

# **COVID-19 Pandemic Response - Income Support and Benefits for People With Precarious Immigration Status**

ACCESS TO CANADA CHILD BENEFITS, OW, ODSP BENEFITS AND OTHER NEW  
INCOME MEASURES

Chinese & Southeast Asian Legal Clinic

April 2, 2020

(Information current as of April 2, 2020)

# CHANGES TO CANADA CHILD BENEFITS DUE TO COVID-19

## What is CCB?

- ▶ Introduced by the federal government in 2016
- ▶ Touted as important tool in reducing child poverty in Canada

# How much does it pay?

CCB pays up to

- ▶ \$553.25 per month for children under the age of 6;
- ▶ \$466.83 per month for children 6-17
- ▶ Amount is based on the family's net income from the prior year, and is gradually reduced once the family's net income is over \$31,120
- ▶ Paid on the 20<sup>th</sup> of each month
- ▶ Calculate the CCB at: [www.cra.gc.ca/benefits-calculator](http://www.cra.gc.ca/benefits-calculator)

# What is the COVID-19 related change?

On March 18, the federal government announced the following additional support for families:

**Enhanced Canada Child Benefit** will increase maximum annual payment by \$300 per child for the 2019-20 benefit year

# Who is Eligible?

Any parent who is eligible for CCB:

- ▶ The child must be under 18
- ▶ The parent must live with the child
- ▶ The parent applying must have primary responsibility for care and upbringing of the child
  - ▶ Parent who primarily takes care of the child's daily needs
  - ▶ Female parent is presumed to be primarily responsible
  - ▶ Can be split where there is shared custody
- ▶ Only one person per household can apply for the benefit
- ▶ You and your spouse or common law partner (if applicable) filed last year's income tax
- ▶ Meet the definition of "eligible individual", s.122.6 of Income Tax Act

# Eligibility: Immigration Status

The parent or their spouse/common law partner must be a:

- ▶ Canadian citizen
- ▶ Permanent resident
- ▶ Protected person
  - ▶ Determined by IRB to be a person in need of protection / Convention refugee
  - ▶ Accepted on Pre-Removal Risk Assessment (PRRA) by IRCC
- ▶ A “temporary resident” who lived in Canada for the previous 18 months
  - ▶ A valid temporary resident visa e.g. as a visitor, worker or student

# Who are excluded?

- ▶ Refugee Claimants
- ▶ People without any immigration status, including people who have submitted applications for PR on H&C grounds
- ▶ Families from countries with a “moratorium” on removals

It does not matter if the children are Canadian citizens or permanent residents. It is the parents' immigration status that counts.

# What is being done?

- ▶ Lobbying
- ▶ Test Case litigation
- ▶ Report to the United Nations Review of Canada's Compliance with the Convention on the Rights of the Child



# Application for Ontario Works

For individuals who are not eligible for any of the federal COVID-19 related benefits, they should consider applying for Ontario Works

# Who is eligible?

To be eligible for Ontario Works, you must:

- ▶ live in Ontario
- ▶ need money right away to help pay for food and shelter, and
- ▶ be willing to take part in activities that will help you find a job

It is unclear whether OW will apply the last requirement strictly at the present moment

# How does OW assess eligibility?

OW looks at two aspects when assessing eligibility:

- ▶ financial situation, and
- ▶ Willingness to take part in activities to find a job

# What Information would OW ask for?

When applying to Ontario Works, all individuals need to provide information about their:

- ▶ family size
- ▶ income
- ▶ assets, and
- ▶ housing costs

Once approved, recipients have to sign an Application for Financial Assistance and a Participation Agreement to be eligible for Ontario Works.

# Other assistance from OW

If qualified for Ontario Works, individuals may also be eligible to receive a variety of other benefits such as:

- ▶ prescription drug and dental coverage
- ▶ eyeglasses
- ▶ diabetic supplies
- ▶ moving or eviction costs
- ▶ employment-related costs

# Asset Limits

## Legislative Authority

- ▶ Section 7(3) of the Act.  
Sections 17(2) and 38 of Regulation 134/98.

# Application of Policy

- ▶ No person is eligible for income assistance if his/her non-exempt assets, and the non-exempt assets of his/her spouse and any other dependents, exceed the allowable asset limits.
- ▶ Asset limits are the same across the province and are based on the number and type of dependents in the benefit unit.

# Current Asset Limit

Benefit Unit Size	Maximum Asset Limit
Single applicant or recipient (no spouse and no dependents)	\$10,000
Applicant or recipient with a spouse (no other dependents)	\$15,000
Applicant or recipient with a spouse and one other dependent	\$15,500
Applicant or recipient with a spouse and one dependent, plus additional dependents	\$15,500 + \$500 for each additional dependent
Applicant or recipient with one dependent (no spouse)	\$10,500
Applicant or recipient with one dependent, plus additional dependents (no spouse)	\$10,500 + \$500 for each additional dependent
Child in temporary care or a dependent of a dependent	\$500



# Current OW Rates

Family Type	OW Rate			
OW	Basic Needs	Max Shelter	Max OCB	Total
Single	\$343	\$390	\$0	\$733
Single Parent - 1 child	\$360	\$642	\$119.50	\$1,122.5
Single Parent - 2 children	\$360	\$697	\$239	\$1,296
Couple	\$494	\$642	\$0	\$1,136
Couple - 1 child	\$494	\$697	\$119.50	\$1,310.5
Couple - 2 children	\$494	\$756	\$239	\$1,489

## **Common Myth about OW and Immigration Status**

According to [settlement.org](http://settlement.org), only Canadian citizens, permanent residents, refugee claimants and Convention Refugees can apply for and receive OW.

**THIS IS WRONG!**

# What does the Law actually say about Immigration Status and Eligibility for OW?

Legislative authority regarding Status in the Country is found in Section 6 of Ontario REGULATION 134/98 under the Ontario Works Act.

The law does not say who *is* eligible.

Instead, it provides a list of persons who are *not* eligible for assistance:

- ▶ A visitor, ***unless*** the person has:
  - ▶ Made a refugee claim, or
  - ▶ Has made an application for permanent resident
- ▶ A tourist
- ▶ A person against whom a deportation order has been made, or with respect to whom a departure order or an exclusion order under that Act has become effective, or a removal order has become enforceable, ***unless***
  - ▶ for reasons wholly beyond the control of the person, the person is unable to leave the country; or
  - ▶ the person has made an H&C application

## **The Bottom Line on Immigration Status and OW**

Most people without status can apply for OW because they are neither a tourist nor a visitor. Even if they have a removal order, they are not able to leave for reasons beyond their control, they will still be eligible for OW (if they meet other eligibility criteria).

## How to assist non-Status with OW applications?

- ▶ Make the application first and explain later
- ▶ Remind OW workers what the law actually says
- ▶ Provide a sample letter about the law if necessary
- ▶ If the application is still denied – file an internal review
- ▶ If still denied – file an appeal to the Social Benefits Tribunal and ask for interim assistance
- ▶ Refer clients to legal clinics for further help

# Sample Letter

Dear OW Worker:

I am writing in support of the OW application by XXX. (Explain the situation faced by the client, for instance, what is the person's immigration status, what is their current financial and family situation, and why does the person need OW desperately, etc).

Section 6(1) Of Ontario Regulation 134/98 says the following persons are not eligible for assistance:

- ▶ A visitor, unless the person has:
  - ▶ Made a refugee claim, or
  - ▶ Has made an application for permanent resident
- ▶ A tourist
- ▶ A person against whom a deportation order has been made, or with respect to whom a departure order or an exclusion order under that Act has become effective, or a removal order has become enforceable, unless
  - ▶ for reasons wholly beyond the control of the person, the person is unable to leave the country; or
  - ▶ the person has made an H&C application

XXX is not a visitor nor a tourist. (Only if applicable: Even though XXX has a removal order against him, XXX cannot leave Canada for reasons beyond their control. *Put in details about why that is the case, e.g. waiting for a PRRA, no passport, CBSA has not initiated the removal proceeding, etc.*) Pursuant to the OW Regulation, XXX is therefore eligible for OW.

I therefore ask you to grant XXX OW benefits. Thank you for your consideration.

# Application for ODSP benefits

Note: Applying for ODSP Benefits takes much longer than applying for OW. Most people who have just lost their job due to COVID-19 will likely not qualify as they will likely not meet the definition for a person with disability.

# ODSP Eligibility Criteria

To qualify for ODSP income support, you must:

- ▶ be at least 18 years old
- ▶ be an Ontario resident
- ▶ be in financial need **and**
- ▶ meet the program's definition of a person with a disability, or be a member of a Prescribed Class

The program's definition of a person with a disability is found in the ODSP Act:

- ▶ you have a substantial mental or physical impairment that is continuous or recurrent, and is expected to last one year or more **and**
- ▶ your impairment directly results in a substantial restriction in your ability to work, care for yourself, or take part in community life **and**
- ▶ your impairment, its duration and restrictions have been verified by an approved health care professional



# ODSP Rates

Family Type	ODSP Rate			
OW	Basic Needs	Max Shelter	Max OCB	Total
Single	\$672	\$497	\$0	\$1,169
Single Parent - 1 child	\$815	\$781	\$119.50	\$1,715.5
Single Parent - 2 children	\$815	\$846	\$239	\$1,900
Couple	\$969	\$781	\$0	\$1,750
Couple - 1 child	\$969	\$846	\$119.50	\$1,934.5
Couple - 2 children	\$969	\$918	\$239	\$2,126

# ODSP Asset Limits

Who's in your household	How much ODSP lets you have in assets
You	\$40,000
you and a spouse	\$50,000
you and a child or dependent adult	\$40,000 for you, plus \$500 for each child or dependent adult
you and a spouse and a child or dependent adult	\$50,000 for you and your spouse, plus \$500 for each child or dependent adult

# ODSP and Immigration Status

Legislative authority regarding Status in the Country is found in Section 8 of Ontario REGULATION 222/98 under the Ontario Disability Support Program Act

**It is the same definition as the OW Reg.**

**Same bottom line:** Most people without status can apply for ODSP because they neither a tourist nor a visitor. Even if they have a removal order, they are not able to leave for reasons beyond their control, they will still be eligible for ODSP (if they meet other eligibility criteria).

## Other benefits announced by Federal Government

The Federal Government also announced changes to other programs including:

- ▶ GST
- ▶ Workshare Program

## **Goods and Services Tax Credit (GSTC)**

Starting in early May 2020, those eligible will receive about \$400 for individuals and \$600 for couples

# Workshare Program for COVID19

Normally workshare program is there to help employers and employees avoid layoffs when there is a temporary decrease in business activity beyond the control of the employer. The program provides EI benefits to eligible employees who agree to reduce their normal working hours and share the available work while their employer recovers. Work-Sharing is an agreement between employers, employees and the Government of Canada.

The program allows Employers to:

- ▶ retain qualified and experienced workers, and
- ▶ avoid recruiting and training new employees

It allows employees to:

- ▶ keep their jobs, and
- ▶ maintain their work skills

## **Work-Sharing temporary special measures to support employers and workers affected by COVID-19**

- ▶ Effective March 15, 2020 to March 14, 2021, and not limited to one specific sector or industry, the Government of Canada is introducing temporary special measures.
- ▶ Extension of the maximum possible duration of an agreement from 38 weeks to 76 weeks.
- ▶ Mandatory cooling off period has been waived for employers who have already used the Work-Sharing program so that eligible employers may immediately enter into a new agreement.
- ▶ For more information: <https://www.canada.ca/en/employment-social-development/corporate/notices/coronavirus.html>

# What can settlement agencies help people with precarious immigration status

- ▶ Assist clients apply for benefits including OW and advocate on their behalf
- ▶ Ensure all agency staff are well informed about issues affecting people with precarious immigration status
- ▶ Review agency's own policies and practices to remove barriers in access to service by people with precarious status
- ▶ Develop an organizational position to advocate for this and other vulnerable populations
- ▶ Join coalitions working to advance the rights of people with precarious status
- ▶ Talk/write to local MP and Ministers in charge to seek policy change



The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the left and right sides of the frame, leaving a large white central area. The shapes are layered, creating a sense of depth and movement.

**Thank you**  
**Questions?**