

Social Assistance

**Do you live with someone
who might be seen
as your spouse?**



If Ontario Works (OW) or the Ontario Disability Support Program (ODSP) decides that you and the person you live with are spouses, the two of you will have to apply for assistance as a couple.

This booklet is about the rules that OW and ODSP use to decide if two adults are spouses.

If you speak French

Ask a lawyer or a community legal clinic about your language rights. You may have the right to get your OW- and ODSP-related government services in French.

If you are appealing a decision about your right to social assistance from OW or ODSP, this could mean that you have the right to a hearing before a French-speaking member of the Social Benefits Tribunal, as well as other French-language services.

[Information about appeals](#) starts on page 9.



Why does it matter if OW or ODSP thinks I live with someone who is my spouse?

If Ontario Works (OW) or the Ontario Disability Support Program (ODSP) thinks you live with someone who is your spouse, neither one of you will be able to get financial assistance as a single person or as a sole-support parent.

Instead, they will look at your combined income and assets to decide if you are eligible for assistance as a couple.

The amount of assistance you get as a couple is less than the total amount you would get as two single people.

What if I am applying for assistance and I live with someone?

You will not be asked if the person you live with is your spouse if that person is a close family member, such as your:

- parent or step-parent,
- grandparent,

- uncle or aunt,
- child or step-child,
- grandchild,
- brother or sister,
- niece or nephew.

But you might be asked to show proof of the family relationship.

If the person you live with is not one of these family members, you could be asked if the person is your spouse.



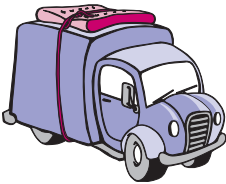
Your spouse could be the same sex as you or the opposite sex. You could be married to one another or not. Your spouse could be married to or separated from someone else.

If you say that the person you live with **is** your spouse, you will have to apply for assistance as a couple. Both of you will have to sign all the forms needed to complete the application.

If you say that the person you live with **is not** your spouse and you have been living together for at least 3 months, OW

or ODSP will ask for information to decide if the two of you are spouses according to their rules. These rules are explained on pages 5 to 8 of this pamphlet, starting with the question “[What rules do OW and ODSP use to decide whether we are spouses?](#)” **Your application for assistance will be refused if you do not give this information to them.**

You will be refused assistance as a single person or as a sole-support parent if OW or ODSP decides that the person is your spouse. You can then apply as a couple.



What if someone moves in with me while I am on assistance?

You must let OW or ODSP know as soon as someone moves in with you.

If you are on assistance as a single person or as a sole-support parent, OW or ODSP may contact you 3 months later to set up a meeting. Be sure to respond right away and to show up for the meeting. **If you do not, your assistance will be cut off.**

The meeting will help OW or ODSP to decide if the person who has moved in with you is your spouse. They will ask you for the kinds of [information and documents listed on pages 5 to 8](#).

Your assistance will be cut off if you do not give this information to them.

If they decide that the person is your spouse, they can consider whether the two of you qualify for assistance as a couple. If your assistance is cut off, you can appeal. [See pages 9 to 12 for information about appeals.](#)

Even if they decide that the person is not your spouse, they may follow up in the future to see if the relationship has changed. You can expect to be asked for information about the relationship at least once a year.



What rules do OW and ODSP use to decide whether we are spouses?

OW or ODSP will consider you to be spouses if:

- you say that you are spouses,
- you are married to each other, or
- the other person has a legal obligation to support you or a child of yours.

They will also consider you spouses if you live together and they find that **all** three of these statements are true:

1. You have been living together for at least 3 months.
2. One of you supports the other or the two of you are “financially interdependent”.
3. You are living together as a couple, not as two single people.

Whether or not you have a sexual relationship with each other is not relevant. They are not allowed to ask about that.



How do they decide that we are “financially interdependent”?

To check if one of you supports the other or if the two of you are “financially interdependent”, OW or ODSP will ask questions such as:

- Do you own things together?
- Do you have joint bank accounts?
- Has one of you ever included the other in a benefit plan at work?
- Have you borrowed money as a couple or has one of you co-signed a loan for the other?
- Are one or both of your names on leases or on bills for utilities, cable, or telephone services?

If the answers to these questions suggest that the person you live with is **not** your spouse, you should not be asked questions about whether you live together as a couple.



How do they decide that we are living together as a couple?

To find out if the two of you are living together as a couple, not as two single people, OW or ODSP could ask you questions like these:

- Do the people who know you, such as friends and family members, think you are a couple?
- Do the schools, childcare centres, doctors, or other services and organizations you deal with, know the two of you as a couple?
- If you have children from another relationship, do they treat the adult you are living with now as a parent? Do they consider this person to be your spouse?

OW and ODSP cannot ask you if you have a sexual relationship with each other.

What if my spouse and I do not live together?

If you and your spouse do not intend to get back together again, OW and ODSP can find that there is “no reasonable prospect of reconciliation”. In this case, they would not consider you a couple.

But they could consider the two of you a couple even if you are not living together now because:

- your spouse is away at school or looking for work somewhere else,
- your spouse is in another country waiting for a visa to come to Canada, or
- there are problems with your relationship, but still there is a chance you might get back together.

If OW or ODSP considers you and your spouse to be a couple even though you are **not** living together, you should get [legal advice](#) (see page 13).

What if they think I am living with someone but I am not?

If this is your situation, it is a good idea to get [legal help](#) (see page 13).

OW or ODSP may have heard from somebody else who claims that you are living with someone. Or someone might be having their mail sent to your address and this could make it look as if they live with you. You will have to show that this is not true.



What if I am refused or cut off assistance?

Ask for the reasons in writing immediately.

You can appeal to the Social Benefits Tribunal (SBT). The SBT is independent from OW and ODSP. It has the power to make a different decision.

But first you must **write** to the office that made the decision to refuse or cut off assistance and ask for an “**internal review**”. An internal review means that a different

person reviews the original decision and decides whether or not to change it.

On the next few pages we give basic information about internal reviews, appeals, and the time limits that apply to them. For more details, see our pamphlet called “**Appeals and Internal Reviews**”. In it you will also find a **blank form letter** that you can use to request an internal review. Turn to the back cover to find out how to order the pamphlet. It is also available on our web site at <www.cleo.on.ca>.

Ask for an internal review

Your request must be made in **writing**. You must ask for an internal review within **10 days** from the date you receive the decision to refuse or cut off assistance. If the decision is mailed to you, you may have less than 10 days.



Note about mail

The rules assume that if a letter is mailed to you, you receive it **3 days** after it is mailed. So, if the decision letter that says you are refused or cut off assistance is mailed to

you, you have **13 days from the mailing date** (3 days plus 10 days) to request an internal review.

The mailing date should be stamped on the envelope by Canada Post. It might not be the same as the date on the letter, so keep both the letter and the envelope.

It is important to try to get your request for an internal review to the correct office within the time limit. But if you send in your request after the time limit, it may still be considered. Make sure you ask for an extension of time in your written request and explain why your request is late.

A decision on your internal review is supposed to be made within **10 days** from the date your request is received.

Appeal to the Social Benefits Tribunal

If you get an internal review decision within the 10 days, and it says that you are still refused or cut off assistance, you have **30 days** from the date of this decision to appeal to the SBT.

If you do not get an internal review decision within the 10 days, you can go ahead and appeal the original decision to the SBT. Your appeal must be filed within **40 days** of your request for an internal review.

If you miss the time limit for appealing, you can ask the SBT for more time. You will have to explain why you missed the time limit.

Apply to the SBT for interim assistance

You may be able to get assistance while you wait for your appeal to be decided. This is known as “interim” assistance. The Application for Interim Assistance is part of the SBT Appeal Form. If the SBT orders it, the local office will have to pay assistance until your appeal is decided.

If you lose your appeal, or you do not go to your hearing, you will have to pay back the interim assistance.



How do I get legal help?

For advice or help dealing with OW or ODSP, contact a community legal clinic, your local Legal Aid office, or a lawyer.

There are a few ways to find the nearest community legal clinic or local Legal Aid office:

- Look in CLEO’s booklet called “**Getting legal help: Community Legal Clinics in Ontario**”. See the back cover to find out how to order it. It is also available on our web site at <www.cleo.on.ca>.
- Try looking in your phone book under “Legal Aid” or “Lawyers”.
- Check Legal Aid Ontario’s web site at <www.legalaid.on.ca>.
- Or phone Legal Aid Ontario at:
Toll-free **1-800-668-8258**
Toll-free TTY **1-866-641-8867**
In Toronto **416-979-2352**
TTY in Toronto **416-598-8867**

The law can change, and policies and practices can also change or vary. This pamphlet contains general information. It is not a substitute for getting legal advice about your particular situation.

Produced by:

CLEO (Community Legal Education Ontario /
Éducation juridique communautaire Ontario)

With funding from:

Legal Aid Ontario
Department of Justice Canada

This pamphlet is part of CLEO's series on Social Assistance. Thanks to the Steering Committee on Social Assistance for their collaboration on this series. CLEO has free publications on other legal topics as well.

We revise our publications regularly to reflect changes in the law. Our [Discard List](#) tells you which publications are out of date and should be thrown away.

For a copy of our current [Order Form](#) or Discard List, please visit our web site at <www.cleo.on.ca> or call 416-408-4420, extension 33.

