



Dignity, Adequacy, Inclusion: Rethinking the Ontario Disability Support Program

Submission to the Commission for the Review of Social Assistance in Ontario

June 27, 2011

Introduction

Canadians have a very different view of disability than they did a few decades ago. Today we recognize the rights of persons with disabilities to participate fully in the economic and civic life of our communities. These rights are protected by human rights legislation, the Accessibility for Ontarians with Disabilities Act, the Canadian Charter of Rights and Freedoms, the United Nations Convention on the Rights of Persons with Disabilities, and other laws and conventions. When we build a wheelchair ramp, for example, we acknowledge the legal right to enter a school or workplace. A ramp does not eliminate the health condition that makes a wheelchair necessary, but it addresses the exclusion that results from our attitudes and actions. The full inclusion of persons with disabilities is determined less by the disability itself, and more by our own attitudes and policy choices. Promoting the right to full inclusion should be the fundamental objective of government policy on issues relating to disability.

One of the foundations of our province's response to disability is the Ontario Disability Support Program (ODSP). ODSP presents an opportunity to address the social and economic exclusion of those persons with disabilities who experience the greatest poverty – to promote their dignity and full participation. Unfortunately, those who depend on ODSP experience attitudes, actions and policies that serve to exclude persons with disabilities. ODSP has also failed to adjust to the changing nature of employment patterns for persons with disabilities.

We are routinely vilified in the media simply for being poor; where social assistance is usually portrayed as a wasteful 'lifestyle choice' or a 'drain on the system', rather than a necessity.... I have been frequently viewed with scorn and indifference by my neighbours when it is discovered that I require social assistance, even though I have contributed hundreds of volunteer hours every year to make this town better for all residents.

~ Anne, Southcentral Ontario¹

¹ The quotes from individuals that appear throughout this submission come from the ODSP Action Coalition's "Telling Our Stories" research project report, which is available at: <http://www.odspaction.ca/story/telling-our-stories-disability-should-not-equal-poverty-report-released>.

The ODSP Action Coalition exists to raise awareness of issues affecting persons in receipt of ODSP, and to advocate for those with disabilities who require income support. We are hopeful about the government's Social Assistance Review because of the opportunity to address fundamental problems with income support policies for persons with disabilities, and for others who require financial assistance. Our coalition has made many submissions to government on particular regulation and policy changes that would improve the experience of recipients. Through this submission and discussion, we wish to engage the Review Commissioners and staff in a broader discussion about how ODSP could be reconfigured to reflect fundamental rights and principles.

If we were redesigning an income support program for persons with disabilities we would start from these principles:

- Persons with disabilities have the right to be treated with dignity;
- Income support levels should adequately support the needs of people with disabilities;
- The capacities of persons with disabilities to participate and contribute to economic and civic life should be recognized and nurtured; and,
- Provincial income support programs should be aligned with other programs and policies of government (provincial and federal), to the greatest extent possible and without disadvantaging the people they are intended to serve.

In our submission we outline a number of key changes to the program that would allow ODSP to better reflect these principles. While our submission focuses on how changes to the ODSP program, in combination with other supports to persons with disabilities, would improve individual quality of life, we also believe that these reforms would better serve broader social and economic interests than ODSP does in its current incarnation.

Increased investments in ODSP recipients through benefits, supports, and accommodations will enable recipients to be more engaged in their households, their communities and the labour market. The net impact for government includes increased tax revenue through income and consumption taxes as well as decreased expenditures in areas such as health care and criminal justice. Social costs, opportunity costs, and productivity costs associated with the limitations placed on ODSP recipients by the current design of the program also create a more general constraint on economic growth.

Attempts to quantify the social costs of poverty are relatively new and methodologies are subject to debate. Isolating and attributing returns on investment is difficult at best, but undertaking this work is a necessary precondition of leadership and governance. Governments must look beyond the limited mandates of ministries and programs to fully understand their roles in creating the opportunities for individual and collective achievement. The Commission is well-positioned to assess the full costs and benefits of ODSP policy changes, rather than "siloed" program-related costs and benefits, and we urge the Commission to do so.

Dignity, Adequacy, Inclusion

Rethinking the Ontario Disability Support Program

OUTLINE OF SUBMISSION

PART A: Persons with disabilities have the right to be treated with dignity.

- 1) A Rights Framework
- 2) Purpose of a Provincial Income Support Program for People with Disabilities
- 3) Structure of a Provincial Income Support Program for People with Disabilities
- 4) Benefit Unit
- 5) Definition of Disability
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PART B: Income support levels should support an adequate standard of living.

- 1) Adequacy of Levels of Support
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- 4) Special Diet Allowance
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- 1) Expectations for Participation
- 2) Social Inclusion Allowance
- 3) Removing Existing Program Barriers
- 4) Employment Supports and Training

PART D: Ensure coordination between provincial income support programs and other programs and policies of government

Part A: The Right to be Treated with Dignity

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

~ UN Convention on the Rights of Persons with Disabilities, Article 1

[I]t is my fervent hope that there will soon be a system in place for everyone in this country where each and every person is entitled to receive an adequate amount of money to meet their individual needs without having to rely on food banks, soup kitchens, homeless shelters or a plethora of other charitable organizations simply to survive each month. ...I only hope that common sense will soon prevail, and that the Powers-that-be will finally demonstrate the courage and foresight necessary to correct the inadequacies of not only ODSP, but the entire income security system without further delay. We cannot allow such shameful discrepancies between rich and poor in this country to grow at such an alarming rate.

~ Anne, Southcentral Ontario

My children don't deserve to be treated like 2nd class citizens.

~ B.J.R., Southwestern Ontario

A Rights Framework

The ODSP Action Coalition has developed a Disability Declaration that expresses the rights and aspirations of our members². At the core of this document is the principle that people with disabilities have the right to a secure future over which they have control and autonomy. The public often does not understand that people with disabilities face systemic barriers to achieving this goal. They are unaware of the role government plays in protecting rights and removing barriers, because the rights that underpin our Declaration are invisible until they are absent or removed. Similarly the public is unlikely to understand the ODSP as an important part of the Province of Ontario's commitment to protect and support the rights of people with disabilities. We ask the Commission, as part of its work, to help advance and secure a common understanding of this key issue.

Governments and policy makers raise legitimate concerns about how to structure income support programs so they are publicly supported and sustainable. We share this concern because developing and maintaining an effective system of disability supports is fundamental to the ability of people with disabilities to be full participants in society.

We hope the Commission will undertake important research and analysis to provide a solid foundation and public rationale for the future of social assistance in Ontario. This rationale must include support for the rights of people with disabilities.

² The ODSP Action Coalition's "Disability Declaration" is available at: <http://www.odspaction.ca/story/endorse-disability-declaration>.

Purpose of a Provincial Income Support Program for People with Disabilities

The purpose of the redesigned income support systems that emerge from the Social Assistance Review should reflect our understanding that people with disabilities experience barriers to participation because of social and physical/environmental conditions as well as the policy choices we make. Disability support programs should reflect our collective efforts to reduce barriers to participation so that people with disabilities have the same choices as other Ontarians to determine their future and live full and independent lives.

This means that ODSP cannot and must not be conceived of as a “system of last resort” but rather as the main and essential component of income security that it has been and continues to be for many people with disabilities in Ontario. As we explain throughout this submission, changes must be made to ODSP to better support this reality. ODSP must provide effective and comprehensive income and associated supports that encourage both social and economic inclusion, through mechanisms that respond to the individual circumstances and needs of people with disabilities, rather than through coercive and punitive measures that exacerbate health problems, social isolation, despair, and long-term poverty.

The ODSP Action Coalition believes the purpose of the Ontario Disability Support Program should reflect the protections in the UN Convention on the Rights of Persons with Disabilities, the Canadian Charter of Rights and Freedoms, and the Ontario Human Rights Code. In addition, ODSP should also be consistent with the Ontario government’s existing commitments to reduce poverty (Poverty Reduction Act, 2009) and achieve accessibility for Ontarians with disabilities (the Accessibility for Ontarians with Disabilities Act 2005), while respecting the dignity of individual people with disabilities to choose to engage in employment or employment-related activities, without coercion.

Recommendation 1: ODSP legislation should be amended to assert the following purposes:

- **An Adequate Standard of Living** – Article 28 of the United Nations Convention on the Rights of Persons with Disabilities – ratified by Canada on March 11 2010 – requires States Parties to recognize the right of persons with disabilities to an adequate standard of living for themselves and their families. This obligation should be at the core of ODSP legislation. The articles of this convention should apply to ODSP, which is the country’s largest single income support program for the poorest Canadians with disabilities; in fact, such a convention is useless if it can be so flagrantly disregarded by governments.
- **Dignity** – Article 3 of the UN Convention compels states to demonstrate “[r]espect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons”. Indeed, the Ontario government’s own vision for the Social Assistance Review is to create “a 21st century income security system that enables all Ontarians to live with dignity, participate in their communities, and contribute to a prospering economy”. Respect for ODSP applicants and recipients and enhancing their dignity should be a fundamental purpose of ODSP.

- **Poverty Reduction** – The province’s Poverty Reduction Act, supported unanimously by all parties in the legislature, describes the poverty reduction vision for Ontario as “a province where every person has the opportunity to achieve his or her full potential, and contribute to and participate in a prosperous and healthy Ontario”. The province’s poverty reduction strategy, mandated by legislation, describes the shared burden of poverty: “when too many people live in poverty, we all suffer because our province is leaving untapped potential on the sidelines...our province can’t afford to lose this human potential”. Ontario’s commitment to poverty reduction should be inextricably woven into all relevant Ontario legislation, and most particularly Ontario’s primary income support programs, such as Ontario Works and ODSP. The fundamental purpose of these programs should be the alleviation of poverty.
- **Accessibility** – The Accessibility for Ontarians with Disabilities Act, 2005, is intended to achieve broad accessibility by “developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities accommodation, employment, buildings, structures and premises”. This represents an important shift in public policy toward persons with disabilities – from a model that offers care to one that guarantees inclusion – which supports the government’s duty to accommodate as required by the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code. However, this positive shift must be represented in and supported through ODSP legislation. The AODA cannot be relied upon as the sole mechanism through which accessibility is achieved, particularly as the enforcement provisions of the AODA don’t go far enough toward ensuring accessibility. All government legislation that affects people with disabilities must be realigned to support achievement of this goal.

Structure of a Provincial Income Support Program for People with Disabilities

A redesigned ODSP must be considered in the context of current disability policy in Canada – a context in which people with disabilities do not have access to an effective disability support program at any level of government. As one review found, “There is no system to speak of, but rather a hodgepodge of public and private arrangements”³. A patchwork of programs does not add up to a successful whole where disability policy is concerned. The OECD, in its report on disability support programs in Canada, found that “More than one in five Canadians with disability are neither employed nor receiving any public benefit” – a figure much higher than in other OECD countries.⁴ Programs at the federal level are often not accessible because eligibility is dependent on employment, or because programs are delivered in the form of tax credits that low income Ontarians cannot access. Provincial welfare programs were typically designed to respond to temporary losses of income rather than long-term, systemic issues.

³ Caledon Institute of Social Policy, “A Basic Income Plan for Canadians with Severe Disabilities”, Nov 2010, p.16, at <http://www.caledoninst.org/Publications/Detail/?ID=906>.

⁴ Organization for Economic Co-operation and Development, “Sickness, Disability and Work: Breaking the Barriers: Canada. Opportunities for Collaboration”, 2010, p. 21, at <http://www.oecd.org/dataoecd/16/13/46093870.pdf>.

Many people with disabilities rely on ODSP as their primary disability support program. But ODSP is structured in ways that are inconsistent with the goals of reducing barriers and promoting inclusion. Typical of last resort welfare programs, ODSP earnings and asset rules are based on the assumption that people should exhaust or greatly reduce other sources of income before accessing benefits. This emphasis reflects a 1960s program designed to respond to temporary losses of income, rather than a program designed to respond to twenty-first century economic realities, where the labour market has become increasingly fractured, precarious, and unreliable and therefore even more exclusionary and capricious for people with disabilities. Continuing to rely on a program design that is out of step with current economic and social circumstances only ensures that people with disabilities, for whom the program purpose should be to alleviate societal barriers to inclusion over the long-term, will be unable to build the economic security that leads to greater independence.

Contradictions between the welfare-oriented underpinnings of ODSP and more recent objectives of providing effective disability supports exist in most aspects of the program, including the service delivery model, the adequacy of the rates, the eligibility and assessment process, and as stated above, the treatment of income and assets. The Social Assistance Review Advisory Committee characterized ODSP and OW this way:

Last resort social assistance programs ... are by their nature intricate, rule-bound, complicated, hard to understand and difficult to administer fairly. Administrators must spend much of their time policing the system, determining benefits and imposing sanctions with little time for helping recipients to become more self-reliant.⁵

The rule bound and complicated nature of ODSP creates many barriers to employment and education and often forces people with disabilities to choose between a secure income and activities that would lead to greater independence and participation in community life.

Many groups, including the Coalition, have made suggestions to both government and the Social Assistance Review Advisory Council about the variety of “stupid rules” that must be changed to remove and reduce the many barriers that exist in the current system. The Coalition has sent a list of suggested changes to these rules to the Commission for its review⁶, and we include these suggestions in our recommendation below.

The Commission must address and resolve these contradictions. It is our view that whatever redesigned system or systems emerge, people with disabilities must have access to disability supports that go beyond the traditional welfare model.

⁵ Social Assistance Review Advisory Council, “Recommendations for an Ontario Income Security Review: Report of the Ontario Social Assistance Review Advisory Council”, May 2010, p.7, at http://www.mcscs.gov.on.ca/en/mcscs/publications/social/sarac/toc_sarac.aspx.

⁶ ODSP Action Coalition, “A Proposal for ODSP Rule Changes: ‘Stupid Rules’ have Dire Consequences”, Jan 2010, at <http://www.odspaction.ca/story/stupid-rules-create-dire-consequences>.

Recommendation 2: the Ontario Disability Support Program must be aligned with the goals of reducing barriers and supporting meaningful participation in social and economic life. At a minimum, a new income support system must:

- Increase benefit levels and create a sound rationale for adequacy;
- Develop a mechanism for adjusting rates based on objective and transparent criteria;
- Remove program rules that unnecessarily create barriers and disincentives to employment, education and asset building – see our document “A Proposal for ODSP Rule Changes: ‘Stupid Rules’ have Dire Consequences” for the Coalition’s recommendations;
- Simplify rules to improve accountability, transparency, and equity;
- Improve the service delivery model to address efficiency, customer service, and access concerns;
- Be structured in a way that respects the needs of individual recipients; and,
- Be understandable to the public, and thereby underpin the long-term sustainability of the program.

Benefit Unit

ODSP benefit payments are made on behalf of families rather than individuals. Structuring the benefit unit in this way has many negative consequences for people who receive ODSP. It means that ODSP administrators are in the position of deciding under what circumstances two adults constitute a family; a practice the Social Assistance Review Advisory Council identified as one of several that are “stigmatizing and robs recipients of their dignity and control of their own lives.”⁷

Without a spouse for love and companionship and help, I’m lonely and depressed and without a means to elevate my standard of living.

~ Christian, Ottawa Region

It also means that people with disabilities are not able to have economic independence from spouses or other family members. They must access the financial resources of their spouses prior to being eligible for benefits. Spouses and family members are negatively impacted by the costs of disability, further limiting their own efforts to achieve financial security and independence.

If you live with someone, you lose money.

~ Kathryn, Southwestern Ontario

People receiving ODSP have described how the present benefit unit penalizes those who live with a spouse and prevents many from forming new relationships that would be beneficial to their health and well being, because a potential partner is unable or unwilling to assume full support for the person with a disability.

⁷ Ibid.

[I want] to be able to live common law or married and still receive my disability benefits without having to depend on partner for support. And, for instance if I were to meet someone and ODSP threatens to cut off income and benefits because new partner makes good income, they be responsible to support me. Who would take that on? What chance do I have for a relationship?

~ Jeff, Lake Ontario East Region

ODSP regulations already explicitly recognize the importance of giving people with disabilities the dignity of independence and autonomy, as well as the state's shared responsibility, along with families, for the well-being and support of people with disabilities. This recognition exists for adult children with disabilities who are living with their parents. People in this situation are themselves eligible for ODSP benefits and constitute their own benefit unit, regardless of their parents' level of income.

While the ODSP Action Coalition would prefer to see an individual benefit unit, we remain concerned about the potential negative implications for ODSP recipients who have children. The creation of the Ontario Child Benefit goes part of the way towards addressing this concern and ensuring an individual benefit is more feasible, but parents receiving ODSP – and particularly single mothers with teenaged children – have not seen the full financial benefit due to the restructuring of OW and ODSP “basic needs” rates. Much more would have to be done to provide adequately for the children of persons with disabilities, while recognizing the dignity of people with disabilities through the provision of their own individual source of income. One example of such a provision is the Children's Benefit available through CPP-D, which provides an additional sum to support the dependent children of CPP-D recipients.

I can barely feed my children. Often times I go without so that they may eat and have clothing (used clothing at that).

~ Nancy, Southcentral Ontario

Recommendation 3: The benefit unit for ODSP should be the individual recipient rather than the family, with the proviso that the children of recipients are fully supported either through a significantly increased Ontario Child Benefit or through an income supplement delivered through ODSP.

Definition of Disability

Definitions of disability for the purposes of determining program eligibility must take into account the attitudinal and environmental barriers that contribute to making a person “disabled”. The UN Convention on the Rights of Persons with Disabilities asserts that parties to the Convention:

Recogniz[e] that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.

Income support and other benefit programs that restrict the definition of disability to “physical or mental impairment” ignore the social factors that contribute to a person’s disability and to the barriers they must overcome to achieve full social and economic inclusion.

Definitions of disability must also be inclusive of the changing nature of disability throughout the course of a person’s life and through changing life circumstances. The impairment itself may be cyclical, episodic or changing in nature, and changes in social circumstance and environment may either increase or decrease the impact of the impairment.

The current definition of disability in ODSP requires that an applicant meet three criteria in order to qualify for benefits: 1) a “substantial” impairment that is continuous or recurrent and expected to last one year or more; 2) a “substantial” restriction in an activity of daily living; and 3) verification of both substantial impairments and substantial restrictions by a qualified health professional. As the courts have stated, particularly at the Ontario Court of Appeal in *Gray v. Ontario*⁸ and the Divisional Court in *Ontario v. Gallier*⁹, this definition includes both the medical notion of impairment and of the social, attitudinal and environmental barriers that create barriers to participation.

The courts have stressed that, while the core of the concept of disability in ODSP is medical, it also encompasses a social model of disability. The determination of whether an impairment is “substantial”, the courts have stressed, requires consideration of the “whole person” in the context of their own situation, including a person’s ability to function in the domains of personal care, community, and workplace. A substantial impairment for one person, therefore, may not be a substantial impairment for another. Social factors such as skills, education, and literacy are to be included in the assessment of the whole person, including the determination of whether or not their impairments and restrictions are substantial. This recognizes that social factors cannot only impact on a person’s overall health, they can also impact upon a person’s opportunities to overcome the barriers they experience as a result of their medical conditions.

In contrast, the federal CPP-D and Disability Tax Credit impose a medically-focused test of disability that stresses incapacity and deems people unemployable. This approach does not value the inherent strengths and capacities of people with disabilities and prevents many who might benefit from employment from doing so. It does not reflect the changing nature of disability, which may be episodic or temporary, nor does it consider the broader factors that affect whether a disability creates a substantial impairment.

Although the current definition of disability in the ODSP is more effective than those at the federal level, there continue to be serious problems with the way the ODSP definition is applied. In our experience, the administration of ODSP falls back into a medical approach to disability determination irrespective of the intent of the legislation.

⁸ *Gray v. Ontario (Disability Support Program, Director)* (2002), 59 O.R. (3d) 364, 212 D.L.R. (4th) 353, [2002] O.J. No. 1531 (QL) (C.A.) (Online at <http://www.canlii.org/en/on/onca/doc/2002/2002canlii7805/2002canlii7805.html>)

⁹ *Ontario (Director, Disability Support Program) v. Gallier*, [2000] O.J. No. 4541 (QL), Court File No. 531/99 (Div. Ct.), leave to appeal refused (7 June 2001), Court File No. M26675 (C.A.)

A study commissioned by the Law Commission of Ontario found that despite the minimal level of verification by medical practitioners required under legislation, the Disability Adjudication Unit (DAU) has different expectations.¹⁰ Clients and advocates have similarly noted an increasing emphasis on overly technical approaches to the medical verification requirements. To prove their disability, clients are expected to provide medical verification for each specific impairment and restriction they experience. Usually, verification must be accomplished through a specialist's report, but constraints imposed by the health care system mean that people often do not have timely or proximate access to specialists. Even when a specialist's report is obtained, it may be ignored because the specialist does not reference a specific date for each impairment and restriction listed.

This often results in people being denied eligibility due to incomplete medical information. The situation is complicated by the fact that medical professionals are paid little to complete forms and receive little or no training to understand the complex requirements of ODSP. People are denied benefits because medical professionals do not understand and/or provide the level of information required by the DAU, because medical specialists are not available to confirm people's conditions, and/or because the investigations required to satisfy ODSP requirements are not seen by medical specialists as medically necessary.

Recommendation 4:

- The current definition of disability, which incorporates both social and medical factors into its model of disability, must be maintained;
- The Disability Adjudication Unit must apply the broad and holistic approach affirmed in the Court of Appeal's decision in *Gray v. The Director of the Ontario Disability Support Program*;
- ODSP should provide medical practitioners with better information about the program's verification requirements in order to ensure timely and accurate medical reporting, such that applicants are not put into economic and social jeopardy due to insufficient, inaccurate, or untimely administrative processes.

Access Issues - Service Delivery and Communication with Clients

People with disabilities and their advocates have many complaints about the service delivery approach and administration of the ODSP. People frequently receive poor treatment that can range from a general lack of responsiveness, transparency and accountability to openly disrespectful and hostile treatment.

All I can say is that from my initial intake meeting with ODSP back in 2003, I have been treated like a non-person.

~ Andrew, Southwestern Ontario

¹⁰ Lora Patton, Brendon Pooran, and Rita Samson, "A Principled Approach: Considering Eligibility Criteria for Disability-Related Support Programs through a Rights-Outcome Lens", August 2010, at: <http://www.lco-cdo.org/en/disabilities-call-for-papers-patton-pooran-samson>.

Contrary to the vision set out in the Commission's Terms of Reference of a program that "enables all Ontarians to live with dignity, participate in their communities, and contribute to a prospering economy,"¹¹ interactions with ODSP have often contributed to people's experience of insecurity, exclusion and marginalization. This compromises the accountability and fairness of the system, and is not consistent with the provincial government's efforts under the Accessibility for Ontarians with Disabilities Act to ensure that public and private institutions achieve customer service standards that promote accessibility and reduce barriers.

[The] initial process of applying for ODSP was difficult in the extreme, and complicated beyond belief (with far too many rules and stumbling blocks). It often felt as though ODSP had forced me to jump through more hoops than the proverbial trained seal. Dealing with bureaucratic red tape continues to be probably the most frustrating and stressful experience of my life. I have sometimes been scolded like an ungrateful child, or treated like a criminal by suspicious ODSP workers who automatically assume (no matter what I say or do to prove otherwise) that I am trying to defraud the system, when the opposite is true. Inevitably, whenever their decisions are questioned, their automatic response is to intimidate us into submission by threatening to cut off our benefits, regardless of the validity of our concerns. I once had an ODSP worker tell me 'not to take it personally' when I protested her intention to suspend my benefits for some unspecified reason. Strangely enough, she didn't have an answer for me when I asked her how personally she would take it, if her employer had arbitrarily frozen her salary without just cause.

~ Anne, Southcentral Ontario

The Ministry has heard the concerns of recipients, community groups and its own staff regarding the service delivery model, and has just implemented a new caseworker model called "ODSP Modernization." It is too early to tell how effective this new system will be. Clients and advocates have experienced previous efforts to change how local ODSP offices are staffed and managed, and the problems recipients report in trying to access the benefits and information they need have remained. It will be very important for this new case management system to undergo a thorough, independent evaluation.

Improve the quality of customer service ODSP clients receive. Address accessibility issues: forms in alternative formats for blind users, office staff taking long time to help clients who need help, info not being easily available to clients (extra benefits available, for example).

~ Maria, Toronto Region

Many have concluded, and we agree, that the problem with service delivery actually lies in the structure and administration of the program itself. As stated earlier in our submission, the Social Assistance Review Advisory Committee observed that income programs of last resort are inherently rule-bound, administratively complex, intrusive, and focused on policing of the benefit system rather than providing supports to independence.

¹¹ Ministry of Community and Social Services, "Commission for the Review of Social Assistance in Ontario: Terms of Reference", p.3, at http://www.mcscs.gov.on.ca/documents/en/mcscs/social/what/TOR_english.pdf.

No person should ever be treated as a piece of garbage, which is how many ODSP workers view their clients. Many on ODSP are on it through no fault of their own, such as myself. Others are mentally ill. We deserve to be treated with respect and dignity. The people who make the rules and who work within ODSP and OW systems should have to go through the process before they are hired. They should have to live for two months on the funds provided for people on ODSP and see how they get by.

~ M.A., Southwestern Ontario

It is unfortunate that the entire relationship between ODSP and its clients appears to be financial. In other words, once you get on, the money comes in regularly and every once in a while they verify your financial eligibility. No one works with the person to see if they need help achieving goals, or even in dealing with the ODSP bureaucracy.

~ On behalf of Kyle (written by his mom), Ottawa Region

Lack of Responsiveness

Clients routinely receive little or no response to their questions, concerns and complaints. This leaves clients powerless to comply with program guidelines because they are unable to get information about what they must do to maintain their benefits. There is little guidance or assistance through the application process or help for clients to understand their rights and responsibilities. The complex nature of the program and its interaction with other federal and provincial programs makes it difficult at best for people to understand what they are expected to do and what they are entitled to receive.

ODSP recipients need social workers who volunteer all resources available to us and no longer have an adversarial relationship with us.

~ Christian, Ottawa Region

Poor Quality Communication

There is also reliance within ODSP on form letters to communicate obligations that clients must fulfill to maintain their benefits. These form letters are often written in language that is unclear and confusing, with inadequate explanation of the reason for the letter or the requirements that recipients must fulfill. Workers are often unreachable to discuss such letters by telephone or in person, leaving people without the help they need to understand what they must do and why they being asked to do it. Not only does the reliance on poorly written form letters and lack of direct contact with staff under these circumstances create tremendous confusion, but the threatening tone and coercive nature of these letters results in significant levels of distress for people who are already marginalized and struggling. This extremely poor and punitive system of communication leaves clients scrambling to understand and comply with requests, knowing that the failure to do so may result in a loss of their income.

Delays in Processing

The Ombudsman of Ontario and the Auditor General of Ontario have expressed concerns about delays in processing applications and in payment of benefits. Concerns have also been

expressed about the inconsistent adjudication of their “disability” status and long waits for appeals.

Help for Applicants During the Application Process

The Ministry must recognize its duty to accommodate people with disabilities who apply to ODSP. Accordingly, resources should be provided to assist people with the application process. Assistance should include liaison with appropriate health professionals to ensure the application package is not only completed on time, but that it fully and adequately documents all health conditions and restrictions in activities of daily living. Applicants should also be assisted in completing the Self-Report, meeting all deadlines, and dealing with the Internal Review and appeal process if necessary. Because people access help in a variety of places, support to applicants also must be available from a variety of sources, including OW and ODSP offices, and especially in the community through street outreach to people who are homeless and people with mental health disabilities.

I have been helped by having support workers from community living being patient, understanding and taking the time to process what they were saying to me when they were explaining something to me and when I was doing something. I need help when filling out applications but it depends on if I can understand what I am filling out. Sometimes they are not put into plain language and I wish they are.

~ Yvonne, Toronto Region

There are at least two local, Ontario models for providing the kind of supports that are beneficial to people applying to ODSP. One is the ODSP Application Support Worker pilot project undertaken in 2005-2007 by CMHA Ottawa and Centre 454, an Ottawa-based drop-in centre for people with mental health disabilities.¹² The other model is Project HOPE, undertaken by the City of Toronto’s Employment and Social Services division to assist people who are homeless and have disabilities to apply for ODSP, as well as helping them to secure a permanent home.

Intersectionality

Intersectionality, in human rights terms, describes how people experience discrimination on multiple grounds. For example, people may be discriminated against on the basis of disability and race, disability and gender, disability and age or, as we have already described, disability and family status. Discrimination on intersectional grounds is a complex issue. One of the reasons for this is that people who are subject to discrimination on multiple grounds experience distinct forms of stereotyping or other barriers because of the combination of disability and another protected or analogous ground under the Human Rights Code or the Canadian Charter of Rights and Freedoms. It is extremely important that ODSP staff receive training to recognize and address the particular forms of discrimination experienced by persons who face multiple,

¹² Anglican Social Services Centre 454 and CMHA Ottawa, “ODSP Application Support Worker Pilot Project: Outcomes and Recommendations”, June 2007.

http://www.cmhaottawa.ca/pdf/ODSP_Project_%20Final_Report_Sept_07.pdf.

or intersecting, grounds of discrimination, so that services are delivered in a manner that respects the dignity of the person. Staff should also be given the tools necessary to assist those people in finding services and supports that will assist them in tackling the difficult barriers they face.

Recommendation 5: Service delivery and administrative procedures must be improved through the provision of:

- A simplified application process to improve efficiency, transparency, equity, and accountability;
- Help for applicants throughout the process;
- Sufficient staffing to ensure timely application and ongoing benefit processing;
- Clear rules that are easy to understand and consistently applied across the province, so that people receiving ODSP know their rights and responsibilities;
- Staffing and delivery models that reflect a collaborative, problem-solving and support oriented system, rather than a system focused on the application of rules and policing of benefits;
- Staff training on the enumerated and analogous grounds of discrimination in the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code and on the ways that combinations of these grounds have a more severe impact on a person with a disability, in order to ensure service is delivered in a manner that respects the dignity of applicants and recipients;
- Full information on all rights and benefits available to applicants and recipients, including programs provided by other jurisdictions, provided in accessible formats.

Assets

Long-term reliance upon ODSP is likely for the many people for whom ODSP is their primary source of income and support. For them, saving for older age is critical, as their ability to accumulate through other means (such as CPP contributory payments) is nonexistent and ODSP benefit entitlement ends at age 65. For those who are able to work while on ODSP or who return to ODSP after work, the ability to accumulate for older age is also critical, as is the ability to accumulate some savings to help lift themselves out of poverty. And, for those who have worked but have become disabled and require ODSP supports, their saved assets should not be put in jeopardy because of their disability.

The federal and Ontario governments continue to encourage Ontarians to purchase Registered Retirement Savings Plans (RRSPs) and Tax Free Savings Accounts (TFSA) as prudent financial planning for the future, particularly in light of the declining number of private, employer-paid pensions available in Ontario's changing labour market. But ODSP recipients, like OW recipients, are required to spend down these critical assets in order to qualify. Requiring the depletion of these assets, which have often been acquired over many years, is short-sighted and counter-productive, undermining the financial security of individuals and increasing future costs to government for supplementary income programs in old age.

Alberta's policy is to allow an exemption of \$5000 per adult in TFSAs and RRSPs, while Quebec allows a blanket exemption of \$60,000 in registered instruments.

Recommendation 6:

- Raise allowable asset levels.
- Exempt RRSPs and TFSAs in the same manner as RDSPs and RESPs.

Disability and Ontario Works

Despite the Coalition's focus on issues directly germane to ODSP, we also recognize that there are many people in Ontario who face barriers to full-time employment because of temporary, episodic or long-term disabilities, but who have not been accepted as disabled by ODSP or other disability income support programs. There will be some people with disabilities, therefore, who are receiving the much more restrictive benefits paid under Ontario Works.

While Ontario Works currently allows for an exemption from mandatory participation agreements because of health or disability, this is only one element of what is required to make OW truly responsive to the entire spectrum of the impact of disability. And, while we would expect that a re-worked ODSP would be flexible enough to adequately respond to the needs of all people with disabilities, we believe that income and employment supports offered through OW should also be made responsive to the particular needs of people with disabilities.

Recommendation 7: The review of Ontario Works must be undertaken through a "disability lens" to ensure that it is also responsive to the needs of people with disabilities. The Coalition hopes that the Commission will make recommendations to improve the responsiveness of Ontario Works (or whatever system replaces it) to the disabilities that many recipients struggle with daily, in order to ensure that people with disabilities are not falling through the cracks in the system.

Part B: Supporting an Adequate Standard of Living

Adequacy of Levels of Support

The Convention on the Rights of Persons with Disabilities is unequivocal in stating that persons with disabilities and their families have the right to an adequate standard of living, including adequate food, clothing and housing, and to a continuous improvement of living¹³.

In addition, the Convention stipulates that persons with disabilities who live in poverty have the right to assistance from States Parties with disability-related expenses, including adequate training, counseling, financial assistance, and respite care¹⁴.

The Convention also outlines a variety of rights that have implications for levels of support. For example, Article 19 of the Convention asserts “the equal right of all persons with disabilities to live in the community, with choices equal to others” and that signatories to the Convention “shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community”. This right to full social inclusion points to the need for a standard of living that also facilitates active engagement with the community.

This Convention is based on the principle that governments have a responsibility on behalf of their citizens to help reduce or eliminate barriers to economic security for people with disabilities. In Canada, through a variety of federal and provincial programs and various legislative mechanisms, we have collectively confirmed our intent to meet this goal even though, as this submission points out, our collective efforts have fallen far short of what is necessary.

When viewed through this lens, the role of an income support program like ODSP is to provide an alternate means of financial support in light of the social and environmental barriers to economic security that people with disabilities experience. The extent to which the income support program facilitates participation in community life, transportation and travel, work and education, is largely determined by the level of the income benefit and its adequacy.

In the case of ODSP and other social assistance programs in Canada, there is broad agreement that benefit levels are inadequate to meet the government’s stated goals of helping people with disabilities to “live as independently as possible in their communities, and to reduce or eliminate disability-related barriers to employment.”¹⁵

¹³ United Nations Convention on the Rights of Persons with Disabilities, Article 28. Available at www.un.org/disabilities/default.asp?navid=14&pid=150.

¹⁴ Ibid.

¹⁵ Ministry of Community and Social Services, “Commission for the Review of Social Assistance in Ontario: Terms of Reference”, p.2, at www.mcscs.gov.on.ca/documents/en/mcscs/social/what/TOR_english.pdf.

ODSP is extreme poverty, and it is awfully scary being treated this way. ODSP has no respect at all for people who are disabled.

~ Linda, Ottawa Region

Although ODSP benefit rates are significantly higher than those in Ontario Works, they still fall well short of the Low Income Cut-Off and other measures of income adequacy. Benefit levels are not indexed, so their real value diminishes over time, and do not reflect the real costs of goods and services. The National Council of Welfare, in their latest report entitled, "Welfare Incomes 2009" shows that the peak year for the income of a person with a disability in Ontario was 1992, and that the real value of ODSP benefits had actually *declined* by \$2,858 by 2009.¹⁶ As the OECD's review of Canadian disability programs states, "the biggest challenge in Canada is the high risk of relative income poverty of persons with disabilities, one-third of who have incomes below 60% of the household-size-adjusted median disposable income. This is one of the highest proportions in the OECD".¹⁷

I can't afford decent food. I can't buy clothes. I can't afford a social life. It's not enough. It's a dehumanizing insult.

~ Dee, Ottawa Region

The maximum of \$469 a month to cover rent and utilities for a single person on ODSP is clearly insufficient to secure adequate and safe housing, in a context in which private average rents in Ontario for a one-bedroom apartment are \$844¹⁸, and the majority of people receiving ODSP (63%) live in the private rental market¹⁹. And the monthly \$584 "basic needs" allowance for a single person on ODSP is also clearly not pegged to ensuring the ability to afford a diet that ensures proper nutrition and health, telephone, transportation, clothing, bank fees, newspaper, cable, household supplies, personal hygiene items, and all other "basic needs".

I have a detailed budget that proves, with no existing credit based bills, the suggested monthly ODSP payment is next to impossible to live by. Basic living does not include cable TV, internet, or cell phones. These are considered luxuries. And cell phones are a necessity for certain disabilities such as Epilepsy.

~ Kevin, Toronto Region

A 2008 report by the University of Toronto's Social Assistance in the New Economy Project, the Wellesley Institute, and the Community Social Planning Council of Toronto found that social assistance recipients carry an overwhelmingly high burden of ill health. For people with

¹⁶ National Council of Welfare, "Welfare Incomes 2009: Chapter 3: Single Person with a Disability", at <http://www.ncw.gc.ca/l.3bd.2t.1ilshtml@-eng.jsp?lid=331&fid=26>.

¹⁷ Organization of Economic Co-Operation and Development, "Sickness, Disability and Work: Breaking the Barriers: Canada. Opportunities for Collaboration", 2010, p.18, at <http://www.oecd.org/dataoecd/16/13/46093870.pdf>.

¹⁸ Canadian Mortgage and Housing Corporation, "Rental Market Report, Ontario Highlights, Fall 2010". Data for October 2010, at http://www.cmhc-schl.gc.ca/odpub/esub/64507/64507_2010_B02.pdf.

¹⁹ OW/ODSP housing tenure update for March, Statistics and Analysis Unit, Policy Research & Analysis Branch, Ministry of Community and Social Services.

disabilities, the interaction between poverty and disability can be even more compromising to overall health and well-being.²⁰

They do not give you enough money. By the time you pay your bills you are digging into your food money. Any times when you have extra bills, then your money is gone sooner and you have no money for the rest of the month. Whatever material possessions you have now has to last you forever because there is no money to buy anything new – like furniture, clothes, appliances, etc. I cannot go on a trip or buy any extras – there is no money for anything like that.

~ M. K., Southwestern Ontario

Criteria for Determining Rates

Currently, levels of income support under ODSP (and OW) are not based on rational criteria and are not aligned with real costs. Rather, they are based on arbitrary figures that are historical relics of the mid-1990s.

I want a dwelling allowance that is commensurate with my actual rent or I want to have my rent reduced to the allowable amount. I would greatly appreciate it if the decision makers took a look around and came to the realization that the ODSP benefit is inadequate. Disabled persons live difficult lives; the added stress of trying to live on this allowance is a daily burden. We are disabled. We are sick. And now you have made us poor. I would like for someone at the Ministry to live on ODSP for six months. I cannot see another way to reach these people....

~ Dee, Ottawa Region

ODSP Income Support Directive 6.1 states that the basic needs amount is intended to “assist with the cost of food, clothing, transportation, personal needs and other non-shelter-related items.” However, the actual costs of these items are not used in setting the rates. The legislation does not define a list of what types of items and services constitute “basic needs.” There has never been a government review done to examine to what extent people can pay for their basic needs with the allowance provided. The majority of people on ODSP must use at least part of their basic needs allowance to pay for rent and utilities that cannot be met under existing shelter allowances.

Finding decent housing on the allowance provided for that is impossible. I need to use a scooter or wheelchair. The tiny, dangerous, damaged, smoke- and insect-filled apartments which are all that I could possibly afford are not accessible! My present building is so bad that I’d rather live on the street. I am so desperate that suicide enters my mind often.

~ R.G., Ottawa Region

From 1993 to 2005, ODSP rates were frozen. In recent years, the provincial government has increased rates roughly equal to the current inflation rate. However, these increases fail to take

²⁰ Ernie Lightman, Andrew Mitchell, and Beth Wilson, “Poverty is Making us Sick: A comprehensive survey of income and health in Canada”, 2008, at <http://www.wellesleyinstitute.com/files/povertyismakingussick.pdf>.

into account how far below the real cost of living the rates have fallen. They also fail to acknowledge that inflation for people living on low income is much higher than the CPI, which excludes cost elements like food and energy on which people living on low income spend the majority of their dollars and, along with transportation, are now consistently higher than other items²¹.

My son pays \$700 for a modest heated apartment, hydro extra. This represents about 2/3 of his monthly income, leaving less than \$100/week for groceries, utilities, clothes, etc.

~ On behalf of Kyle (written by his mom), Ottawa Region

In November, 2010, ODSP benefits were increased by 1% despite the fact that prices in Ontario rose 3% in the 12 months prior to November - the highest rate of increase in Canada²². All indications suggest that the cost of living is set to increase significantly over the next period, with costs of food, energy, and housing increasing at a much higher rate than is the norm.

I cannot afford to drive, yet the major part of my disability is the lack of ability to walk
~ Paul, Southwestern Ontario

Rates must be based on the real costs and needs that people with disabilities experience, but achieving this goal will not be enough in the absence of a mechanism for adjusting future rates in a systematic manner reflecting the economic and social factors that drive changing needs. As the Social Assistance Review Advisory Panel pointed out, reliance on periodic government rate increases to achieve adequacy has been futile to date.

Food on ODSP is low quality and buying good food weekly is not possible. Why are we expected to eat poor food, which does not help with our health, moods and quality of living?

~ Barb, Ottawa Region

Additional Costs Related to Disability and Longer Term Needs

The current program does not provide adequately for the regular costs of living. But for a program to respect the dignity of people with disabilities and adequately promote their full inclusion in the community, we must look at more than regular levels of support. Government in partnership with people with lived experience and disability organizations must also assess and determine the extra costs associated with disability. This can be difficult given the unique and individual nature of disability and the resulting differences in the outcomes and needs of different people. In tackling this challenge, the Commission must bear in mind that the costs of disability are both direct (e.g., medical supplies and equipment) and indirect (e.g., time

²¹ Tavia Grant, "Food inflation: It's all about what's on your plate", *Globe and Mail*, Feb 7. 2011, quoting data compiled by John Stapleton: <http://www.theglobeandmail.com/report-on-business/economy/economy-lab/daily-mix/food-inflation-its-all-about-whats-on-your-plate/article1897461/>.

²² Statistics Canada, Consumer Price Index, April 19, 2011: <http://www.statcan.gc.ca/subjects-sujets/cpi-ipc/cpi-ipc-eng.htm>.

differentials in completing tasks of daily living). Both these elements of cost must be considered in determining the adequacy of income support for people with disabilities.

At this moment I need new shoes. My feet are deformed because I was born with club feet so normal shoes don't fit. I have to order special shoes. The muscular dystrophy association will pay only \$750 and this leaves me and my mom to pay the rest, around \$200. Needless to say we don't have the money. We will have to go to other associations to help us. If I get summer shoes, I can't get winter boots. They need to increase the ODSP so we can afford some of the necessities.

~ J.B. & C.B., Northeastern Ontario

In addition, the amount of assistance must make provision for people who need long term and, in many cases, permanent support. While ODSP is intended to be a longer-term program, it is insufficient to meet the real needs of people who rely on it. Furthermore, as we have already identified, Ontario Works is a program for people who are expected to be able to get back into the workforce fairly quickly. However, there are many people who are disabled but who fall through the cracks in the system and end up on Ontario Works, instead of on ODSP where they rightfully belong. Neither ODSP nor Ontario Works provide for household infrastructure such as furniture, utensils, bedding and linens, winter clothing, small appliances, etc. People are expected to obtain these when they are working and survive without them for as long as necessary while they are un- or under- employed. However, people with disabilities who may require income support for years need to be able to obtain, replace or repair the household infrastructure and items we all need for a decent quality of life.

Recommendation 8:

- Increase the levels of income support for people with disabilities to reflect average market rents (as determined by the Canada Mortgage and Housing corporation); average utility costs; average cost of a nutritious food basket (as determined by municipal boards of health); transportation costs; costs for communication devices, including telephone and internet; and all personal basic needs;
- Include an allowance for household infrastructure (such as furniture, utensils, bedding and linens, winter clothing, small appliances, etc.) and additional costs related to disability (both direct and indirect) in the income support for people with disabilities;
- Index the rates to inflation; and,
- Create an independent panel of experts, including people with disabilities and social policy experts, to recommend rational and just criteria for determining levels of income support in Ontario's social assistance programs.

Special Diet Allowance

In 2008, the Special Diets' Expert Review Panel was asked to comment on changes to the amounts of money allotted through ODSP for diets intended to treat particular health conditions. In submitting its report, the panel of medical experts felt obliged to distance itself from any perception that it might endorse existing rates as adequate to good health. They

stated that “The delivery of this report in no way advocates for the current rates of social assistance in regard to proper nutrition and health, nor does it confirm their adequacy.”²³

I need special food and I got cut off special diet after they cut me from \$250 to \$40/month and to \$0 for almost one year before I got back on. My family doctor is really mad about this stuff and he says that because of this stuff my health has really deteriorated. I have known this doctor for 7 years.

~ Brian, Toronto Region

Over the last several years, the Special Diet Allowance has been given particular attention, by both advocates and government alike. Government has recently identified the Special Diet Allowance as an issue for the Social Assistance Review Commission to address.

The most recent restructuring to the Special Diet Allowance has been extremely stressful for people in receipt of this allowance, and the constant threat of losing a source of income on which people depend is having a serious impact on the physical and mental well-being of recipients. Long-term assurances must be built into the system so that people who have these additional costs can feel reassured that they will indeed continue.

The ODSP Action Coalition wants to stress that the key problem related to income supports is not the Special Diet Allowance, but rather the dangerously low level of support available through the Basic Needs and Shelter allowances. As noted in the sections above, the income supports available to people on ODSP are not sufficient to provide for a healthy, nutritious diet, adequate and safe housing, nor the many other expenses that people with disabilities incur on a regular basis.

The Coalition feels that the Special Diet Allowance fulfills a very important role for people with medical conditions – that is, to provide the funds required to cover the additional costs associated with the therapeutic dietary treatment of certain medical conditions – and should be continued, with a mechanism to include other conditions as well.

I need good nutrition because I am overweight and have medical problems because of it. It is very expensive to buy good nutritional food to lose more weight and be healthy.

~ Raymond, Northeastern Ontario

Recommendation 9:

- The Special Diet Allowance should continue to be provided, as the need for additional financial assistance for these costs would exist regardless of the level of “basic” income supports available;
- The Special Diet Allowance Schedule should be expanded to include many other medical conditions – such as multiple chemical sensitivities and those outlined by the Special Diet Experts Review Panel – as being eligible for Special Diet Allowance support;

²³ Special Diets Expert Review Committee, “Final Report”, prepared for the Ministry of Community and Social Services, April 2008, p.5, at http://www.mcsc.gov.on.ca/documents/en/mcsc/social/publications/special_diet_en.pdf.

- The Special Diet Allowance should be indexed to the rate of food inflation; and,
- Ongoing review of the Special Diet Allowance Schedule should take place through the creation of a permanent Special Diet Experts Review Panel made up of medical professionals, including both mainstream and complementary medicine practitioners, to ensure that progress being made in the evolving field of nutritional science is reflected in the incorporation of additional conditions and expanded nutritional requirements into the Schedule.

Housing Benefit

Many organizations have been advocating for the creation of a Housing Benefit for all low-income Ontarians, whether they are working or receiving social assistance benefits. The current proposal is for a benefit that pays 75% of the costs of rent “from a floor amount to the median cost of housing” in different communities around the province, and that reduces gradually as income increases.²⁴ For people receiving support from ODSP or OW, the “floor amount” is the maximum shelter benefit to which they are entitled. As such, the Housing Benefit advocated by these groups would be paid ***in addition to*** regular maximum shelter benefits.

As these advocates note, the Housing Benefit has many similarities with the Ontario Child Benefit (OCB), as it is intended in part to move much-needed benefits outside of the current ODSP and OW system and to broaden eligibility to all low-income Ontarians. However, as these advocates also note, the Housing Benefit is intended to be free from the income clawbacks that resulted from the restructuring of Basic Needs benefits when the OCB was introduced. While the OCB model is important and has had a positive benefit for many Ontarians, it has had very limited implications for lifting families on social assistance out of poverty. Indeed, the restructuring has resulted in very positive implications for some families, while others – such as single parents with older children – have seen very little benefit. Restructuring basic needs benefits while introducing new, more widely available benefits also reinforces the false distinction between low-income working people and low-income recipients of social assistance – who are often the same people, either cycling on and off benefits or receiving some level of benefit while working.

We feel strongly, therefore, that any alternative income delivery mechanisms, such as a housing benefit, that are recommended by the Commission must have the same net benefit to people on ODSP and OW as they might for low-income working people. This submission – and countless reports and recommendations made since the introduction of ODSP – demonstrates the importance of significant increases in income and supports for people with disabilities. Clawbacks cannot be allowed to the incomes of those on social assistance in the name of widening access to benefits for all low-income people.

Should alternative income delivery mechanisms be structured such that benefits are delivered through the tax system, as is the case with the OCB, efforts will have to be made to ensure

²⁴ “A Housing Benefit for Ontario: One Housing Solution for a Poverty Reduction Strategy”
http://www.dailybread.ca/wp-content/uploads/2010/12/Housing_Benefit_for_Ontario_Final.pdf.

effective and transparent appeal processes. Currently, appeals of decisions around the Ontario Child Benefit must be made to the Canada Revenue Agency or, in the final instance, to the Tax Court of Canada. This process is burdensome, lacks transparency, and puts the onus on the appellant to disprove claims of the agency, rather than putting the onus on both parties to argue their case compellingly. Low income people must not be further burdened by an appeal process that does not provide adequate access to justice.

We are also concerned that people on ODSP who own their own homes will not benefit from an income supplement that only accommodates the housing-related poverty of rental tenants. In addition, we want policy makers to ensure that scarce public housing resources not be primarily provided to subsidize private market landlords. Any housing benefit that is put in place must not jeopardize the required investments in affordable and supportive housing.

Recommendation 10: The ODSP Action Coalition has no specific recommendation as to whether or not the current Housing Benefit proposal should be pursued. Instead, we urge the Commission to ensure that

- the principles we are advocating in this submission – adequacy of income, dignity, poverty reduction, full inclusion and participation in all aspects of society, and accessibility – are paramount in whatever recommendations are made for different forms of income delivery. As we recommend above, a sound rationale for adequacy must be developed against which to measure total income, and this rationale must apply regardless of the income delivery mechanism;
- no clawbacks are made to the incomes of people on ODSP (or OW) should other income delivery mechanisms, such as a housing benefit, be recommended;
- an effective, transparent, and easily accessible appeals process is put in place to respond to any problems that arise in the course of the delivery of any new benefits through the income tax system;
- provision is made for any new housing benefit to assist homeowners as well as rental tenants; and,
- any recommendation for a new housing benefit is also matched by recommendations for investments in new and existing affordable and supportive housing in the manner advocated by the Housing Network of Ontario²⁵, as well as by the reintroduction of rent controls to more adequately protect tenants, and provisions for more security for tenants in market units through better enforcement of the Landlord and Tenant Act.

²⁵ See <http://stableandaffordable.com>.

Part C: Supporting Social and Economic Inclusion

The Commission's Terms of Reference asks how a new benefit structure can be created to support people's "transition into, and attachment within, the labour market".²⁶ This is an important goal that we welcome as a fundamental right of citizenship. Work remains an important avenue for achieving economic security, autonomy and social inclusion. The extent to which people with disabilities have been excluded from the labour market can and must be addressed.

We are concerned, however, with an approach focused solely on work. Work is only one route to, and dimension of, social inclusion. A broader focus that also values participation in the community in its many dimensions – social, cultural, political, etc. – would better reflect the goals and realities of people with disabilities.

I don't have the money so I just suffer, and society loses out on my contributions.

~ B.J.R., Southwestern Ontario

Since my induction to the system, my health has deteriorated in many ways. Mostly everything is stress related. . . It doesn't help that I am alone...and have no support anymore from my family out of town. ...I have not been able to sustain many healthy relationships anymore because I have no money to get involved in anything or do anything. . . Even volunteering costs money for transportation, clothing, grooming

~ Janice, Northwestern Ontario

We also wish to stress that the current low levels of workforce participation are themselves a symptom of the broader social exclusion people with disabilities experience. These exclusions extend to housing, education, training, transportation and community life. Without a focus on removing these barriers, employment supports alone will be ineffective. ODSP must be part of an overall disability policy framework that addresses these issues. Employment supports must complement education and labour market strategies that respond to new economic realities and the unique experiences of people with disabilities.

I do not have enough money to do anything. I have enough for food, rent and phone. I am not able to save for anything, go anywhere, or do anything interesting. The lack of stimulation drives me crazy. Sometimes I just want to visit my brother but I can't get there!

~ Andrew, Toronto Region

I would like the phone to be considered an essential/necessary expense like heat and hydro because it is my life line since I am not able to get out much.

~ J.M., Ottawa Region

²⁶ Ministry of Community and Social Services, "Commission for the Review of Social Assistance in Ontario: Terms of Reference", p.5, at http://www.mcscs.gov.on.ca/documents/en/mcscs/social/what/TOR_english.pdf.

At the program level, ODSP must be responsive to the specific needs of individuals, based on their strengths, personal goals, and their right to choose how they wish to participate in the many dimensions of social life.

Expectations for Participation

We support the notion of a program focused on personal assets and strengths and a commitment to people's ability to be participants in society. To achieve this goal, the Commission should focus on:

- Removing program rules that create barriers to participation;
- Shifting the service delivery model to one focused on building capacity rather than policing of benefits; and,
- Providing meaningful employment and community supports that reflect client goals.

We do not believe that mechanisms to compel participation in employment-related or community-based activities are necessary or effective. We also believe they are inconsistent with the underlying goals of the program to support dignity, autonomy, inclusion and the achievement of the rights of people with disabilities.

I would LOVE the government to LISTEN TO US and ASK US what we need instead of the government deciding for us.

~ Teri-Lee, Southwestern Ontario

Recommendations to tie eligibility for income benefits to employment-related activities, such as those made by the OECD²⁷, are inappropriate in the Ontario context and based on the experiences of other jurisdictions with very different socio-economic and policy conditions. As we have said elsewhere in this submission, the main problem currently facing people with disabilities in the Canadian context is their high rate of poverty. A comprehensive overhaul of employment-related supports that remove barriers to participation and provide appropriate income incentives will increase participation, without having to threaten the source of income of people who already face significant barriers.

Even more importantly, the appropriate forms of treatment or rehabilitation for people with disabilities should be left entirely to that person in consultation with their health providers to decide. Income and employment supports workers or administration should have no role whatsoever in that regard, and one's income should not depend on pursuing any particular form of treatment for any type of illness or disability.

Recommendation 11: Participation in employment-related and community-based activities should:

- Be voluntary, collaborative and based on goals and priorities established by clients;

²⁷ Organization for Economic Co-operation and Development, "Sickness, Disability, and Work: Breaking the Barriers: Canada. Opportunities for Collaboration", 2010, at http://www.oecd-ilibrary.org/social-issues-migration-health/sickness-disability-and-work-breaking-the-barriers_9789264090422-en.

- Limit intrusion into people’s private lives;
- Respect people’s autonomy and the choices they make including choices about what treatment and support they receive;
- Be available to all participants who want to try working, not just those who are considered “job-ready”, and
- Acknowledge that participation occurs along a continuum and respect and support people’s efforts and priorities wherever on the continuum they lie.

Social Inclusion Allowance

Although many people with disabilities wish to and can work, many others cannot, or at least are not currently ready to work. However, they still can participate and contribute to their community in many ways. Volunteering can be a way to gain skills and experience that might lead to future employment, but it is also of value in itself even for people who are not likely to be able to become employed any time soon. Getting involved in their community can reduce isolation and stress, and result in improved physical and mental health. The agencies that use volunteers rely on them for help in providing their services to the community.

Currently some recipients of ODSP in some communities receive support for transportation or other costs as voluntary participants in OW’s Community Participation program. This important benefit, which recognizes the variety of roles that people with disability play in their communities, is not provided consistently across the province but rather in only a few municipalities, and only then for recipients who are considered to be “employment ready.”

Recommendation 12: Recognize the benefits of being involved in the community for the health and well being of people with disabilities and the benefits to society, by creating a Social Inclusion Allowance within ODSP, and making it available to every ODSP recipient in the province.

Removing Existing Program Barriers

Program rules ensure that the incomes of people who receive ODSP remain very low and efforts to build financial security are limited. This is best reflected in the way that ODSP claws back earnings from a wide range of sources and the manner in which it treats personal assets. Because of these rules, people who receive ODSP have little chance to build even modest levels of income and are unable to leverage even small improvements in social and economic opportunity.

In addition, ODSP has a lengthy and confusing list of income sources that are exempt or partially exempt. There appears to be little rationale for these exemptions, which further contributes to the feeling amongst recipients that the administration of the program is complex, arbitrary, and unfair.

Earnings from Employment

Earnings from employment or self-employment were at one time fully deducted from social assistance benefits, but in an attempt to create incentives to work partial exemptions have been granted over the years. For example, it was considered progress in 2006 when the 'clawback rate' was reduced from 75% of all net earnings over a flat rate exemption of \$160 to 50% of all net earnings from the first dollar earned. A new Work Related Benefit of \$100 per month was added at the same time to lessen the negative impact of this change on those with part-time earnings.

Removing 50% of money earned if you find work on ODSP seems to defeat the process of helping people save money and get back on their feet. After all being on such a low income system does nothing but ensure debt and increase the health decline, poverty and quality of life in an individual or family.

~ Candace, Southwestern Ontario

However, the 50% clawback rate still functions as a disincentive to work. In addition, the clawback effectively caps incomes at a very low level. In a context in which the provincial government is simultaneously committed to accessibility to the workplace for people with disabilities and to reducing poverty, taxing earnings at this rate is not only unfair but ultimately counterproductive, from both a social and an economic perspective. Effectively, many people end up working for less than minimum wage since the net benefit to their income is so low.

[The 50% claw back] ...does not make sense considering the amount of support is very basic. This rule does not encourage ODSP recipients to work.

~ V.F.B. & H.M.B., Toronto Region

There was a significant amount of public support, and support from all three political parties in the Ontario legislature, when MPP Toby Barrett introduced a Private Member's Bill calling for a flat rate exemption of \$700 per month on the earnings of ODSP recipients. However, we are suggesting \$500 per month, or \$6000 per year, as that would be equal to the amount that a recipient can receive in gifts or support from family and friends. Surely a person who works should be able to keep as much income as someone who is fortunate enough to have family that can help that much.

Recommendation 13: A flat rate earnings exemption should be put into place to allow ODSP recipients to benefit from working before any reduction in their benefits. For single persons, this exemption should be \$500 per month, which would equal the amount of the annual exemption for gifts from family and friends. Any earnings above the flat rate exemption would be deducted at 50%.

Earnings from Spouses

Spousal earnings are also clawed back under current ODSP regulations. This forces non-disabled or working spouses to assume the full financial responsibility of the person with a disability,

sometimes including extremely costly medication and health care needs. In many cases, the treatment of spousal earnings ensures that families cannot earn enough income to escape poverty. This burden compromises the independence of people with disabilities and also weakens the capacity of the family unit overall to achieve and maintain an adequate standard of living and greater economic security. ODSP applicants are unduly burdened with requirements to access financial information from their spouse. This is not always possible when spouses are unwilling to comply. The security of people with disabilities should not be tied to the compliance of another party to ODSP rules and regulations. Similarly, the economic security of the whole family unit should not be vulnerable to program rules specific to the person with a disability.

The Coalition has proposed that the benefit unit be changed from the family to the individual; this would mean the earnings of spouses would not affect the income support and health benefits of the person with a disability.

Recommendation 14: Changing to an individual benefit unit rather than basing eligibility for ODSP on family income (see Recommendation 3) would be the ideal solution to this problem. However, if the family benefit unit is retained, a flat rate earnings exemption of at least \$500 per month per person before any earnings clawback should be allowed, indexed to the CPI to ensure the value of the earnings exemption is not lost through inflation, with 50% of the remaining earnings deducted.

Self-Employment

Self-employment is an important option for many people with disabilities so they can vary their hours and conditions of work to accommodate their disability, but the way that ODSP treats business income means that many of the expenses that people incur are not allowed as deductions. For example, a self-employed person is not allowed to hire someone else to help with tasks that they do not have the time or skills to do themselves, transportation costs are only deducted at the rate of \$0.18 per kilometer, and the repayment of some debts are not allowed as deductions from income.

All income is required to be reported monthly (or annually), but self-employment expenses are reviewed once a year. This does not always work well with clients with fluctuating income. In some situations, people would have more of an incentive to take on temporary contracts if they were able to have their income adjusted each month; in other cases it would be beneficial to average income over twelve months.

In general, the self-employment directive was established with a very limited notion of the types of activities people might engage in. While the directive is workable for initiatives that are very limited in scope, like babysitting, dog walking, lawn cutting, and so forth, it does not reflect the more complex and extensive kinds of self-employment initiatives that many people with disabilities are engaged in or would like to pursue. A more comprehensive approach to allowable business deductions and costs would give these businesses an opportunity to grow

and become self-sustaining and would more accurately reflect the range of self-employment initiatives available to people with disabilities.

Recommendation 15: Change rules related to self-employment in consultation with those who have or would like to set up their own businesses, recognizing that the flexibility of self-employment may be a good option to accommodate people's disabilities. Some key changes that need to be made include:

- Use the same definition of allowable business deductions as used by the Canada Revenue Agency;
- Allow ODSP recipients operating a business to pay an employee or employees if the need for this is demonstrated as part of an approved business plan and/or as an accommodation need;
- Provide a flexible income reporting and review scheme, with income adjustments made monthly or yearly (after averaging business net income), whichever is most beneficial to the client; and,
- Policies on self-employment should be expanded to allow people to work in business partnerships or social enterprises

Administrative Barriers Related to Earnings

Many commonly cited barriers for people who have attempted employment relate to the difficulties created by the current system of reporting and reconciling income. This system not only imposes a bureaucratic cost on the Ministry but also an unnecessary cost in time and emotional well-being for ODSP recipients, and keeps workers and recipients alike from focusing on providing personal supports and achieving personal outcomes.

For instance, the requirement to report and reconcile income monthly poses barriers to people on ODSP because of the unpredictable and cyclical nature of people transitioning between work, volunteering, and undertaking formal and informal caring responsibilities. And subsequent monthly benefit adjustments can leave people financially constrained when they most need transitional support.

Other problems related to the current system of income reporting and reconciling include:

- receiving ODSP benefits at the end of the month for that month, while rent has to be paid on the first of the month;
- having to send in monthly income statements by the seventh day of each month;
- having benefits suspended if the statement is late or if the ODSP office misplaces it; and,
- having frequent overpayments due to fluctuating income or administrative errors.

The combination of the precarious nature of many disabilities, the difficulties of the labour market, and poverty is difficult to plan for and would be better reconciled over a longer period of time. A recent report recommends moving to annual income reporting and reconciliation,

and the provision of on-line tools to assist people with reporting requirements²⁸. We agree with the spirit of this recommendation, but would add that individual ODSP recipients should be given the ability to choose the appropriate period of income reporting and reconciliation, based on their own circumstances.

Recommendation 16:

- Allow recipients the choice of having their earnings reconciled monthly or annually, whichever would work best in their particular situation.
- Stop automatic suspensions if the income reporting statement is received late at the ODSP office.

Employment Supports and Training

I cannot describe what I would give to not live off such low costs, to be able to afford university instead of settling for a private college or to have the support to rid myself of many of my medical problems.... Given the chance it could be one of us to be the next Prime Minister, the next scientist that cures cancer or the next engineer, MP or Doctor. ...when a system removes those opportunities by putting you into debt, poverty or into a mode of simply struggling for life, it makes success seem like a distant star in a far off galaxy.

~ Candace, Southwestern Ontario

People with disabilities want opportunities to work and to receive training or education. But they face many barriers and are given few adequate supports to succeed. Despite a focus on employment supports in ODSP legislation and in regulation changes enacted in 2006, and despite the funding and services agreement made between Ontario and the federal government under the Labour Market Agreement (LMA)²⁹, ODSP employment supports have been ineffective and have frustrated peoples' efforts to gain education or employment. Currently, Ministry statistics show that only 11% of all ODSP cases have any earnings.

But we do not believe that this low rate of engagement with the labour market can or should be attributed to a lack of desire on the part of people on ODSP to work or pursue education or training. Instead, systemic problems inherent in both the ODSP system and the labour market have produced barriers that make working or training difficult or impossible.

There's no real incentives to work because of the 50% claw back. Also – employment supports were no help. They sent me to McDonalds, and I knew I wouldn't be able to do it, as it was too fast for me. I got really critical feedback at McDonald's, and it was hard for me and sapped my self-esteem. I got the same criticisms I'd been hearing all my life. It was like telling someone with a physical disability to run faster. Every time I try and work I run into the same problem.

~ Debbie, Toronto Region

²⁸ John Stapleton, Stephanie Procyk & Linsey Kochen, "What stops us from Working?", May 2011, at http://camh.net/Public_policy/Public_policy_papers/ODSP%20Report%20final.pdf.

²⁹ The full text of the Canada-Ontario Labour Market Agreement, and Ontario's multi-year plan, is at <http://www.tcu.gov.on.ca/eng/training/lma.pdf>.

Beyond the disincentives we have mentioned above (such as clawbacks in employment earnings, etc.) and those discussed below (such as perverse interactions with other programs like social housing, etc.) that make work an irrational or impossible choice for people on ODSP, the employment supports provided within ODSP itself have been inadequately funded and focused on short-term client outcomes. This has set up both employment service providers and clients for failure. Support for education and skills training is inadequate and the service delivery model does not match the needs of people with disabilities, who face multiple barriers to employment. There is an insufficient focus on creating the education and training opportunities that in today's economy are a primary route to obtain secure and sustainable employment.

But we also know that, even with higher education, people with disabilities face major barriers in the workforce. This is reflected in the high rates of unemployment among people with disabilities who have post-secondary degrees. Men with a disability and a post-secondary degree are ten times more likely to be unemployed full-year than their non-disabled counterparts, while women with a disability are four times as likely to be unemployed full-year as their non-disabled counterparts.³⁰ Efforts to eliminate workplace barriers to employment must be a key component of government strategies to increase workforce participation for people with disabilities.

In the absence of effective employment supports and broader strategies to improve education and remove workplace barriers to employment, it will be difficult to improve employment participation rates, and to ensure that work can actually become an avenue through which social inclusion for people with disabilities can be promoted and poverty among people with disabilities can be reduced. The province must address the lack of jobs for people with disabilities by developing an effective labour market strategy.

Recommendation 17: Ontario should work with people with disabilities, the private sector, labour and all relevant Ministries and levels of government to develop an effective labour market strategy for people with disabilities, with the goal of creating more job opportunities for people with disabilities that are appropriate for the individual.

Towards More Effective Employment and Education Supports

When ODSP was introduced in the 1990's, most welfare programs were influenced by international trends that focused on getting recipients the fastest route to a job. Many of the program limitations we describe in our submission can be attributed to this orientation. Over

³⁰ People with disabilities in Ontario experience much lower levels of employment than those without disabilities. The 2001 Census reported that among persons with disabilities, the full-time, full-year employment rate for persons with disabilities in Ontario was 38.3% for men and 24.8% for women. In contrast, among people without disabilities in Ontario, the full-time, full-year employment rate was 57.2% for men and 40.3% for women. Conversely, the percentages of persons with disabilities in Ontario who did not work at all were 35.3% for men and 46.1% for women, compared with 11.5% for non-disabled men and 20.6% for non-disabled women. CCSD Disability Information Sheet Number 18 (2005), "Employment and Persons with Disabilities in Canada", at <http://www.ccsd.ca/drip/research/drip18/index.htm>.

the past ten years, a number of critiques of work-first programs have emerged. International experience with these programs has generally been negative, particularly for people with multiple barriers to employment. There is now a growing consensus that “fastest route to a job” strategies have left those with the greatest need either in poor quality, precarious jobs at very low wages, and thus no farther ahead than when they were on social assistance, or cycling between poverty in poor quality employment and poverty on social assistance.

In response, many jurisdictions around the world are placing an increasing emphasis on making significant investments in more comprehensive and individualized employment and education supports. This emphasis is reflected in the OECD’s review of Canadian disability programs, which found that Canada is under-invested in employment, education and early intervention programs for people with disabilities.³¹

In 2006, the City of Toronto commissioned a review of best practices in local welfare service delivery.³² This review identified local innovations internationally and in Canada that the Commission should consider. The review concluded that a number of ingredients are essential to “make work, work” including extensive post-employment supports and benefits for a much longer time period than programs have typically provided, long-term education and training opportunities based on job market requirements and client choice, earnings supplements to support job retention and advancement, incentives that encourage clients to extend the job search to obtain higher-wage positions, and wage supplements combined with employment readiness services. The Commission must also, however, ensure that recommendations on employment and training program and service policies are informed by an understanding of the particular needs of and very real barriers faced by people with disabilities.

For example, the Centre for Addiction and Mental Health and the Canadian Mental Health Association, in a discussion paper released in 2010, reviewed the literature on the role of employment and education in recovery for people with mental health disabilities.³³ They identify the need to address barriers to education for people with mental health disabilities given the key role education plays in labour market success. They recommend a focus on high quality jobs in the mainstream economy. The paper also recommends looking specifically at intensive education supports for youth during the onset and early stages of mental health disabilities. Since serious mental health disabilities first present themselves during key transitions between school and higher education or work, it is a key point to intervene to ensure participation in education or work is maintained.

³¹ Organization for Economic Cooperation and Development, “Sickness, Disability, and Work: Breaking the Barriers: Canada. Opportunities for Collaboration”, 2010, at http://www.oecd-ilibrary.org/social-issues-migration-health/sickness-disability-and-work-breaking-the-barriers_9789264090422-en.

³² City of Toronto, “What Next for Welfare Reform,” Herd, D., April 200, at http://www.toronto.ca/socialservices/pdf/reports/action_plan_welfare_reform.pdf.

³³ Canadian Mental Health Association, Ontario, Centre for Addiction and Mental Health, “Employment and Education for People with Mental Illness”, January 2010, at http://www.camh.net/Public_policy/Public_policy_papers/employment_discussion_paper_jan10.pdf.

We believe there is a promising literature to support the development of effective employment and education strategies for people with disabilities and we ask the Commission to thoroughly explore these options including:

- Income and employment supports that continue into employment;
- Earnings and wage supplements to improve job retention and advancement;
- Early intervention programs to support attachment to the workforce or education among those at-risk – for example, programs to support youth in school or work experiencing the onset of mental health disabilities;
- Permitting greater benefit stacking to maximize income and options to participate in work or education;
- Eliminating eligibility and reassessment requirements for people who leave the program for work or education;
- Requirements for employers and provision of employer supports to help create conditions for success; and,
- “Upward Mobility” programs that chart job advancement opportunities, develop income improvement plans, and assist clients to continue job search activities to secure better quality work.

Improving Access to Training and Education

In the current labour market, education and training are important for accessing well-paying, secure jobs, and are among the key factors in determining whether a person entering the labour market will be able earn a wage high enough to sustain their family and to develop a secure attachment to the labour market. Low pay is four times as prevalent among workers who did not complete high school and three times as prevalent for those with only a high school diploma as it is among university graduates³⁴.

Education also plays a significant role in determining who will move up and out of low-income. Workers with a university degree were almost twice as likely to improve their situation and move out of low-paying jobs, as those with a high school education or less³⁵.

Under the current employment supports model, ODSP recipients are not fully supported in their efforts to obtain additional education or skills training in order to improve their range of job opportunities and improve their prospects of finding employment. ODSP recipients may not be eligible for funding through OSAP – for example, people who were unable to continue their university program when their disability became too serious have unpaid OSAP loans but once they are healthy enough to go back to school, their OSAP debt precludes them from qualifying. Even for those who are eligible, the prospect of entering into a long-term financial commitment

³⁴ Ron Saunders, “Does a Rising Tide Lift All Boats? Low-paid Workers in Canada”, CPRN, May 2005. p.9, at http://www.cprn.org/documents/36587_en.pdf.

³⁵ Teresa Janz, “Low-paid employment and ‘moving up’: 1996-2001”, p.22. Statistics Canada, Catalogue No. 75F0002MIE – No. 003, at <http://dsp-psd.pwgsc.gc.ca/Collection/CS75-0002-2004-3E.pdf>.

in an environment where it is difficult for persons with disabilities to secure employment³⁶, may discourage them from applying for student loans to finance their education.

Make funds available for individuals to go to school to further their education or enhance job training making more jobs to those who wish to remove themselves from the system ...Wouldn't it be easier to help those with medical problems overcome them and be able to find meaningful work in the work force instead of them being stuck on ODSP for life? In theory \$20,000 for school seems like a better option than \$200,000 over the course of many years on the system. This would improve the quality of life for many individuals, create a greater educated community base, further the economy, create more jobs and further the work force. I fail to see how this doesn't benefit Canada when a lot of people with disabilities can make a difference just anyone else can.

~ Candace, Southwestern Ontario

There should also be co-ordination between ODSP Employment Supports and Employment Ontario education and skills training opportunities, in order to provide access to essential employment preparation activities. Providing market appropriate education and skills training to ODSP recipients would increase the chance of finding and maintaining meaningful employment and developing career options.

Recommendation 18: A successful education and training strategy for people with disabilities should be put in place, which would include the following elements:

- A recognition that disability can create particular disadvantages; that these disadvantages are different for people with different disabilities; and that disadvantages affect outcomes both in training and education, and in employment;
- A holistic approach to client needs that recognizes the full range of supports critical for people with disabilities to achieve education and employment success;
- Financial support for education and training beyond what is currently available through OSAP loans;
- Inclusion of ODSP recipients in the Second Career training program;
- Simplified and streamlined administrative processes;
- A client-focused service delivery model that builds on individual strengths and goals rather than policing of benefits;
- Flexible and individualized supports based on client-directed goals and that continue into employment;
- A focus on quality jobs in the mainstream economy;
- Stable and flexible funding for employment and education programs, with a focus on incremental steps over the long-term rather than short-term, immediate employment goals; and,
- Training and support for self-employment, alternative employment and supported employment and education models.

³⁶ CCSD Disability Information Sheet Number 18, "Employment and Persons with Disabilities in Canada", 2005, at <http://www.ccsd.ca/drip/research/drip18/index.htm>.

Barriers in Employment Supports Service Delivery

ODSP Employment Supports are voluntary and are initiated at the request of the recipient. However, not all requests for employment support result in a referral to a community service provider, and not all referrals result in employment assistance³⁷.

The current model of service delivery focuses on job placement as its only compensable measure of success³⁸. But the use of this measure does nothing to guarantee job quality or job retention and sustainability, and may in fact discourage service providers from providing job placement and retention assistance to those individuals who are not “job ready” at the time of referral. In other words, the system is set up in order to “cream” the easiest to serve clients while leaving those with more significant barriers – in particular those faced by people who have disabilities – behind.

This service delivery model is not appropriate for individuals who require additional pre-employment or job retention assistance, such as individuals with multiple barriers to employment (e.g., a person with a low level of education and a disability that carries a stigma or may be challenging to accommodate in the workplace, living in a community with poor local labour market conditions), or those with advanced education, job skills and/or significant job experience beyond entry level. Both groups require additional, highly individualized pre-employment assistance from service providers.

Indeed, it is the service model itself that may at least in part account for the limited number of people with disabilities who have income from employment.

In order to improve the service delivery model, it must recognize and address the needs of ODSP recipients who are currently under-served, notably individuals with great and/or multiple barriers to employment, as well as individuals with higher levels of education and skills. The service delivery model must recognize that some ODSP recipients require additional and/or more flexible supports that are currently not recognized under the current “rapid placement” model.

I would like to go back to school but I would need special accommodations which would cost money, like having a note taker.

~ Debbie, Toronto Region

³⁷ The Earnings and Employment Supports Working Group of the ODSP Action Coalition was given some statistics on the Employment Supports program in 2008 by MCSS, after the first year of implementation of the new employment supports model (2006-2007) : Of 7,000 applications made for employment supports, 6,800 were determined to be eligible for service, and were referred to community service providers. Of the 6,800 individual referrals, 2,100 were placed in employment (it is not known whether the remaining 4,700 individuals saw their files closed or whether they obtained some employment services of some kind). Of the 2,100 individuals placed in employment, approximately 2,000 were able to accumulate 13 weeks of employment.

³⁸ Under the current funding model, service providers are compensated only once ODSP recipients are placed in employment and have completed 13 weeks of employment.

We reiterate and support the recommendations made by Minister Deb Matthews in her Review of Employment Assistance Programs in Ontario Works and Ontario Disability Support Program (December 2004)³⁹ that an effective employment supports program should:

1. Provide all applicants with a job readiness assessment;
2. Develop an individualized plan with each applicant. We would add that applicants who are not “job ready” at the time of their assessment should not be disadvantaged by the fact that they are not ready to move into employment. Personalized, long-term plans should be developed to support people in these situations, including appropriate financial and community supports to participate in community-based initiatives to provide opportunities to acquire skills for future employment and prevent the detrimental impacts of social exclusion and isolation;
3. Co-ordinate additional, non-employment-related supports for applicants; and,
4. Ensure that there are adequate supports throughout the entire process, from pre-employment services to job retention services, as well as non-employment-related supports.

The service delivery model should be revised to include support for incremental steps and successes in the employment process, as this would likely lead to increased job placement and retention rates for persons with more significant barriers to employment. This would include compensation for pre-employment activities that would remove or address barriers to employment, job development, job searches, as well as individualized and on-going on-the-job support once the person is employed.

Recommendation 19:

- Eliminate the barriers faced by ODSP recipients when accessing employment supports;
- Expand the kinds of supports available to ensure they are individualized and appropriate for the needs of all applicants; and,
- Include a right of appeal to the Social Benefits Tribunal for all decisions to deny or cancel Employment Supports.

Improving Funding for Employment Supports

Service providers should be compensated for a full range of employment support activities, including pre-employment / job readiness activities, job development and job coaching, and on-going on-the-job support and job retention services. Funding the full range of employment support activities for ODSP recipients would encourage service providers to work with individuals who require additional, individualized, lengthier supports, such as those with multiple barriers to employment.

Service providers should be compensated for the quality – not simply the quantity – of job placements. A funding model that emphasizes job quality might encourage service providers to

³⁹ *Supra*, note 6, page 22.

assist and place ODSP recipients with higher levels of formal educations and skills into appropriate employment.

Evaluation of the success of employment supports is critical, both in terms of ensuring public accountability and support, but more importantly in terms of ensuring that supports are working for the people they are intended to serve. In order to ensure accountability and quality control, a system of regular periodic consultation with ODSP participants should be created to assist in measuring the overall success of the employment supports program. As well, participants in specific programs should be asked to complete periodic evaluation reports on the quality of services received.

Recommendation 20:

- Improve the funding delivery structure for employment service providers so they can deliver programs that match people’s needs;
- Engage users of the programs to create evaluation criteria to measure program success;
- Perform regular evaluations of the programs through consultations with users of the program; and,
- Publish statistics that demonstrate the efficacy of employment services in not only finding employment opportunities for people with disabilities, but also in reducing the poverty that people with disabilities face.

Work with Employers to Improve Workplace Opportunities

We didn’t choose to be disabled (for everyone life can change in instant), we are willing to work but unfortunately rare are companies whose hiring people with disabilities.

~ Musswac, Toronto Region

There is a growing skills and human resources shortage in almost all types of employment. ODSP recipients who are willing and able to work could help meet some of the needs. However, ODSP recipients, and persons with disabilities generally, continue to face significant physical and attitudinal barriers to securing and maintaining employment, including stereotyping by employers and the service providers who are assisting them.

I would like respect to be given to people on ODSP and greater incentives to employers who will hire people with disabilities – all types of disabilities. If people were allowed to work as to their ability there would be a greater self esteem for the person with a disability and the employer would receive a benefit for hiring this person and the person with a disability would be able to help themselves get a little ahead by having the ODSP and benefits as well as the income whether a minimum wage or better or a job sharing or part time or even a few hours a day or a few days a week. More flexibility and more respect for people of all abilities and capabilities.

~ Kathryn, Toronto Region

A key component of a revised model of Employment Supports would include education for employers and service providers as to the abilities and accommodation needs of recipients, so

that both better understand and support the potential of ODSP recipients. Ontario's "Don't Waste Talent" public education program for employers is a step in the right direction, but cannot be seen as a substitute for active engagement with and support for employers.

The provisions of the AODA and the Human Rights Code must also be better communicated to employers. And the AODA must be amended to include better enforcement mechanisms. We note in particular that the AODA exempts employers with less than 50 employees from its accessibility requirements, despite the fact that a large number of employers in Ontario are small workplaces that will be exempt from the employment standards of the AODA. Opportunities for flexible options to accommodate persons with disabilities, such as job-sharing, must be explored with employers.

There is also much more community education that needs to happen so that employers will give opportunities to persons with disabilities. The challenge still remains accessibility for many. The government should offer more in terms of wage subsidy to entice businesses to give all people a chance.

~ Rhonda, Central Ontario

In order to ensure that ODSP recipients receive the highest quality employment assistance, employment supports should also support the development of skills and competencies of professionals engaged in providing employment supports, by providing funds for professional development and the creation of a professional body, that would develop standards and best practices among service providers.

Recommendation 21:

- Educate employers and service providers about the potential and workplace contributions of persons with disabilities;
- Educate employers and service providers about their responsibility to accommodate people with disabilities in the workplace and in service provision;
- Strengthen the employment accessibility provisions of the Accessibility of Ontarians with Disabilities Act and enforce them effectively; and,
- Work with Employment Supports service providers in developing professional standards for their staff.

Improve Communication with ODSP Recipients about Earned Income and Employment Supports

For too many ODSP recipients, it has taken years to be recognized as a person with a disability under the ODSPA. In addition to stripping themselves of assets and struggling to survive on low-income for many years, applicants for ODSP have faced a government bureaucracy that denies recognition of their disability. Many recipients are justifiably concerned about the impact that engaging in employment and earning income will have on their ODSP income support and health-related benefits, and therefore do not access the Employment Supports program.

Additionally, those who are interested in working or who have worked in the past may not be fully aware of the impact of the 2006 amendments – that is, changes to the earned income rules, new financial and health-related entitlements, or innovative opportunities that might be open to them. For example, many people still believe that they will lose their drug card and other health benefits if they get employment, or that they will have to completely start over with the application process if they need to return to ODSP after a full time job.

In order to ensure that ODSP recipients are aware of and obtain maximum benefit from the Employment Supports program, and that they understand the impact of working on their income and other benefits, the OSDP Branch should hire ODSP recipients and their support groups to provide community-based educational sessions to ODSP recipients on such topics as: completing income report cards, the impact of earnings on ODSP income supports, and the employment initiatives and supports available.

Recommendation 22: Hire and train ODSP recipients to work as peer support workers with other recipients in order to provide accurate information about the impact of working and receiving ODSP income support, and what types of Employment Supports are available.

Improve “Rapid Reinstatement” Rules

Currently, most recipients who leave ODSP for employment are entitled to return without having to go through the lengthy process of having to prove they are disabled again. However, there are some groups for which this does not apply. One example is that of a person who has been on ODSP for many years as a “grandparented Family Benefits” recipient. In this instance, recipients who get a job are able to stay on ODSP with a small top-up after the deduction of 50% of her earnings. However, when a person in this situation loses that job, he or she is required to apply for Employment Insurance. EI is deducted at 100% of gross (i.e., before tax) income. This person is therefore no longer entitled to an ODSP top-up, a drug card, or other necessary benefits. In addition, when that person’s EI entitlement is finished, he or she is not entitled to rapid ODSP reinstatement, simply because the income that resulted in the loss of financial eligibility was the EI, rather than wages earned through employment.

Other people who are not entitled to rapid reinstatement are recipients with a “medical review date” which passes during the time they are employed. This group of people would understandably be very reluctant to try employment, which may not be possible for them to sustain due to their disability.

Recommendation 23:

- Treat Employment Insurance income as earned income for the purposes of rapid reinstatement; and,
- Make rapid reinstatement available to all recipients who have been employed, regardless of their medical review date.

Expand Financial Supports Available to Recipients for Employment Activities

ODSP recipients continue to face financial barriers to employment, such as those associated with background checks, pardons, professional licensure, transportation and self-employment.

While the introduction of new benefits in 2006, such as the Employment-Related Benefit, the Employment Start-Up Benefit, and the Employment-Transition Benefit, may have assisted in defraying some of these costs, they are not applicable or not sufficient in some cases.

Financial supports of this nature should be expanded to cover the actual costs associated with employment. The recently released report, “What Stops Us from Working”, recommends:

- Increasing the Work Related Benefit to \$150 per month; and,
- Increasing the Employment Start-up Benefit to \$1,500.⁴⁰

Recommendation 24: Improve accessibility to and expand financial components of the Employment Supports program to cover more costs involved in finding and maintaining employment, including such costs as computers.

⁴⁰ John Stapleton, Stephanie Procyk & Linsey Kochen, “What stops us from Working?”, May 2011, at http://camh.net/Public_policy/Public_policy_papers/ODSP%20Report%20final.pdf.

Part D: Better Alignment with Other Policies and Programs

The problem with such a multitude of programmes and supports [in Canada] is that they are developed and administered in federal and provincial/territorial silos.

~ Sickness, Disability and Work: Breaking the Barriers: Canada. Opportunities for Collaboration, Organization for Economic Co-operation and Development, 2010.

The silos in Canada's disability support programs create all kinds of unique and perverse disincentives for many people with disabilities when trying to manage their disability, improve their health status, and connect and strengthen their attachment to the labour force and the community at large.

The maze of rules, procedures and scheduling – which include multiple definitions of disability and eligibility and multiple employment supports across OW-D, ODSP, WSIB, CCP-D, EI-D, the multiple disability tax credits and tax treatment of income, the ways in which income is “taxed” (i.e., earnings clawback) by income security programs, the lack of adequate and geographically consistent disability accommodations in the labour market, the lack of private drug and dental benefits in the labour market, and limits or uncertainty of coverage by other programs designed to support people with disabilities (i.e. Trillium Drug Plan, homecare, etc.) – are at best difficult to navigate. In fact, simply navigating and administering the combined impact of the lack of alignment of the various programs can be a full time job.

Most Canadians believe that the various types of income (both social and private) that individuals and families secure have a cumulative impact. That is, most believe that the more people earn and receive from social programs, the better off they are. But instead, the combined impact of the tax system and multiple claims on earnings and assets tests of different income security programs can actually result in people losing more money than they earn or save. For example, the marginal effective tax rate (METR) for low income people can exceed 100%, although in theory no one program is taking more than 50% of their earnings. Depending on family size and composition, this rate of income loss can be higher. The practical impact of the disjunctures in our income security system is that people involuntarily withdraw from the labour market as the only rational thing to do. This not only hinders their ability to improve their incomes, and limits their connectedness to the labour market, it also limits their social

What are Marginal Effective Tax Rates?

Essentially, these tax rates are the combined impact of imposing payroll and income taxes, reducing benefits and "clawing back" social-assistance income based on the money people make from outside sources, including work. For instance, when a person receiving social assistance starts to work, each of the benefit programs they participate in begins to take money back. One program might take 50 cents, another 30 cents and another 25 cents on each new dollar earned. Marginal tax rates for low-income Ontarians can actually exceed 100 per cent, meaning social assistance recipients are worse off for doing the right thing. Indeed, seen from this perspective, the fact that any social assistance recipient continues to seek more and better-paying work speaks to a keen desire to improve their living standards.

~ Don Drummond, Chief Economist TD Bank. Toronto Star July 2008

connectedness.

In addition, however, are the additional costs of disability associated with attending to daily living or participating in the workforce – costs which are not factored into the losses captured in the concept of METR. Some of these costs of daily living and employment for disabled persons may be compensated by refundable or non-refundable tax credits, but are not considered when calculating earning clawbacks of income security programs. Not accounting for the costs of disabilities further misrepresents the financial reality of persons and families relying on ODSP.

One particularly pernicious impact of the misalignment of income security programs is the interplay of the different ways in which social housing policy and ODSP policy treats employment earnings, as demonstrated in the following quote:

When Linda began to work, her ODSP dropped from \$687 a month to \$183 and her rent soared by 471% from \$109 to \$623 when her earnings passed the \$440 a month threshold. Linda had to quit her job last May (2010) because she was worse off. We call this combination of effects the “Linda Chamberlain rule”.

~ John Stapleton for the Housing Network of Ontario, March 18, 2011
Submission on Bill 140, Strong Communities through Affordable Housing Act, 2011

Calls to redress this particular disincentive to engage in the labour market have been highlighted numerous times over the last few years, most recently in the review of the Social Housing Reform Act. But these calls have not been answered by any substantial change in practice or policy, leading advocates to conclude that this negative impact is not unintended.

Poverty has a price tag for all Ontarians.

- **Poverty has a significant cost for governments.** The federal and Ontario government are losing at least \$10.4 billion to \$13.1 billion a year due to poverty.
- **Poverty has a cost for every household in Ontario.** In real terms, poverty costs every household in the province from \$2,299 to \$2,895 every year.
- **Poverty has a very significant total economic cost in Ontario.** When both private and public (or social) costs are combined, the total cost of poverty in Ontario is equal to 5.5 to 6.6 per cent of Ontario's GDP.
- **The remedial costs of poverty related to health care are substantial.** In Ontario, poverty-induced costs related to health care have an annual public cost of \$2.9 billion. The national added cost to health care budgets is much greater, at \$7.6 billion per year.
- **The annual cost of child or intergenerational poverty is very high.** If child poverty were eliminated, the extra income tax revenues nationally would be between \$3.1 billion and \$3.8 billion, while for Ontario, the additional (federal and provincial) taxes would amount to \$1.3 billion to \$1.6 billion. The total economic cost (private and social) of child poverty Ontario is \$4.6 to 5.9 billion annually.
- **Opportunity costs or lost productivity due to poverty has a great economic cost.** Federal and provincial governments across Canada lose between \$8.6 billion and \$13 billion in income tax revenue to poverty every year; in the case of Ontario, Ottawa and Queen's Park lose a combined \$4 billion to \$6.1 billion

~ The Cost of Poverty. Ontario Association of Food Banks 2008

Although many of the programs discussed in this section are beyond the authority of the provincial government, ODSP (as the program of last resort for disabled persons and their families) has a responsibility to shore up our safety net until such time as greater alignment across jurisdictions and with changes in the labour market can be negotiated and achieved.

At a bare minimum, a first principle of ODSP should be that people become better off for seeking and engaging in training and education, employment activities, or accessing other disability supports (i.e. assistive devices, home support) that enable them to more fully participate in society and the labour market. When disabled persons are better off, we are all better off.

Ideally, the first principle of ODSP should be that people can assemble and accumulate a combination of wages, benefits, savings and disability supports until such time as they have secured a net income after taxes and after out of pocket disability expenses that equals the LICOs (after taxes) for the region and family size.

Similarly, ODSP should take an approach to savings that is consistent with the standard recommended by most business and financial advisors – the ability to assemble and accumulate a liquidable net worth equal to 3 months of a person’s highest annual salary in the last 5 years.

And, as ODSP is a component of the collective redistributive goal of taxation, earnings clawbacks as a tax on income and savings should reflect a progressive approach similar to the income tax system. A person’s earnings and assets should only be clawed back after the point at which either of the aforementioned thresholds has been realized, at a rate reflecting their overall income tax bracket (or similar model), rather than the current arbitrary fixed percentage.

With these principles in mind, we offer the following recommendations:

Recommendation 25: Establish a Disability Ombudsman. Given the multiple provincial programs and regulations that many people must navigate to fully participate in society, disabled persons need an ombudsman dedicated to assisting disabled persons to access the supports they are entitled to in a timely and reasonable manner. First and foremost the office of the ombudsman should act as an independent problem solver across jurisdictions with the authority to intervene and demand compliance if warranted because of unnecessary delays or contrary interpretation of legislation and regulations governing program access, levels of support and quality of service.

Recommendation 26: In the short term, the rules for calculation of income in the Social Housing Reform Act should be revised and coordinated with a more generous earnings exemption in the ODSP Act, so that recipients living in rent-geared-to-income housing are not worse off when working.

Recommendation 27: The province should begin to gather, analyse and publish data that enables the province to adjust benefits and METRs in ways that reflect and account for the additional costs associated with disabilities. METR's represent the combined impact of imposing payroll and income taxes, reducing benefits and "clawing back" social-assistance income based on the money people make from outside sources, including work.

Recommendation 28: ODSP workers should be given sufficient knowledge, skills, training, and direction to fully inform ODSP recipients of the impact of returning to work or school and be able to assist recipients to understand the financial implications and planning associated with those choices (e.g., the impact of taking an OSAP loan).

Recommendation 29: ODSP workers will ensure that ODSP recipients can navigate and access disability supports not directly administered by ODSP that are critical to ODSP recipients successfully building a greater quality of life and greater participation in the community and the labour market. Examples include provincial programs such as Assistive Devices; federal programs such as Disability Tax Credit and RDSPs; training programs; education; and OSAP.

Recommendation 30: The province should begin to gather, analyse and publish local, regional, national and international research and data that enables the government and advocates to better understand the real costs and benefits to government, people with disabilities, and society, of investments in support programs for people with disabilities across ministries and levels of government, over time and across regions.

Recommendation 31: In the long term, Ontario should convene a work group of the Council of the Federation to modernize and align federal and provincial income security programs and tax structure with the ODSP program. This realignment should focus on a seamless transitioning between provincial and federal disability programs so that a person's income and expenses (i.e. access to subsidies and supports) does not impose an unnecessary hardship for ODSP recipients and reflects the METR's established by the province (see recommendation 25). Realignment, however, cannot result in a move to the lowest common denominator across jurisdictions, but rather in an increase in supports to all.