

REPORT



Defining disability for social assistance in Ontario

Options for moving forward

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Introduction

The COVID-19 crisis has made clear the importance of a robust social safety net for people with disabilities; and it has also highlighted its weaknesses.

Many people with disabilities have compromised immune systems, and are therefore at higher risk from and have already been disproportionately impacted by the COVID-19 virus. For these people, physical distancing and other preventative measures will probably be in place for a long time – much longer than for the general population. Further, it is already apparent that people with low incomes have been disproportionately affected by this pandemic. A stable and well-functioning social support system for people with disabilities in financial need will be crucial during and after the crisis.

In November 2018, the Ontario government announced that it would be undertaking major reforms to Ontario's social assistance system. As part of the reform, the government announced that it planned to align the definition of "disability" used by the Ontario Disability Support Program (ODSP) "more closely with federal government guidelines" (Government of Ontario, 2018). This is widely expected to narrow the range of disabilities that would make a person eligible for ODSP. This could have major implications for a vital component of Ontario's social safety net.

The COVID-19 pandemic crisis will likely have changed many plans that the government has for social assistance reform. It is not clear what work the government is currently undertaking on changes to ODSP. If the government remains committed to narrowing the definition of disability, the implications will be serious and threaten to further undermine the program.

This paper explores the role of ODSP, the risks of narrowing the definition of disability, models of disability assessment from other jurisdictions, and alternative ways that the government could reform the program. Most importantly, the paper recommends that the Ministry focus on improving ODSP's initial application process. A simplified assessment system would save time and money for applicants, medical professionals, legal clinics, adjudicators, and the Social Benefits Tribunal. These savings should be reinvested back into social assistance.

While the path out of the COVID-19 pandemic crisis will not be easy, the Ontario government can take action now to help provide stability for people with disabilities. At the very least, by retaining the ODSP's current definition of disability, it can assure people with disabilities in financial need that they will continue to receive some basic support. With this current definition in place, the government can undertake a more thorough review of the ODSP eligibility and application process.

The case for targeted disability supports

People with disabilities are more likely to be living in poverty, less likely to be employed, and face disability-related barriers to employment (Morris, Fawcett, Brisebois, & Hughes, 2018). Typically, people with disabilities also have higher living costs. For example, the cost of transportation, physical aids, medication, or specific dietary needs are generally higher than for people without a disability.¹

Specific supports for people with disabilities should, therefore, include:

- higher rates of income support and health benefits to offset higher living costs;
- fewer or no requirements to participate in employment-related activities in recognition that, for some, employment is not a realistic prospect;
- targeted employment supports that aim to overcome higher barriers to employment; and
- an understanding that many people will require support for the long term or indefinitely.

Most individuals with disabilities experience two or more disability types. For the majority, disabilities are dynamic – 61 per cent of people with disabilities in Canada experience limitations that are dynamic in nature, whether these limitations are progressive, recurrent, or fluctuating (Morris, Fawcett, Timoney, & Hughes, 2019). People with dynamic disabilities face similar barriers to those with continuous disabilities, and both groups have lower employment rates than the population without a disability. Those who are employed often

1 More than a quarter of working-age people with disabilities have unmet needs for an aid, device, and/or prescription medication due to cost (Morris, Fawcett, Brisebois, & Hughes, 2018).

require workplace accommodations and flexible working arrangements, and face some form of discrimination based on their disability (Morris, Fawcett, Timoney, & Hughes, 2019).

Disability Dynamics

In its analysis of the 2017 Canadian Survey on Disability, Statistics Canada developed a four-group typology to describe the various ways disabilities can be dynamic. They are:

- **Progressive** – This includes those who indicated that their ability to do daily activities was getting worse over time, regardless of whether or not they had periods of one month or more without feeling limited.
- **Recurrent** – This includes those who indicated that they had periods of one month or more when they did not feel limited and that their ability to do daily activities was either: staying about the same; getting better; or able to do more activities during some periods but fewer activities during other periods.
- **Fluctuating** – This includes those who indicated that they never had periods of one month or more without feeling limited but that they were able to do more activities during some periods but fewer activities during other periods.
- **Continuous** – This includes those who indicated that they never had periods of one month or more without feeling limited and that their ability to do daily activities was either staying about the same or, as in a very small number of cases, getting better.

(Adapted from Morris, Fawcett, Timoney, & Hughes, 2019.)

Given that people with dynamic conditions face disability-related barriers to employment, and that they make up a majority of people with disabilities, it is important that social programs intended for people with disabilities target and include those with dynamic limitations as well as those with continuous limitations.

Ontario context: ODSP and its definition of disability

ODSP is one of two streams of social assistance in Ontario. It is aimed at people in financial need whose daily life is restricted by a disability. ODSP has a two-stage eligibility assessment: the first assesses financial need and the second assesses disability.

For the disability assessment, applicants must demonstrate that they have a “continuous or recurrent” physical or mental impairment that is expected to last for one year or longer. The impairment must restrict their activities in an area of daily living – that is, personal care, functioning in the community, or functioning in the workplace.

The other stream of social assistance, Ontario Works (OW), is aimed at people in financial need who do not have a disability that meets the ODSP definition.² Both streams of social assistance are programs of last resort. ODSP and OW differ in three main ways. First, ODSP pays a higher rate. Second, ODSP provides in-kind benefits such as dental coverage and vision care for all recipients. Third, while ODSP does offer employment supports such as job search assistance and training, it does not have the same job search requirements as OW in recognition that ODSP recipients may not be able to sustain competitive employment.

ODSP applicants are not required to have any prior work history. This is significant. Other income support programs for Ontarians with disabilities – such as Canada Pension Plan Disability (CPP-D), Employment Insurance (EI) sickness benefits, Canada Workers Benefit (CWB), and Workplace Safety and Insurance Board (WSIB) benefits – are only available to people who are working or have worked. What is often thought of as a “system” of disability supports excludes many people with disabilities. Eligibility criteria that rely heavily on workforce participation mean that “the promise of the social security system far exceeds its performance” (Torjman, 2017). As a result, ODSP plays a critical role in Ontario’s social safety net, particularly for people whose disability has prevented them from working.

² OW also serves people in financial need with a “continuous and recurrent” disability who are in the process of applying for ODSP.

ODSP costs and trends

In 2018-19, the provincial government's expenditure on ODSP was \$5.4 billion, which amounted to 3.5 per cent of its total expenditure.

A recent report from the Auditor General of Ontario brought ODSP spending under scrutiny. It highlighted that ODSP expenditure increased from \$3.1 billion to \$5.4 billion, and the caseload has grown by 50 per cent, between 2009 and 2018/19 (Office of the Auditor General of Ontario, 2019).

The increase in expenditure can largely be explained by the changing context in which ODSP is delivered. First, Ontario's population is aging and the prevalence of disability increases with age.³ Second, Ontario's labour market has changed. The prevalence of low-paid work with informal hours is increasing, while fewer workplaces are providing insurance for long-term disability. This means that fewer people qualify for contributions-based benefits (such as Employment Insurance) or private benefits through their employer; as a result more people have to turn to social assistance when they are out of work.⁴ In addition, those who have been out of the paid workforce for an extended period, or those who have never worked, are not able to access other disability income supports.

These trends can be seen across Canada, and other provinces have experienced similar increases in their disability-related social assistance caseloads as Ontario (Maytree, 2020).⁵ The rise in ODSP expenditure has been in line with Ontario's budget forecasts.⁶

It is important to appreciate that the rise in expenditure observed by the Auditor General is not adjusted for inflation. While ODSP rates have increased

³ For example, the prevalence of disability in individuals over age 65 (37.8%) is nearly double that of those aged 25-64 (20%) (Morris, Fawcett, Brisebois, & Hughes, 2018).

⁴ For a fuller discussion of the changing context of social assistance delivery, please see "System Transformation in Ontario Works: Considerations for Ontario" (Talwar Kapoor, 2020).

⁵ Of the provinces with designated disability social assistance programs in the last ten years, the caseload increased by 67% in Alberta, 55% in British Columbia, and 34% in Prince Edward Island; meanwhile, in Quebec and New Brunswick the caseloads have remained flat (Maytree, 2020).

⁶ Internal calculations comparing the expected annual caseload from the "Selected Expense Risks and Sensitivities" tables in each budget between 2009 and 2019.

slightly over the past decade, they have lagged significantly behind the cost of living as shown in Table 1. In 2018, an individual ODSP recipient living in Toronto would have had a maximum welfare income of \$14,954 (including non-ODSP benefits and tax credits), which amounts to 71 per cent of the official poverty line (Tweddle & Aldridge, 2019). The rise in overall ODSP expenditures obscures an important reality – that the purchasing power and quality of life for ODSP recipients have deteriorated.

Table 1: ODSP rates increases compared to cost increases⁷

Family type	Basic needs				Shelter allowance			
	2009	2019	% change	Food inflation	2009	2019	% change	Rent inflation
Single adult	\$578	\$672	16%	23%	\$464	\$497	7%	48%
Lone parent with one child	\$721	\$815	13%	23%	\$729	\$781	7%	43%
Couple with one child	\$855	\$969	13%	23%	\$791	\$846	7%	43%

Federal definitions of disability

One difficulty with aligning the ODSP definition of disability to federal definitions is that the federal government employs several definitions for the various programs it provides for people with disabilities. The Canada Pension Plan Disability (CPP-D), Employment Insurance (EI) sickness benefits, and the Disability Tax Credit (DTC) each have their own criteria to determine eligibility based on disability (Torjman, 2018).

Further, the federal government recently introduced another definition in the Accessible Canada Act (2019). It defines disability as:

⁷ Historical social assistance rates are published by the Income Security Advocacy Centre (Income Security Advocacy Centre, 2009-2019), food inflation is based on the food component of CPI published by Statistics Canada (Statistics Canada, 2020), rent inflation data from Rental Market Survey via Canada Mortgage and Housing Corporation's Housing Information Portal (Canada Mortgage and Housing Corporation, 2018). Rent inflation is calculated by comparing the average Ontario rent in October 2009 with October 2019. For the single adult, the rent of a bachelor unit was used; for the families with children, the rent of a two-bedroom unit was used.

any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment — or a functional limitation — whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society (Accessible Canada Act, 2019).

This definition has not yet been operationalized, but the federal government has indicated that it will be working to ensure that its approach to disability inclusion and supports is consistent with the definition of disability in the Accessible Canada Act.⁸

Case study: CPP-D

The Canada Pension Plan's disability stream (CPP-D) is one example of a federal program that uses a disability assessment to determine eligibility. CPP-D offers income protection for CPP contributors who are unable to work because of a severe and prolonged mental or physical disability.

In the last 20 years, three major evaluations have raised concerns about the CPP-D definition of disability. These evaluations were carried out by the Standing Committee on Human Resources Development and the Status of Persons with Disabilities (2003), Human Resources and Skills Development Canada (2011), and the Auditor General of Canada (2015).

The evaluations found that the commonly accepted criteria of "severe" and "prolonged" were, in practice, interpreted in different ways. The 2011 evaluation highlighted that many disabilities were difficult to quantify, were open to different interpretations, and entailed information that was unknown to physicians or not within their expertise to assess. The definition was reported to be particularly difficult to apply to applicants with conditions that were difficult to observe or measure, such as mental health issues and chronic pain. These problems were noted again in 2016, when the Auditor General pointed to the absence of a quality assurance framework to ensure that CPP-D medical adjudicators were making "appropriate and consistent decisions."

⁸ Following the 2019 federal election, the mandate letter to the Minister of Employment, Workforce Development and Disability Inclusion tasks the Minister with conducting "a comprehensive review to ensure a consistent approach to disability inclusion and supports across government...This includes a definition of disability consistent with the Accessible Canada Act" (Office of the Prime Minister, 2019).

A recent report from Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) that looked at federal supports for people with episodic disabilities again highlighted problems with the CPP-D definition. It recommended that Employment and Social Development Canada review the eligibility criteria to shift the emphasis from “the medical model concepts of “severe” and “prolonged” towards the social model concept of being able to work productively and gainfully on a regular basis” (Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 2019).

The social model of disability conceptualizes disability as rooted in the “physical, policy, and attitudinal barriers that tend to segregate or exclude persons with disabilities” rather than in a particular medical condition or in the individual. While the move to a social model of disability can be traced back more than three decades, eligibility criteria for disability support programs continue to rely almost exclusively on individual capacity (Torjman, 2018).

Notably, the ODSP disability eligibility criteria currently encompasses those who already qualify for CPP-D as members of a prescribed class. That is, a person who qualifies for CPP-D does not have to go through the ODSP disability adjudication process, although they must demonstrate that they meet all of the other ODSP eligibility criteria (Ministry of Children, Community and Social Services, 2018). It is significant that the current ODSP eligibility criteria includes those used by CPP-D, plus a broader range of disabilities not included by CPP-D. Adopting a definition similar to one used by CPP-D would clearly narrow the range of disabilities accepted by ODSP.

The risks of aligning with federal definitions of disability

Aligning ODSP eligibility with a narrower federal definition raises two risks:

- No federal program is designed to reach the same group that ODSP is intended to serve.
- People will be forced onto Ontario Works, which is not designed to support people with disabilities.

No federal program is designed to reach the same group that ODSP is intended to serve

Although many federal programs serve people with disabilities, these programs do not respond to the circumstances and needs of people served through ODSP. Each province and territory in Canada uses their own definition of disability for its disability-related social assistance benefits rather than a federal definition (see Appendix). In Ontario, ODSP is intended to provide income and employment supports to people with disabilities in financial need (Government of Ontario, 1997). This includes people who are completely unable to work and those whose daily living is restricted by disability. No federal government program is aimed at the same group.

The federal government employs different definitions to identify the specific group each program is intended to serve. This includes the disability component of the Canada Workers Benefit for people with disabilities who are working, the Disability Tax Credit for taxpayers with disability-related costs, the CPP-D for people who have contributed to the Canada Pension Plan. These programs miss two groups of people with disabilities that ODSP is intended to support: people who have never worked as a result of their disability and people who can or do work but face disability-related barriers (some of which could be intermittent and episodic) in their daily living. Aligning towards a federal definition will prevent some people with disabilities from accessing the program that is intended to meet their needs.

People will be forced onto Ontario Works, which is not designed to support people with disabilities

Other than the recently passed Canada Accessibility Act's definition of disability, which is not yet being used to determine eligibility for any specific programs, federal definitions of disability are narrower than the definition used for ODSP. Aligning the definition of ODSP to federal definitions would mean that many people currently eligible for ODSP would no longer qualify for the program. It is likely that this group of people would apply for and stay on Ontario Works, which would increase the number of people with disabilities receiving Ontario Works. Ontario Works provides more limited income support than ODSP and imposes job-search requirements that are incompatible with the

realities of people living with disabilities. Ontario Works will not be a suitable backstop for people who require support from ODSP, but no longer qualify, and will likely intensify the already stressful experience of having a disability and being in financial need.

A narrower definition of disability for ODSP might represent short-term savings for the government as a higher share of social assistance recipients would receive the lower OW rates. But, given the higher costs faced by people with all kinds of disabilities, trying to subsist on these lower rates could lead to deteriorating health conditions (if, for example, recipients cannot access food appropriate for their diet, or transportation to attend appointments) or homelessness (if they cannot pay the high costs of accessible housing, for example). This would translate into higher medium- and long-term costs for the provincial government, in health care and housing services.

Overall, Ontario Works is not intended to support people with disabilities, and therefore the program will not fulfill their needs. Ensuring people with disabilities can access ODSP would lead to better outcomes – both for individuals and for the government.

ODSP assessment processes: A better way to strengthen ODSP

Addressing problems with the current ODSP application and assessment system could strengthen the integrity of the program and potentially reduce the overall cost of administration.

Currently, a person applying for ODSP must demonstrate 1) that they are financially eligible, and 2) that they have a condition that meets the ODSP definition of disability. To demonstrate disability, the applicants must submit a package of information, including documents completed by a specified health care professional.⁹ The Ministry's centralized Disability Adjudication Unit uses these documents to determine whether the applicant is medically eligible. If an adjudicator rejects the application, the applicant can appeal to the Social Benefits Tribunal.

⁹ Individuals who are part of a “prescribed class” do not need to complete the ODSP disability adjudication process. A description of prescribed classes is published by the Ministry of Children, Community and Social Services.

In 2018-19, the Social Benefits Tribunal heard 4,624 appeals of the Ministry's disability decisions for ODSP and 60 per cent (2,789) of these decisions were overturned (Office of the Auditor General of Ontario, 2019).

The Social Benefits Tribunal and the appeals process is an important part of the administration of social assistance—having a process by which applicants can appeal benefit decisions is critical to the integrity of the program. However, ensuring valid and reliable application decisions are made in the first place will help reduce the Tribunal's caseload, and reduce costs to government and to applicants. In its 2018 report, the Auditor General highlighted that Legal Aid Ontario, which operates Community Legal Clinics, spent about a quarter of its clinic budget (approximately \$21 million) on assisting clients with ODSP cases in 2016-17 (Office of the Auditor General of Ontario, 2018). This cost is in addition to the costs of the Social Benefits Tribunal itself. Both Legal Aid and the Social Benefits Tribunal are funded by the province through the Ministry of the Attorney General.

The appeal process is lengthy and can be stressful for applicants. According to the Social Benefits Tribunal website, an appeal hearing usually takes place about ten months after a person files an appeal. After the hearing, the Tribunal issues a written decision within 60 days (Tribunals Ontario, n.d.). In other words, the appeal process is expected to take about a year.

To its credit, MCCSS has made considerable improvements in reducing the number of ODSP decisions that are appealed in recent years. While the proportion of successful appeals has remained high, the number of appeals to contest eligibility decisions has decreased (from 7,040 in 2008-09 to 4,624 in 2018-19). This decrease is the result of a concerted effort by the Ministry, which has been providing additional training to Ministry adjudicators and updating its adjudication framework (Office of the Auditor General of Ontario, 2019).

However, the 2018 Auditor General's report on Legal Aid highlights that more can be done. It found that appellants were successful because they were able to provide better information the second time around when they understood the procedure better and had the advice of an expert (Office of the Auditor General of Ontario, 2018).

A robust, independent adjudication system, well-resourced and functioning at full capacity, is necessary for a fair and dignified social assistance system.

The Social Benefits Tribunal and Legal Aid Ontario play a vital role in social assistance by ensuring that people have access to additional consideration of their individual circumstances. A simpler, more reliable initial assessment process could help to further reduce the number of appeals based on determining disability, thereby reducing costs to the Social Benefits Tribunal and to Legal Aid Ontario. This could allow each to use their resources on complex cases that require additional expertise. An improved initial assessment process would also reduce the high human cost of lengthy and stressful appeal processes, and increase public confidence in the social assistance system.

Disability assessments in other jurisdictions

A 2015 World Bank report (Bickenbach, Posarac, Cieza, & Kostanjsek, 2015) highlights three goals for a disability assessment system. It argues that, in order to be credible, an assessment system must be:

- Valid – applicants are not rejected when they should be eligible, nor accepted when they should be ineligible;
- Reliable – the eligibility criteria are clear and detailed so that the result of the assessment would be the same regardless of the sympathies of the decision-maker; and
- Transparent and standardized – the grounds for decision-making are publicly available and the process can be independently evaluated.

These criteria can be viewed in the context of the larger movement towards functioning-based assessments, which look at the functional limitations that result from a person's disability. This is a move away from impairment-based approaches, which assumes a reduction of capacity based on having a particular medical condition.

Functioning-based assessments require an understanding of the external factors that affect a person's day-to-day life (or "functioning"). This means recognizing that a person's ability to function and participate in society not only depends on the specific nature of their condition (episodic, recurrent, mental, physical, etc.) but also on the environment they live in (service availability, the built

environment, the labour market, employer expectations, etc.). It requires a realistic understanding of the individual's impairment *and* environment. This approach is considered to be a more accurate measure of the barriers individuals face and brings disability assessments in line with anti-discrimination principles and the UN Convention on the Rights of Persons with Disabilities.

Baumberg Geiger et al (2017) highlight three ways governments incorporate functioning-based assessments into their disability-related benefit programs: expert assessment, demonstrated assessment, and structured assessment.

Table 2: Approaches to functioning-based assessments of disability

Assessment type	Description	Pros	Cons
Expert assessment	Expert(s) evaluate an individual's functional capacity based on information on their impairment and environment	Easy to implement	High variability and low reliability Difficult to identify appropriately qualified and unbiased expert(s)
Demonstrated assessment	Determines eligibility through participation in a rehabilitation program	Emphasis on rehabilitation	Long and elaborate assessment periods Difficult to provide appropriate rehabilitation
Structured assessment	Compares the individual's functional capacity to a data-based understanding of their environment	Decisions are empirically based and transparent	Requires investment in gathering data Does not advise on or require environmental or workplace accommodations

An **expert assessment** approach designates one or more professionals to evaluate to what extent an individual's day-to-day activities or participation in the workforce is limited. This approach resembles the ODSP system, in that an expert from the Disability Adjudication Unit decides if the evidence presented to them meets the disability criteria. But, in a functioning-based approach, experts give greater consideration to the broader environment (for example, local labour market conditions or prevailing employer practices) than in the ODSP assessment.

While the expert approach is common for disability assessments and arguably the easiest to implement, it depends on the designated expert being able to make an informed and unbiased assessment. For ODSP, the decision is made

by a Disability Determination Adjudicator employed by the Ministry and is therefore not independent. People can challenge the adjudicator's decision by appealing to the independent Social Benefits Tribunal.

Disability Determination Adjudicators are required to have clinical expertise but not expertise in the contextual factors that impact an individual's capacity (such as the built environment, the labour market, etc.). Sweden and Denmark mitigate this problem by involving a multidisciplinary team of experts in decision making. Ideally, for a balanced and informed assessment, an expert panel would include members with expertise in rehabilitation options, mental health, and physical health, and in the functional demands of participating in the labour market.

In a **demonstrated assessment** approach, applicants must complete a rehabilitation intervention – and be unsuccessful – before qualifying for the support program. The rehabilitation focuses on supporting an individual towards employment. While this approach is credited for its emphasis on rehabilitation, it has been difficult to implement. Critics argue that the rehabilitation intervention that forms part of the assessment does not provide realistic employment support, and that delivering these interventions for all applicants is resource intensive and prolongs the application process. In countries using this approach, the process can take 18 months to five years (Baumberg Geiger, Garthwaite, Warren, & Bambra, 2017). In addition, this approach can force people with no reasonable prospect of employment to participate in a costly and lengthy program that will not provide them with any benefit.

The demonstrated assessment approach is typically applied to pension-style benefit programs which do not actively seek to support people back into the workforce once they qualify for the program. This approach might therefore be suited to a CPP-D style program rather than ODSP, which offers supports to overcome disability-related barriers to work.

A **structured assessment** creates a data-driven link between individuals and their environment. In practice, structured assessments typically focus on the labour market, by comparing an individual's day-to-day functional capacity with current data about the functional demands of jobs across a range of industries. ODSP assessments, in contrast, consider multiple aspects of daily living rather than just labour market activity. Whether focused narrowly on the

labour market or more broadly on the activities of daily living, the structured assessment approach relies on timely access to good quality data, and, by extension, experts who will be able to interpret this data with respect to individual applicants.

Currently, Ontario does not have the detailed and up-to-date data on the functional requirements of the labour market needed to implement a structured assessment approach. Acquiring and maintaining this data would require significant investment.

The Netherlands, the most prominent example of this approach, has a team of 35 full-time specialists making on-site observations of the functional demands of common lower-level jobs. With this information, occupational health experts are then tasked with finding three types of jobs that an applicant can do. If they cannot, the applicant is deemed eligible for disability-related benefits (Baumberg, Warren, Garthwaite, & Bambra, 2015). Though this system is undoubtedly resource intensive, the assessment decisions are widely accepted as valid and, in naming three jobs that an individual could plausibly fulfill, offer a degree of clarity and transparency to applicants deemed ineligible.

A drawback of this approach is that it does not provide meaningful consideration of how environmental factors or barriers could be overcome. For example, it does not look at how workplace accommodations could help the individual into employment, nor if an individual could be offered supports that would enable them to enter employment.

Supporting people with disabilities with dignity

The Ontario government has stated that it aims to support people with disabilities with dignity (Ministry of Children, Community and Social Services, 2018) – a principle that must underlie all human services in Ontario.

When considering changes to eligibility for ODSP, supporting people with disabilities with dignity means treating people respectfully and starting from a position of openness to understanding their condition and experiences. It means recognizing that people seek social assistance as a last resort when they feel

they have no other options to obtain an income (which is what the program is intended for). It is important to question program processes and potential changes that make tacit assumptions that social assistance applicants are untrustworthy or that start from a position that treats people with suspicion.

Reducing unnecessary administration, or “cutting red tape,” has the potential to be compatible with the goal of treating people with dignity. For example, it might be worth considering whether multiple processes are needed to confirm the continued eligibility of ODSP recipients, or whether the expense of carrying out multiple checks is worth the amount of money saved by reducing payments or removing a small number of people from the program.

Options for moving forward

Defining disability for social assistance programming is inherently difficult because, as described in the UN Convention on the Rights of Persons with Disabilities, “disability is an evolving concept.” It results from “the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others” (United Nations, 2006).

Aligning the definition of disability for ODSP with federal definitions could be seen as a way of simplifying the ODSP system (for example, by effectively creating one disability assessment that a person would carry with them to other disability support programs). But the federal government itself has recognized that a “single harmonized definition of disability may not be desirable or achievable” (Government of Canada, 2003). The definitions used to identify eligibility for federal disability programs have been widely criticized and aligning ODSP to one of these definitions risks replicating these problems within a provincial program intended to serve those in severe financial need. Given that no federal program targets the same group as ODSP, and that federal definitions might themselves be changing according to the Accessible Canada Act, attempting to align with a federal definition would not be effective. It would replicate federal problems in Ontario’s social assistance system and make ODSP inaccessible to many of its intended recipients.

Instead, the Ministry could focus on improving the application process. A simplified assessment system would save time and money for applicants, medical professionals, legal clinics, adjudicators, and the Social Benefits Tribunal. These savings should be reinvested back into social assistance. The Ministry should consider taking the following steps to identify ways of both improving and simplifying the administration of ODSP:

- Work with applicants as they navigate the application process to understand how to simplify or clarify it, so that they provide all the relevant information at the initial assessment stage. Consider assisting people with their initial application.
- Talk to people with dynamic disabilities to identify how the assessment process can accurately capture the impact of their conditions.
- Consult with the professionals who are involved with the initial application process (such as medical professionals, Ministry staff and disability adjudicators) and appeals (such as at the Social Benefits Tribunal and Community Legal Clinics).
- Explore opportunities to expand which groups count as a “prescribed class” and therefore are not required to undergo the disability adjudication process. For example, this includes recipients of the Assistance for Children with Severe Disability program.
- Look to other jurisdictions on how disability decisions could be made more valid, reliable, and transparent. For example, rather than having a single decision maker for ODSP assessments, decisions could be made by a panel with expertise in the different kinds of disabilities, attitudinal and environmental barriers, and employment supports.
- Consider the cost-effectiveness of processes that confirm the continued eligibility of ODSP recipients and if the expense of carrying out multiple checks is worth the amount of money saved by reducing payments or removing a small number of people from the program.

While the path out of the COVID-19 pandemic crisis will not be easy, the Ontario government can take action now to help provide stability for people with disabilities. At the very least, by retaining the ODSP’s current definition of disability, it can assure people with disabilities in financial need that they will

continue to receive some basic support. With this current definition in place, the government can undertake a more thorough review of the ODSP eligibility and application process.

Changing a system that operates on the scale of social assistance requires careful consideration and analysis of the potential consequences. ODSP is intended to support people made vulnerable by poverty and disability. The stakes are high, and the consequences of getting it wrong can be devastating. An in-depth review of the current system and alternative approaches will take time but, done well, could result in a more dignified and compassionate system for applicants and a more administratively efficient system for the government.

Appendix: Definitions of disability for social assistance in Canadian provinces and territories

Province or Territory	Social assistance program	Definition of disability
Alberta	Alberta Works - Barriers to Full Employment stream	<p>Person must be assessed as having:</p> <ul style="list-style-type: none"> multiple barriers, or a persistent mental or physical health problem that limits their ability to sustain competitive employment. <p>(Government of Alberta, 2019)</p>
	Assured Income for the Severely Handicapped	<p>Person must have a "severe handicap," which means:</p> <ul style="list-style-type: none"> an impairment of mental and or/or physical functioning; this impairment causes a substantial limitation in the person's ability to earn a livelihood; and the impairment is likely to continue to affect that person permanently, because no remedial therapy is available that would materially improve the person's ability to earn a livelihood. <p>(Government of Alberta, 2020)</p>

Province or Territory	Social assistance program	Definition of disability
British Columbia	British Columbia Employment and Assistance – Persons with Disabilities stream	<p>A person must have a severe mental (including a mental disorder) or physical impairment that meets all of the following criteria:</p> <ul style="list-style-type: none"> • in the opinion of a medical practitioner or nurse practitioner, the impairment is likely to continue for at least two years; • in the opinion of a prescribed professional, the impairment directly and significantly restricts the person's ability to perform daily living activities either continuously or periodically for extended periods; and • as a result of those restrictions, the person requires an assistive device, the significant help or supervision of another person, or the services of an assistance animal to perform daily living activities. <p>A person may also be designated as a Person with Disabilities (PWD) if they are a member of a prescribed class.</p> <p>(Government of British Columbia, n.d.)</p>
Manitoba	Employment and Income Assistance – Persons with Disabilities stream	<p>A person who is unable to earn sufficient income to provide the basic necessities for themselves and their dependants due to:</p> <ul style="list-style-type: none"> • a physical or mental illness, incapacity or disorder; and • it is likely to continue for more than 90 days. <p>(Government of Manitoba, n.d.)</p>

Province or Territory	Social assistance program	Definition of disability
New Brunswick	Social assistance – Extended Benefits Program stream	<p>A person must demonstrate:</p> <ul style="list-style-type: none"> • a major physiological, anatomical, or psychological impairment; and • severe limitations to their normal living activities, which are likely to continue indefinitely without substantial improvement (i.e., totally and permanently disabled). <p>(Government of New Brunswick, n.d.)</p>
Newfoundland and Labrador	Employment Support and Income Assistance – specific employment supports for people with disabilities	<p>A person who demonstrates significant challenges in accessing education, training or employment due to:</p> <ul style="list-style-type: none"> • a physical, sensory, speech, communication, psychological, psychiatric, developmental or other disability; and • the disability is persistent and permanent. <p>(Government of Newfoundland and Labrador, 2004)</p>
Northwest Territories	Income Assistance Program – Disability Allowance	<p>A person must have an impairment that:</p> <ul style="list-style-type: none"> • is physical or mental; • significantly restricts their ability to perform daily living activities; • is permanent or periodic for extended periods; • would not be removed or healed by medical treatment; and • means that they require assistance with daily living. <p>(Government of Northwest Territories, 2019)</p>

Province or Territory	Social assistance program	Definition of disability
Nova Scotia	Employment Support and Income Assistance	N.A. – “Disability” is not clearly defined in the Employment Support and Income Assistance Act, Regulations or policy manual.
Nunavut	Income Assistance	<p>A person must have an impairment that:</p> <ul style="list-style-type: none"> • is physical or mental; • significantly restricts the ability to perform daily living activities; • is permanent or temporary (for at least six months); • results in requiring assistance with daily living activities; and • that medical treatment would not heal. <p>(Government of Nunavut, 2019)</p>
Prince Edward Island	AccessAbility Supports – Assured Income component	<p>A person must have an impairment that is:</p> <ul style="list-style-type: none"> • physical, intellectual, sensory, neurological, or mental; • substantial; • continuous or recurrent; and • expected to last for at least one year. <p>The direct and cumulative effect of the impairment results in a substantial restriction in one or more of these activities of daily living:</p> <ul style="list-style-type: none"> • their ability to attend to personal care; • their ability to function in the community; or • their ability to function in the workplace. <p>(Government of Prince Edward Island, 2019)</p>

Province or Territory	Social assistance program	Definition of disability
Quebec	Social Solidarity Program (Solidarité Sociale)	<p>A person must have an impairment that:</p> <ul style="list-style-type: none"> • is physical or mental; • is permanent or for an indefinite period; and • severely limits their capacity for employment. <p>(Gouvernement du Québec, n.d.)</p>
Saskatchewan	Saskatchewan Assured Income for Disability	<p>A person must have a disability that:</p> <ul style="list-style-type: none"> • is significant and enduring; • is permanent in nature; • substantially impacts daily living activities; and • causes them to require support in the form of an assistive device, assistance of another person, a service animal, or other accommodation. <p>(Government of Saskatchewan, 2019)</p>
Yukon	Social assistance – Discretionary aid	<p>A person must:</p> <ul style="list-style-type: none"> • have a severe disability with some or all of the following results for the person: • inability to function on a day-to-day basis without supports; • high susceptibility to victimization; or • inability to make safe decisions regarding their well-being; • have a disability that is not likely to improve; and • have a disability that cannot be adequately mitigated through interventions such as treatment or medication. <p>(Government of Yukon, 2012)</p>

References

Accessible Canada Act. (2019). Retrieved from Accessible Canada Act: <https://laws-lois.justice.gc.ca/eng/acts/A-0.6/page-1.html>

Baumberg Geiger, B., Garthwaite, K., Warren, J., & Bambra, C. (2017). Assessing work disability for social security benefits: international models for the direct assessment of work capacity. *Disability and Rehabilitation*, 40(24), 2962-2970. doi:10.1080/09638288.2017.1366556

Baumberg, B., Warren, J., Garthwaite, K., & Bambra, C. (2015). *Rethinking the Work Capability Assessment*. London: Demos. Retrieved from https://demosuk.wpengine.com/files/Rethinking_-_web_1_.pdf?1426175121

Bickenbach, J., Posarac, A., Cieza, A., & Kostanjsek, N. (2015). *Assessing Disability in Working Age Population, A Paradigm Shift: from Impairment and Functional Limitation to the Disability*. The World Bank. Washington DC: The World Bank. Retrieved from <http://documents.worldbank.org/curated/en/272851468164970738/pdf/Disability-Assessment-Report-June-18-2015.pdf>

Canada Mortgage and Housing Corporation. (2018). *Housing Market Information Portal*. Retrieved January 2020, from Housing Market Information Portal: <https://www03.cmhc-schl.gc.ca/hmip-pimh/en>

Gouvernement du Québec. (n.d.). *Social Assistance and Social Solidarity*. Retrieved from <https://www.quebec.ca/en/family-and-support-for-individuals/financial-assistance/social-assistance-social-solidarity/find-out-whether-you-are-eligible/>

Government of Alberta. (2019, July 23). *Expected to Work/Barriers to Full Employment Policy & Procedures*. Retrieved from <http://www.humanservices.alberta.ca/AWOnline/IS/6178.html>: <http://www.humanservices.alberta.ca/AWOnline/IS/6178.html>

Government of Alberta. (2020, January 2). *AISH Program Policy*. Retrieved from AISH Policy Manual: <http://www.humanservices.alberta.ca/AWOnline/AISH/7216.html>

Government of British Columbia. (n.d.). *Designation Application*. Retrieved from PWD Designation & Application: <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/pwd-designation-and-application/designation-application>

Government of Canada. (2003). *Defining Disability: A Complex Issue*. Retrieved from <http://publications.gc.ca/collections/Collection/RH37-4-3-2003E.pdf>

Government of Manitoba. (n.d.). *Section 7 - Persons with Disabilities*. Retrieved from EIA Administrative Manual: https://www.gov.mb.ca/fs/eia_manual/7.html

Government of New Brunswick. (n.d.). *Terms*. Retrieved from Social Development: https://www2.gnb.ca/content/gnb/en/departments/social_development/policy_manual/terms.html#disabled

Government of Newfoundland and Labrador. (2004). *Newfoundland and Labrador Regulation 144/04, Income and Employment Support Regulations*. Retrieved from <https://www.assembly.nl.ca/Legislation/sr/Annualregs/2004/nr040144.htm>

Government of Northwest Territories. (2019, October). *Income Assistance Policy Manual*. Retrieved from https://www.ece.gov.nt.ca/sites/ece/files/resources/income_assistance_policy_manual_-_october_2019.pdf

Government of Nunavut. (2019, July 23). *Consolidation of Income Assistance Regulations R.R.N.W.T. 1990, c.S-16*. Retrieved from <https://www.canlii.org/en/nu/laws/regu/rrnwt-nu-1990-c-s-16/latest/rrnwt-nu-1990-c-s-16.html>

Government of Ontario. (1997). *Ontario Disability Support Program Act, 1997, S.O. 1997, c. 25, Sched. B*. Retrieved from Ontario Disability Support Program Act: <https://www.ontario.ca/laws/statute/97o25b>

Government of Ontario. (2003, January). *Ontario Disability Support Program, Income Support Directives*. Retrieved from https://www.mcss.gov.on.ca/documents/en/mcss/social/directives/odsp/income_Support/preamble.pdf

Government of Ontario. (2018, November 22). *Reforming Social Assistance*. Retrieved from <https://news.ontario.ca/mcys/en/2018/11/reforming-social-assistance.html>

Government of Prince Edward Island. (2019, March 26). *AccessAbility Supports, Assured Income - Description*. Retrieved from https://www.princeedwardisland.ca/sites/default/files/publications/3.1_description.pdf

Government of Saskatchewan. (2019, June). *The Saskatchewan Assured Income for Disability (SAID) Program Handbook*. Retrieved from <http://publications.gov.sk.ca/documents/17/84699-SAID-Handbook.pdf>

Government of Yukon. (2012, June 30). *Social Assistance Act, O.I.C. 2012/83, 48 (2) (a)*. Retrieved from http://www.gov.yk.ca/legislation/regs/oic2012_083.pdf

Human Resources and Skills Development Canada. (2011). *Summative Evaluation of the Canada Pension Plan Disability Program*. Retrieved from <https://www.canada.ca/content/dam/esdc-edsc/migration/documents/eng/publications/evaluations/income/2011/sp-983-02-11-eng.pdf>

Income Security Advocacy Centre. (2009-2019). *Social Assistance Rates*. Retrieved from incomesecurity.org/resources/publications/

Maytree. (2020). *Social Assistance Summaries 2019*. Retrieved from https://maytree.com/wp-content/uploads/Social_Assistance_Summaries_All_Canada.pdf

Ministry of Children, Community and Social Services. (2018, July 5). *Prescribed Classes*. Retrieved from About the Ontario Disability Support Program: https://www.mcss.gov.on.ca/en/mcss/programs/social/odsp/income_support/PrescribedClasses.aspx

Ministry of Children, Community and Social Services. (2018, November 22). *Reforming Social Assistance*. Retrieved from <https://news.ontario.ca/mcys/en/2018/11/reforming-social-assistance.html>

Ministry of Children, Community and Social Services. (2019, December 5). *Applying for ODSP income support*. Retrieved from https://www.mcss.gov.on.ca/en/mcss/programs/social/odsp/income_support/IS_Application.aspx

Morris, S., Fawcett, G., Brisebois, L., & Hughes, J. (2018). *A demographic, employment and income profile of Canadians with disabilities aged 15 years and over, 2017*. Statistics Canada. Retrieved from <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2018002-eng.htm>

Morris, S., Fawcett, G., Brisebois, L., & Hughes, J. (2018). *A demographic, employment and income profile of Canadians with disabilities aged 15 years and over, 2017*. Retrieved from <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2018002-eng.htm>

Morris, S., Fawcett, G., Timoney, L. R., & Hughes, J. (2019). *The Dynamics of Disability: Progressive, Recurrent or Fluctuating Limitations*. Retrieved from <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2019002-eng.htm>

Office of the Auditor General of Canada. (2015). *2015 Fall Reports of the Auditor General of Canada, Report 6: Canada Pension Plan Disability Program*. Retrieved from http://www.oag-bvg.gc.ca/internet/English/parl_oag_201602_06_e_41063.html

Office of the Auditor General of Ontario. (2018). *Annual Report 2018, Chapter 3, Section 3.05*. Retrieved from http://www.auditor.on.ca/en/content/annualreports/arreports/en18/v1_305en18.pdf

Office of the Auditor General of Ontario. (2019). *Annual Report 2019, Volume 1, Chapter 3, Section 3.09*. Queen's Printer for Ontario. Retrieved from http://www.auditor.on.ca/en/content/annualreports/arreports/en19/v1_309en19.pdf

Office of the Prime Minister. (2019). *Minister of Employment, Workforce Development and Disability Inclusion Mandate Letter*. Retrieved from <https://pm.gc.ca/en/mandate-letters/minister-employment-workforce-development-and-disability-inclusion-mandate-letter>

Standing Committee on Human Resources Development and the Status of Persons with Disabilities. (2003). *Listening to Canadians: A First View of the Future of the Canada Pension Plan Disability Program*. Retrieved from <https://www.ourcommons.ca/Content/Committee/372/HUMA/Reports/RP1032289/humarp05/humarp05-e.pdf>

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. (2019). *Taking Action: Improving the lives of Canadians living with episodic disabilities*. House of Commons Canada. Retrieved from <https://www.ourcommons.ca/DocumentViewer/en/42-1/HUMA/report-15>

Statistics Canada. (2020). *Table 18-10-0005-01 Consumer Price Index, annual average, not seasonally adjusted*. Retrieved from <https://doi.org/10.25318/1810000501-eng>

Talwar Kapoor, G. (2020). *System transformation in Ontario Works: Considerations for Ontario*. Retrieved from <https://maytree.com/publications/system-transformation-in-ontario-works-considerations-for-ontario/>

Torjman, S. (2017). *Dismantling the Welfare Wall for Persons with Disabilities*. Caledon Institute of Social Policy. Retrieved from <https://maytree.com/wp-content/uploads/1112ENG.pdf>

Torjman, S. (2018). *Disability policy: From remedies to rights*. Retrieved from <https://maytree.com/publications/disability-policy-from-remedies-to-rights/>

Tribunals Ontario. (n.d.). *Social Benefits Tribunal Appeal and Hearing Process*. Retrieved January 9, 2020, from <http://www.sjto.gov.on.ca/sbt/appeal-and-hearing-process/>

Tweddle, A., & Aldridge, H. (2019). *Welfare in Canada, 2018*. Retrieved from https://maytree.com/wp-content/uploads/Welfare_in_Canada_2018.pdf

United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. Retrieved from www.un.org/disabilities/documents/convention/convoptprot-e.pdf