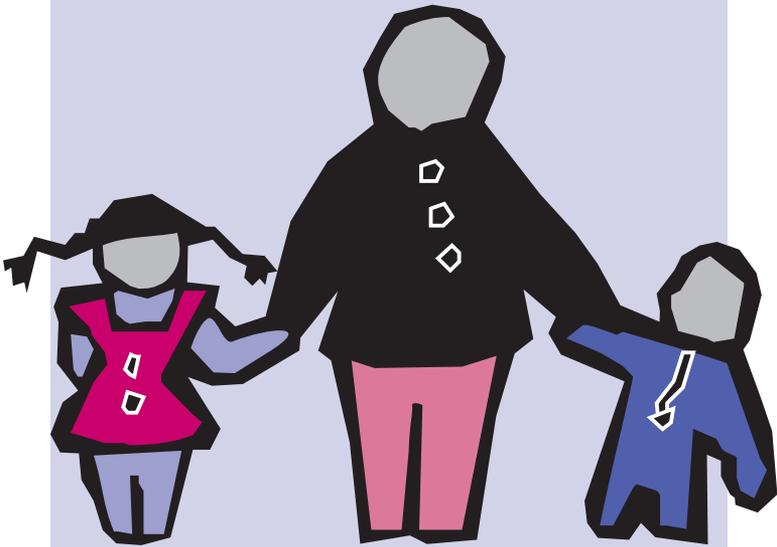


**Child and spousal
support when
you are on social
assistance**



If you speak French

Ask a lawyer or a community legal clinic about your language rights. You may have the right to get your OW- and ODSP-related government services in French.

If you are appealing a decision about your right to social assistance from OW or ODSP, this could mean that you have the right to a hearing before a French-speaking member of the Social Benefits Tribunal, as well as other French-language services.

Si vous parlez français

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

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



Family law in Ontario requires all parents to support their dependent children. A child is usually dependent until at least the age of 18 and sometimes longer. A parent has a legal duty to provide financial support even if he or she has never lived with the child. This is true even if the parents have never been married to each other or lived together.

In some situations, your spouse may have a responsibility to support you financially even after the relationship has ended. A spouse can be someone of the same or opposite sex. The two of you may or may not be married to one another. On page 5 we say more about [the definition of “spouse” in family law](#).

For more information about the legal responsibility to make support payments, see the CLEO booklets called **Separation and Divorce: Child Support** and **Separation and Divorce: Spousal Support**. To view them online, go to www.cleo.on.ca. To find out how to order them, check the back cover of this pamphlet.

The rest of this pamphlet is about social assistance and the rules that apply to people who might be able to get financial support from their spouse or another parent of their child.

Social assistance in Ontario

If you have no income or a low income and you live in Ontario, you may qualify for help from one of these social assistance programs:

1. **Ontario Works (OW)**

Some people call this program “welfare”. OW is delivered by municipal governments. In other words, it is run by the local government of the town, city, county, district, or region you live in.

2. **The Ontario Disability Support Program (ODSP)**

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

OW and ODSP both provide income support and employment support. Income support is also called income assistance.

When you get **income support**, you get money to help with living expenses, such as food and housing. You also get help to pay for prescription drugs and you may be eligible for other benefits such as dental services.

When you get **employment support**, you get help to find a job or upgrade your skills.

To get income support from OW or ODSP, you must qualify financially. This means that you must show that you have very little money and that you do not own many things of value. You must meet the rules about income and assets.

If I am on social assistance, do I have to try to get support?

If you are applying for or receiving assistance from OW or ODSP, you must make **reasonable efforts** to get financial support from:

- someone who is or was your spouse as defined by family law (the [definition](#) is on page 5), and
- your child's other parent, even if he or she has never been your spouse. This can include someone who is not your child's biological or adoptive parent if they acted as a parent towards your child.

If you do not make reasonable efforts to get support, your assistance could be refused, reduced, or cut off. This means you could get less money or no money at all.

OW or ODSP will ask for the name of your spouse or your child's other parent. They could also ask where this person is and for other information, such as:

- his or her Social Insurance Number (SIN),
- his or her employer's name and address,
- how long you lived together and when you separated,
- whether the other person acted like a parent towards your child, and
- results of DNA tests, if available.

If you know this information but do not give it, your assistance could be refused, reduced, or cut off.

What is the definition of “spouse” in family law?

In family law, a spouse is someone of the same or opposite sex who:

- is married to you,
- has been living as a couple with you for at least three years, or
- has lived with you in a relationship of some permanence, and the two of you are the parents of a child.

OW and ODSP use this definition of spouse in their rules about support payments.



OW and ODSP use a different definition of spouse when they are deciding if you are eligible for social assistance. For more information about the definition of spouse used for eligibility, see the CLEO

booklet called **Do you live with someone who might be seen as your spouse?** To view it online, go to www.cleo.on.ca. To find out how to order it, check the back cover of this pamphlet.

A community legal clinic can also tell you more about the rules that apply to people on social assistance. See page 17 for [information about finding the community legal clinic nearest you](#).



Are there exceptions to the rule that says I have to try to get support?

Yes. You may not have to try to get support if your spouse or your child's other parent cannot be found and has had no contact with you for some time. If you have any information that could help to find him or her, you must give this information to the OW or ODSP office.

There are some other situations in which you may not have to try to get support — for example, if you cannot attend court for medical reasons. Other examples would be if your spouse or your child's other parent is:

- violent towards you or your child,
- unable to pay any support at this time — for example, because he or she is in jail, or
- in another country where an order for support cannot be enforced.

In situations like these, OW or ODSP should decide that you do not have to try to get support. They will review this decision at a later date, and they should tell you the review date. It will usually be in 3 to 12 months. If the situation remains the same, they might set another review date. You can be asked to provide evidence of the situation. For example, you might need to get a police report, or a letter from a doctor or a counsellor, to show that your spouse or your child's other parent was violent.

In some cases, OW or ODSP can decide that no review is needed. This could happen if, for example:

- the absent spouse or parent cannot be found after a reasonably long search,
- there is an ongoing risk of violence, or
- it is not possible to say who is the father of a child.

If OW or ODSP asks you to try to get support, but you do not think you should have to, contact your community legal clinic. See page 17 to find out [how to contact a legal clinic](#).



What will I be asked to do to get support?

OW or ODSP may ask you to:

- work out an agreement for support according to guidelines that the courts use to decide on child support,
- apply to get a court order for support, or
- enforce a support agreement or court order that you already have.

OW has Family Support Workers who are supposed to help people on OW try to get support. The Family Support Worker can help you work out an agreement for support if your spouse or your child's other parent is willing to co-operate. It is best to talk to a lawyer before signing any agreement.

If there is no agreement, the Family Support Worker can help you apply for a court order. Even if you have an order, you may be expected to go back to court to increase the amount. Again, it is important to get legal advice. Family Support Workers cannot give you legal advice.

Because an agreement or a court order can also deal with custody, access, and property, it is best to talk to a lawyer before making an agreement or applying for an order.

You may be able to get free legal advice through Legal Aid Ontario. Starting on page 17, there is information about [finding legal help](#).

How does getting support payments affect my assistance?

Your monthly assistance will be reduced by the amount of your support payment, except in certain situations.

Where child support payments are part of a court order and are used to pay for education, training, or disability-related expenses, there are rules about when receiving this kind of payment will not reduce your assistance.

There are also rules that apply when you receive child support for an adult child with a disability. OW or ODSP will look at how you spend that money. If you give it to the child, or use it for the child, the support payments might not reduce your assistance. But, in that case, if your child applies for social assistance, the support payments might be considered part of their income and could affect their eligibility for assistance or the amount that they receive.

Get legal advice if these rules could apply to your situation. Starting on page 17, there is information about [finding legal help](#).

Even when you do not receive your support payment, your assistance may still be reduced. If this is your situation, you may want to get legal advice about appealing the decision to reduce your assistance.



What can I do if the support payments are late or not paid?

Tell the OW or ODSP office right away. You may also want to get legal advice.

If you have not been getting your support payments each month, you may be able to assign them to OW or ODSP. When you assign your support payments, they go directly to OW or ODSP, and you get the full amount of your assistance even when the support is not paid.

If there is any chance that your support will not be paid, you should get a court order for support, or file your agreement with the court.

When the court makes a support order, the court automatically files the order with the Family Responsibility Office (FRO). Agreements can also be filed with the FRO after they have been filed with the court.

The job of the FRO is to collect support payments, and to enforce support orders and agreements that have been filed with the courts. If there are problems with payments, the FRO can take steps to enforce the order. For example, the FRO can order employers to deduct money from the wages of the person responsible for paying support.

OW or ODSP may ask you to co-operate with the FRO. If you do not, your assistance may be refused, reduced, or cut off.

What if I have problems with the Family Responsibility Office?

If you have problems with the FRO, contact your Member of Provincial Parliament (MPP) or your community legal clinic. See page 17 to find out [how to contact a community legal clinic](#).

You can also make a complaint to the office of the Ombudsman of Ontario. They deal with complaints about Ontario government services. You can make your complaint in English or French by using the complaint form on their web site at www.ombudsman.on.ca or by calling them:

Toll-free. **1-800-263-1830**

Toll-free TTY **1-866-411-4211**



What if my assistance is refused, reduced, or cut off?

Ask for the decision in writing immediately.

You can appeal to the **Social Benefits Tribunal (SBT)**. The SBT is independent from OW and ODSP. It has the power to make a different decision.

But first you must **write** to the office that made the decision and ask for an **internal review**. An internal review will not be done by the person who made the original decision. Someone else in the same office will review the original decision and decide whether or not to change it.

On the next few pages you will find basic information about internal reviews, appeals, and the time limits that apply to them. For more details and a [form](#) that you can use to request an internal review, see the CLEO booklet called **Appeals and internal reviews**. To view it online, go to www.cleo.on.ca. To find out how to order it, check the back cover of this pamphlet.

Ask for an internal review

Your request must be made **in writing** to the office that made the decision. You must ask for an internal review within **30 days** from the date you receive the decision to refuse, reduce, or cut off assistance.

Note about mail

 The rules assume that if a letter 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, so keep both the letter and the envelope.

It is important to try to meet the time limit. If you miss it, you should still ask for an internal review. Make sure you ask for an extension of time in your request for an internal review and explain why your request is late.

The OW or ODSP office is supposed to make a decision on your internal review within **10 days** from the date they receive your request.

Appeal to the Social Benefits Tribunal

If you get an internal review decision within the 10 days, and it says that assistance is still refused, reduced, or cut off, you have **30 days** from the date of this decision to file an appeal with the SBT.

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

To make your appeal, you must use the SBT's [Appeal Form](#). You can get one from your OW or ODSP office, a community legal clinic, or by calling the Social Benefits Tribunal at:

Toll-free. **1-800-753-3895**

Toll-free TTY **1-800-268-7095**

The Appeal Form is also available on the SBT's web site at www.sbt.gov.on.ca. Look in the "Forms" section.

If you miss the time limit for appealing, you can still file an appeal. In the Appeal Form, ask the SBT for an extension of time and explain why you missed the time limit.

**Apply to the SBT
for interim assistance**

When you appeal, you can apply for interim assistance while you wait for your appeal to be decided. The Application for Interim Assistance is part of the Appeal Form. If the SBT orders it, the OW or ODSP office will have to pay you assistance until your appeal is decided.

If you lose your appeal, or you do not go to your hearing, you will have to pay back any interim assistance you get.



How can I get legal help?

For advice or help dealing with OW or ODSP, contact your community legal clinic, Legal Aid Ontario, or a lawyer.

To find the legal clinic that serves your area you can go to www.yourlegalrights.on.ca and click on “**Find Services**”. You can also go to the Legal Aid Ontario (LAO) website at www.legalaid.on.ca or call Legal Aid Ontario at:

Toll-free **1-800-668-8258**

Toronto area **416-979-1446**

Toll-free TTY..... **1-866-641-8867**

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

You can also see CLEO’s booklet called

Getting Legal Help: A Directory of Community Legal Clinics in Ontario.

To view it online, go to www.cleo.on.ca.

To find out how to order it, check the back cover of this pamphlet.

Finding a lawyer for family law matters

If you need legal help for problems with support payments or other family law matters, you may be able to get help from Legal Aid Ontario. Legal Aid Ontario helps low-income people get legal assistance through a broad range of services. [Visit their website](#) or [call them](#) at the numbers listed on page 17.

Legal Aid Ontario offers the following family law services:

- **Family Law Information Centres**

The Ministry of the Attorney General has established a Family Law Information Centre in every courthouse that deals with family law. All of the Centres have free pamphlets on family law topics. Many of the Centres have staff who can give information and make referrals to community agencies and legal services.

Advice lawyers from Legal Aid Ontario are available at some locations at certain hours. An advice lawyer can give general information on family law matters free of charge. To find a Family Law Information Centre in your area, call [Legal Aid Ontario](#).

- **Family Law Service Centres**
At Family Law Service Centres, you can get help with documents, legal representation, and referrals to other types of services. These centres are located in Toronto, North York, Newmarket, Brampton, Chatham, and Sarnia. It is important to use the centre in the region where your family court case is located.
- **Family Law Offices**
There are two family law offices in Ontario: one in Ottawa, and one in Thunder Bay. The lawyers and paralegals at these offices can help with issues including custody, access, support, child protection, and restraining orders.
- **Family duty counsel**
If you do not have a lawyer, duty counsel may be able to give you immediate advice about family law issues and basic court procedure. Services are available in most court locations in Ontario.

- **Family Law Information Program**
The [Family Law Information Program](#) is an online resource available on the Legal Aid Ontario website. This program is designed to help you make informed decisions about legal issues and practical family issues.
- **Summary legal advice**
You may be able to get free advice about your family law issue from a lawyer for up to 20 minutes. This service is provided over the phone. Call [Legal Aid Ontario](#) to find out if you qualify for this service.
- **The certificate program**
You can apply for full representation by a lawyer through Legal Aid Ontario's certificate program. Certificates are reserved for the most serious legal matters, such as domestic violence, child protection, or complex family law cases. Your case must qualify to receive representation.



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

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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This pamphlet is part of CLEO's series on Social Assistance. Thanks to the Steering Committee on Social Assistance for their collaboration on this series. CLEO has free publications on other legal topics as well.

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