

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT  
RAPPORT

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DATE 23 December 1997

TO/DEST. Co-ordinator, Community Services Committee

FROM/EXP. Commissioner, Social Services Department

SUBJECT/OBJET **SOCIAL ASSISTANCE REFORM ACT 1997:  
REGIONAL POSITION ON REGULATIONS**

#### **DEPARTMENTAL RECOMMENDATIONS**

**That Community Services Committee recommend that Regional Council adopt recommendations 1 through 7 as its position on regulations to be made under the Social Assistance Reform Act (Bill 142) and authorise the Regional Clerk to forward this report to the Minister of Community and Social Services;**

- 1. That Ontario Works Act (OWA) regulations provide for the continuation of all mandatory and supplementary benefits available under General Welfare Act (GWA) including the relevant funding approval procedures and cost-sharing formula;**
- 2. That if OWA personal asset levels are set lower than those under Ontario Disability Support Program Act (ODSPA), OWA applicants claiming disability as reason for assistance be temporarily exempt from the asset level criterion of eligibility pending consideration of their case under / transfer to ODSPA;**
- 3. That any requirement that property related to personal use and/or employment be subject to the lien provisions of OWA, be conditional upon the expiration of a grace period of between 2 and 3 years during which the recipient must have received social assistance on a continuous basis;**
- 4. That the specific lien grace period applicable to each recipient's individual situation be left to the discretion of the Welfare Administrator;**
- 5. That the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance is received;**

6. **That OWA regulations ensure that third party payments are used only as a last resort when recipients risk the loss of shelter or utilities; and only when the third party payment does not jeopardise the ability of recipients to feed, clothe and shelter themselves;**
7. **That the rate of recovery of overpayments be maintained within the existing GWA limits of between 5% and 10% of income assistance, as determined by the Administrator; unless the recipient agrees to a greater amount being deducted.**

## BACKGROUND

On October 16, 1997; a report entitled “Social Assistance Reform Act (SARA) 1997 Update” was tabled before the Community Services Committee. In considering the report, the Committee adopted a motion requesting Regional staff to prepare this follow-up report on regulations to be proclaimed under SARA so the Region can have an input before final decisions are taken. In response to the request of the Committee, a focus group was struck within the Social Services Department (SSD) to identify issues of concern to the Region; and to develop recommendations as to how such issues could be addressed in the regulations to be proclaimed under SARA.

The focus group identified the following issues which are related primarily to the OWA component of SARA:

1. the definition of “Benefits”,
2. personal assets levels,
3. lien against personal property,
4. agreement to reimburse for assistance provided,
5. third party payments, and
6. recovery of overpayments.

With the passing of SARA into law on November 28, 1997; many of the issues discussed in the October staff report are not addressed in this report either because they are not subject to further clarification or resolution in regulations.

## DISCUSSION

### Benefits

Certain benefits currently provided under GWA are mandatory in nature; meaning they must be provided to those who are in need and eligible. These include: Special Necessities such as surgical supplies, diabetic supplies and necessary medical transportation; Community Start-Up Benefits (CSUB); Back to School Allowance; Winter Clothing Allowance and Employment Start-Up Allowance (ESUA).

Other items of service called Special Assistance or Supplementary Aid are provided on a discretionary basis by municipalities subject to municipal and provincial program approval. These include such things as vision and dental care; some essential furniture and appliances; assistance for certain medical needs, vocational training fees and other goods and services which are not

provided through the GWA basic allowance. The overall effect of the GWA benefits is that they introduce the flexibility required by the Administrator to address certain client specific needs. Expenditures for mandatory and discretionary benefits attract Provincial subsidy, with no cap or ceiling, within the budget approved by Regional Council.

OWA defines “Benefits” as prescribed items, services or payments. This means that regulations under the Act will determine what benefits will be available to OWA recipients; and whether they will be mandatory or discretionary. There is concern that if OWA regulations eliminate a substantial portion of the benefits provided under GWA, Welfare Administrators will become limited in their ability to effectively address the benefit needs of recipients. Benefits such as CSUB, ESUA, vision and dental care are very often linked to clients’ basic needs and efforts toward self-sufficiency.

Further, the regulations could alter existing benefits funding approval procedures and cost-sharing formula in a manner that may place municipalities in the position of having to either cut certain benefits or pay for them at 100% municipal cost. The SSD therefore recommends that OWA regulations maintain the full range of GWA benefits including the relevant funding approval procedures and cost-sharing formula.

### **Personal Assets Levels**

Under GWA, the Welfare Administrator must determine the maximum level of liquid assets an applicant may have in order to be eligible for assistance. Based on this requirement, the Region adopted the policy that its maximum GWA asset level not exceed the corresponding maximum level set under FBA. This allowed the Administrator to set asset levels for disabled GWA recipients at FBA levels so that this group of clients can keep their asset levels intact while waiting for an FBA disability grant.

ODSPA will raise the liquid asset limit from its FBA level of \$3,000 to \$5,000 for a single person; and from \$5,000 to \$7,500 for a couple. Five hundred dollars in assets will be allowed for each additional dependent person in a benefit unit. Personal injury award limits will also be increased from their current level of \$25,000 to \$100,000. Additionally, the cash surrender values of life insurance policies will no longer be considered liquid assets up to \$100,000. However, the Ministry has indicated in its June 5th Backgrounder that ODSPA recipients may take a loan against the value of their life insurance policies to cover costs related to the advanced stages of such illnesses as cancer or AIDS.

Other provisions of ODSPA relating to asset levels include the requirement that families can now help with certain disability-related costs to be prescribed in regulations. Families can also provide up to \$4,000 per year for non-disability related expenses without affecting ODSPA allowances; although again the specific eligible expenditures will be defined in the regulations. Additionally, allowable testamentary trusts (inheritances in the form of a trust fund) will also increase within ODSPA from \$65,000 to \$100,000.

While these changes appear very positive for ODSPA recipients; there is concern that OWA asset levels, which are yet to be prescribed in regulations, may be set lower than those under ODSPA; thus forcing disabled OWA recipients to dispose of assets they would have been allowed to keep

under ODSPA. The SSD therefore recommends that disabled OWA recipients be temporarily exempt from the personal asset level criterion of eligibility pending their transfer to ODSPA if OWA asset levels are set below those of ODSPA.

### **Lien Against Personal Property**

GWA has no requirements for the registration of liens against personal property. However, in determining the eligible liquid asset level, the Welfare Administrator must take the applicant's interest in real property unless such property constitute:

- a) the applicant's principal residence, and
- b) tools of the trade or instruments of manual operation that are used in an occupation or trade and which are essential to carry on employment.

The effect of these GWA provisions is that assets related to the recipient's personal use and previous employment are maintained intact in order to facilitate the recipient's early return to employment as a means of exiting social assistance. For example, a farmer who is otherwise eligible for assistance under GWA would not be expected to sell his/her farm machinery if assistance is likely to be short term (i.e., 1 to 6 months). The farmer may however be asked to liquidate property not needed for his/her own personal use if the Administrator expects that assistance will be needed for an indefinite period of time. In this case the farmer will be given a grace period of six months in which to liquidate the assets related to his/her previous employment.

Section 12 of OWA, requires that an Administrator shall in prescribed circumstances, as a condition of eligibility for basic financial assistance, require an applicant, recipient, spouse or dependent adult who owns or has an interest in property to consent to having a lien against the property in accordance with regulations. It is not yet known what the prescribed circumstances will be. However, the SSD is concerned that if properties related to personal use, such principal residence; and self-employment, such as tools of the trade; are subject to the lien provisions of OWA immediately upon application for assistance; opportunities for certain recipients to exit social assistance by mortgaging their personal properties for self-employment loan may be jeopardised. Furthermore, recipients may find it harder to get off welfare as their debt will follow them. In certain cases they may lose their houses because mortgages may not be easily refinanced with a lien. The SSD therefore recommends that if properties related to personal use and/or employment are to be subject to liens; a grace period of 2 to 3 years of continuous assistance be allowed prior to the implementation of such a requirement. The specific grace period will be determined by the Administrator in consideration of recipient's circumstances.

### **Agreement To Reimburse**

Currently, when a GWA recipient or beneficiary is entitled to receive a payment which is likely to cover the same period for which assistance is being paid, the recipient must sign a written agreement to reimburse the Administrator for the assistance being provided. In addition, the recipient must complete an assignment form where the payment may be coming from, among others, a pension plan, employment insurance, law suits, trust funds and accident claims.

OWA beneficiaries shall in certain circumstances be required to agree to reimburse for the basic financial assistance to be provided. According to the Act, certain prescribed assets or incomes including incomes paid with respect to a period after assistance will be exempt from the reimbursement provisions. The SSD is of the opinion that certain windfall incomes such as inheritances may provide the only opportunity for certain recipients to exit social assistance. The SSD therefore recommends that the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance has been paid; and which thereby constitute a duplication of assistance.

### **Third Party Payments**

GWA regulation 12(1) authorises the Administrator to make direct payments to landlords etc. on behalf of recipients by stating that an allowance shall be paid to or *on behalf of* a person. OWA, on the other hand, provides that a portion of basic financial assistance may be paid directly to a third party (e.g. a landlord or utility company) on behalf of a recipient; if the recipient or his / her dependent owes money to the third party for costs related to basic needs or shelter. OWA regulations will clarify whether this provision covers overdue as well as recurrent debt. The SSD is concerned that the third party payment provisions of OWA may promote dependency if they favour the payment of overdue debts over the day-to-day survival expenditures of recipients.

In addition, there are fears that most creditors particularly landlords and utility companies may seek to use this provision as a first resort to guarantee payment for their goods and services on a continuous basis. This in turn may result in increased administration costs as additional staff time is allocated to process third party payment requests and to adjust recipient entitlements accordingly. In this regard, the SSD recommends that third party payments be used as a last resort when the recipient risks the loss of shelter or utilities; and only when the third party payment does not jeopardise the ability of the recipients to feed, clothe and shelter themselves.

### **Recovery of Overpayments**

Under GWA, overpayments made as a result of recipient errors such as failure to report income and misrepresentation of facts must be recovered. The rate of recovery is generally set between 5% and 10% of the combined GWA basic and shelter allowances. Within these limits, the Administrator is required take the recipient's circumstances into consideration before assessing the applicable rate of recovery.

OWA provides that any amount paid to a recipient in excess of the recipient's entitlement under the Act will be considered as overpayment; irrespective whether the overpayment was due to client misrepresentation or administrative error. In addition, if the recipient or his/her dependent fails to honour an assignment or an agreement to reimburse for assistance provided, the amount agreed to will be considered an overpayment. The specific amount to be deducted to recover overpayments will be set by OWA regulations. In order to ensure that the recovery of overpayments does not result in undue hardship for recipients, the SSD recommends that the current GWA recovery rate of between 5% and 10% of basic and shelter assistance be maintained in OWA regulations. The Administrator will determine the applicable rate within the 5 - 10% limits; and recipients may agree to a greater amount being deducted.

## **CONCLUSION**

The SSD supports the province's overall purpose statement for OWA; in particular its initiative to promote self-reliance through employment. However, most of OWA provisions are left to be detailed in regulations which may be proclaimed with very little or no consultation with municipalities. The SSD therefore believes the above noted recommendations will convey to the Province, the Region's concerns regarding OWA regulations which are scheduled to be proclaimed in April of 1998.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications.

## **COMMUNITY PARTICIPATION**

The draft report was circulated to the Social Planning Council of Ottawa-Carleton for review and comment. They indicated that the recommendations reflect their position on Bill 142, as contained in a brief presented to the Standing Committee on Social Development on October 21, 1997.

*Approved by:*  
*Dick Stewart*  
*Social Services Commissioner*

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