

# Ontario Disability Support Program - Income Support Directives

## 5.16 - Income Support Protected from Seizure or Garnishment

### Summary of Policy

Income support is not subject to alienation or transfer by the recipient, nor is it subject to garnishment, attachment, execution, seizure or receivership.

The Director may deduct a portion of income support to recover the amount of a support deduction order (SDO) or a prescribed government debt owed by a member of the benefit unit.

### Legislative Authority

[Section 18 of the ODSP Act](#)  
[Section 51\(1\) of the ODSP Regulation](#)

### Summary of Directive

- Income support is not subject to garnishment, attachment, execution, seizure or receivership.
- Income support is not subject to alienation or transfer by the recipient.
- The Director may deduct a portion of income support to recover the amount of a SDO or a prescribed government debt owed by a member of the benefit unit.
- Unless the recipient agrees to the remittance of a greater amount, the total amount deducted by the Director and remitted to the Family Responsibility Office (FRO) cannot exceed the amount prescribed under the regulation. The prescribed amount is 10 per cent of budgetary requirements and 100 per cent of any arrears of income support under the Ontario Disability Support Act, 1997 or any arrears of basic financial assistance under the Ontario Works Act, 1997 payable to the recipient.

### Intent of Policy

To ensure that a recipient's income support is protected from seizure and garnishment by creditors or transfer to another party to satisfy a debt.

### Application of Policy

This policy applies even if the income support has been paid into an account at a financial institution (i.e. directly deposited into a recipient's bank account).

Income support is not subject to garnishment, attachment, execution, seizure or receivership.

## **Honouring a Support Deduction Order**

The Director may deduct a portion of income support to recover the amount of a SDO that is enforceable against a member of the benefit unit or a prescribed government debt owed by a member of the benefit unit under section 20 of the [Family Responsibility and Support Arrears Enforcement Act, 1996](#). A SDO is an order made each time the court makes a support order. A SDO authorizes the FRO to send the support deduction notice to the payor's income source.

The total amount deducted by the Director and remitted to the FRO upon receipt of a SDO cannot exceed the prescribed amount unless the recipient agrees to the remittance of a greater amount. The prescribed amount is 10 per cent of budgetary requirements and 100 per cent of any arrears of income support under the [Ontario Disability Support Program Act, 1997](#) or any arrears of basic financial assistance under the [Ontario Works Act, 1997](#) payable to the recipient.

## **Family Responsibility Office**

By policy, the FRO will enforce a SDO only where:

- the court made the support order with the knowledge that the payor was in receipt of social assistance at the time the order was made; or
- there is a specific request from the court that the Director of the FRO enforce the order in this manner.

In these cases, the FRO will issue a manual Support Deduction Notice (SDN) to satisfy the ongoing support payments and any arrears to a maximum remittance of 10% of the payor's budgetary requirements. A SDN is a notice that directs the income source to deduct support payments from the payor's income and send them to the FRO. The FRO sends a SDN to a payor's income source. A SDN may also be sent to the payor's other income sources (i.e. Canada Pension Plan, Workplace Safety and Insurance Board and Employment Insurance) to satisfy his/her support obligations.

## **Overpayment Recovery and Support Deduction Notice**

The amount deducted from a recipient's income support to recover an overpayment is generally 5 per cent of budgetary requirements. The total amount that may be deducted to recover an overpayment and to honour a SDN cannot exceed 10 per cent of budgetary requirements unless the recipient agrees to the remittance of a greater amount.

## **Variation of Support**

A recipient (payor) may be able to vary a support order if it was made at a time when the recipient was not in receipt of income support and there has been a material change in the financial circumstances of the recipient. The person seeking to vary the support order must file a Motion to Change with the court and a judge may make a new order.

## **Hyperlinks Associated with this Policy Directive**

### **Related Directives:**

[5.15 Spousal and Child Support](#)

### **Bulletin:**

2008-2

### **Other Related Sites:**

[Family Responsibility and Support Arrears Enforcement Act, 1996](#)