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ONTARIO WORKS PROGRAM: INTERNAL REVIEW AND SOCIAL BENEFITS TRIBUNAL APPEALS 2006 AND 2007 ACTIVITY

The Community Services and Housing Committee recommends the adoption of the recommendation contained in the following report, April 21, 2008, from the Commissioner of Community and Health Services:

1. RECOMMENDATION

It is recommended that:

1. The Regional Clerk circulate this report to the Central East Region Office of the Ministry of Community and Social Services.

2. PURPOSE

This report updates Council on Ontario Works Internal Review and Social Benefits Tribunal Appeal activity for the years 2006 and 2007.

3. BACKGROUND

A two stage appeal process ensures opportunity for dispute resolution, consistency, and fair decisions

In the course of administering the *Ontario Works Act*, decisions on the initial and ongoing eligibility of applicants and participants are made on a daily basis. An applicant or participant is provided with the right to appeal any decision that would refuse, terminate or reduce an allowance or mandatory benefit.

The appeal process begins with an Internal Review which is designed to ensure consistent and fair decisions and to employ a process aimed at resolving disputes, whenever possible, prior to proceeding to a formal appeal process. The Act requires that each delivery agent establish an internal review process to address complaints or disputes about decisions affecting applicants and participants. Further, the Act states that no appeal to the Social Benefit Tribunal may be commenced by an applicant or participant unless an internal review has been requested and completed. If an applicant or participant does not agree with the outcome of the Internal Review, they have the right to appeal further to the provincial Social Benefits Tribunal.

Through the overall appeal process:

- An applicant or participant receives written notification of any decision to deny, vary, suspend, or cancel financial assistance, and receives information on their right to appeal.
- The appeal process has defined time limits, which, if missed without reasonable cause, will disallow further appeal by the Ontario Works applicant or participant.
- Interim assistance may be paid to an applicant or participant pending the outcome of a Social Benefits Tribunal appeal. If the applicant or participant is later determined to be ineligible, York Region may recover interim assistance as an overpayment.
- Internal Review and Social Benefits Tribunal statistical tracking systems are in place for reporting and auditing purposes.

4. ANALYSIS AND OPTIONS

INTERNAL REVIEW ACTIVITY

Internal Review is the first step in the appeal process

An Internal Review is the first step in the appeal process and can result in the resolution of matters, making it unnecessary for an applicant or participant to appeal to the Social Benefits Tribunal.

Staff deny, vary, suspend or cancel financial assistance for a number of reasons. Legislative reasons can include income or assets in excess of eligible limits, non-compliance with Ontario Works activities, a spouse living as a co-resident where their assets and income have not been disclosed, and not supplying information required to confirm eligibility.

These appealable decisions are made on a daily basis. While it is not possible to accurately define the number of decisions made, given that the caseload averaged over 4,500 households at any given time in 2007, comprised of over 8,400 beneficiaries with a caseload turnover rate of 9-11% per month (cases leaving and new cases coming on), it is reasonable to assume staff are making tens of thousands of appealable decisions each year as it pertains to allowances and benefits. This is significant given that the 2007 budgeted Ontario Works cost of allowances and benefits was \$47.1 million gross and \$10.7 million net, representing 1.6% of the Region's 2007 tax levy budget.

The number of Internal Review requests being resolved and withdrawn prior to review completion has increased

The following table provides an overview of the Internal Review activity for 2006 and 2007.

Table 1
Internal Review Activities

Appeal Results	2007	2006
Request Withdrawn	26	4
Decision Upheld	65	61
Decision Changed	43	56
Decision Modified	7	8
Total Initial Requests	141	129
Total Internal Reviews Completed	115	125

The number of Internal Reviews requested in 2007 increased by twelve over the 2006 figure. Despite this increase, the number of cases actually being completed in review decreased by ten from 2006. Highlights of the 2007 activity are noted below:

- While there does not appear to be one or two specific reasons for the increase in requests for review that were withdrawn, applicants/ participants are increasingly educated about their right to appeal. This happens through in-house information sessions, reports related to benefits that appear in the media or are profiled through community agencies and legal clinics, and communications from the province that draw attention to benefits, such as new post employment supports, designed to help with job sustainability. This further promotes a process allowing for active dispute resolution, and issue clarification even after an Internal Review request is made. Where an applicant or participant is satisfied with a clarification of why the decision was made or a resolution is arrived at based on additional information and discussion, the applicant or participant can choose to withdraw their internal review request before the review is formally completed.
- Overall, notwithstanding an increase in review requests and request withdrawals, the number of cases involved in the Internal Review process remained low given the thousands of appealable decisions that are made.

Appeals are resolved internally eliminating the need for a formal Social Benefits Tribunal appeal

During the Internal Review process, decisions are upheld, changed or modified. In 2007, the number of decisions that were upheld increased and there was a decrease in the number of decisions that were changed or modified.

However, decisions are very often changed or modified as applicants or participants tend to respond to an appeal with enhanced efforts at meeting program expectations and come forward with new information during the process. If the applicant or participant responds by providing the required information, the initial decision may be changed or modified. This does not mean that the initial decision was incorrect, but rather the applicant or participant has now met the eligibility requirement.

The trends in 2006 and 2007 are reflective of an effective Internal Review process. The Internal Review structure supports a fair review process that responds to the submission of new information and eliminates these issues from proceeding to the formal Social Benefits Tribunal appeal process.

SOCIAL BENEFIT TRIBUNAL ACTIVITY

Issues not resolved at the Internal Review stage proceed to the Provincial Social Benefit Tribunal

If an applicant or participant disagrees with an Internal Review decision they have the option to make a formal appeal to the Social Benefit Tribunal. The Social Benefit Tribunal hears appeals of applicants or participants who disagree with a decision that affects the amount of, or their eligibility for, the social assistance they receive under the *Ontario Works Act, 1997* or the *Ontario Disability Support Program Act, 1997*. They may also consider issues regarding human rights as they relate to the appeal.

The Social Benefit Tribunal is an independent body that operates at arm's length from the Ministry and it is separate and apart from the Ministry and local offices. The Social Benefit Tribunal holds hearings which are similar to a court, but less formal. The Tribunal has a Chair, Vice-Chairs and Members, who are appointed by Order-in-Council to hear appeals from individuals concerning social assistance. It is supported by legal counsel, administrative staff and client service staff.

Applicants or participants that file an appeal, although it is not necessary, may obtain legal representation for their hearing.

Number of Social Benefits Tribunal appeals remains low

The number of Social Benefits Tribunal appeals in 2007 has increased by five over the 2006 figure. This represents a low number of formal appeals in relation to the thousands of appealable decisions made by Ontario Works staff each year. The following table provides an overview of the number of Social Benefits Tribunal appeals for 2006 and 2007.

Table 2
Social Benefits Tribunal – Number of Appeals

Year	Appeals to Social Benefits Tribunal
2007	49
2006	44

Note: some appeals going forward in 2006 and 2007 are based on internal reviews held in each previous year.

York Region's decisions supported

In 2006 and 2007, 100% of the Social Benefits Tribunal appeal findings supported York Region's decisions. This exceeds the provincial 2006-2007 rate of 80% in favour of Ontario Works Administrators based on decisions rendered (*Social Benefits Tribunal 2006-2007 Annual Report, Table 8*). The following table provides an overview of the Social Benefits Tribunal appeal results for 2006 and 2007.

Table 3
Social Benefits Tribunal – Appeal Results

Appeal Results	2007	2006
York Region Decision Affirmed	10	14
York Region Decision Denied or Altered	0	0
No Jurisdiction for Social Benefits Tribunal	0	5
Appeal Withdrawn	10	7
Total	20	26

Note: At the end of 2007, there were 29 hearings/decisions pending.

5. FINANCIAL IMPLICATIONS

The Internal Review and Social Benefit Tribunal appeal process ensures consistency of program application and service delivery, and equitable and accountable decision making. It assists in making sure those applicants and participants who are eligible receive assistance at the correct rates while those who do not meet eligibility requirements do not receive assistance.

6. LOCAL MUNICIPAL IMPACT

Lower regional costs of assistance due to efficient eligibility decision making and ensuring residents on assistance receive the correct amount of assistance, benefits local municipalities.

7. CONCLUSION

The low rate of formal Social Benefits Tribunal appeals indicates effective internal decision making, supported by an accessible and responsive Internal Review Process.

These results have been achieved in an environment where staff are required to make thousands of appealable decisions each year.

For more information on this report, please contact David Rennie, Director, Employment and Financial Support, at Ext. 2013.

The Senior Management Group has reviewed this report.