



## **PLEASE NOTE**

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the [Royal Gazette](#) should be consulted to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the [Table of Regulations](#).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office  
Tel: (902) 368-4291  
Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)

## CHAPTER L-16.1

### LONG-TERM CARE SUBSIDIZATION ACT

#### REGULATIONS

Pursuant to section 12 of the *Long-Term Care Subsidization Act* R.S.P.E.I. 1988, Cap. L-16.1, Council made the following regulations:

1. (1) In these regulations
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|---|---------------------|
|   | Definitions         |
| (a) "Act" means the <i>Long-Term Care Subsidization Act</i> R.S.P.E.I. 1988, Cap. L-16.1;   | Act                 |
| (b) "administrator" means the senior administrative officer of a nursing home;  | administrator       |
| (c) "agent" means an adult person who applies for, or has applied for, financial assistance on behalf of an applicant;  | agent               |
| (d) "applicant" means   | applicant           |
| (i) a person who applies for financial assistance, or   |                     |
| (ii) a person who receives financial assistance;  |                     |
| (e) "comfort allowance" means a comfort allowance granted by the Director under subsection 12(2) to an applicant living in a nursing home for the purchase of items relating to recreation and comfort;   | comfort allowance   |
| (f) "dependent" means a person who wholly or substantially relies on an applicant for items of basic need;  | dependent           |
| (g) "established rates" means the categories and rates of financial assistance established by the Lieutenant Governor in Council under section 5 of the Act;  | established rates   |
| (h) "estate" means the value of real and personal property of an applicant at the time of the applicant's death, less mortgages and other secured debt and before estate expenses and disbursements, but excludes the value of the principal residence of an applicant if the applicant held ownership of the principal residence at the time of the applicant's death; | estate              |
| (i) "financial resources" means the financial resources of an applicant as determined under subsection 7(2);  | financial resources |
| (j) "liquid assets" means the liquid assets listed in clause 7(2)(b);   | liquid assets       |
| (k) "nursing home" means a residential institution that is  | nursing home        |

- (i) a manor or other facility owned and operated by the province, or  
(ii) a nursing home licensed under the *Community Care Facilities and Nursing Homes Act* R.S.P.E.I. 1988, Cap. C-13, that provides to an applicant sleeping accommodations, meals, and nursing, medical or similar care and treatment based on assessed needs;

person with a disability	(l) “person with a disability” means a person in need who has a continuing intellectual, mental or physical impairment;
principal residence	(m) “principal residence” means the primary dwelling of an applicant at the time of an application under these regulations, and includes the property on which the dwelling is located, to a maximum of one acre;
single applicant	(n) “single applicant” means an applicant who is unmarried, widowed, separated or divorced, and who is not living with another person as the other person’s spouse;
spouse	(o) “spouse” means, in respect of an applicant, a person with whom the applicant has gone through a marriage or a form of a marriage and includes a person who, although not married to the applicant, lives with the applicant as if they were married;
written policies	(p) “written policies” means the written policies established under subsection 7(4) of the Act.
Approved residential institutions	(2) Nursing homes are approved residential institutions for the purposes of the Act and these regulations. (EC615/05)

#### POLICIES

Established rates included in written policies	<b>2.</b> The Director may include the established rates of financial assistance in the written policies. (EC615/05)
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#### REVIEW

Annual review, rates and exemptions	<b>3.</b> The Lieutenant Governor in Council may review (a) the established categories and rates of financial assistance; and (b) the exemptions from the calculation of financial resources to determine their adequacy in meeting the needs of an applicant. (EC615/05)
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#### APPLICATION

Application for financial assistance	<b>4.</b> (1) An application for financial assistance shall be made on a form approved by the Minister and be
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- (a) completed by an applicant and the applicant's spouse, except where the Director
  - (i) is satisfied that the applicant's spouse does not reside with the applicant, or
  - (ii) determines that the signature of the applicant's spouse cannot be obtained; and
- (b) treated as a joint application by both spouses if the applicant resides with his or her spouse.

(2) The Director may

Agent of applicant

- (a) accept an application for financial assistance from an agent of an applicant, where the Director is satisfied that the applicant is incapable of making the application personally by reason of infirmity, illness, minority or other cause; and
- (b) enter into an agreement for repayment of a debt due by a recipient of financial assistance to the government with an agent of the applicant under subsection 11(4) of the Act.

(3) An applicant and the applicant's spouse shall provide such information and evidence in support of an application for financial assistance as may be required under the Act and these regulations to determine the applicant's eligibility for financial assistance.

Information and evidence

(4) A submitted application form for financial assistance and related documentation are the property of the Minister.

Property of Minister

(5) A person who does not, for any reason, complete the application process as set out in these regulations, shall be deemed to be ineligible to receive financial assistance. (EC615/05)

Ineligibility

## FINANCIAL RESOURCES

5. (1) The Director

Enquiry into financial resources

- (a) shall enquire into the financial resources and other circumstances of an applicant and the applicant's spouse to determine an applicant's eligibility for financial assistance;
- (b) may investigate and verify the accuracy of information provided by or on behalf of an applicant; and
- (c) shall review the applicant's financial information at least once annually.

(2) The Director shall

Case audits

- (a) conduct case audits on a random or continuing basis and shall take such action as may be necessary to monitor and evaluate the delivery of financial assistance; and
- (b) report to the Minister on the conduct and results of such audits or other activity. (EC615/05)

- Cost of care and financial resources
6. (1) The test for determining whether an applicant is a person in need shall include the following calculations by the Director:
- (a) calculation of the costs of care based on the established rates of financial assistance; and
  - (b) calculation of the value of the financial resources of the applicant and the applicant's spouse in accordance with these regulations.
- Cost exceeds resources
- (2) Subject to the Act and these regulations, where the calculations made under subsection (1) show that the cost of care of the applicant exceeds the applicant's financial resources, the applicant is a person in need and the Director may grant financial assistance to the applicant based on the established rates of financial assistance. (EC615/05)
- Applicant includes spouse and dependents
7. (1) Notwithstanding clause 1(1)(d), for the purposes of this section, "applicant" includes the applicant's spouse.
- Financial resources
- (2) Subject to the exemptions set out in section 8, in determining the financial resources of an applicant, the Director shall include as financial resources
- (a) the applicant's entire income, including income from
    - (i) Old Age Security, the Guaranteed Income Supplement or other payments under the *Canada Pension Plan Act* (Canada),
    - (ii) any war veteran's allowance, widower's or widow's benefits or pension under the *Veterans' Affairs Act* (Canada),
    - (iii) a disability pension from any source,
    - (iv) social security or other pensions payable by the government of another country,
    - (v) Goods and Services Tax rebates under the *Income Tax Act* (Canada),
    - (vi) a registered educational savings plan,
    - (vii) a registered retirement savings plan,
    - (viii) a registered retirement income fund,
    - (ix) rental income,
    - (x) interest income or dividend income, or income from investments, and
    - (xi) any other pension or source of income due or payable to the applicant;
  - (b) the liquid assets of the applicant, including
    - (i) cash on hand,
    - (ii) cash in a bank, trust company, credit union or cooperative or other similar financial institution,
    - (iii) the realizable value of stocks, bonds, debentures, mutual funds, investment certificates, registered education savings plans, registered retirement savings plans, registered retirement income funds, and other similar investments,

- (iv) retirement allowances, severance pay, bonuses, pensions and other similar payments, and
  - (v) the cash surrender value of life insurance policies, savings receipts, liens, mortgages, bequests and settlements; and
  - (c) any other assets of the applicant that can be sold or converted into cash, including the principal residence of the applicant if the principal residence has been sold or transferred within the two years prior to the applicant's application for financial assistance, or is sold or transferred at any time thereafter.
- (3) An applicant who has assets of a type referred to in clause (2)(c)
- (a) shall make all reasonable efforts to convert the assets into cash and have the money applied towards the cost of care; or
  - (b) may enter into an agreement with the Minister assigning the proceeds of the asset when converted to cash for the purpose of applying the proceeds to the cost of care paid by the Director as financial assistance. (EC615/05)

Proceeds of  
converting assets to  
cash

#### EXEMPTIONS FROM CALCULATION

- 8.** (1) The Director shall not include the following in the calculation of an applicant's financial resources:
- (a) real property used as the applicant's principal residence at the time of the applicant's application for financial assistance;
  - (b) the applicant's personal belongings, as determined by the Director;
  - (c) the first \$1,500 of an applicant's liquid assets where the applicant is a single person;
  - (d) the first \$3,000 of an applicant's liquid assets where the applicant has a spouse residing with him or her; or
  - (e) such other exemptions from calculation as the Minister may direct.
- (2) The financial resources of an applicant are deemed to be
- (a) one-half of the aggregate of the financial resources of the applicant and the applicant's spouse; or
  - (b) the prorated value of the financial resources of the applicant or of the applicant and the applicant's spouse, where the applicant has dependents or a spouse and dependents,
- if the spouse or dependents are living with the applicant.
- (3) Notwithstanding subsection (2) and subject to subsection (6), the Director may vary the amount of financial assistance payable to an applicant, if the Director is satisfied that the variation is necessary to enable the applicant's spouse or dependents to meet financial liabilities or to maintain a reasonable standard of living.

Not included in  
financial resources

Aggregate financial  
resources

Reduced aggregate  
calculation

- Prepaid funeral (4) Where an applicant has purchased a prepaid funeral, the purchase price is exempt from the calculation of the applicant's financial resources.
- Reasonable standard of living (5) A reasonable standard of living for the purposes of subsection (3) is based on the annual calculations for Old Age Security and Guaranteed Income Supplements calculated under the *Canada Pension Plan Act* (Canada) as indexed annually.
- Exemption limits (6) The financial liabilities referred to in subsection (3) are limited to the following items of expense at values not exceeding the rates established for social assistance pursuant to the *Social Assistance Act* R.S.P.E.I. 1988, Cap. S-4.3:
- (a) food expenses;
  - (b) dental, drug and personal expenses;
  - (c) rent, mortgage or bank loan payments;
  - (d) fuel or heating expenses;
  - (e) utilities;
  - (f) taxes;
  - (g) insurance premiums;
  - (h) room and board expenses;
  - (i) transportation expenses;
  - (j) clothing expenses;
  - (k) special care expenses;
  - (l) other expenses considered appropriate by a the Director. (EC615/05)

#### GRANTING OF ASSISTANCE, REASSESSMENT

- Assistance for applicant in nursing home **9.** (1) The Director may grant financial assistance to an applicant at the established rates for care and room and board in a nursing home, and the financial assistance or any part of it granted to an applicant shall constitute a debt due by the applicant to the government within the meaning of section 11 of the Act.
- Improvement in financial situation (2) Where there is an improvement in the financial situation of
- (a) an applicant residing in a nursing home; or
  - (b) the spouse of such applicant,
- the Director shall reassess the eligibility of the applicant for financial assistance.
- Powers after reassessment (3) If the Director determines, after a reassessment under subsection (2), that
- (a) the applicant is no longer a person in need, the Director shall discontinue the financial assistance provided to the applicant and shall bill the applicant for the assistance previously provided; or

(b) the applicant no longer requires the same level of financial assistance, the Director shall vary the amount of financial assistance provided to the applicant and shall vary the agreement with the applicant. (EC615/05)

**10.** The Director may refuse to grant financial assistance to an applicant where

Divestment of liquid assets

(a) the applicant has made an assignment, sale or transfer of liquid assets or real property, including the principal residence of the applicant within two years preceding the date of the applicant's application or at any time thereafter; and

(b) the Director determines that the assignment or transfer referred to in clause (a) was made for the purpose of qualifying the applicant for financial assistance. (EC615/05)

**11.** (1) An applicant for financial assistance or the agent of an applicant shall, before assistance is granted, enter into an agreement with the nursing home, the Director, and the Minister whereby the applicant agrees to comply with the repayment provisions and all other provisions of these regulations.

Agreement respecting assistance

(2) An applicant who is a resident of a nursing home on the date this section comes into force and who has not entered into an agreement described by subsection (1) is deemed to have entered into such an agreement. (EC615/05)

Deemed agreement

#### COMFORT ALLOWANCE

**12.** (1) For the purposes of this section, "trust account" means a comfort allowance trust account established for residents of a nursing home by the administrator under subsection (4).

"trust account", defined

(2) The Director may grant additional financial assistance to an applicant at the established rates in the form of a comfort allowance if the applicant is a person in need and resides in a nursing home.

Comfort allowance

(3) An applicant receiving a comfort allowance may request that the administrator of the nursing home in which the applicant resides receive and hold the comfort allowance in trust on behalf of the applicant.

Administrator may hold comfort allowance in trust

(4) Subject to subsections (5), (6) and (7), an administrator who holds a comfort allowance in trust on behalf of an applicant shall deposit the money to the credit of the applicant in a comfort allowance trust account.

Trust account

(5) The administrator may use the interest accrued on money held in trust under subsection (4) for the purchase of items for recreation and comfort that benefit residents at the nursing home.

Interest on trust accounts for comfort allowances



- Balance \$300 or more (6) Where the amount of money in an applicant's trust account is equal to or greater than \$300, the Director shall credit further comfort allowance funds to the nursing home fees payable on behalf of the applicant until the balance in the applicant's trust account falls below \$300.
- Comfort allowance balance after death of applicant (7) Where an applicant who resides in a nursing home dies leaving a positive balance in a trust account, the administrator shall credit that balance toward the nursing home fees payable by the applicant.
- Accounting of resident's trust account (8) The Director may require the administrator of a nursing home to provide an accounting of a resident's trust account. (EC615/05)
- Applicant's bank accounts **13.** Nothing in these regulations shall be deemed to interfere with the right of an applicant who resides in a nursing home to open and maintain bank accounts in his or her own name, and the administrator may, at the request of an applicant, act as an agent for the applicant respecting the account under a power of attorney duly executed by the applicant. (EC615/05)

#### RECOVERY OF DEBT

- Debt owing **14.** (1) Where an applicant who has received financial assistance under subsection 9(1)
  - (a) no longer resides in a nursing home; or
  - (b) has been determined by the Director under subsection 9(3)
    - (i) to no longer be a person in need, or
    - (ii) to no longer require the same level of financial assistance,
the Director shall determine the amount of debt due by the applicant to the government under section 11 of the Act.
- Recovery from estate (2) Where an applicant who resides in a nursing home dies, recovery of a debt due by the applicant to the government by the applicant's estate under section 11 of the Act is subject to the following exclusions from calculation:
  - (a) the first \$2,500 of the estate; and
  - (b) where the deceased applicant leaves a surviving spouse or dependents, the Minister's claim shall not exceed 50% of the applicant's estate. (EC615/05)
- Satisfaction of certificate **15.** If
  - (a) a certificate has been filed with the Registrar of the Supreme Court under subsection 11(5) of the Act; and
  - (b) the debt due by the applicant to the government has been paid, cancelled, discharged or written off under clause 11(4)(c) of the Act,
the Minister shall file a satisfaction of the certificate with the Registrar and serve it on the debtor. (EC615/05)

## APPEALS, MISCELLANEOUS

- 16.** (1) Pursuant to subsection 9(1) of the Act, an applicant may appeal a decision of the Director respecting the provision of financial assistance under the Act or these regulations on any of the following grounds: Grounds of appeal
- (a) the Director refused to accept an application for financial assistance;
  - (b) the application for financial assistance was denied;
  - (c) the amount of financial assistance granted was not in accordance with these regulations, the established rates of financial assistance or the written policies;
  - (d) the applicant's financial assistance was reduced, suspended, cancelled or withheld.
- (2) An appellant shall serve a notice of appeal on the Minister setting out the grounds of appeal within 30 days of the date of the decision being appealed. Appeal
- (3) An appellant may be represented on an appeal by counsel or a third party. (EC615/05) Right to be represented
- 17.** Upon receipt of a notice of appeal, the Minister shall, within 30 days, Convening a Panel
- (a) convene a Panel of not more than three members to hear the appeal; and
  - (b) provide the panel with a copy of the notice of appeal. (EC615/05)
- 18.** On receipt of a copy of the notice of appeal, the Panel shall notify the Director and the Director shall provide the Panel with Panel provides documentation
- (a) a copy of the appellant's written application for financial assistance made under the Act;
  - (b) the particulars of the financial resources of the appellant as calculated by the Director; and
  - (c) other documents and records pertaining to the matter under appeal. (EC615/05)
- 19.** (1) The Panel shall commence a hearing of the appeal within 15 clear days after receipt of the notice of appeal. Appeal hearing within 15 clear days
- (2) The chairperson of the Panel, if one has been so designated, shall provide the appellant and the Director at least three clear days' notice of the date, time and place of the hearing. 3 clear days' notice of the hearing
- (3) Notice of the hearing shall be sent by registered mail to the appellant at the address shown on the notice of appeal. Service of notice
- (4) Subject to subsection (1), the Panel may reschedule the hearing after giving the parties reasonable notice of the new time and place of the hearing. Re-scheduling the hearing of the appeal

Withdrawal of appeal	(5) An appellant may withdraw an appeal at any time before the date set for the hearing of the appeal by notifying the Panel either verbally or in writing of the appellant's decision to withdraw. (EC615/05)
Continued assistance pending appeal	<b>20.</b> (1) Where an appeal is made against a decision to reduce, suspend or cancel financial assistance, the amount of financial assistance previously granted shall continue to be paid until the Panel renders its decision.
No assistance where appeal against refusal	(2) Where an appeal is made against a refusal by the Director to grant financial assistance, no financial assistance shall be paid to the appellant unless the Panel grants the appeal. (EC615/05)
Open or closed hearing	<b>21.</b> (1) The appellant may request that the hearing of the appeal be held in private or be open to the public.
Failure of appellant to attend	(2) Where the appellant or the person acting on behalf of the appellant does not attend the hearing, the Panel shall dismiss the appeal. (EC615/05)
Panel decides matters before it	<b>22.</b> (1) The Panel shall decide only the matters that fall within the Act and these regulations and that are raised as the grounds of appeal.
Conclusion of hearing	(2) At the conclusion of the hearing of the appeal, the Panel shall (a) dismiss the appeal; or (b) allow the appeal and vary the decision made by the Director.
Written decision within 15 days	(3) The Panel shall provide a copy of the decision to the parties on the appeal within 15 clear days from the conclusion of the hearing of the appeal.
Decision final	(4) Subject to subsection (5), the decision of the Panel is final and binding on the parties.
Review of appeal on new evidence	(5) Within 10 clear days of receipt of the written decision, the Director or the appellant may, on the basis of new evidence only, request that the Panel review its decision on the appeal.
Decision final	(6) The decision of the Panel on a review under subsection (5) is final and binding on the parties.
Effective date of decision	(7) The effective date of the decision of the Panel under subsection (2) or subsection (6) shall be retroactive to the date of the Director's decision on the appeal. (EC615/05)
Costs	<b>23.</b> (1) Where an appeal is allowed by the Panel, the Panel may award costs to the appellant in an amount sufficient to cover the appellant's reasonable expenses, excluding legal fees, resulting from the appeal.

(2) Where an appeal is dismissed by the Panel, the Panel may determine that the financial assistance granted under subsection 20(1) is an overpayment within the meaning of the Act. (EC615/05) <sup>Overpayment</sup>