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ONTARIO WORKS PROGRAM INTERNAL REVIEW AND SOCIAL BENEFITS TRIBUNAL APPEALS 2004 AND 2005 ACTIVITIES

The Community Services and Housing Committee recommends adoption of the recommendation contained in the following report, May 4, 2006, from the Commissioner of Community Services, Housing and Health Services:

1. RECOMMENDATION

It is recommended that:

1. This report be received for information

2. PURPOSE

The purpose of this report is to provide Council with information regarding eligibility review requests made by Ontario Works (OW) participants in 2004 and 2005 to the Social Assistance Division's Internal Review process and to the provincial Social Benefits Tribunal (SBT).

3. BACKGROUND

In the course of administering the *Ontario Works Act*, staff make decisions on the initial and ongoing eligibility of clients on a daily basis. A client is provided with the right to appeal any decision that would refuse, terminate, or reduce an allowance or mandatory benefits. 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. If the client does not agree with the outcome of the Internal Review, the client has the right to appeal further to the provincial SBT.

Through the overall appeal process:

- A client 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 definite time limits, which, if missed without reasonable cause, will disallow further appeal by the OW client.
- Interim assistance may be paid to a client pending the outcome of a SBT appeal. If the recipient is later determined to be ineligible, York Region may recover interim assistance as an overpayment.
- An Internal Review and SBT tracking system is in place for reporting and audit purposes.

4. ANALYSIS AND OPTIONS

4.1 Appeal Activities – Internal Review

An Internal Review is the first step in an appeal process that ensures a timely, fair and equitable application of OW rules and regulations. The Internal Review can result in the resolution of matters, making it unnecessary for recipients to appeal to the SBT.

Staff deny, vary, suspend or cancel financial assistance for a number of reasons. Legislative reasons include, but are not limited to: quitting or being fired from a job, income or assets in excess of eligible limits, non-compliance with OW 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.

York Region has established a comprehensive statistical system to capture Internal Review Activity results. As noted in Table 1, the number of reviews requested was 96 in 2004 and 107 in 2005. This increase is mainly attributed to caseload growth (the caseload increased from 4,304 cases in 2004 to 4,600 by December of 2005), and does not necessarily signify an increase in overall Internal Review activity or concerns.

The number of initial decisions that were upheld on OW reviews conducted increased from 48% in 2004 to 54% of decisions in 2005. This increase reflects both effective decision making on initial decisions and effective management of new information coming forward through the appeal process by staff. This increase also occurred during a period where staff were managing the implementation of significant legislative changes including allowance rate increases, new client supports, and dealing with numerous SDMT technological challenges.

Table 1
Internal Review Activities – Number of Reviews and Results

Year	Reviews Requested	Reviews* Conducted	Decision Upheld	Decision Reversed	Decision Modified
2005	107	94	51	32	11
2004	96	84	40	39	5

* Some requests were withdrawn or extensions were denied resulting in fewer reviews conducted.

It is important to note in regard to OW appeal activity that while participants are always provided with a reasonable period to meet program requirements, staff are required to render decisions in defined time frames. After the decision is reached and clearly communicated, participants often respond with enhanced efforts at meeting expectations. If the client responds by providing the required information, the individual conducting

the Internal Review is correct in altering the initial decision. This does not mean the initial decision was incorrect, but rather that the client has now met the eligibility requirement. In this manner the internal appeal structure supports a fair review process that responds to new information.

4.2 Appeal Activities – Social Benefits Tribunal

If a client disagrees with an Internal Review decision they have the option to make a formal appeal to the SBT. The table below indicates the number of OW clients who appealed to the SBT in 2004 and 2005.

Table 2
Social Benefits Tribunal - Number of Appeals

Year	Appeals To Social Benefits Tribunal
2005	47
2004	36

Note: Some appeals going forward in 2004 and 2005 are based on internal reviews held in each previous year.

The number of SBT appeals in 2005 has increased by 11 over the 2004 figure and is likely influenced by clients questioning decisions related to the allowance rate changes and other legislative changes introduced by the Province during 2005. This still represents a low number of formal appeals in relation to the thousands of appealable decisions made by OW staff each year. Appeal results for 2004 and 2005 are noted below.

Table 3
Social Benefits Tribunal - Appeal Results

Appeal Results	2005	2004
York Region Decision Affirmed	17	9
York Region Decision Denied or Altered	3	4
No Jurisdiction for SBT	0	2
Appeal Withdrawn	11	10
Hearings/Decision pending	16 *	11 **
Total	47	36

* 12 cases scheduled to be heard in 2006. 4 cases are pending reconsideration request.

** 9 cases were heard in 2005 and are included in 2005 results. 2 cases are pending a reconsideration request.

In 2004, 11 of 15 SBT appeal findings, or 73% supported the York Region decisions; and in 2005, 17 of 20 SBT findings or 85% supported York Region's decisions. Over the two year period 80% of the SBT findings affirmed the Region's decisions. This exceeds the provincial 2004-2005 rate of 78% in favour of OW Administrators based on decisions rendered (Social Benefits Tribunal 2004-2005 Annual Report).

4.3 Improving the SBT Process

In 2004 and 2005, changes have been introduced both at York Region and the Tribunal level to increase effectiveness and responsiveness of processes associated with the SBT. Changes to improve effectiveness include:

- The SBT appeals process in York Region was centralized with the Quality Assurance Unit of the Community Services and Housing Department (Quality Assurance staff represent the Region's OW Program decisions at all SBT hearings). This helps to ensure consistent monitoring of issues and supports issues management and training.
- York Region developed an in-house shared electronic library of SBT decisions which is available to staff to promote learning and increased decision making efficiency.
- The Tribunal implemented telephone hearings.
- The Tribunal introduced new scheduling and case management practices resulting in a target of 90% of decisions being rendered within 60 days (Region staff will monitor the effectiveness of the Tribunal change).

5. FINANCIAL IMPLICATIONS

The Internal Review and SBT process ensures consistency of program application, service delivery and decision making. It assists in making sure that applicants 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

There is no direct impact on local municipalities. However, lower regional costs of assistance due to efficient eligibility decision making and ensuring residents on assistance receive the correct amount of assistance are of benefit to local municipalities.

7. CONCLUSION

The overall general low rate of formal SBT appeals indicates effective 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.

The Senior Management Group has reviewed this report.