DAU)
- do this at least **30 days** before the hearing

If you are appealing **any other decision**, your documents are due at least **20 days** before the hearing.

The SBT rules say when you have to give the documents to the SBT and the office that made the decision you are appealing.

The office that made the decision you are appealing also has to follow rules about how and when to give forms and reports to the SBT and to you.

## Rules about documents, forms, and witnesses

There are detailed rules that you have to follow when you appeal to the SBT.

For example, there are rules about **how** and **when** you must:

- prepare documents, including formatting, page numbers, and having a cover page that lists documents
- use SBT forms, for example, New Medical Information (Form 5) and Notice of Human Rights Code Claim (Form 4)
- file documents, including rules about using fax or email



You file your documents when you give them to the SBT and have followed the rules about how to do this.

There are also rules about **how** and **when** you must:

- give copies of documents to the office that made the decision you disagree with, and prove that you have done this

- give a list of any witnesses who will give evidence at your hearing to the SBT and the office that made the decision you disagree with

The rules and the forms are on the SBT's website at [www.sjto.gov.on.ca/sbt](http://www.sjto.gov.on.ca/sbt).

### **If you do not follow the rules**

If you do not follow all of the rules, the SBT can **refuse** to:

- consider documents
- hear from a witness
- consider evidence
- consider your reasons for appealing

Even if you do not follow the rules, the SBT may decide that they will still look at your documents and evidence, and hear from your witnesses. But they **do not** have to do this. So it is very important to follow the rules.

Keep a copy of everything you file with the SBT. And make sure you have proof of the date you file something and the date you deliver it to the office that made the decision you are appealing.

## Step 6: Go to the hearing

A hearing at the Social Benefits Tribunal (SBT) is not as formal as a court hearing. But there are rules about the hearing.

It is important to get help from a community legal clinic so you know what to expect. They can help you get ready.

They may even be able to represent you at your hearing. If they represent you, this means that they act as your lawyer. See [How can I get legal help?](#) on [page 26](#).

### What to bring to the hearing

Bring all of your documents to the hearing. This includes documents that:

- you filed with the SBT
- you want to ask the SBT to consider but that you were not able to file on time

You should also bring any documents that you got from the office that made the decision you are appealing.

## What happens at the hearing

The hearing is private. This is different from the courts, where usually anyone can go and watch.

There is always at least one person from the SBT, who is called a “member”. The SBT member is in charge of the hearing and makes a decision about your appeal.

You will have a chance to give your evidence. The SBT member can ask you questions.

Someone called a “Case Presenting Officer” may be there to defend why OW, ODSP, or the Disability Adjudication Unit (DAU) made its decision. They can also ask you questions.

You may have witnesses who can give evidence. And the SBT member and the Case Presenting Officer can ask them questions.

You will have a chance to explain why you think the decision you are appealing is wrong.

## What happens after the hearing

When the hearing is over, the SBT member will make a decision. You will get this in the mail, usually within 2 months.

## How can I get legal help?

For advice or help dealing with OW or ODSP or with appealing a decision by OW or ODSP, contact a community legal clinic.

To find the legal clinic that serves your area, go to [www.yourlegalrights.on.ca/find-services](http://www.yourlegalrights.on.ca/find-services).

You can also go to the Legal Aid Ontario website or call them:

Website .... [www.legalaid.on.ca/en/contact](http://www.legalaid.on.ca/en/contact)  
Toll-free ..... 1-800-668-8258  
Toronto area..... 416-979-1446  
Toll-free TTY ..... 1-866-641-8867  
Toronto area TTY ..... 416-598-8867



This booklet gives only general information. You should get legal advice about your own situation.

**Published by:**

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

**With funding from:**

Legal Aid Ontario  
Department of Justice Canada

This booklet is part of a free 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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