

Legislative
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of Ontario



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de l'Ontario

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ONTARIO DISABILITY SUPPORT PROGRAM (section 3.09, 2009 Annual report of the Auditor General of Ontario)

2nd Session, 39th Parliament
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The Honourable Steve Peters, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

A handwritten signature in black ink, appearing to read 'Mr. Sterling'.

Norman W. Sterling, MPP
Chair

Queen's Park
November 2010

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2nd Session, 39th Parliament

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MARIA VAN BOMMEL was replaced by WAYNE ARTHURS on September 22, 2010.

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PREAMBLE

The Ontario Ministry of Community and Social Services (Ministry) provides social assistance under two programs: Ontario Works (OW) and the Ontario Disability Support Program (ODSP). A portion of an individual's total disability benefits may be comprised of federal benefits such as the Canada Pension Plan Disability (CPPD) benefits.

The Auditor General (Auditor) noted that largely because of caseload growth, total annual ODSP benefit payments have risen to more than \$3 billion, a 42% increase since his last audit in 2004. At the same time, the Ministry's total Ontario Works expenditure for 2008/09 was about \$1.9 billion which includes the Ministry's share of income assistance provided to individuals (more than \$1.5 billion), spending on program administration (\$194 million) and spending on employment assistance programs (\$171 million). The Ministry's share of OW program expenditures has increased on average by approximately 2% per year since the time of the Auditor's last audit in 2002. Canada Pension Plan Disability benefit payments for all of Canada totalled \$3.6 billion in 2008/09, up from \$3.2 billion in 2004/05, an increase of 12.5% over this period.¹

The Auditor said the Ministry has taken some steps to better administer the ODSP by, for example, significantly improving the average wait time for a medical disability decision. However, he added that serious issues remain in verifying an applicant's financial eligibility, and ensuring the correct amount of assistance is paid and conducting the required periodic medical reassessments. The accumulative amount of identified overpayments has increased substantially from \$483 million in 2004 to \$663 million in 2009. These are some of the findings of the Auditor's value-for-money audit of the Ontario Disability Support Program (section 3.09 of the Auditor's *2009 Annual Report*).

In May 2010 the Standing Committee on Public Accounts held public hearings on the Auditor's report. Senior officials from the Ministry participated in the hearings. (For a transcript of the Committee proceedings please see Committee *Hansard*, May 5, 2010.) The Committee endorses the Auditor's findings and recommendations. This Committee report presents the Committee's findings, views, and recommendations. The Committee requests that the Ministry provide the Committee Clerk with its written responses to the recommendations within 120 calendar days of the tabling of the report with the Speaker of the Legislative Assembly, unless otherwise specified in a recommendation.

Acknowledgments

The Standing Committee on Public Accounts extends its appreciation to officials from the Ministry of Community and Social Services for their attendance at the hearings. The Committee also acknowledges the assistance provided during the

¹ Ontario, Office of the Auditor General, information (citing data from *CPP Annual Reports*) received by e-mail on September 30, 2010.

hearings and report writing deliberations by the Office of the Auditor General, the Clerk of the Committee, and staff in the Legislative Research Service.

OVERVIEW

Objective of the Auditor's Audit

The audit objectives were to assess whether the Ministry's policies and procedures were adequate to ensure that:

- only eligible individuals received income support and that the income support provided was timely and in the correct amount; and
- the program was delivered with due regard for economy and efficiency.

Background

The Ministry of Community and Social Services administers the *Ontario Disability Support Program Act*. Under the Act, the Ministry provides income and employment support to approximately 370,000 individuals (representing a caseload of about 267,000) with eligible ODSP disabilities. These include mental and physical disabilities.

Because most recipients suffer from chronic disabilities, the support often lasts for years, or a lifetime. To be eligible for ODSP income support:

- all applicants must first demonstrate financial need; and
- most applicants must be assessed to determine if their disability meets the eligibility test established by the Act – no disability assessments are required for some groups, such as those on Canada Pension Plan disability benefits.

ODSP caseload has grown between 5%-6% over the last four years. About 38% of the caseload is individuals with mental health issues; 18% is individuals with developmental disabilities; and 44% is individuals with other physical disabilities, diseases and other medical conditions. Recipients may also include a non-disabled spouse, dependent adults and children. The Ministry said that in addition to the \$3.3 billion spent on benefit payments in 2009/10, that \$42 million was allocated for employment assistance to ODSP clients, and that direct operating expenditures for financial employment support totalled \$238.9 million.

Overview of Program Delivery

To be financially eligible for the ODSP, a person's total assets must be at or below:

- \$5,000 for a single person; or
- \$7,500, if there is a spouse in the benefit unit.

When financial eligibility is established, the applicant is provided with a disability-determination package comprising the following three forms:

- a health status and activities-of-daily living index report (to be completed by a physician or other prescribed health professional);
- a consent form to have medical information disclosed to the ODSP; and
- an optional self-report.

The completed documents are forwarded to the Ministry's centralized Disability Adjudication Unit (DAU) for review. Applicants who are deemed to have failed the test for disability may request an internal review. If their applications fail again, they may apply to the Social Benefits Tribunal (Tribunal) within 30 calendar days of the internal review decision.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

Significant issues were raised in the audit and before the Committee. The Committee attaches particular importance to those issues discussed below.

Initial Financial Eligibility Assessment

ODSP applicants must provide the relevant Ministry local office with all the information necessary to establish their eligibility for income support and to determine the correct amount of eligible assistance. For disclosure of income and assets, the only requirements are a representation by the applicant and a copy of a recent monthly bank statement. The Auditor does not believe the disclosure of income and assets process is sufficient and said, for example, bank statements for all accounts may not have been provided. He added that to help verify the declared income and assets, the Ministry has entered into a number of third party, information-sharing agreements, including one with the Canada Revenue Agency.

The Auditor concluded, based on visits to select regional offices, that the offices seldom conduct third party verifications. He also noted a lack of supervisory oversight for intake caseworkers which the Auditor felt further increases the risk of payments to ineligible recipients. He recommended that the Ministry should comply in all cases with its own verification requirements and conduct supervisory reviews, at least on a sample basis, of the decisions made and files maintained by intake caseworkers.

Supervisory Reviews

The Ministry agreed on the need for better documentation and said it has instituted an enhanced supervisory file review approach to facilitate this. It said in the past, managers did not consistently undertake file reviews across all 45 local offices. The Ministry has now developed a consistent approach and methodology which is documented in a training guide for managers and held a training session for managers in April 2010 on supervisory file reviews, documentation, and

reporting. Previously managers relied on reports generated by the Service Delivery Model Technology System (SDMT), the Ministry's information network, to flag issues (see the final section of this report for additional information on SDMT).

Amount and Type of Income Support

The Auditor noted that income support provided to ODSP recipients is somewhat higher than that provided for OW recipients. In 2008/09 a single person on OW received up to \$572 in benefits per month while a single person on ODSP received up to \$1020 in income support per month.

During the hearings the Ministry, referring to more recent figures, said that a single person with a disability receives up to \$578 per month for basic needs and up to \$464 per month for shelter. The maximum income support is \$1,042 per month. The amount of income support can fluctuate month-to-month depending, for example, on income derived from employment. In addition, recipients receive drug and dental coverage. They may qualify for other supplemental health care benefits such as assistance with costs of vision care and medical transportation and they may also receive the Special Diet Allowance (see Special Diet Allowance section below for more information).

Payment

The Ministry has a 21 day target for an ODSP client to receive payment after initial medical eligibility is determined. It said that many of those who apply for the ODSP come from Ontario Works; others apply through self-referral. If an individual is in dire financial need when applying, that person will be referred to Ontario Works (OW) and will receive OW payment while waiting for ODSP adjudication. The Ministry said it must improve its follow-up after adjudication, specifying that it is not sending cheques out in a timely enough fashion within the 21-day targeted time frame. The Ministry said it has an improvement plan in place.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 1. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on what results have been achieved regarding meeting the Ministry's target that Ontario Disability Support Program (ODSP) clients receive their cheques within 21 days after they have been approved for benefits. The Ministry should specify whether it is meeting that time frame and if not, how long on average clients wait to receive their cheques. The Committee would also like the Ministry to consider posting this information on its ODSP website.**

Third Party Verification of Income and Asset Information

The Ministry acknowledged that ODSP staff must better verify client provided income and asset information by checking against third party sources, such as Canada Revenue Agency tax data, employment insurance earnings, CPP earnings, and credit information. The Ministry said that it constantly trains front-line staff on how to make decisions consistent with current Ministry guidelines and interpretations, with a focus on ensuring that staff better understand how to interpret third party data to verify income. It is implementing processes to ensure that third party verification is recorded in files. The Ministry draws on best practices in other jurisdictions and seeks ways to work with outside partners to improve its verification processes.

Equifax – Ministry Risk Model

Equifax, a company the Ministry said is expert in interpreting and dealing with credit information, is helping the Ministry build a risk-based verification model. The focus will be on areas where there is the highest risk of wrongdoing or misuse as opposed to conducting reviews on a random, full-population basis. Staff members will be trained to interpret and respond to findings. For example, if a staff member notes through Equifax documentation that an individual has a lot of credit activity, the staff member must know how to interpret this against income and asset rules, and eligibility.

Initial Disability Determination

Referring to the period 2004-2009, the Auditor said that the rate of increase of the number of adjudicators in the Disability Adjudication Unit (DAU) exceeded the rate of increase of the number of applications for ODSP benefits. This enabled the Ministry to reduce the average wait time for a medical disability decision to approximately 60 business days, which is well within the Ministry's internal 90 day goal to adjudicate all applications. (The Ministry said that at the time of the Auditor's prior audit in 2004 initial adjudications took eight months or longer.)

The Auditor explained that the Ministry has a triage process that requires that all new applications receive an initial review within 10 business days of receipt. Approximately 25% of all such applications are determined, within the triage time frame, to have a clear, qualifying eligible disability. The remaining 75% of the applications require further review, and of these, approximately one-third are found to have an eligible disability.

Approximately two-thirds of applicants who are ultimately found to have no eligible disability ask for an internal review. These reviews are done by a team of three adjudicators. As a result of these reviews, some 15% of the original decisions are overturned. An additional 55% of decisions that are further appealed are overturned by the Social Benefits Tribunal.

The Auditor noted an absence of random file reviews for adjudicators, and no oversight or review process to assess adjudication decisions. The Ministry does not monitor the percentage of applicants approved by individual adjudicators

(rates varied widely). The Auditor recommended that the Ministry periodically review a random sample of each adjudicator's files and monitor the percentage of applicants found to have an eligible disability by each adjudicator, and if there are significant variances to investigate and take corrective action where necessary.

Adjudicators

The Ministry said that the DAU, which is part of its operations division for the ODSP, was centralized a decade ago. Before then adjudication occurred at the local office level. According to the Ministry centralization occurred to promote efficiency and to ensure peer-to-peer learning to improve adjudication decision-making.

The Ministry has about 50 adjudicators. Many are medically trained, for example as occupational therapists or have worked in mental health. The Ministry agreed with the Auditor that it needs to improve its oversight processes. It has begun regular file reviews by individuals external to the unit. The review includes trend line assessment with management and staff feedback. Staff members now receive reports on their own "pass/fail rate," that is, the number of cases they approved or rejected in comparison with the overall average.

The Ministry said that adjudicators review documentation prepared by health care professionals and the applicant. As noted earlier, the documentation includes information about the applicant's health status and ability to undertake daily activities, as well as supporting medical information such as test and X-ray reports.

Adjudicators apply a two-part test for disability. The first step is to determine whether the applicant has a substantial physical or mental impairment that is expected to last more than a year. The second step is to determine whether the impairment results in a substantial restriction in the applicant's daily activities. The Ministry said that for some applicants this determination is straightforward but that in most cases it is complex and that it must continually monitor both the timeliness and the quality of decision-making in the DAU. It has instituted new processes for oversight and review and is developing new resources and training for the more complex adjudication cases.

Complicated Adjudication Cases

The Ministry described the two levels of adjudication. The first is at triage, where clear cut cases, such as a developmental disability from birth, are adjudicated. As noted earlier, 25% of the annual caseload is adjudicated at the triage level.

More complicated cases are adjudicated later. These include medical conditions such as environmental sensitivity issues, chronic pain and mental health issues where the documentation provided by medical practitioners is not clear cut. For example, in some cases clear supporting evidence for a disability claim based on objective medical tests may not exist yet individuals in those cases may still

appear to experience significant limitations. The Ministry said that it focuses a lot of training on staff facing difficult adjudication decisions.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

2. **The Ministry of Community and Social Services shall provide the Standing Committee on Public Accounts with an assessment of the effectiveness of its new process for oversight and review of adjudicator decisions and an estimate of the percentage of files that get reviewed. The Ministry should include a tracking report, with information presented in charts or graphs for such data as the percentage of files reviewed. The report should indicate what, if any, progress has been made on oversight and review of adjudicator decisions since the tabling of the Auditor General's 2009 Annual Report.**

Social Benefits Tribunal Appeals

According to the Auditor the Tribunal hears two types of ODSP appeals: disability determination decisions and income support decisions. The latter relate to amounts to be paid and/or recovery of overpayments. The Auditor said that in 2009 tribunal members overturned some 55% of decisions by the Ministry.

A consultant retained by the Ministry identified factors that may contribute to this relatively high overturn rate. For example, the Ministry's case presenting officers appear only about one-quarter of the time for tribunal hearings and the Ministry and the Tribunal use different criteria and processes for making decisions. The consultant also noted that many tribunal members had an overturn rate of 100%, while one member upheld every DAU decision in the sample of cases reviewed. The Auditor recommended that the Ministry consult and work with the Tribunal to narrow differences in approach. He also recommended that the Ministry should ensure it is represented by a case presenting officer at every hearing.

Overturn Rate

The Ministry said that while overturn rates have improved over that past four years (the rate was 72% in 2005/06), it recognizes that more can be done to reduce it further and is identifying potential strategies. It said while the number of tribunal cases may grow, the rate of overturn is decreasing and "the trend line is moving in the right direction."

The Committee questioned why the Ministry would not modify its approach given the high Tribunal overturn rate. The Ministry had earlier said that it recently concluded a new memorandum of understanding with the Tribunal. It added that it is improving knowledge exchange so that independent tribunal members have all the materials offered to Ministry staff regarding how decisions are made. It also said that it is difficult to assess what is a good overturn rate.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

3. **The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on the outcome of the Ministry's consideration of potential strategies to address the high overturn rate by the Social Benefits Tribunal of decisions taken by Ministry adjudicators on applicants' disability determination and income support. The Ministry should specify**
 - **the current overturn rate;**
 - **whether it has established a target for the overturn rate;**
 - **whether it has introduced measures, in addition to knowledge exchange, to ensure that Tribunal members and Ministry staff use the same criteria for disability determination and income support decisions as well as provide information on what criteria are used and how they are enforced; and**
 - **whether it has examined the eligibility adjudication process for the Canada Pension Plan Disability (CPPD) benefits and if not, provide a rationale for why not.**

Eligibility Reassessments/Consolidated Verification Process

Financial Eligibility Reassessments

The Auditor noted that according to Ministry policy, each local office should conduct a financial eligibility reassessment, or Consolidated Verification Process (CVP), on 2% of its active caseload every month. To help with the case selection process, the Ministry's head office produces a number of ad hoc reports for local offices that identify high-risk recipients, either specifically or by profile.

The Auditor said that local offices did generally meet the monthly percentage review goal but often did not review files from the high-risk group and in most cases the required third party verifications of income and assets were not performed. The Auditor believes that if proper procedures had been followed, overpayments might have been significantly reduced. He said the Ministry has had little success in getting recipients to repay overpayments. Overpayments resulting from what would appear to be fraudulent representations are not referred to the police in most cases. The Auditor recommended that the Ministry ensure that recipients identified as high-risk are prioritized for review, that it comply in all cases with its third-party verification requirements, and be more proactive in following up on those tips that come from what appear to be bona fide sources.

The Ministry said that individuals who receive ODSP support must financially qualify from an income and assets perspective throughout the time that they are in receipt of ODSP assistance. It added that CVP constitutes a review of income, assets and costs such as rent, as well as other changes in circumstances, to determine if the client's monthly payment needs to be adjusted.

Fraud

The Ministry operates a welfare fraud control hotline, which receives tips from members of the public regarding potential fraud for either the ODSP or Ontario Works. In 2009/10, the hotline received approximately 21,000 calls, faxes and emails. All tips to the hotline are referred to the local ODSP or Ontario Works office for further investigation by a caseworker.

The Ministry said that many are dealt with immediately through information provision. People phoning in with a fraud tip often do not understand, for example, that somebody who is on social assistance is allowed to have a vehicle and is allowed to work. If, after an initial review of a tip at the local office level, there is continued reason for concern about the potential for fraud, the matter is referred to an eligibility review officer, who will conduct a rigorous review. If, after this review sufficient evidence suggests fraud, the case is forwarded to the local police who may lay charges against the individual. Since 2004, more than 2,200 cases have been referred to police, and over the same period, there have been about 1,600 convictions. The Ministry added that it acknowledges the Auditor's findings regarding the need to ensure timelier processing of fraud tips and is currently reviewing business processes to identify best practices and determine areas for improvement.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 4. The Ministry of Community and Social Services shall report to the Standing Committee on Public Accounts on the outcome of the Ministry's review of business processes to identify best practices in processing fraud tips. The Ministry should specify what measures it will introduce to better identify and deal with suspected fraud cases on a more timely basis and should provide the Committee with current metrics on telephone tips, police referrals and convictions, including data on trends. This information should be presented in chart or graph format.**

Medical Eligibility Reassessments

The Auditor said that an ODSP regulation and policy require that when a person is determined to have an eligible disability that may improve, a follow-up review must occur within two to five years. He noted that the Ministry has failed to conduct any such reassessment since 2002. At the time of the audit more than one-third of those identified as requiring a reassessment were overdue for reassessment, many by several years. The Auditor recommended that the Ministry conduct the required medical reassessments within the legislated time frame.

The Ministry said in cases where there is some evidence from a health practitioner that an applicant's condition might improve over time, the applicant will have a date set for medical review at the initial adjudication. Other applicants have conditions, such as a developmental disability, that the Ministry knows are lifelong with no prognosis for improvement. These applicants do not have a medical review date added to their files.

The Ministry said, due to its focus on improving the timeliness and accuracy of initial adjudication, that it may not have focused enough on medical reviews. However, in May 2009 the Ministry began implementing medical reviews by issuing 100 requests per month for individual clients to resubmit medical information (completed disability determination packages -- DDPs). The Ministry said while this review pace will not resolve the backlog issue identified by the Auditor, the Ministry wished to begin by examining its business processes to ensure fairness to clients while also tackling the backlog.

The Ministry said that although clients had been told before 2009 that medical reviews could occur, they had not occurred. The Ministry now needs to let clients know many things including what documents the Ministry would require as well as what would occur if clients were no longer deemed eligible for the ODSP. During the hearings the Ministry said that it would review its medical review process in May 2010. It added that during this review it would determine whether the rate of medical reviews could be increased (from the 100 done each month) and whether staff had become "more comfortable" in undertaking review work. It noted that there had been no increase in staffing; the reviews had been added to the work of the existing adjudicators.

As of April 1, 2010 the Ministry had issued about 1,200 DDPs and received 62% of these back from clients. Of the cases adjudicated, approximately 60% continue to have an ongoing disability under the Act; another 18% do not. For the remaining 22% more medical information was required in order to complete the adjudication. Approximately 15,000 clients have overdue review dates.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

5. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on whether the backlog of required medical eligibility reassessments is being addressed. The Ministry should specify

- **whether it will increase its rate of medical reviews from the current 100 reviews conducted each month;**
- **the most recent review results (the total number of completed disability determination packages received and associated adjudication decisions); and**
- **whether the Ministry will request additional staff to catch up on the backlog of medical reviews.**

The Ministry should also provide the Committee with its plan, including timelines, for addressing the backlog of medical reviews.

Income Support Payments to Individuals

The Auditor noted that although the individual amounts of overpayments in a sample of payments that he reviewed were generally small, collectively they may be significant. He also noted a more than five-and-a-half fold increase in the total amount spent on special dietary allowances and said that many payments seemed questionable. He recommended that all the information necessary to determine the correct amount of benefits be on file and correctly considered before payments are made and that suspicious or unusual circumstances, including those related to the special dietary allowance, be appropriately flagged for additional follow-up.

Special Diet Allowance

The Ministry explained that the special diet allowance program was intended to help with the extra costs of special diets for those on social assistance who have medically validated specific health conditions and also have medically recognized dietary costs. Special diet allowance costs have increased substantially, from \$6 million in 2002 to more than \$200 million a year at the time of the hearings. The government has determined that these rapidly increasing costs are unsustainable.

According to the Ministry a public campaign encouraged people to access the special diet allowance as a means of increasing their amount of financial assistance. In 2005 the Ontario Medical Association approached the Ministry after doctors complained of pressure in connection with the application process. The Ministry implemented changes in 2005. Among other adjustments, the Ministry added a new schedule to the application process which no longer asked doctors to describe the diet required for a patient but rather asked them to simply confirm a patient's medical diagnosis. Expenditures for about a year and a half decreased

and then cost increases continued. The Ministry noted that the Auditor's report expressed concerns over the number of conditions identified, the prevalence of conditions, and multiple family members with the same array of conditions.

The Ministry said that in 2009 the Auditor flagged issues of misuse in the program and called upon the government to review it with a view to limiting its possible abuse. In addition, the Ministry said that it had a Human Rights Tribunal of Ontario decision that found that the special diet health allowance discriminated against people with certain health conditions. The government has decided to eliminate the special diet allowance and create a new nutritional supplement program for people with severe medical needs, which will be administered by the Ministry of Health and Long-term Care.

The Ministry is considering the implications of ending the special diet program for its service delivery and computer system. It is working with the Ministry of Health and Long-term Care on approaches for the new nutritional supplement program. Discussions are in an early phase; the Ministry said that it would be premature to comment on the delivery mechanism. The government's policy direction is to design the new program for those with severe medical needs.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 6. The Ministry of Community and Social Services shall provide the Standing Committee on Public Accounts with an update of its discussions with the Ministry of Health and Long-term Care on the design and planned implementation of the new nutritional supplement program that will replace the Ministry of Community and Social Services' special diet allowance.**

Overpayments

Determination

The Auditor said that estimated overpayments at the time of the audit totaled \$663 million, compared with \$483 million in 2004. Calculations and reasons for overpayments are often not properly documented in the SDMT system or paper files.

The Ministry said that most overpayments are not the result of client wrongdoing though in some cases clients have deliberately chosen to misrepresent their financial circumstances. It said that 63% of the outstanding \$663 million in overpayments was generated at least five years ago (much accrued in the 1990s) and 60% of it is from cases that are now inactive. The Ministry indicated that the total number of overpayment cases in recent years has declined. The overpayment amount rose slightly (so the total overpayment amount increased) but the rate of accumulation is on a downward trend. The Ministry is assessing the root causes for overpayments and will determine how best to address them.

Earnings Exemptions

The Ministry introduced changes to the ODSP in 2006 in order to increase its focus on employment. Previously, the program was largely an income support program with complicated rules for exemptions. Under the changes implemented in 2006, whenever a recipient is able to work, half of the earnings are exempt, meaning that half of the recipient's earnings do not affect the recipient's eligibility or the amount of money the recipient receives for ODSP income support.² At some point, people may become well enough off that they are no longer on the program. The Ministry said that the 2006 changes replaced a system that had significant disincentives for working.

The Ministry simultaneously introduced a number of other measures that would encourage people to work. For example, funding support is provided to help recipients find work. The Ministry also tried to change the way it provides incentives for third parties meant to help people find jobs. Prior contracts (service contracts) were not results focused. Currently service providers receive additional money from the Ministry when a person is placed in and retains a job.

Collection

The Auditor noted that ODSP benefits are subject to deductions to recover prior overpayments under the *Ontario Works Act* and the *Ontario Disability Support Program Act*. Overpayments on active accounts are recovered primarily through automatic deductions from the recipient's monthly income-support allowance. The Auditor noted in his audit that payment amounts are small in relation to the amount of overpayment. The Ministry can eliminate deductions from payments if it feels deductions would cause the recipient undue hardship.

The Ministry initially sends "dunning letters" out for overpayment recovery for inactive or terminated accounts. If there is no response, the Ministry transfers the account to its Overpayment Recovery Unit (ORU). The Auditor noted that from the time of the ORU's inception in October 2004 until March 31, 2009 the ORU received and is currently administering overpayment accounts totaling \$141.8 million. As of March 31, 2009 the Ministry had designated some \$59 million as "temporarily uncollectible." The Auditor recommended that the Ministry devote more time to minimizing overpayments in the first place, ensuring that overpayments from inactive accounts are transferred to, and followed up on by the ORU on a timelier basis, and where warranted, the Ministry should recommend that "temporarily uncollectible" accounts be written off.

² Ontario, Ministry of Community and Social Services, "Treatment of Income: When You Work and Earn Money." Internet site at http://www.accesson.ca/en/mcss/programs/social/odsp/income_support/odsp_workearn.aspx, accessed September 30, 2010.

Collection: Active Accounts

The Ministry said that overpayments due to a lack of timely reporting of changes in income or circumstances can be difficult to recover from clients due to the financial circumstances and hardship of clients. Only a portion of overpayments is deducted on a monthly basis (usually about 5% of current benefits, according to the Ministry) and sometimes clients exit the program before that overpayment is fully collected.

Collection: Inactive or Terminated Accounts

The Ministry added that for overpayments on inactive or terminated accounts, the ORU contacts the former clients with debts owing and initiates payment schedules. The Ministry has an agreement with the Canada Revenue Agency (CRA) through CRA's refund set-off program. If an inactive client is due to receive a refund from the CRA, the appropriate amount of the refund would be sent directly to the ORU, as opposed to going to the client. The ORU will also discuss whether there are other ways the client might want to reduce the debt, with the option of a voluntary payment program. The Ministry said that over the past several years it has collected \$25 million through the efforts of the relatively small group of staff in the ORU. It added that more importantly, it has voluntary payment agreements in place for an additional \$100 million.

Writeoffs

The Committee wished to know when an overpayment would be deemed no longer recoverable and written off. The Ministry said that its current practice is to write off when the client is deceased or has declared bankruptcy. The Ministry said that, as noted by the Auditor, it has not paid as much attention to developing a robust writeoff strategy for outstanding debt but that it is working on this. The Ministry added that, again as pointed out by the Auditor, it is necessary to ensure that its processes are in keeping with the rules set by the Ministry of Finance.³ The Auditor noted that the Ministry of Finance would actually need to be involved and give its approval before amounts owed can formally be written off meaning that writeoffs would be a dual ministry process.

³ The Auditor said that these overpayments constitute a good asset on the government's accounts – the issue is whether there should be a reserve and allowance. He added that the Ministry of Finance, when doing the consolidated public accounts, would have a substantial reserve against those accounts receivable where it believes that a significant portion may not be collectible so that they do not appear as a bona fide asset of the province.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

7. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on:

- **how much of the \$663 million in overpayments can realistically be expected to be collected and how much should be recommended to be written off;**
- **the outcome of its plan to develop a more robust writeoff strategy for outstanding client debt;**
- **whether, and if so when, it will hold discussions with the Ministry of Finance to ensure that any writeoff strategy developed by the Ministry of Community and Social Services complies with rules set by the Ministry of Finance; and**
- **the Ministry of Community and Social Services' assessment of root causes for overpayments including decisions taken on how it will address the issue of overpayments.**

Case Management

Workload

In his 2004 audit the Auditor commented on the relatively high caseload per caseworker. Since then he said the caseload has decreased significantly, by about 35% overall (caseloads still varied significantly between offices), but that there is little evidence the quality of work has improved. He also noted that caseworkers in three regions visited took, on average, 20 sick days per year, which compares unfavourably to the overall Ontario Public Service (OPS) average of about 10 days per year. The Auditor recommended that the Ministry 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.

The Ministry said that staff in ODSP offices work with clients to ensure they receive their maximum entitled benefits in compliance with policies and regulations. The Ministry said that while staff members work hard to ensure program integrity, it also agreed with the Auditor's observation that the Ministry must continually improve its oversight and delivery of the program. The Ministry, as part of its training, provides staff members with customer service tools including, for example, those necessary for making good, timely decisions on initial financial eligibility and understanding how to use credit data better.

The Ministry agreed with the Auditor that 20 sick days per year is a high rate but noted that ODSP front-line work is tough and complex. The Ministry believes that the OPS front-line sick day rate is probably also well above the norm. The Ministry wants to address the high rate and currently has a service enhancement

project underway. The project examines how front-line service is delivered. The Ministry is consolidating some functions to provide a “one-window” approach. Staff have input into the development of the new model.

The Ministry linked its many different ODSP staff types and classifications with inefficient hand-offs between staff in the program – a source of frustration for staff and clients. The Ministry believes that its new model will improve staff work satisfaction and enable the Ministry to address the fact that staffing increases do not always keep pace with caseload increases. The Ministry did note that front-line resources have increased recently.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 8. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on key features of its new front-line service delivery model. The Ministry should explain whether the new model promotes efficient service delivery (and if so, how), whether it has impacted the number of staff required to deliver services, and whether the number of sick days taken by case workers still averages 20 days per year.**

Service Delivery Model Technology System

The Auditor found that, as was the case in 2004, caseworkers still expressed considerable dissatisfaction with the service delivery model technology (SDMT) system. For example, Ministry staff said that SDMT continues to make errors that they cannot explain, including some that lead to overpayments. Regional and local offices are not receiving, in an easily understandable format, the information they need to effectively oversee program expenditures. The Auditor also said that the system lacks certain basic internal controls. For example, front-line caseworkers have considerable powers to act without management’s knowledge.

The Ministry noted that the SDMT system has been audited a number of times previously. In the most recent audit the Auditor again expressed concern about the generation of errors. The Ministry said that almost 11,000 people use the system, which serves not only the ODSP but Ontario Works at the municipal level. About 800,000 people rely on the system for benefit cheques to be cut, business processes to be maintained and case management to be done. It said that the core of the SDMT system works, though improvements to the system are necessary.

It added that the core of the current computer technology is an engine that calculates benefits. The intake worker and case manager are responsible for ensuring the accuracy of information input into the system. Cases are unique because of the differences in factors such as family makeup, rental costs, and income. A variety of factors might change the amount that a client receives. In addition, there are supplementary program benefits that clients may receive which

will also change the amount of their monthly cheques. Certain costs, such as medical transportation, vary significantly from month-to-month.

The Ministry said that it has improved security for external access, client service/access, flexibility and reliability of the current SDMT system. The Ministry is also developing a business case for the replacement of the SDMT system. This is a multi-year project that will be undertaken in conjunction with other government partners. The Ministry hopes the new system will be implemented at the end of fiscal year 2012/13.

It said that in addition to IT issues, the Auditor discussed supervisory oversight issues. The Ministry is improving oversight through recently implemented enhanced supervisory review processes. The Ministry added that it has improved program oversight in the past by introducing an audit trail history for direct bank deposits for ODSP clients (not all clients have direct deposits). It has also made it easier to make client entitlement changes and address arrears, has introduced a search function in the SDMT case management notes section, and has enhanced flagging of issues requiring attention in the SDMT system.

The Committee wished to know why the Ministry cannot quickly update its SDMT system. The Ministry stressed the importance of refreshing and renewing, using best practices, appropriate accountability and oversight, as well as technology platforms to achieve good customer service. The Ministry noted again that it is proceeding with the planning and design of a new technology platform that it said will serve ODSP clients well in the future.

The Ministry researched replacement options both internationally and in Canada. It is proceeding with a model and approach that mirrors case management systems for complex human service programs used in other jurisdictions. Alberta and Saskatchewan use CaseWare; Ontario is now also examining this software model. The Ministry is trying to use off-the-shelf case management technology but added that the software application needs to work with the policies and business practices established for the ODSP, which are fairly unique and specific.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

9. **The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on the Ministry's progress in developing a business case for replacement of its service delivery model technology (SDMT) system. The Ministry should specify**
 - **how it will ensure that consultations with caseworkers are incorporated into the process of determining requirements for the request for proposal (RFP) to ensure the new system meets user needs;**

- whether the new system is still due to be implemented by the end of 2012/13;
- what, if any, progress has been made in the determination of the suitability of an off-the-shelf system;
- if necessary, what changes would be required to the Ministry's work processes in order to be able to use an off-the-shelf system; and
- what, if any, progress has been made in sequestering management access from caseworker access in the current functionality of the SDMT system.

CONSOLIDATED LIST OF RECOMMENDATIONS

The Standing Committee on Public Accounts requests that the Ministry provide the Committee Clerk with a written response to each of the Committee's recommendations within 120 calendar days of the tabling of the report with the Speaker of the Legislative Assembly, unless otherwise specified in a recommendation.

The Standing Committee on Public Accounts recommends that:

1. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on what results have been achieved regarding meeting the Ministry's target that Ontario Disability Support Program (ODSP) clients receive their cheques within 21 days after they have been approved for benefits. The Ministry should specify whether it is meeting that time frame and if not, how long on average clients wait to receive their cheques. The Committee would also like the Ministry to consider posting this information on its ODSP website.

2. The Ministry of Community and Social Services shall provide the Standing Committee on Public Accounts with an assessment of the effectiveness of its new process for oversight and review of adjudicator decisions and an estimate of the percentage of files that get reviewed. The Ministry should include a tracking report, with information presented in charts or graphs for such data as the percentage of files reviewed. The report should indicate what, if any, progress has been made on oversight and review of adjudicator decisions since the tabling of the Auditor General's *2009 Annual Report*.

3. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on the outcome of the Ministry's consideration of potential strategies to address the high overturn rate by the Social Benefits Tribunal of decisions taken by Ministry adjudicators on applicants' disability determination and income support. The Ministry should specify

- the current overturn rate;
- whether it has established a target for the overturn rate;
- whether it has introduced measures, in addition to knowledge exchange, to ensure that Tribunal members and Ministry staff use the same criteria for disability determination and income support decisions as well as provide information on what criteria are used and how they are enforced; and
- whether it has examined the eligibility adjudication process for the Canada Pension Plan Disability (CPPD) benefits and if not, provide a rationale for why not.

4. The Ministry of Community and Social Services shall report to the Standing Committee on Public Accounts on the outcome of the Ministry's review of business processes to identify best practices in processing fraud tips. The Ministry should specify what measures it will introduce to better identify and deal with suspected fraud cases on a more timely basis and should provide the Committee with current metrics on telephone tips, police referrals and convictions, including data on trends. This information should be presented in chart or graph format.

5. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on whether the backlog of required medical eligibility reassessments is being addressed. The Ministry should specify

- whether it will increase its rate of medical reviews from the current 100 reviews conducted each month;
- the most recent review results (the total number of completed disability determination packages received and associated adjudication decisions); and
- whether the Ministry will request additional staff to catch up on the backlog of medical reviews.

The Ministry should also provide the Committee with its plan, including timelines, for addressing the backlog of medical reviews.

6. The Ministry of Community and Social Services shall provide the Standing Committee on Public Accounts with an update of its discussions with the Ministry of Health and Long-term Care on the design and planned implementation of the new nutritional supplement program that will replace the Ministry of Community and Social Services' special diet allowance.

7. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on:

- how much of the \$663 million in overpayments can realistically be expected to be collected and how much should be recommended to be written off;
- the outcome of its plan to develop a more robust writeoff strategy for outstanding client debt;
- whether, and if so when, it will hold discussions with the Ministry of Finance to ensure that any writeoff strategy developed by the Ministry of Community and Social Services complies with rules set by the Ministry of Finance; and
- the Ministry of Community and Social Services' assessment of root causes for overpayments including decisions taken on how it will address the issue of overpayments.

8. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on key features of its new front-line service delivery model. The Ministry should explain whether the new model promotes efficient service delivery (and if so, how), whether it has impacted the number of staff required to deliver services, and whether the number of sick days taken by case workers still averages 20 days per year.

9. The Ministry of Community and Social Services shall report back to the Standing Committee on Public Accounts on the Ministry's progress in developing a business case for replacement of its service delivery model technology (SDMT) system. The Ministry should specify

- how it will ensure that consultations with caseworkers are incorporated into the process of determining requirements for the request for proposal (RFP) to ensure the new system meets user needs;
- whether the new system is still due to be implemented by the end of 2012/13;
- what, if any, progress has been made in the determination of the suitability of an off-the-shelf system;
- if necessary, what changes would be required to the Ministry's work processes in order to be able to use an off-the-shelf system; and
- what, if any, progress has been made in sequestering management access from caseworker access in the current functionality of the SDMT system.

APPENDIX A

DISSENTING OPINION OF THE NEW DEMOCRATIC PARTY MEMBER OF THE COMMITTEE

Dissenting Opinion – NDP
Standing Committee on Public Accounts
Ontario Disability Support Program

This dissent is limited to the majority report's findings on page 13 of the report under the title Earnings Exemptions.

The original drafts contained the title "Clawback".

This is the standard parliamentary word used to describe the practice of taking back monies from Ontario Works and Ontario Disability Support Program recipients who have additional sources of income.

If one checks Ontario Hansard one will find 277 references to "clawback" in the last 19 years.

This sanitized version uses the words "Earnings Exemptions" which is an imprecise term used in discussions with wages, pensions and taxation. In this context, it serves to confuse rather than explain the issue.

The majority report further confuses the practice of claiming back monies by pretending that recipients get to keep half of their earned income. Ministry policy is clearly designed to recover their monies. It does not reward the recipients with half of the earnings.

The only way the latter could be true is if all wages were estreated and then half given back. This is not the case.

Clawback is an egregious government practice which exacerbates poverty, removes incentives for working and is prejudicial to people with intellectual disabilities. White-washing the term and couching it in spin language does nothing to explain the practice, much less justify it.

It is for this reason that we dissent on the report as written.

Michael D. Prue, MPP
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