

Ontario Disability Support Program

Follow-up on VFM Section 3.09, *2009 Annual Report*

Background

The Ministry of Community and Social Services (Ministry) administers the *Ontario Disability Support Program Act* (Act), which provides income and employment support to more than 270,000 individuals with eligible disabilities as defined by the Act. Total annual Ontario Disability Support Program (ODSP) benefit payments made in the 2010/11 fiscal year amounted to over \$3.5 billion (\$3 billion in 2008/09—which was a 42% increase since the time of our last audit in 2004).

ODSP income support is intended to assist with basic living expenses such as food, shelter, clothing, and personal-needs items. Although employment-support programs are available to ODSP recipients, participation in them is not required. As a result, relatively few ODSP recipients join such programs.

In our *2009 Annual Report*, we found that although the Ministry had implemented a number of the recommendations contained in our *2004 Annual Report*, there had been only limited improvements in determining an applicant's financial eligibility and the amount of assistance to be paid.

The Ministry had established a two-stage process to ensure that only qualified applicants receive income support. The first stage relied solely on

applicants volunteering financial information. To compensate for the risks associated with this, the second stage was third-party verification of certain information provided by the applicant. However, this verification was largely ignored in practice. As a result, the Ministry was not adequately ensuring that only eligible individuals were receiving payments in the correct amounts. Some of the issues identified in our *2009 Annual Report* were as follows:

- Although the Ministry had significantly reduced the average wait time for a medical-disability determination decision, 60% of recipients sampled still received late payments. On average, they experienced a 58-day delay after they had been determined to be medically qualified for payments, which was almost three times longer than the outside limit of 21 days established by the Ministry. These delays in receiving approved benefits offset to a significant degree the good progress made since our 2004 audit in expediting the initial medical determination.
- Oversight procedures were lacking with regard to monitoring and assessing the fairness and consistency of decisions made by individual adjudicators at the Ministry's Disability Adjudication Unit (DAU). Consequently, the rates at which adjudicators

determined that applicants were eligible generally varied from 11% to 49%.

- In the 2008/09 fiscal year, 55% of applicants' appeals to the Social Benefits Tribunal led to the Tribunal overturning the Ministry's initial decision to not approve an applicant for benefits.
- Since 2002, the Ministry had not performed any of the periodic medical reassessments—required by legislation—to ensure continuing eligibility for disability support payments.
- The Ministry relied on one individual to do all the assessment and reassessment work for any given file, yet the individual's work was neither supervised nor reviewed to ensure that the decisions made complied with ministry and legislative requirements.
- The total amount of overpayments for both active and inactive accounts had increased substantially, from \$483 million in 2004 to \$663 million as of March 31, 2009. In many cases, overpayments resulted from what would appear to be recipients fraudulently misrepresenting their circumstances. These overpayments might often have been avoided if the Ministry had more effectively reassessed the eligibility and the amounts to be paid to those individuals identified by its own systems as high-risk or followed up on tips received from the public.
- The Ministry's computerized Service Delivery Model Technology (SDMT) information system still lacked key internal controls, and regional and local offices were not receiving, in an easily understandable format, the information they needed to effectively oversee program expenditures.

STANDING COMMITTEE ON PUBLIC ACCOUNTS

The Standing Committee on Public Accounts held a hearing on this audit in May 2010. In November 2010, the Committee tabled a report in the

Legislature resulting from this hearing. The report contained nine recommendations and requested the Ministry to report back to the Committee with respect to the following:

- whether the Ministry had begun meeting its own target that ODSP clients receive their cheques within 21 days of being approved for benefits and, if not, how long on average clients were waiting to receive their cheques (the Committee also asked the Ministry to consider posting this information on its ODSP website);
- what progress had been made in the area of oversight and review of adjudicator decisions and an assessment of the effectiveness of the Ministry's new process for oversight and review of adjudicator decisions, including an estimate of the percentage of files that get reviewed;
- the outcome of the Ministry's consideration of possible strategies for addressing the Social Benefits Tribunal's high overturn rate, specifically:
 - the current overturn rate;
 - whether the Ministry had established a target for the overturn rate;
 - whether it had introduced measures to ensure that Tribunal members and Ministry staff are using the same criteria to determine disability and make income support decisions, what these criteria are, and how their use is enforced; and
 - whether it had examined the eligibility adjudication process for the Canada Pension Plan Disability benefits (and if not, the Committee asked it to provide a rationale);
- the outcome of the Ministry's review of business processes for processing fraud tips, including what measures it would be introducing to better identify and deal with suspected fraud cases on a more timely basis and current metrics on phone tips, police referrals, convictions, and data on trends;

- whether the Ministry was addressing its backlog of required medical eligibility reassessments, specifically:
 - whether it would be increasing its rate of medical reviews from the current rate of 100 reviews per month;
 - the most recent review results; and
 - whether it would be requesting additional staff to catch up on the backlog;
- an update of the Ministry's discussions with the Ministry of Health and Long-term Care on the design and implementation of the new nutritional supplement program that was to replace the special dietary allowance;
- with respect to overpayments and client debt:
 - how much of the \$663 million in overpayments the Ministry realistically expected to collect and how much should be recommended to be written off;
 - the outcome of its plan to develop a more robust writeoff strategy for client debt;
 - whether it would be holding discussions with the Ministry of Finance to ensure that any writeoff strategy that it develops will comply with the rules set by that Ministry, and if so, when; and
 - its assessment of the root causes for overpayments, including the decisions it had taken on how it will address this issue;
- the main features of its new front-line service delivery model, how this model promotes efficient service delivery, whether it had made an impact on the number of staff that are required to deliver front-line service, and whether the number of sick days taken by caseworkers still averages 20 days per year; and
- what progress the Ministry had made in developing a business case for the replacement of its Service Delivery Model Technology, specifically:
 - how consultations with caseworkers would be incorporated into the process to ensure that the new system meets user needs;

- whether the new system was on track to be implemented by the end of the 2012/13 fiscal year;
- what progress, if any, had been made in determining whether an off-the-shelf system would be suitable and, if a suitable system were found, what changes to the Ministry's work processes would be required to be able to use such a system; and
- what progress, if any, had been made in sequestering management access from caseworker access in the system that the Ministry is currently using.

The Ministry responded to the Committee in March 2011. A number of the issues raised by the Committee were similar to our observations. Where the Committee's recommendations are similar to ours, this follow-up includes the recent actions reported by the Ministry to address the concerns raised by both the Committee and our 2009 audit.

Status of Actions Taken on Recommendations

According to information received from the Ministry between May and September 2011, progress has been made in addressing most of the recommendations in our *2009 Annual Report*, with substantial progress having been made on a few of them. However, more effort and time will be needed before the Ministry is able to fully implement all of our recommendations. For example, further progress will depend on the implementation of several initiatives the Ministry currently has underway, such as recruiting and training 120 new front-line staff to improve service and to help cope with increased pressures and rising caseloads owing to the recent economic downturn; reorganizing and training staff with new tools to strengthen program management and oversight; and implementing a

new information technology system. In addition, in November 2010, the government announced the launch of a major review of the social assistance programs in Ontario.

The status of actions taken on each of our recommendations at the time of our follow-up was as follows.

INITIAL FINANCIAL ELIGIBILITY ASSESSMENT

Recommendation 1

To ensure that an individual's initial financial eligibility for Ontario Disability Support Program benefits is adequately verified, the Ministry of Community and Social Services should:

- *comply in all cases with its own requirements to verify an applicant's declared income and assets with the third parties who have information-sharing agreements with the Ministry; and*
- *conduct supervisory reviews, at least on a sample basis, of the decisions made and files maintained by intake caseworkers to ensure that staff are adhering to Ministry requirements with respect to financial eligibility verification.*

Status

The Ministry indicated that it has developed a new standardized form for third-party verifications in its Service Delivery Model Technology (SDMT) system to document and maintain a record of the results of each third-party check conducted. This new form is expected to provide a consistent approach to documenting third-party checks across the province and to make it easier for staff to find information related to third-party checks conducted. The Ministry also advised us that it has provided optional training to its staff on the Equifax credit reports—a third-party verification procedure—to assist them with reading and understanding the reports.

The Ministry also informed us that in April 2010, it implemented ODSP file reviews using a standardized checklist, and managers have been conducting these file reviews since that time. The results of the

first round of these reviews were evaluated, with the outcome that approximately 60% of the files were found to have no issues with the decisions made or how the files were maintained. However, for the remaining 40% of files, issues were noted, such as third-party checks not being documented and required documents not being on file, which were similar to the findings in our *2009 Annual Report*. The Ministry has since reinforced with its staff the requirements for the areas where issues were noted.

INITIAL DISABILITY DETERMINATION

Recommendation 2

To ensure that all Ontario Disability Support Program applicants are adjudicated fairly and consistently, the Ministry of Community and Social Services should:

- *periodically review a random sample of each adjudicator's files to assess whether the decisions are generally supported and fair; and*
- *monitor the percentage of applicants found to have an eligible disability by each adjudicator and, if there are significant variances, investigate the reasons for them and take corrective action where necessary.*

Status

The Ministry informed us that in March 2010 a formal adjudication file review process was established whereby now the Manager of Adjudications and Medical Policy reviews a sample of approximately 40 adjudicator files each week to determine the appropriateness of the decisions made and to identify any training needs. A file feedback form is to be completed for each review conducted and is provided to the applicable adjudicator at the end of the review. In addition, for any file reviewed where it is recommended that the original decision be overturned, the file is further reviewed by a panel of three individuals who then make a final determination. The Ministry indicated to us that the average overturn rate as a result of the reviews completed to date was approximately 7%.

The Ministry now also regularly monitors performance reports for each adjudicator, including statistics on adjudications, and additional files may be selected for review on the basis of the results reported. When any systemic or ongoing issues are identified from the file review process, corrective action, such as group or targeted training, is taken.

SOCIAL BENEFITS TRIBUNAL APPEALS

Recommendation 3

To reduce the need for, and cost of, appeals and the relatively high rate at which the Social Benefits Tribunal overturns Ontario Disability Support Program eligibility decisions, the Ministry of Community and Social Services should consult and work with the Tribunal to narrow the differences in approach to, and criteria used in, assessing individuals with a disability. In addition, to ensure that its rationale for denying a claim is clearly communicated to the Tribunal, the Ministry should ensure that it is represented by a case-presenting officer at every hearing.

Status

The Ministry informed us that it has entered into a new memorandum of understanding with the Social Benefits Tribunal to clarify the accountability relationships between the two parties, and it is conducting in-depth reviews and analysis twice a year on the Tribunal's disability-related decisions. Although the Tribunal's rate of overturning ministry adjudication decisions is still similar to that at the time of our audit, the Ministry has shared its policies and other information relating to its adjudication process with the Tribunal. However, the Ministry indicated that the Tribunal is an independent body that operates at arm's length from the Ministry and sets its own policy and operational direction.

In addition, the Ministry informed us that it is currently unable to ensure that it is represented by a case-presenting officer at every hearing due to resource limitations.

ELIGIBILITY REASSESSMENTS/ CONSOLIDATED VERIFICATION PROCESS

Financial Eligibility Reassessments

Recommendation 4

To ensure that recipients continue to be financially eligible for Ontario Disability Support Program benefits and to avoid overpayments, the Ministry of Community and Social Services should:

- *ensure that recipients identified as high-risk are prioritized for review;*
- *comply in all cases with its own requirement to verify an applicant's declared income and assets with the third parties with whom the Ministry has information-sharing agreements; and*
- *be more proactive in following up on those tips that come from what appear to be bona fide sources.*

Status

As noted in its response to our 2009 recommendation, as an interim measure the Ministry continues to review a limited sample of cases for financial eligibility based on various periodically assessed risks—for example, Canada Revenue Agency data matches. However, it informed us that it has developed a new risk-based eligibility reassessment process in conjunction with Equifax Canada called the Eligibility Verification Model. This new process is expected to assist in the identification and prioritization of high-risk cases for eligibility reviews by linking ODSP data with Equifax consumer credit databases. Testing of the new process began in October 2010; however, it had not yet been implemented at the time of our follow-up.

As noted earlier, the Ministry indicated that it has developed a new standardized form for third-party verifications in its SDMT system to document and maintain a record of the results of each third-party check conducted. This new form is expected to provide a consistent approach to documenting third-party checks across the province and to make it easier for staff to find information related to third-party checks conducted. The Ministry also

advised us that it has provided optional training to its staff on the Equifax credit reports—a third-party verification procedure—to assist them with reading and understanding the reports. However, the results of recent file reviews undertaken by ODSP managers indicated that not documenting third-party checks remains an issue.

The Ministry informed us that in order to be more proactive in following up on bona fide tips, it has instituted a 15-day standard for ODSP staff to complete a preliminary assessment of all tips received. However, it has not yet verified that the new standard is being met. The Ministry also undertook a review to identify best practices in fraud prevention and detection from other jurisdictions (such as other provinces and the United States) and from its service managers across Ontario. Recommendations were expected in fall 2011.

Management of Outstanding Tasks

Recommendation 5

To ensure that Ontario Disability Support Program benefits are paid only to eligible individuals and in the correct amount, the Ministry of Community and Social Services should monitor case-management activities to ensure that tasks entered into its Service Delivery Model Technology information system are followed up on promptly and that appropriate actions are taken to avoid overpayments.

Status

The Ministry advised us that it undertook a cleanup exercise for outstanding tasks in its computer system whereby it removed 40% of all open tasks from the system after determining that they were redundant. With regard to new tasks being created, we were also advised that the Ministry simplified the programming so that tasks considered unnecessary are no longer generated automatically. In addition, the Ministry now prepares monthly reports that it sends to its managers to assist in identifying overdue tasks on which action must be taken promptly.

Medical Eligibility Reassessments

Recommendation 6

To comply with the Ontario Disability Support Program Act and to ensure that only eligible ODSP recipients continue to receive benefits, the Ministry of Community and Social Services should conduct the required medical reassessments within the legislated time frame.

Status

The Ministry advised us that in May 2009, it began conducting medical reassessments. Initially, approximately 100 cases per month were selected for reassessment from among those recipients with a reassessment date within the last two years. Review packages were sent to the selected recipients to be completed by an approved health-care practitioner and returned to the Ministry within 90 days.

After conducting the reassessments for a year, the Ministry undertook an evaluation of the process to assess its effectiveness and identify areas for improvement. The evaluation included an assessment of the results of the reassessments conducted and a survey of staff on their experience to date. The results of the reassessments indicated that out of 1,553 reviews conducted, approximately 1,077 packages were returned; of those, approximately 76% were confirmed to be still eligible for benefits, and 24% were no longer considered eligible. Benefits for individuals who did not return their review packages were to be suspended until the completed review package was received.

The Ministry also informed us that at the time of our follow-up, medical reassessments for approximately 28,400 recipients were overdue, which represents 45% of all recipients requiring a medical reassessment. We were informed that as of July 2011, medical reassessments had been temporarily suspended due to an increase in new applications received and the need for staff to process those applications.

Income-support Payments to Individuals

Recommendation 7

To ensure that eligible applicants receive the correct financial entitlements within a reasonable time frame, the Ministry of Community and Social Services should ensure that:

- Ontario Disability Support Program payments start within the prescribed 21 calendar days of the determination that the person has an eligible disability;
- all of the information necessary to determine the correct amount of benefits is on file and correctly considered before payments are made; and
- suspicious or unusual circumstances, including those relating to the special dietary allowance, are appropriately flagged for additional follow-up.

Status

At the time of our follow-up, the Ministry had not yet ensured that payments start within the prescribed time period and that all information necessary to determine the correct amount of benefits is on file. However, it has begun hiring an additional 120 new front-line staff and has provided extensive training for staff, which over time should help in these regards.

The Ministry has also implemented a new standardized file review process using standardized checklists and tracking tools, to help determine compliance with program requirements.

With regard to the special dietary allowance, the Ministry undertook a forensic audit to determine the extent of possible misuse of the allowance, which corroborated many of the findings in our *2009 Annual Report*. In March 2010, the government announced plans to eliminate the special dietary allowance and create a new medically based nutritional supplement program for social assistance recipients with severe medical needs that would be administered by the Ministry of Health and Long-Term Care. However, in November 2010, the government announced that the special dietary

allowance would continue, but would be revised to comply with an earlier order of the Human Rights Tribunal of Ontario and to address the recommendations of an expert committee.

The changes to the administration of the special dietary allowance, which took effect in April 2011, included the following:

- removing conditions that the expert committee found to not require a special dietary allowance;
- revising the application form to require recipients to consent to the release of relevant medical information by their physician to support their application;
- requiring ODSP recipients to reapply for the special dietary allowance, which has resulted in a drop of about 23,000 cases receiving the allowance, or a funding impact of about \$2 million per month;
- filing complaints with the College of Physicians and Surgeons where deemed appropriate; and
- confirming that ODSP staff have the legislative authority to determine eligibility for the allowance, including the authority to request additional information or deny an application in cases where the information provided is believed to be false or incorrect.

In addition, the Ministry began to use its information technology system to help identify questionable trends in a timely manner so that appropriate action could be taken to limit potential abuse.

These changes will improve the administration of the special dietary allowance as long as the Ministry ensures that all staff are complying with them.

OVERPAYMENTS

Recommendation 8

To better utilize its limited resources and help maximize the recovery of Ontario Disability Support Program overpayments, the Ministry of Community and Social Services should:

- devote more efforts to minimize overpayments in the first place, given the limitations in recovering significant overpayments from active and inactive recipients;
- ensure that overpayments from inactive accounts are transferred to, and followed up on by, the Ministry's Overpayment Recovery Unit on a timelier basis, with emphasis on accounts that are considered to have the most potential for repayment; and
- assess the validity and collectibility of outstanding overpayments designated as temporarily uncollectible and, where warranted, recommend that they be written off so that attention can be focused on those accounts where collection efforts are likelier to yield results.

Status

The Ministry advised us that in an attempt to minimize overpayments, it has enhanced its information technology system to include a new Benefit Unit Entitlement Report. The report provides a detailed history of a recipient's entitlements, program eligibility details, and overpayments, which will make it easier for staff to understand why the overpayment occurred and to verify the amount. The Ministry expects that the use of this report will assist staff in making more timely eligibility assessments and detecting issues earlier, thereby helping to minimize overpayments. Full-day training was also provided to staff on overpayment processes and referrals to the Overpayment Recovery Unit (ORU).

The Ministry informed us that it has made some improvements to help ensure that overpayments from inactive recipients are transferred to, and followed up on, by the ORU on a timelier basis. For example, it has begun to electronically transfer overpayments to the ORU, allowing for a more timely transfer of data between the two offices and reducing the time spent on manual data entry. In addition, the ORU now accepts payment by pre-authorized debit, to make it easier and faster for payments to be made and reduce the frequency of paper payments and dishonoured payments. The

ORU has also increased its own efficiency to free up staff to focus more on collection efforts—by, for example, combining notification letters to reduce the referral time to the Canada Revenue Agency, and enhancing its database to eliminate some labour-intensive processes.

With regard to assessing the validity and collectibility of overpayments and writing off those that are warranted, the Ministry established the Social Assistance Overpayment Recovery Working Group in February 2010 to thoroughly review its overpayment policies and recovery practices, to research industry standards, and to develop strategies for improving the Ministry's current collection efforts. A report was issued in December 2010 and an implementation plan was subsequently developed that resulted in, among other things, the writeoff of approximately \$118 million in uncollectible overpayments. The writeoff of these uncollectible accounts should allow the Ministry to better focus its collection efforts on accounts that have a better chance of being collected.

Then in March 2011, the Ministry undertook a review of the collectibility of the remaining overpayments to determine if further accounts could be written off, but at the time of our follow-up no additional accounts had been written off.

CASE MANAGEMENT

Workload

Recommendation 9

To ensure that Ontario Disability Support Program caseworkers can effectively carry out their responsibilities, the Ministry of Community and Social Services should:

- assess caseworkers' responsibilities and work processes to establish reasonable caseload benchmarks in each of the 44 local offices; and
- strengthen efforts to monitor sick leave and set targets for reducing absenteeism to more reasonable levels.

Status

At the time of our follow-up, the Ministry had not yet established reasonable caseload benchmarks for each of its local offices. However, it advised us that in order to effectively manage growing caseloads, to enhance program integrity, and to improve customer service, a new service delivery and staffing model was implemented in January 2011. Before the new model was implemented, new province-wide business processes were released and extensive training was provided. The new model included the reorganization of the core ODSP positions and the addition of 120 new front-line staff, which should help the Ministry to equalize its caseloads across its local offices. The Ministry was in the process of recruiting across the province to fill these new positions. The Ministry has also developed a

new Operational Indicators Report, which provides management with information on caseloads and assists in decision-making.

With regard to strengthening efforts to monitor sick leave and set targets for reducing absenteeism, the Ministry informed us that it has adopted a case management approach to managing staff attendance, which involves meeting with staff when they have incurred six sick days and using monthly reports to monitor sick days taken and to identify sick-leave issues. The Ministry provided us with updated statistics on sick days for the three regions whose sick-leave averages for 2008, as noted in our 2009 audit, were more than 20 days; the average for those three regions for 2009 had been reduced to 15 days per year.