

# Appeals and Internal Reviews



**How to appeal when you disagree with decisions about your right to social assistance from Ontario Works (OW) or the Ontario Disability Support Program (ODSP).**



## Challenging a decision

You may be able to appeal to the Social Benefits Tribunal if assistance from Ontario Works (OW) or the Ontario Disability Support Program (ODSP) is:

- refused,
- reduced, or
- cut off.

Decisions to refuse, reduce, or cut off assistance must be sent to you in writing. The letter that tells you about the decision is called a “notice of decision”.

If you are refused assistance, you can appeal only if you completed an application and got a notice of decision.

If you withdrew your application or did not finish it, you will not be able to appeal, but you still have the right to make a new application.



## Getting a notice of decision

The notice of decision should tell you:

- when the decision takes effect,
- the reasons for the decision, and
- how much time you have to ask for an internal review.

If assistance is refused, reduced, or cut off, but you do not get a letter, contact the office that made the decision **immediately** and ask for the notice of decision. The office will be one of these:

- the local OW (welfare or social services) office,
- the local ODSP office, or
- the Disability Adjudication Unit (DAU) in Toronto.



## Asking for an internal review

If you disagree with a decision made by OW, the ODSP, or the DAU, you may be able to appeal to the Social Benefits Tribunal. **But first you must write to the office that made the decision and request an internal review.**

An “internal review” means that a different person in the office that made the decision will review that decision and decide whether or not to change it. You must ask for an internal review within **10 days** of receiving the decision.



### Note about mail

The OW and ODSP rules assume that if a notice is mailed to you, you receive it **3 days** after it is mailed. The mailing date should be stamped on the envelope by Canada Post. It might not be the same as the date on the letter. Keep the letter and the envelope.

So, if the notice of the decision to refuse, reduce, or cut off assistance is mailed to you, you have **13 days** (10 days plus 3 days) from the day it is mailed to request an internal review.

## If your request for an internal review is late

If the time for requesting an internal review has passed, you should still request one. Explain why your request is late and ask for an extension of time. If you can show that you have a good reason, you could still get an internal review. Some good reasons why your request was late could be:

- you were in hospital or jail,
- you have difficulty reading and writing, or
- the mail took longer than 3 days to reach you.



## What to include when you write a request for an internal review

Some social services offices or community legal clinics have form letters that you can use to request an internal review. We have also added a [form letter](#) at the end of this pamphlet. If you like, you can fill it in and use it to make your request.

You do not have to use a form letter to request an internal review. You may choose to write your own letter. If you do, you should include:

- the date on the notice of decision,
- the date you received the notice of decision, and
- your 9-digit member identification number. You can find it in the notice of decision.

In the letter, say that you want an internal review. You can choose whether or not to give reasons for requesting the internal review. Sometimes an explanation is helpful. You can also include any new information or documents that support

your request. If you are not sure what to say, call your community legal clinic (see [page 15](#)).

Sign and date the letter, and include your name and address. **Keep a copy of the letter.**

You can deliver, fax, or mail your request for an internal review. If you deliver your request in person, ask for a receipt to prove the date you delivered it. Make sure you get it to the correct office within the time limit. If it is late, you could lose the right to a review and an appeal.

## **After the internal review decision**

A decision on your internal review is supposed to be made within **10 days** from the date your request is received. This “internal review decision” must be sent to you in writing.

If you do not agree with the internal review decision, you can appeal to the Social Benefits Tribunal (SBT). The SBT is independent from OW, the ODSP, and the DAU. It has the power to make a different decision.

You must file your appeal with the SBT within **30 days** of the date of the internal review decision.

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

Some kinds of decisions **cannot** be appealed. They are listed on page 9.

## **If you withdraw your request for an internal review**

If you withdraw your request for an internal review, you will not be able to appeal the decision. Make sure you understand what it will mean for you before you agree to withdraw. You can get legal advice from a community legal clinic or a lawyer (see [page 15](#)).



## Appealing to the Social Benefits Tribunal

You **can** appeal decisions about:

- ✓ being refused or cut off assistance,
- ✓ the amount of assistance,
- ✓ a reduction in assistance to recover an overpayment,

(**Note:** If you receive notice of an overpayment and you are no longer on assistance, you should get legal advice.)

- ✓ community start-up and maintenance benefits, and employment and training start-up assistance,
- ✓ medically necessary transportation costs and certain health supplies, and
- ✓ the appointment of a trustee to receive your cheque if you are 18 or over.

**You cannot appeal decisions about:**

- X** discretionary benefits, such as dental services, funerals and burials, eyeglasses, or prosthetic appliances,
- X** third party payments (having some or all of your assistance paid directly to a landlord or utility company),
- X** emergency assistance, and
- X** the appointment of a trustee to receive your cheque if you are under 18.

There is a time limit for appealing a decision (see [page 10](#)). If you are not sure whether a decision can be appealed, go ahead and appeal. It is also a good idea to contact your community legal clinic for information and advice (see [page 15](#)).



## How and when to appeal to the Social Benefits Tribunal

You must use the official Appeal Form. You can get one from your OW or ODSP office, from a community legal clinic, or by calling the Social Benefits Tribunal at **1-800-753-3895**.

You must file your appeal with the SBT within **30 days** of the date of the internal review decision. You should get a decision on your internal review within 10 days of the date your request is received. If you do not get an internal review decision within the 10 days, you can appeal the original decision. This appeal must be filed within **40 days** of the date of your request for an internal review.

If you miss the time limit for appealing, you can ask for more time. You will have to explain why you missed the time limit when filling out the Appeal Form.

When you send in your Appeal Form, it is a good idea to include copies of any

decision letters you have received from the OW or ODSP office, or from the DAU. Also include a copy of the letter you wrote to request an internal review.

## **Applying for interim assistance**

You can apply for “interim assistance” while you wait for the SBT to decide your case. The Application for Interim Assistance is part of the Appeal Form. If the SBT orders it, the local office will have to pay you assistance while you wait for the appeal.

The amount of interim assistance is the same as the amount of OW assistance. However, if you are appealing a decision to cut off or reduce ODSP income support, the amount of interim assistance is the same as the amount of ODSP income support.

Since you cannot get interim assistance until you have filed your appeal with the SBT, it is best to make your objection and your request for an internal review as soon as you can.



If you lose your appeal, or you do not attend your hearing, you will have to pay back the interim assistance. If your case gets settled, try to get an agreement in writing that says you will not have to pay back the interim assistance. If you withdraw the appeal without such an agreement, you might have to pay back the interim assistance.



## Preparing for your appeal hearing

Within 60 days of receiving your Appeal Form, the SBT must send a “notice of hearing” to you and to the office that made the decision you are appealing.

The notice of hearing will give the date, time, and place of the appeal. You must be given at least 30 days’ notice.

The SBT might give you an appointment for a telephone hearing instead of an in-person hearing. You have the right to object and request that your hearing be held in person. It is a good idea to get legal

advice before you agree to a telephone hearing. See [page 15](#) to find out where to get legal help.

If the OW or ODSP office, or the DAU, intends to file a report with the SBT, they must send you a copy within 30 days of receiving your notice of appeal. The report should include the reasons they made the decision you are appealing, and any evidence they are relying on.

If you have new medical evidence in an ODSP appeal, you must file it with both the SBT and the DAU at least **30 days** before the hearing.

Any other documents that you want to use as evidence in an OW or ODSP appeal must be filed at least **20 days** before the hearing. File these documents with both:

- the SBT, and
- the office that made the decision you are appealing. This could be the OW office, the ODSP office, or the DAU.



Keep a copy of everything that you send in, along with proof of the date you sent it.

The SBT can refuse to consider any new medical evidence or other documents if you send them in late. Or they could put off your hearing and ask you to come back another time.

Even if the deadline has passed, file the new medical evidence or other documents as soon as possible. The SBT might still agree to consider them.

You have the right to be represented at the hearing. It can be difficult to prepare and present a case, so you may want to get help from your community legal clinic or a lawyer as soon as you decide to appeal a decision.



## Getting legal help

Our booklet called “**Where to get help with your appeal**” lists community legal clinics in Ontario that help people to appeal OW and ODSP decisions. See the [back cover](#) of this pamphlet to find out how to order it. You can also find it on our web site at [www.cleo.on.ca](http://www.cleo.on.ca).

Another way that you can usually find the community legal clinic nearest you is by looking under “Legal Aid” or “Lawyers” in your phone book. You can also check Legal Aid Ontario’s web site at [www.legalaid.on.ca](http://www.legalaid.on.ca) or call them:

Outside Toronto ..... **1-800-668-8258**

In Toronto..... **416-979-1446**

TTY outside Toronto..... **1-866-641-8867**

TTY in Toronto ..... **416-598-8867**

The law can change, and policies and practices can also change or vary. This pamphlet contains general information. It is not a substitute for getting legal advice about your particular situation.

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